

---

# HISTORICAL BACKGROUND AND EVALUATION OF RIGHTS OF CHILDREN

---

Nirupam Bhattacharya, Assistant Professor in Law, Haldia Law College, ICARE

## INTRODUCTION

At the beginning of the 20th century, children's protection starts to be put in place, including protection in the medical, social and judicial fields. This kind of protection starts first in France and spreads across Europe afterwards.

Since 1919, the international community, following the creation of The League of Nations (later to become the UN), starts to give some kind of importance to that concept and elaborates a committee for child protection.

The League of Nations adopts the Declaration of the Rights of the Child on September 16, 1924, which is the first international treaty concerning children's rights. In five chapters it gives specific rights to the children and responsibilities to the adults.

The Geneva Declaration is based on the work of the Polish physician Janusz Korczak. World War II and its casualties leave thousands of children in dire situations. Consequently, the UN Fund for Urgency for the Children is created in 1947, which became UNICEF and was granted the status of a permanent international organization in 1953.<sup>1</sup>

From its inception, UNICEF focuses particularly on helping young victims of WW2, taking care mainly of European children. But in 1953 its mandate is enlarged to truly international scope and its actions expanded to developing countries. UNICEF then puts in place several programs for helping children in their education, health, and their access to water and food.<sup>2</sup>

Since December 10, 1948, the Universal Declaration of Human Rights recognizes that "motherhood and childhood are entitled to special care and assistance."

---

<sup>1</sup> Supra note 5 at p 5

<sup>2</sup>Vanessa Sedletzki, championing children's rights: a global study of independent human rights institutions for children, A global study of independent human rights institutions for children, UNICEF, 2001.

In 1959 the General Assembly of the UN adopts the Declaration of the Rights of the Child, which describes in 10 principles the children's rights. Whereas this text has not been signed by all the countries and its principles have only an indicative value, it paves the way to a Universal Declaration of Children Rights.

After the adoption of the Universal Declaration of Human Rights, the UN wanted to introduce a Charter of Human Rights which would be enforceable and would oblige the states to respect it. Thus, a Commission on Human Rights was set up to write this text.

This paper provides an overview of the origin and evolution of the role of orphanages in the United States. It reviews how orphanages began in the United States and traces their history and evolution. It follows the shift in policy from the institutionalization of destitute children without parents to the provision of financial assistance to poor families so that they could care for their children. The paper also details how the development of child welfare policy led to a gradual abandonment of traditional orphanages and the reliance on a wider continuum of services; i.e., foster care, group homes, and residential treatment. Finally, the contemporary notions of "orphanages" are discussed, and an analysis is provided on what role they might have in the continuum of child welfare services.

Throughout its history, America's debate about welfare reform has grappled with the question of poor women and their children. One concern seems to be how to remove women from welfare in ways that do not harm innocent children. Periodically, the subject of orphanages becomes part of this larger national discussion. Recently, the discussion of the role of orphanages took on new life as proponents of welfare reform introduced the **Personal Responsibility Bill 1996**<sup>3</sup>, a welfare reform bill soon to be debated in Congress. One measure of this bill would eliminate the Aid to Families with **Dependent Children (AFDC)** payments to unwed mothers. If the mothers were then unable to care for their children, the children could be placed in orphanages.<sup>4</sup> The media quickly presented the question as a battle of images. Some remembered Oliver Twist and Dickens' portrayal of orphanages as grim warehouses where destitute children begged for food. Liberal child advocates viewed the call for a return to orphanages as absurd. For others, the term "orphanage" reminded them of Father Flanagan's successes with youth in places like Boys Town. Conservatives suggested that for many

---

<sup>3</sup> <https://www.centreforpublicimpact.org/case-study/personal-responsibility-and-work-opportunity-reconciliation-act-the-clinton-welfare-reform> (last visited on 2nd December 2021, 12.09 p.m.)

<sup>4</sup> *ibid*

children, living in a modern-day orphanage could be a better alternative than living in homes full of neglect and abuse.

## **EARLY BEGINNINGS**

The first orphanage was established in the United States in 1729 to care for White children, orphaned by a conflict between Indians and Whites at Natchez, Mississippi. Orphanages grew and between 1830 and 1850 alone, private charitable groups established 56 children's institutions in the United States (Brenner, 1970). Some theorize these orphanages were established in response to health epidemics (cholera, tuberculosis and influenza), wars, the influx of immigrants into a particular geographical area, growing urbanization, and poor economic times. Others theorized that the establishment of these institutions was for a variety of other reasons: - institutions were viewed as an advance over the colonial conditions of relief provided for children which allowed them to be housed with adult criminals and deviants (Downs, 1983). - Creation of these institutions was a way in which the rich could exercise control over the poor. Many believed that "punitive conditions and isolation from family made possible by institutionalization would coerce children into obedient labour market behaviour...the functions of children's institutions were to train and rehabilitate young people and also provide a model for the moral reform of society" (Downs, 1983). - labour market conditions played a significant role in the growth of institutional care during the nineteenth-century industrialization and mechanization eventually reduced the relative demand for unskilled child labour" (Downs, 1983).

At the time, vast numbers of young people were entering the country as immigrants. The net effect of these trends was an oversupply of child labour. Communities became concerned about what to do with these youth. Thus, institutions were created to house children who were not needed in the labour force. These theories linked the establishment of orphanages to the country's socio-economic problems. Financial concerns rather than the concern for children's welfare dominated the discussion.

Orphanages were also seen as a stabilizing force in the country during times of upheaval or rapid social change. These institutions were seen as a place to teach values to the children of the disenfranchised population thus preparing them to become self-reliant adults. A great number of children placed in these institutions were not fully orphaned. In fact, from 1847 to 1869, a review of the Protestant Orphan Asylum in St. Louis, Missouri, revealed that only

"twenty-seven per cent of the children were full orphans. Sixty-nine per cent of the children had one parent, the other parent being deceased or absent. The single parents were equally divided amongst fathers and mothers. Four per cent of the children had both parents" (Downs, 1983). These orphanages appeared to serve a population of disadvantaged children whose parents were having difficulty providing them with adequate care. Many of the children were in these institutions for less than a year. Most children returned to their family or friends. However, "thirty-two per cent were placed out as indentured servants" (Downs). Often children were placed away from home even when they had parents and the parents had objected to the child's placement as an indentured servant. While these statistics refer to conditions only in a single institution, one can reasonably argue that the situation was similar in other institutions. Thus, it appears that orphanages did provide a temporary place of relief for the family. However, children were not always returned home and could be "indentured" to other persons or families or sent to other areas of the country where manual labour was needed. Examples include the orphan trains organized during the early 1900s by the Children's Aid Society to transport children to the rural West to assist farmers and ranchers. It should be noted that a great number of these institutions were founded by wealthy members of society as acts of charity.

Many of the resources used to operate these early institutions were from charity dollars, arising from the donors' genuine interest in providing services to the poor. However, when decisions about children's placements had to be made, such benevolent interests did not always guide decision-making. For example, in numerous situations, children were placed as indentured servants in remote areas of the country despite parents' pleas to have their children returned home. These actions seemed to arise from attitudes that the less fortunate cannot provide adequately for their children. During the 1890s, American Indians were facing the extermination of their families and the destruction of their culture.

The government viewed American Indians as being uncivilized and made a series of decisions founded on the belief that Indian Tribes were unable to provide for their young. Consequently, there was large scale removal of thousands of American Indian children from their communities to boarding schools, mission schools, and orphanages as part of a policy to assimilate American Indians into white society. In an attempt to civilize these children, many youths were sent away to boarding schools, were not allowed to speak their language and were forced to learn English. Many children were 3 beaten and abused in an attempt to break their

spirit. Additionally, Indian children were removed from their families and adopted by White families at a much higher rate than any other children in the nation.

### **FIRST WHITE HOUSE CONFERENCE ON CHILDREN<sup>5</sup>**

The first White House Conference on Children was convened by President Theodore Roosevelt in 1909 so that "those engaged in the work of caring for dependent and destitute children could exchange ideas and experiences" (Cole, 1990). Conference participants concluded that, wherever possible, the child should be placed in foster families and not in institutions. The consensus of this conference was that "home life is the highest and finest product of civilization. Children should not be deprived of it except for urgent and compelling reasons ...This consensus has formed the basis of child welfare theory ever since" (Jones, 1993). After the conference "financial legislation authorizing mother's pensions was passed in many states. This assistance preserved the home and prevented placement for a substantial number of children" (Cole, 1990). However, these pensions did not apply to all families. Women who were considered immoral or who were thought to have bad characters were not offered financial assistance. However, the conference's conclusions had little impact on the number of children being placed in institutions.

The number continued to rise in subsequent years. It was not until 35 years after the conference that the number of children in orphanage care finally dropped below the 1909 level (Jones, 1993). The increase in children placed in institutions during that time may be attributed to a variety of reasons, including the two world wars and the Great Depression in the first half of the century. It may also have been because the concept of "the mother's pension was based on the simplistic notion that the majority of children were placed because their parents didn't have enough money. This view ignored the other incapacities of parents or the challenges to parenting that some presented" (Jones, 1993).

### **SOCIAL SECURITY ACT OF 1935**

Passage of the Social Security Act in 1935<sup>6</sup> resulted, in part, from the federal government's efforts to assist states to provide care for children. The Aid to Families with Dependent Children program provided financial assistance to families so that they might be better able to

---

<sup>5</sup> <https://www.cwla.org/reviving-the-white-house-conference-on-children> (last visited on 2nd December 2021, 12.34 p.m.)

<sup>6</sup> Steven G. Livingston, *Social Security: Selected full-text books and articles*, ABC-CLIO 2002.

care for their families at home and avoid having their children taken out of the home and placed with other caregivers. It was seen as another step toward reducing the number of children placed in 4 institutional settings. Although the actual numbers of children needing out of home placements continued to rise, these new efforts to provide welfare to poor women with children reduced the need to use orphanages as places to house destitute children. Several other factors also played a role in the decline of orphanages. These factors included:

- 1. Professionalization of social work;**
- 2. Regulation of child care institutions;**
- 3. The movement toward de-institutionalization; and**
- 4. Turnover of childcare workers.**

The Experience of Children of Color During the 1940s and 1950s, children of colour were removed from their families at a much higher rate than White children. In Minnesota, "where the proportion of minority population is small...the number of minority families represented in foster care population is three times as high as their proportion in the general population." (Bremmer, 1974) The practice of placing minority children at a higher rate in Minnesota seemed to mirror placements across the nation. Many believed that this higher rate of minority families may be linked to the fact that for children of colour "placement was the initial service rather than a planned decision after attempts to provide community-based therapy" (Bremmer, 1974). This practice appeared to be in direct contrast to what may have been needed by these children being placed. "Although the rate of child welfare services to Negro children was higher... behavioural and emotional problems were reported for a considerably smaller proportion of Negro children...This raised the question for some professionals that whether the placement of minority-group children is precipitated by poverty and lack of supportive resources, rather than disruptive family relationships or perceived hazards to the child" (Bremmer, 1974). The removal rate of American Indian children from their families continued to be even higher than average. This was partly due to the poverty of American Indian families forced to live on reservations and to the fact that social workers tended to assess Indian home life based on their cultural standards of what families should be. In most cases, White families adopted Indian children taken from their homes and these children lost contact with their history and culture.

## **RISE IN CHILD WELFARE REFORM**

The decade of the sixties witnessed renewed national efforts to secure the basic civil rights of all individuals and to reduce discrimination based on race and gender. Concurrent with this effort was a movement to de-institutionalize individuals and to guarantee disabled groups the right to live in the least restrictive setting. Instead of being placed in institutions, children were more often placed in foster care families. Thus, "from 1961 to 1977 the number of children in foster-family care rose from 165,000 to 364,000" (Jones). In 1962, the concept of child abuse was reintroduced.

By 1973, all 50 states had mandatory reporting laws. A new emphasis on protecting children brought about an increase in the number of children in foster care because of neglect or abuse. In the 1970s, professionals began to question the effectiveness of orphanages, especially as a way to address the complex problems of teens.

Available data suggested life in an orphanage did not reduce a teen's struggle with deviancy, but in some cases, increased the juvenile's propensity to engage in such behaviour. This provided support to the movement to shut down existing orphanages.

However, a few orphanages which were also considered to be residential treatment centres remained in business; i.e., the Villages, Boys Town, Maryville, etc. These institutions that evolved to meet the needs of children in residential settings were either group or family-style homes. The purpose of these homes was to provide children who had failed in numerous placement settings with a stable structured living environment.

Thus, their use was limited. These homes have social workers and psychologists on staff or the homes transport the children to the services. Many of the children receiving services at these homes are not orphaned in that their parents are living and, in some cases, retain legal custody. Professionals in a variety of disciplines began to believe that the very nature of institutions was in direct contrast to human nature. "Characteristics which all institutions have in common are order, precision, form, and aspect of changelessness which require considerable discipline in their preservation. Human beings, on the other hand, are mobile creatures - individuals; and 'essential to their innate sense of freedom to be individuals is a certain lack of conformity in all matters of life'" (Bremner, 1970). Numerous studies began to show that children raised in an institutional setting suffered from "the inability to bond, inability to effectively problem solve, inability to turn to others for help, poor peer relations, disciplinary problems, disruptive

behaviours" (Ford, 1990). Another study interviewed children living in institutions and "the overwhelming pattern...is that children do not consider institutions supportive places to reside.

The children who were living in institutions at the time they were interviewed felt less comfortable, loved, looked after, trusted, cared about, and wanted than children in any other form of surrogate care or than children who had been returned to their original families" (Bush, 1980). There was insufficient evidence about the issue of whether long term placements in residential settings could help teens deal with problems. There was insufficient evidence that life in an institution had a positive impact on children. Thus, during this period, more and more children were placed with foster families. The rapid increase of children entering foster homes brought the system to a state of crisis by the late 1970s.

The crisis was related to the escalating costs of out of home placement, the dwindling number of foster parents and the longer periods children spent in foster care placements or drifted from one placement to another without ever returning home. Additionally, the children entering foster care appeared to be increasingly disturbed. Many suffered from psychological problems associated with abuse, abandonment or neglect. Thus, the system did not appear able to handle the more severe problems of these children and provide them with the necessary services. An important effort to reunify children with their own Indian families took place in 1978 with the passage of the Federal Indian Child Welfare Act. Indian Tribes initiated the act in response to statistics that documented the disintegration of Indian families through the placement of Indian children in adoptive and foster homes.

This Act gave preferences in adoptions to the child's extended family, then to other members of the child's tribe, and finally to other Indian families. The Act also authorized the establishment of child and family service contracts with Indian tribes and organizations on or near the reservations. Tribes were also given the right to intervene on behalf of a child in state court proceedings. In 1980, Congress passed the Adoption Assistance and Child Welfare Act. This act was to establish a program of adoption assistance, to strengthen the program of foster care assistance for needy and dependent children, to improve the child welfare, social services, and aid to families with dependent children program. It was significant because it stressed the importance of placing a child in the least restrictive and most family-like setting. The Act discouraged home placements and called for the return of children to their families as soon as possible. In addition to the Adoption Assistance and Child Welfare Act, family preservation



services were introduced. Workers were encouraged to use a child's relatives as responsible partners in meeting a child's needs.

Children's rights are human rights with particular attention to the rights of special protection and care, including their right to association with both biological parents, human identity as well as the basic needs for food, universal state-paid education, health care and criminal laws appropriate for the age and development of the child. Interpretations of children's rights range from allowing children the capacity for autonomous action to the enforcement of children being physically, mentally and emotionally free from abuse, though what constitutes "abuse" is a matter of debate. "A child is any human being below the age of eighteen years unless, under the law applicable to the child, the majority is attained earlier.

## **THE CHILDREN'S RIGHTS MOVEMENT**

The Children's Rights Movement is a historical and modern movement committed to the acknowledgement, expansion, and/or regression of the rights of children around the world. While the historical definition of the child has varied, the United Nations Convention on the Rights of the Child asserts that "A child is any human being below the age of eighteen years, unless, under the law applicable to the child, the majority is attained earlier." There are no definitions of other terms used to describe young people such as "adolescents", "teenagers" or "youth" in international law.

## **SOME CONCEPTS ON CHILD RIGHTS:**

Children's rights are defined in numerous ways, including a wide spectrum of civil, cultural, economic, social and political rights. Rights tend to be of two general types: those advocating for children as autonomous persons under the law and those placing a claim on society for protection from harms perpetrated on children because of their dependency. These have been labelled as the **right of empowerment** and as the **right to protection**. One Canadian organization categorizes children's rights into three categories:

- **Provision:** Children have the right to an adequate standard of living, health care, education and services, and to play and recreation. These include a balanced diet, a warm bed to sleep in, and access to schooling.

- **Protection:** Children have the right to protection from abuse, neglect, exploitation and discrimination. This includes the right to safe places for children to play; constructive child-rearing behaviours, and acknowledgement of the evolving capacities of children.
- **Participation:** Children have the right to participate in communities and have programs and services for themselves. This includes children's involvement in libraries and community programs, youth voice activities, and involving children as decision-makers.

## INTERNATIONAL LAW

The United Nations' 1989 Convention on the Rights of the Child, or CRC, is the first legally binding international instrument to incorporate the full range of human rights—civil, cultural, Economic, political and social rights. Its implementation is monitored by the Committee on the Rights of the Child. National governments that ratify it commit themselves to protect and ensure children's rights, and agree to hold themselves accountable for this commitment before the international community.

The CRC is the most widely ratified human rights treaty with 190 ratifications. Somalia and the USA are the only two countries that have not ratified the CRC. The CRC is based on four core principles, namely the principle of non-discrimination, the best interests of the child, the right to life, survival and development, and considering the views of the child in decisions which affect them (according to their age and maturity)<sup>7</sup>.

## VIENNA DECLARATION AND PROGRAMME OF ACTION <sup>8</sup>

Vienna Declaration and Programme of Action urges at Section II para 47, all nations to undertake measures to the maximum extent of their available resources, with the support of international cooperation, to achieve the goals in the World Summit Plan of Action. And calls on States to integrate the Convention on the Rights of the Child into their national action plans.

Perceptions of children have evolved: children are now viewed less as passive objects of adult concern and more as human beings with rights of their own. It is of course true that concepts about children and childhood, including what is allowed and expected of children of different ages, maturity and gender, vary widely across and within countries and cultures; there is no

---

<sup>7</sup> Supra note 12 at p 10

<sup>8</sup> Jagannath Mohanty, Human Rights Education, Deep and Deep Publications, 2000

“universal” child. In industrialized countries, for example, some teenagers are not expected even to look after themselves, while in many poor countries, quite young children shoulder considerable responsibility within the household.

Over recent years, an undoubted convergence of thinking about children, marked by the adoption in 1989 of the United Nations Convention on the Rights of the Child (CRC), is now almost universally ratified. Amongst many other rights, it recognizes “the right of the child to be protected. Many children, in very different national circumstances, carry out work that is entirely consistent with their education and full physical and mental development.

Drawing on the provisions of the Convention on the Rights of the Child (CRC), Nos. (1973)138 and (1999)182, the report identifies three categories of child labour to be abolished: <sup>9</sup>

(1) Labor that is performed by a child who is **under the minimum age** specified for that kind of work (as defined by national legislation, by accepted international standards), and that is thus likely to impede the child’s education and full development.

(2) Labor that jeopardizes the physical, mental or moral well-being of a child, either because of its nature or because of the conditions in which it is carried out, known as **hazardous** work.

(3) The **unconditional worst forms of child labour**, which are internationally defined as slavery, trafficking, debt bondage and other forms of forced labour, forced recruitment of children for use in armed conflict, prostitution and pornography, and illicit activities.

Needless to state that without the recognition of the right to education, the realization of the right to development of every human being and nation is not possible. Article 26 of the **Universal Declaration of the Human Rights (1948)** inter alia states that ‘education shall be directed to the full development of the human personality and the strengthening of respect for human rights and fundamental freedom.

On 10th December 2004, the General Assembly of the United Nations proclaimed the World Programme for Human Rights Education (2005-ongoing) to advance the implementation of human rights education programmes in all sectors.

---

<sup>9</sup> Supra note 12 pages at 10

The World Conference on 'Education for All' held in Jomtien, Thailand in 1991 pleaded universal primary education in particular on education for girls and women.

**CHILD LABOUR LAWS IN INDIA:** After its independence from colonial rule, India has passed several constitutional protections and laws on child labour.

The Constitution of India in the Fundamental Rights and the Directive Principles of State Policy prohibits child labour below the age of 14 years in any factory or mine or engaged in any other hazardous employment (Article 24). The constitution also envisioned that India shall, by 1960, provide infrastructure and resources for free and compulsory education to all children of the age six to 14 years. (Article 21-A and Article 45).<sup>10</sup>

India is a federal form of government, and child labour is a matter on which both the central government and state governments can legislate, and have. The major national legislative developments include the following:

- **The Factories Act of 1948:** The Act prohibits the employment of children below the age of 14 years in any factory. The law also placed rules on who, when and how long can pre-adults aged 15-18 years be employed in any factory.<sup>11</sup>
- **The Mines Act of 1952:** The Act prohibits the employment of children below 18 years of age in a mine.<sup>12</sup>
- **The Child Labour (Prohibition and Regulation) Act of 1986:** The Act prohibits the employment of children below the age of 14 years in hazardous occupations identified in a list by the law. The list was expanded in 2006, and again in 2008.
- **Bonded labour system abolition Act 1976:** The act prohibits all forms of bonded labour including children from any forced labour. It also considers forced work under any consideration, less than minimum wages labour as bonded labour as a cognizable offence.<sup>13</sup>
- **National Policy on Child Labour in 1987:** India formulated a National Policy on Child Labour in 1987. This Policy seeks to adopt a gradual & sequential approach with a focus on the rehabilitation of children working in hazardous occupations. It envisioned strict enforcement of Indian laws on child labour combined with

---

<sup>10</sup> V.N. Shukla, "Constitution of India", Eastern Book Company

<sup>11</sup> Dr J P Sharma, Factories Act, 1948, Bharat Law House Pvt. Ltd; 1st edition (2009)

<sup>12</sup> G..n. Raju The mines act 1952, a planet publishing house (2017)

<sup>13</sup> Supra note 19 pages at 21

development programs to address the root causes of child labour such as poverty. Despite these efforts, child labour remains a major challenge for India.

- **The Juvenile Justice (Care and Protection) of Children Act of 2000:** This law made it a crime, punishable with a prison term, for anyone to procure or employ a child in any hazardous employment or bondage.

**The Right of Children to Free and Compulsory Education Act of 2009:** The 86th Constitutional Amendment Act, 2002 provides for free and compulsory education to children in the age group of 6 to 14 years. This legislation also mandated that 25 per cent of seats in every private school must be allocated for children from disadvantaged groups and physically challenged children. Before the 86th Constitutional Amendment Act, the Indian Constitution had a mandated provision of free and compulsory education as a Principle Directive of State Policy. Despite these provisions, the country has not been able to achieve the target of universal elementary education. The 86th Constitutional Amendment Act 2002 inserted a new Article 21(8) which provides for free and compulsory education to children of the age group of 6 to 14 years being a Right to Education. The same Amendment Act Provides for amendment of Article 45 as the Directive Principle of the State Policy to provide provision for early childhood care and protection Bill up to the age of 6 years. It is also made a Fundamental Duty of parents and guardians under New Article 51(a) to provide opportunities for education to children between the age of 6 to 14 years.

India has also signed two **SOUTH ASIAN ASSOCIATION FOR REGIONAL COOPERATION (SAARC)** Conventions in 2002 for combating trafficking in the region and on child welfare. The provisions of these Conventions are being implemented. In addition to this India is also a signatory to a SAARC Social Charter for addressing all issues about the social sector, including women and children, in the SAARC region.<sup>14</sup>

**NCPCR:** The Government notified the Commissions for Protection of Child Rights Act 2005 in the Gazette of India on 20th Jan. 2006. The Act envisages setting up a National Commission at the National level and the State Commissions at the State level.

## **MAJOR CONSTITUTIONAL PROVISIONS.<sup>15</sup>**

### **FUNDAMENTAL RIGHTS**

---

<sup>14</sup> <https://www.saarc.com>( last visited on 3<sup>rd</sup> December 2021, 8.37 a.m.)

<sup>15</sup> Supra note 19 pages at 21

- **Article 14:** shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.
- **Article 15:** shall not discriminate against any citizen (3) Nothing in this article shall prevent the State from making special provisions for women and children. (4) Nothing shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or the Scheduled Castes and the Scheduled Tribes.
- **Article 19:** (1) All citizens shall have the right – (a) to freedom of speech and expression; ... (c) to form associations or unions; (d) to move freely throughout the territory of India; (e) to reside and settle in any part of the territory of India.
- **Article 21:** No person shall be deprived of his life or personal liberty except according to procedure established by law.
- **Article 21 A:** shall provide free and compulsory education to all children of the age of six to fourteen years.
- **Article 23:** Traffic in human beings and beggars and other similar forms of forced labour are prohibited...
- **Article 24:** No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

## **DIRECTIVE PRINCIPLES OF STATE POLICY**

- **Article 39:** (e) the tender age of children is not abused... and not forced by economic necessity to enter avocations unsuited to their age or strength; (f) that children are given opportunities and facilities to develop in a healthy manner and conditions of freedom and dignity and that childhood...protected against exploitation and moral and material abandonment.
- **Article 46:** Shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes.
- **Article 47:** Raising of the level of nutrition and the standard of living of its people and the improvement of public health...

- **Article 51:** The State shall endeavour to (c) foster respect for international law and treaty obligations ...

- **Article 51A:** (k) Parent or guardian to provide opportunities for education to his child or, as the case may be, ward between **the age of six and fourteen years.**

India adopted a **National Policy for Children in 1974**, declaring children to be the nation's most precious asset. In the wake of the 1990 World Summit for Children, the Government of India adopted a National Plan of Action for Children in 1992, with goals for the decade. In the year 1992 itself, it also ratified the CRC and thereafter in its Periodic Country Reports submitted to the UN Committee on the Rights of the Child has dwelled at length about the measures taken for ensuring children's rights. The 86th Amendment to the Constitution, on the Fundamental Right to Education for the 6 to 14 years age group, has also led to the inclusion of an additional clause under article 51A that imposes a fundamental duty upon parents or guardians to provide opportunities for education of their children/wards between the ages of 6 and 14 years.

**CHILD MARRIAGE RESTRAINT ACT, 1929 (CMRA)** There is legal recognition of the fact that children must not be married before they are physically and mentally ready for it. The Child Marriage Restraint Act, 1929 (CMRA) prescribes a minimum age of 21 years for males and 18 years for females. It does little to protect children, who have been married off.

This Act, 1929 is, however, already repealed. The Prohibition of Child Marriage Act, 2006 has now come into effect from 01.11.2007.

Recently, the Union Cabinet cleared the proposal to bring uniformity in the marriageable age of men and women. It aims to increase the legal age of marriage of women from 18 to 21 years. Earlier, a task force was set up for the re-examination about the marriageable age and its correlation to health and social indices including infant mortality, and nutrition levels among the mothers and children.<sup>16</sup>

## CONCLUSION

Children cannot be separated from their families, parents, children and society exist together

---

<sup>16</sup> <https://theguardian.com/an-analysis-of-the-prohibition-of-child-marriage-amendment-bill-a-bill-which-contradicts-other-laws/> (last visited on 22nd December 2021, 8.37 a.m.)

as an institution, and so the development in child rights and a better childhood for every child can be reached only with sufficient good awareness in the family and with the introduction of new schemes and programs.

Although we are sometimes indifferent to this. Only then will we be able to better implement the law on children's rights when people know these things better. I think parents and responsible citizens need to be aware of the rights of children and their awareness. Children are our future. We should all keep this in mind and the administration should be silent for the children for whom the law has been made and help them in their mental development.