

A  
Revised Synopsis of  
**RIGHTS OF CHILDREN vis-à-vis JUDICIAL  
POLICY – A CRITICAL ANALYSIS**

Revised Synopsis Submitted in Partial Fulfillment of the Requirements  
for the Award of  
Doctor of Philosophy



**Session – 2014-15  
Faculty of Law**

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## **CANDIDATE'S DECLARATION**

I, **Chandra PrakashVerma** declare that the work embodied in this Ph.D. synopsis is my own bonafide work carried out by me under the supervision of **Dr. D.C. Mishra** (Associate Professor), Faculty of Law, Agra college, Agra (Dr. B.R. Ambedkar University, Agra U.P.) in session 2014-15. The matter embodied in this revised Ph.D. synopsis has not been submitted previously for the award of any degree or diploma in any other University or Institute.

I declare that I have been faithfully acknowledged, given credit and referred to the research workers wherever their works have been cited in the text and the body of the revised synopsis.

**Date- 08.03.2018**

**(Signature of Candidate)**

**Place- Agra**

## **CERTIFICATE FROM THE SUPERVISOR**

It is certified that **Chandra Prakash Verma**, Research scholar in law, session 2014-15, Agra college Agra, (Dr. B.R. Ambedkar University, Agra U.P.) is working on the topic title as "**RIGHTS OF CHILDREN vis-à-vis JUDICIAL POLICY – A CRITICAL ANALYSIS**" under my supervision. This revised Ph.D. synopsis embodied the work of the candidate himself and the findings and suggestions put forth in this revised synopsis are his own.

**Date- 08.03.2018**

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## INTRODUCTION

It may be that the aforesaid appeal lies at the back of **William Worth** saying, **“Child is the father of a man.”** To enable fathering of a valiant and vibrant man. The child must be groomed well in the formative years of his life. He must receive education. Acquire knowledge of man and materials and blossom in such an atmosphere that on reaching age, he is found to be a man with a mission, a man who matters far as the society concerned. 'Children are the priceless assets of any human society'. They take over from the elders, the responsibilities of maintaining, developing and transmitting civilization and all facts of the creative development of human personality and of unfolding the cultural richness, social, ethical and aesthetic values which out the full potentialities and dimensions of human life in organized societies. There has been a universal concern for the welfare and protection of the rights of the child. It began as early as in 1924 with a landmark declaration on ‘The rights of the Child the very fast convention of the League of Nation to discuss on the rights of the child. It was adopted in Geneva, consisting of 5 principles recognizing. There is the special need to ensure the harmonious development and growth of a child personality in appropriate family environment where it is assured the case, the comfort and the love and a affection of its parents and where the child is allowed to grow in an atmosphere of happiness and understanding<sup>1</sup>.

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1. Dr. H.N.Giri: Seventh Annual Conference. The Indian Society of Criminology, Aligarh Muslim University Aligarh, December 28-29, 1977

The study of law relating to children is significant because the man of tomorrow

will be of same kind as today he is a child. When we talk about the rights of the child, we talk about the rights of the person who may not even envisage those rights and who cannot fight for those rights. It is presumed because of his minority that he does not understand what is in his interest. Therefore, it is for the people to consider, formulate and fight for those rights.

Our children of today are the future citizens of the country. They are undoubtedly the most important national assets as from among them will emerge our new leaders, scientists, technocrats and administrators. As **Milton** has put it, **“Child shows the man as morning shows the day.”** Future of any nation is dependent on its children. They are to be adequately led, properly clothed and reasonably sheltered. They have to be provided with congenial and conducive environment to grow and develop into good citizens. Their potentialities must be allowed to flower and blossom by the adult worlds<sup>1</sup>.

Many of these children are made subject to victims of crimes like rape, kidnapping, beatings, displacement, drug addiction and psychological abuse. These girls and boys are at the whim of primps, pornographers and other exploiters and are exposed to AIDS virus and a life with no future<sup>2</sup>.

Considering its importance the General Assembly adopted on 20<sup>th</sup> November, 1989 the United Nations Convention on the Rights of the Child which came in force on 2<sup>nd</sup> September, 1990 after receiving the necessary

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1. National Seminar on child and the law. New Delhi November 30, December 2, 1982.
  2. “The Pioneer (Lko)” Dated 30-11-2001, p-4 [“SEVEN LAKH WOMEN, GIRLS TRAFFICKED EVERY YEAR”]

ratification. India acceded to it on 11 December 1992. Not only this, the International Criminal Court has been established in Rome on 17<sup>th</sup> July 1998 to safeguard the interests of women and children in case of genocide, war crimes and crimes against humanity<sup>1</sup>. The U.N. General Assembly in special session has ratified an agenda "**A world fit for children**" for improving health, education and protection of children under the age of 18, on 11-5-2002. This was the first special session in which children were not only seen but also heard<sup>2</sup>. In India also Pandit Jawahar Lal Nehru's date of birth, 14<sup>th</sup> November every year is celebrated as Children's Day due to his extraordinary attachment with children. The matter under study would specifically concentrate that despite children are basically future of any civilization. Various observations reveal that despite there are legislative measures at national and international levels for the purpose of protection of rights of the child, but because of their poor enforcement at various levels the children are being denied of their legitimate rights of proper care, treatment, education and development.

Pamela Shiffrnan, Associate Director of "Equality Now" a U.S. based International Human Rights Organization, said at a discussion on '**Initiatives against Trafficking in Women and Children**' organized at the American Centre, Mumbai that 'The 21<sup>st</sup> century brings with it some of the dark realities of the last century with respect to the commercial sexual exploitation of

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1. The article of Ayesha Sen Chaudhary on "ICC" Safeguarding the rights of women and children" published in "From the Lawyer's Collective", October, 2001.
  2. "The Pioneer (LKO)" Dated 13-05-2002.

children. Children worldwide are deprived of their human rights, dignity and childhood through child prostitution, child pornography and other forms of exploitation<sup>1</sup>.

The Problem to be discussed herein is that the children are considered to be “national assets” but they suffer exploitation at the hands of the “humanity” right from their childhood through generations from time immemorial. They are commercially exploited in terms of “child labour”. They are made to “earn” from an age, when they are supposed to earn education in order to become “national assets” in true sense. Are not they human being ? Is it their age to go for earning and their livelihood? Do not they have some “rights” by virtue of the fact that they are human beings? Is it not the responsibility of the state to protect and nourish their child hood, to educate them and off course to make them capable enough to stand on their own feet ?

Do we need any legislation to ensure certain rights to children? Child labour is a phenomenon which continued to be practiced despite the fact that there are number of enactments in existence, which take the initiative, to eradicate the child labour and then to regulate the child labour. Now it appears that our legislators are convinced that the child labour needs to be regulated since it can not be eradicated without strict legislation in this respect.

The welfare of the entire community depends on the health and welfare of the child. His betterment is also the betterment of the community as he is the

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1. Adenwalla, Maharukh (2000), Child Sexual Abuse and the Law, India centre for Human Rights and Law, Mumbai.

future leader. The importance of child welfare lies in the consideration that the personality of man observes strict celibacy rather than produce solves till the country-achieved independence. Child is the father of a man, the future of our race, and of our civilization, the inheritor of our tomorrows, but the tragedy is that he is also neglected, exploited and abused of our under-privileged sections of society. Undernourishment, want, restitution, deprivation, abuse, exploitation, infant morality, lack of basic health services, lack of education, absence of homes and family and so on and so forth. The list is endless.

The Government of India adopted the **National Charter for Children**, which has been prepared after obtaining the views/comments and suggestions of the State Governments/UT Administrations, concerned Ministries and Departments and experts in the field. The National Charter is a statement of intent embodying the **Government's Agenda for Children**. The document emphasizes Government of India's commitment to children's rights to survival, health and nutrition, standard of living, play and leisure, early childhood care, education, protection of the girl child, empowering adolescents, equality, life and liberty, name and nationality, freedom of expression, freedom of association and peaceful assembly, the right to a family and the right to be protected from economic exploitation and all forms of abuse. The document while stipulating the duties of the State and the Community towards children also emphasizes the duties of children towards family, society and the nation. The National Charter for Children was notified in the Gazette of India on 9<sup>th</sup> Feb. 2004<sup>1</sup>.

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1. Gazatte of India, 9<sup>th</sup> February 2004.



India acceded to the UN Convention on the Rights of the Child on 11<sup>th</sup> Dec., 1992 to reiterate its commitment to the cause of children. The objective of convention is to give every child the right to survival and development in a healthy and congenial environment. India is also party to the Millennium Development Goals and the SAARC Conventions on Child Welfare and Combating Trafficking of Women and Children in SAARC Region.

There are so many rights of the child corresponding duties provided by different statutes. For the purpose of introductory reference these are being given as under.

- Right to Parental Care: Custody and Guardianship.
- Right against Economic Exploitation - Child Labour.
- Right to Family Environment: Adoption and other non-institutional services.
- Right Against Sexual Abuse and Exploitation.
- Commercial Sexual Exploitation and Trafficking of Children.
- Juvenile Justice: Administration and Implementation.
- Right to Development.
- Right to Education.
- Right to Health.
- Rights of Unborn Child
- Rights during Early Childhood.
- Right of the Child and Working Mothers.
- Rights of the Children Victims against Drugs Abuse.
- Right to Shelter.
- Right to Legal Aid.

- Right to Live with Human Dignity.

Keeping the importance and significance of the Rights of the Child view, it has been chosen as a fruitful topic with the introduction of the subject matter of study.

## **LITERATURE REVIEW**

A child's perceptions are very different. The rights and obligations developed in the conventional mould is not appropriate for the delivery of Justice to child. Children by themselves are unable because of a physical and mental immaturity to avail to legal rights and entitlements.

### **Historical Background of Rights of the Child**

Children were recipients of welfare measure. It was only during the 20<sup>th</sup> century that the concept of children's right emerged. This shift in focus from the 'welfare' to the 'rights' approach is significant. Rights are entitlements. They also imply obligations and goals. The rights approach is primarily concerned with issues of social justice, non-discrimination, equity and empowerment. The U.N. Convention on Rights of the child, 1989, which is a landmark in international child's rights legislation. India ratified this convention in December 1992<sup>1</sup>.

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1. Prof. Paranjpey, N.V.(2005)(12<sup>th</sup> Ed.) Criminology and Penology.

There does not appear to be any criteria or scientific parameters. For instance, in some laws as in the Child Marriage Restraint Act, 1929, there is a difference between the age of the boy and girl. The Mines Act, 1952 defines children whose are below eighteen years and the various state shops and Establishment Acts define the age between twelve and fifteen years.

### **Concept of Juvenile Justice System**

The concept of “Juvenile Justice” has become quite significant and popular in the modern welfare society, with emphasis upon the welfare approach and protection of mankind, refers to the belief that the “state” as the ultimate authority, as guardian and care-taker, has both the right and obligation to direct and protect those of its citizens who, because of some impediments, demonstrate a need for such direction and protection<sup>1</sup>.

Juvenile Justice is the specific justice, which has its sole source in juvenile court. Few major social institutions have attracted as little critical historical attention as the juvenile court.

### **General Statutes for the Protection of Rights of the Child**

Besides the special legislations that deal with children, there are provisions that concern children in various general statutes. There are provisions relating to Rights of the child in Criminal law, Family law, Employment law, Code of Criminal Procedure, 1973, Code of Civil Procedure, 1908, The Indian Evidence Act, 1872, The Indian Penal Code, 1860, The

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1. Dr. Anjani Kant (2006), (IInd Ed) Law Relating to women and Children.

Immoral Traffic (Prevention) Act, 1956, Cable Television Network (Regulation) Act 1995, Narcotic drugs and Psychotropic Substances Act 1988, The Hindu Marriage Act, 1955, The Trade Unions Act, 1926, The Indian Contract Act, 1872 The Indian Trust Act 1882, The Indian Partnership Act, 1932 etc.

### **Children Rights under International Conventions**

Law in the form of international conventions can contribute considerably. International instruments stress “participation’ as a core value along with survival, protection and development. Laws and legal strategies must be devised to encourage these values. In a recent judgment, the Supreme Court held that ‘once signed, any International Treaty or convention will be treated as a part of law unless otherwise stated’. The Indian government is thus bound in its obligation to implement any convention or treaty that is signed. India has ratified the United Nations Convention on the Rights of the Child. The international Conventions for rights of the child are as given:

- The Declaration of the Rights of the Child, 1924.
- Declaration of the Rights of the Child, 1959.
- United Nations Convention on the Right of Child, 1989.
- U.N. Committee on the Rights of The Child.
- Universal Declaration of Human Rights, 1948.
- International Covenant on Economic, Social, and Cultural Rights, 1966
- International Covenant on Civil and Political Rights, 1966

In accordance with the Declaration, a child is entitled to a name and nationality<sup>1</sup>, to adequate nutrition, housing recreation and medical services<sup>2</sup>.

## Constitutional Background

The Constitution of India provides a protective umbrella for the rights of Children. These rights include right to equality<sup>3</sup>, Special Provision for children<sup>4</sup>, Right to freedom including the freedom of speech and expression<sup>5</sup>, personal liberty, right to due process of law<sup>6</sup>, right to education<sup>7</sup>, rights against exploitation<sup>8</sup>, religious, cultural and educational rights<sup>9</sup>, and right to constitutional remedies<sup>10</sup>, and the prohibition of employment of children in factories below the age of 14 years<sup>11</sup>. These are the Fundamental Rights given in part -3 of the Constitution of India, and Art. 39(e) & (f), Art.41, Art.42, Art.45 and Art.47 are related to children given in part – 4, directive principles of state policy and Art.51A(k) is the fundamental duty related to children.

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1. Principle 3, Declaration of the Rights of the child, 1959.
  2. Principle 4, Declaration of the Rights of the child, 1959.
  3. Art. 14, The Constitution of India.
  4. Art. 15 (3), The Constitution of India.
  5. Art. 19(1), The Constitution of India.
  6. Art. 21, The Constitution of India.
  7. Art. 21-A, The Constitution (86<sup>th</sup> Amendment) Act. 2000, Sec.2.
  8. Art. 23, The Constitution of India.
  9. Art. 29, The Constitution of India.
  10. Art. 32, The Constitution of India.
  11. Art. 24, The Constitution of India.

## **Statutory Provisions**

It is evident that legislation is one of the main weapons of empowerment of children. Even though appropriate legislation may not necessarily mean that the objectives of the legislation will be achieved, its very existence creates an enabling provision whereby the state can be compelled to take action. Legislation reflects the commitment of the state to promote an ideal and progressive value system. The notion of duty also applies to the state. There are several Legislations pertaining to children. These include the following.

- The Young Persons (Harmful Publications) Act, 1956.
- The Immoral Traffic (Prevention) Act, 1956.
- The Child Labour (Prohibition and Regulation) Act, 1986.
- The Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992.
- The Pre-Conception and Pre-natal Diagnostic Technique (Prohibition of Sex Selection) Act, 1994.
- The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.
- The Commissions for Protection of Child Rights Act, 2005.
- The Juvenile Justice (Care and Protection of Children) Act. 2015.

## **Judicial Pronouncement**

The courts represent one very significant structure of the legal system. Courts are a body that is in authority to take decisions. Provisions in various laws, which are presently in practice, guide these decisions. Children in India can come in direct contact with the

courts and the legal system in various contexts, for example, as offenders and witness to crimes. Also, family matters like divorce, separation, adoption, guardianship, etc., can bring a child to the courts. There are the ordinary civil and criminal courts based on the adversarial model. The system uses formal procedural Justice to obtain binding decisions and remedies. There are many cases related to Rights of Child, pending on Supreme Court of India & High Courts are as :

Roxann Sharma V/s Arun Sharma (Civil Appeal No. 1966 of 2015), Bachpan Bachao Andolan V/s Union of India & Ors , 2011 SC , Sampurna Behrua V/s Union of India 2018 , Exploitation of Children Inj Orphan of India V/s Union of India & Ors, 2017 SC, Dr. Jasmine Alex V/s State of Kerala 2016, Kerala HC, Devi Bhai Shiksha Evam Samaj Kalyan V/s The State of Madhya Pradesh 2015 Madhya Pradesh HC, Sai Sakshi Shiksha Samiti Gwalior V/s The State of Madhya Pradesh 2015 Madhya Pradesh HC , The Registrar (Judicial) V/s Krishanaswami Naidu & Anr 2017, Madras HC , Deepak rana V/s State of Utrakhand & Others 2016 Utrakhand HC, Jai Prakash Suru Shetty V/s The State of Maharashtra 2017, Bombay HC, In Re :- The State of Assam And Anr 2016 Gauhati HC, Protection of Child rights V/s State of West Bengal & Ors 2017, Kolkata HC, Vikas Motewar V/s State of Maharashtra And 5 Ors 2017 Bombay HC , Bijoy @ Guddu Das V/s The State of West Bengal 2017 Kolkata HC, The Tibetan Children Villages V/s Karma Lama & Anr 2016 Dehli HC, Reena Banerjee & Anr V/s State of NCT of Delhi & Ors 2016 SC , Independent Thought V/s Union of Inida 2017 SC, Sarthak Ghosh & Ors V/s State of West Bengal 2017 Kolkata HC , Sebastian T.Joseph V/s Kerala State Commission for Protection OF Child Rights 2017 Kerala HC , National Commission for Protection of Child Rights & Others V/s Rajesh Kumar 2018 SC, Mnv Srinivasa Rao V/s State of

Telangana 2017 Andhra HC , R and Anr V/s The State of Haryana & Ors 2016 Punjab Haryana HC, State of Uttrakhand V/s Sartaj Khan 2017 Uttrakhand HC, The probation officer , District Child Protection Unit, Sabarkantha V/s State of Gujrat 2018 Gujrat HC, Dr. Navtej Singh V/s State of NCT & Anr 2018 Dehli HC, Aaqil Jamil And Two others V/s State of U.P.& Anr 2017 Allahabad HC , Mrs. Firoza Popere V/s Mrs. Usha Dhananjayan 2017 Bambay HC..

The landmark decisions of the Apex Court for the Rights of the child are as given:

### **Right to Education**

A.V. Chandel v. Delhi University<sup>1</sup>, Unnikrishnan J.P. & Others v. State of Andhra Pradesh<sup>2</sup>, People's Union for Democratic Rights v. Union of India<sup>3</sup>, Labourers Working on Salal Hydro Project v. State of Jammu and Kashmir and Others<sup>4</sup>, University of Delhi v. Ram Nath<sup>5</sup>.

### **Right to Housing and Shelter**

Francis Coralie Mullin v. The Administrator, Union Territory of Delhi and others<sup>6</sup>, Prabhakaran Nair v. State of Tamil Nadu<sup>7</sup>, M/s Shantistar Builders v. Narayan Krimlal Totame<sup>8</sup>, Almitra H. Patel v. Union of India and Others<sup>9</sup>, Chameli Singh v. State of U.P<sup>10</sup>.

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1. A I R 1978 Del. 308.
  2. A I R 1993 SC 2178.
  3. A I R 1982 SC 1480.
  4. A I R 1983 SCC 221.
  5. A I R 1963 SC 1873 at P.1875, Para 6.
  6. A I R 1981 SC 746.
  7. A I R 1987 SC 2117.
  8. AIR 1990 SC 630.
  9. (2000) 2 SCC 678.
  10. (1996) 2 SCC 549.



## **Protection for Child Sexual Abuse**

Gaurav Jain v. Union of India<sup>1</sup>, Delhi Domestic Working Women's forum v. Union of India<sup>2</sup>, Gorakh Daji Ghadge v. State of Maharashtra<sup>3</sup>, Yashwant Rao v. State of M.P.<sup>4</sup>, Vishal Jeet v. Union of India<sup>5</sup>, Dhananjaya Chatterjee v. State of West Bengal<sup>6</sup>, Public at Large v. State of Maharashtra and Others<sup>7</sup>, Dehli Rape and Murder case.

## **Protection for Child Labour**

M.C. Mehta v. State of Tamil Nadu<sup>8</sup>, People Union for Democratic Rights v. Union of India<sup>9</sup>, Ranangam, Secretary, District Beedi Workers v. Union of State of Tamil Nadu and Others<sup>10</sup>.

## **Right of Maintenance**

Noor Saba Khatoon v. Mohd. Quasim<sup>11</sup>, Dukhtar Jahan v. Mohammed Farooq<sup>12</sup>, Sumitra devi v. Bhikan Choudhary<sup>13</sup>.

## **Preventive Degradation of Children in Jails**

Munna vs. State of U.P. (Kanpur Children case.)<sup>14</sup>, Supreme Court Legal Aid

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1. A I R 1990 SC 292.
  2. (1995) 1 SCC 14.
  3. 1980 CrLJ 1380.
  4. 1993 (Suppl.) 1 SCC 520.
  5. A I R 1990 SC 1412.
  6. (1994) 2 SCC 220.
  7. (1997) 2 Bom. CP 171.
  8. A I R 1997 SC 699.
  9. A I R 1997 SC 2218.
  10. (1992) 1 SCC 221.
  11. A I R 1997 SC 3280.
  12. A I R 1987 SC 1049.
  13. A I R 1985 SC 765.
  14. A I R 1982 SC 806.

Committee vs. Union of India<sup>1</sup>, Sahib Singh vs. State<sup>2</sup>, Kakoo vs. State of Himanchal Pradesh<sup>3</sup>, Sheela Barse vs. The Secretary, Children's Aid Society & Others<sup>4</sup>.

### **Right to Compensation**

Bodhisathwa Gautam vs. subhra Chakraborty<sup>5</sup>, Nilbati Behra vs. State of Orissa<sup>6</sup>.

### **Right to Food**

Public Union for civil Liberties vs. Union of India<sup>7</sup>.

### **Right to Release on Probation**

Kamaroonissa vs. State of Maharashtra<sup>8</sup>, Prem Ballabh vs. State<sup>8</sup>, Sunna vs. State<sup>10</sup>, Uttam Singh vs. Delhi administration<sup>11</sup>, Abdul Qayum vs. State of Bihar<sup>12</sup>.

### **Determination of Age of the Juvenile Offenders**

Pratap Singh vs. State of Jharkhand<sup>13</sup>, Arnit Das vs. State of Bihar<sup>14</sup>, Umesh Chandra vs. State of Rajasthan<sup>15</sup>.

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1. (1982) SCC 546.
  2. (1991) CrLJ 687.
  3. (1976) CrLJ 1546 (SC).
  4. A I R 1987 SC 656.
  5. (1996) 1 SCC 490.
  6. (1993) 2 SCC 411.
  7. (2000) 5 SC ALE.
  8. A I R 1968 Goa 103.
  9. A I R 1977 SC 56.
  10. A I R 1967 Orissa 4.
  11. (1977) 1 SCC 103.
  12. A I R 1972 SC 21.
  13. (2004) 5 SC ALE 617.
  14. A I R 2000 SC 2264
  15. (1982) 1 SC ALE 335 (SC)

## **Right to Legal Aid**

Maneka Gandhi vs. Union of India<sup>1</sup>, Sheela Barse vs. Union of India<sup>2</sup>, Kario Man Singh & Other vs. State of Gujrat<sup>3</sup>.

## **Right to Speedy Trial**

Maneka Gandhi vs. Union of India<sup>4</sup>, Sheela Barse vs. Union of India<sup>5</sup>.

## **Right to Release on Bail**

Gopi Nath Ghosh vs. State of west of west Bengal<sup>6</sup>, Satto vs. State of U.P<sup>7</sup>.

## **Other Judicial Pronouncement for the Welfare of Children**

Raj Singh vs. State of Haryana<sup>8</sup>, Sarita Sharma vs. Sunita Sharma<sup>9</sup>, Kishan Pattnayak vs. State of Orissa<sup>10</sup>, Trirty Hoshie Dolikuka vs. H.S. Dolikuka<sup>11</sup>, Bhagyalakshmi vs. K. Narayanna Rao<sup>12</sup>, Jaswant Kaur vs. Manjit Singh<sup>13</sup>, Elizabeth Dinshaw vs. Arvind Dinshaw<sup>14</sup>, Poonam Datta vs. Krishnlal Datta<sup>15</sup>, Kirtikumar Maheshankar Joshi vs. Pradip Kumar Karunashankar Joshi<sup>17</sup>, Chandrakala Menon vs. Capt. Vipin Menon and another<sup>18</sup>,

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1. A I R 1975 SC 597.
  2. A I R 1985 SC 1774.
  3. Gujrat Law Reporter, vol.X (1969) P.66.
  4. A I R 1978 SC 597.
  5. A I R 1986 SC 1773.
  6. A I R 1984 SC 238.
  7. 1979 CrLJ 943.
  8. 2000 SCC (Cri.) 1270.
  9. (2000) 3 SCC 14.
  10. A I R 1989 SC 677
  11. A I R 1982 SC 1276.
  12. A I R 1983 Mad. 9.
  13. A I R 1986 Del. 159.
  14. 1987 (1) SCC 42
  15. 1989 Supp. (1) SCC 587.
  16. (1992) 3 SCC 573.
  17. (1993) 2 SCC 6.
  18. 1997 (9) Judgement Today 220.

## **OBJECTIVE OF THE STUDY**

With the objective of rights of child in India the Apex Court ensure rights for children as contemplated in the Constitution of India and U N Convention of the Rights of Child, 1989. Apex Court is to ensure justice to the children and promote effective implementation of laws relating to children in India.

The Specific Objectives are:

- To combat violence against children and to protect them against all forms of discrimination.
- To raise people's awareness on child's rights and at – risk situations.
- To assist victims in their pursuit of justice and redress.
- To elaborates their psychological, physical and social differences.
- To know about their sexual harassment.
- To know about Constitutional & Legal provisions.
- To know the judicial view.
- To know how law can help to protect the child's right.
- To prevent the use of drugs and adverse effects to drug abuse.
- To promote Adolescent sexual and reproductive health.

The implementation of juvenile Justice standards to protect the rights and needs of Children deprived of their liberty.

## **IMPORTANCE OF THE RESEARCH**

Childhood must be preserved. Children have the right to be born, survive, develop, protected and participated in decisions that impact their lives. The charter of child rights is

built on the principle the “All children are born with fundamental freedoms and all human beings have same inherent rights.”

There has never been a more important time to educate and empower the child with knowledge about their rights. Children are rarely in a position to stand up for their own rights. So, the need for a legal framework that embeds and protects their best interests is vital. The government is still bound by the Human Rights Act, 1998 and other domestic legislation that protects children’s interests, every opportunity needs to be taken to strengthen children’s rights. The importance of child’s rights are:

- Non – discrimination
- The best interests of the child
- The right to survival and development
- The right of children to be heard and have their views taken into account in matters that affect them
- To empower children with knowledge of their rights as referenced to the U N Convention on the rights of the child.

### **RESEARCH QUESTION :**

In my research “**RIGHTS OF CHILDREN vis-à-vis JUDICIAL POLICY – A CRITICAL ANALYSIS**” the research questions are :

1. The process of ensuring the rights of child, his needs for care, protection and support.
2. A comprehensive system of laws, policies procedures and fractures designed to ensure the protection of children and to facilitate an effective response to allegation of child abuse, neglect, exploitation and violence.
3. All care provided in a family environment has been ordered by a competent administrative body or judicial authority and all care provided in a residential

environment, including in private facilities, whether or not as a result of administrative or judicial measures.

## **RESEACH METHODOLOGY**

For the purpose of study materials will be surveyed, analyzed; various statutory provisions and judicial decisions will be evaluated and inferences will be drawn. So, the methodology will be doctrinal and thematic.

## **PROPOSED CHAPTERISATION OF THE THESIS**

The proposed study will be divided into following tentative chapters:

1. Introduction
  2. Jurisprudential aspects of Rights of the Child
  3. Children rights under International Jurisprudence
  4. Constitutional Background regarding Rights of the Child
  5. Statutory provisions of Rights of the Child
  6. Judicial pronouncement in the protection of Rights of the Child
  7. Conclusion and Suggestions
- Bibliography/References

## **CONCLUSION AND SUGGESTIONS**

On the basis of the material analyzed it is found that there are enough legislation measures at national and international levels for the purpose of protection of rights of the child. But I thoroughly examine them and their application in true sense, then is found that due to poor implementation of these provisions, their actual aims and objects have been defeated. We still come across instances where majority of children are still being deprived of their legal rights. Since situation may prove to be suicidal for the sake of Juvenile Justice. If we want that the system should get the desired results, there serious concerted effort are required.

These are the following tentative suggestions for consideration:

- The right of the child to speedy trial is violated. The trial courts have to be sensitized to the rights of the child and to be more child- friendly. Besides, these are the following drawbacks, which are required to be removed.
- For the purpose of ensuring Juvenile Justice in true sense a National fund should be created under the direct control of government of India.
- The personnel working in family courts are not sensitive to child rights.
- There are no provisions for follow-up of cases after the court has given custody and access to parents.
- The prevailing assumption in the present custody and guardianship laws is that the child's interests are identical to those of the parent's interest but this may not be always true. Children may have interest independent of their parents.
- There has to be provision for legal counsel in every case where children are involved.
- Certain provisions of law must be amended to eliminate the penal nature and to make it welfare legislation and to achieve the object of the Juvenile Justice.

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