
SOCIO-ECONOMIC RIGHTS OF A CHILD: A STUDY

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ABSTRACT

This article focuses on both child poverty and “economic and social rights (esr)”. It does so by identifying and taking into account major trends and inadequacies in “child rights scholarship (CRS)” in these domains. Given the significant link among esr and poverty, the authors' handling of both topics with each other is sensible (though perhaps not unavoidable). Both are under-researched issues in crs: esr has been traditionally under-theorized and underrepresented in child rights study, and economic inequality has gotten a lot of scholarly interest, but only a small portion of that has been from the a children's rights viewpoint.

Keywords: Economic, Social, Rights, Child, Inequality

Introduction

The spread of legal standards that acknowledge social and economic rights is one of the tendencies in twentieth-century international law making. The adoption of the “United Nations Convention on the Rights of the Child in 1989” was a watershed moment in this process. This Convention guarantees every child universal rights and it has been accepted by almost all nations, including developing ones. This raises the question of whether and how children's social and economic rights can be fulfilled in poor countries. Exploring how the notion of global collaboration in the preservation of socio - economic rights was used to assess and assign external duties to nations signatories to the UN Charter is one way to address this subject.¹

Children are unique individuals. As they're both mentally and physically immature and vulnerable, they are unable to assert their interests on their own and must rely on their carers. When assessing the roles and responsibilities of individuals, households, institutions, the government, and community, children's rights should be taken into account.

As a result, the law established the children's rights as well as the responsibilities of the state, family, and community. Children's policies, as well as plans and strategies for economic growth, were adopted.²

Research methodology

In this research paper, doctrinal method has been used. To know about the several rights of the children reference of several journal articles has been taken. Reference from the constitution of India has been taken. Field survey was not possible to gather knowledge about the existing rights. Field survey can only be done to know the present condition of the society in the presence of the existing rights.

Review of Literature

In recent years, there has been a rising measure of the link between poverty and human rights, an increase in knowledge of children's role as right-holders, and a growing number of links being drawn between “individual rights and child poverty” in the context of development.

¹ Michael Wabwile., *LEGAL PROTECTION OF SOCIAL AND ECONOMIC RIGHTS OF CHILDREN IN DEVELOPING COUNTRIES* (2010).

² UNICEF, <https://www.unicef.org/vietnam/reports/manual-how-integrate-childrens-rights-socio-economic-development-plans>(last visited Aug 9, 2022)

These advancements have undoubtedly centred scholarly and practice attention on those protection of children that are most specifically linked to making sure children's growth needs – namely children's economic and social rights. These developments have been energised by focusing on the following about the effects of business internationalisation and the 2007-8 disasters on children (ESR).

Despite a surge in interest among researchers including both child rights and social economic liberties throughout the last twenty years, socio-economic rights of a child remain a relatively overlooked issue. This is especially true when it comes to the function of the judiciary in enforcing those liberties.³ Earlier many scholars and researchers have talked about the socio economic condition of the children whereas this paper will be consisting of the legal aspect of the existing rights and the suggestions for the same to implement them.

Method

Field survey was possible to know the present rights and condition of the children. What bounded the children to work for their family was questioned. Nearly all of the kids admitted that they only worked in the evenings while going to school as well, and they did both things so that they could gain some technical expertise and assist their families financially. Some of them claimed that they had no choice but to labour due to financial obligations. When the aforementioned kids were asked if they were enthusiastic in going to school, they said that they weren't and that the money they made for the family just helped them survive while giving their younger siblings access to some educational options. In their storytelling, a strong feeling of duty was evident. They went into great detail about the history of their family, which suffered from single parenthood, alcoholism in the father, bankruptcy, etc. They had lost all faith in education since they believed that one who was educated was unable to employ himself or herself. They were not aware of the existing rights and thus implementation has always been a problem in our country.

What are children's economic rights?

Poverty has a devastating effect on the development of a child. Their health and education, as well as their capacity to reach their full potential and participate in society, might suffer, both as children and as adults. Extreme poverty impacts individuals in even the wealthiest countries,

³ Aoife Nolan, Children's Socio-Economic Rights, Democracy and the Courts, *The International Journal of Children's Rights* 23, 3, 677-682, 1 (2015) <https://doi.org/10.1163/15718182-02303014>.

and social inequalities among “haves” and “have nots” may undermine societies. No international human rights convention specifically recognises poverty alleviation as a human right. The right to an acceptable quality of living (including shelter and food), as well as the right to health, schooling, and protection against discrimination, are all basic provisions of the “Convention on the Rights of the Child and the International Covenant on Economic, Social, and Cultural Rights”.

Child poverty raises concerns such as the right to growth and survival, the right to health, the right to schooling, security from kid labour (particularly reasonable compensation when a student works in a promising area), and other types of exploitation. Any effort taken to alleviate welfare spending must consider the systems that lead to poverty. They should also be accompanied by an effort to realise right of children, including human and civil rights, so that they may express their opinions on federal policies and funding distribution. Read CRIN's response to the OHCHR's report on improved investment in children to gain a better understanding of the necessity of a “rights-based” strategy in economics. It examines the influence of government spending decisions on specific children's rights, as well as ways to ensure such privileges.

Economic rights are addressed in the following provisions of the “Convention on the Rights of the Child (CRC)”:

Article 26: The child is entitled to receive social security benefits, including social insurance.

Article 27: Every child is entitled to a living standard that is appropriate for his or her bodily, intellectual, emotional, ethical, and social growth. It is the primary obligation of families to make sure that students have a sufficient quality of life. It is the State's job to guarantee that this responsibility is met, and it is. Material help to children and parents may be a part of the state's responsibilities.

Article 32: A child's right to be safeguarded from labour that jeopardises his or her life, learning, or growth. The government is responsible for establishing minimum employment ages and regulating labour environment.⁴

⁴ ARCHIVE.CRIN.ORG, <https://archive.crin.org/en/home/rights/themes/economic-rights.html#:~:text=Specific%20issues%20around%20child%20poverty,created%20by%20situations%20of%20poverty> (last visited Aug 9, 2022)

Bridging the Gap between Child Poverty and Child Rights

Child poverty is not only an ESR issue, but it does have a particularly strong link to it. As a result, it's possible that the absence of academic attention paid to ESR has resulted in some degree of child poverty, with child rights experts – notably attorneys – paying less attention. Undoubtedly, the report argues that disciplinary disconnects and the dominance of non-law disciplines such as development economics and social policy in “child poverty scholarship” (“particularly with regard to child poverty definition and measurement”) are to blame for the disconnect between child poverty and child rights. Such areas of study bring significant theoretical and methodological strong points to childhood poverty job, but those who may not always share the same goals, nomenclature, theoretical or conceptual strategies as children's rights scholars; indeed, even fields within the field of children's rights research all had their own philosophical, descriptive in nature, and organisational specificities.

The fact that the crc doesn't really include a particular right to be free of poverty is a well-known fact. Nevertheless, in current history, “the Committee on the Rights of the Child” has concentrated heavily on poverty, with the right to an acceptable standard of life under “Article 27” serving as a focal point for its efforts. Welfare spending can be seen as a cause or a result of esr violations, and there is no counterpart to the ohchr's theoretical model for individual rights and reducing poverty for childhood poverty and rights. However, there are increasing efforts, notably by lawyers, to understand poverty levels from an esr viewpoint, as well as some acknowledgement by illegal childhood poverty experts that poverty is a “child rights” issue. Regrettably, there is still a loss to truly understand the nuances of rights of the child in terms of the provision of criteria of engagement of those criteria in both identifying and quantifying welfare spending.⁵

Children and democracy

Notwithstanding such encouraging instances, children frequently lose the chance to participate in civic engagement and impact the societal change that is needed to enhance their own status and that of their societies. Children face a serious obstacle when it comes to civic space constraints. Only 34% of the youngsters polled felt secure voicing their opinions in public, and only 38% felt safe participating in a mass protest or assembly. Furthermore, the research

⁵ [Aoife Nolan](#) and [Kirrily Pells](#), *Childrens Economic and Social Rights and Child Poverty: The State of Play*, *The International Journal of Children's Rights*, 111-132, 1 (2020) <https://doi.org/10.1163/15718182-02801006> .

revealed that youngsters desire a stronger relationship with governmental institutions, especially at the local level. It was suggested that children need greater internet connectivity and children friendly data, as well as more chances to unite and gather together just to learn regarding their rights and undertake good understanding. Adults also have a part in this. As the poll found, children frequently view adults as a major impediment to their exercising their civic rights and participating in public decision-making. Children are viewed as fragile and in want of security in many cultures, and as belongings of grownups in others. Adults believe that it is potentially dangerous, and that youngsters are not bodily, culturally, or mentally prepared to cope with the difficulties. The rights of children to engage civic activities engage in central decision, and affect societal reform must be acknowledged and protected by legislation. Measures to encourage active participation, as well as awareness of age to vote, can be included in lawful change, because they're the most visible methods of holding authority responsible.

However, legislative change is insufficient. We also have to identify and address the social and cultural practises that create obstacles to children's civic involvement and collaboration at the person, society, federal, worldwide, and administrative levels, as well as how these practises vary between various civic spaces, using techniques such as the "CIVICUS monitor". There is evidence that while children are able to use their rights to civic action and participation, they get new perspectives on their position and come up with innovative solutions to problems. It also aids youngsters in comprehending political processes and developing their upcoming capability and motivation to engage in politics and promote a human rights culture. Without genuine possibilities for youngsters, even the most underprivileged and disenfranchised groups of students, communities can really be called genuinely democratic and inclusive.

Governments have a critical role to play, with a responsibility to enact and enforce laws that protect children's and adults' rights to freedoms of alliance, freedom of assembly, expression, and accessibility of data- both online and offline - including by having removed legislative and technical barriers to children forming their own institutions. Timely provides age-appropriate relevant data in languages and forms that children can comprehend. Establishes permanent child-friendly, inclusive, and safe processes and places in legislation and resources so that children may actively participate with judgement givers and offer suggestions on legislation, policies, finances, and provision of services. Promoting the relevance of children's engagement in public processes, addressing negative feelings about children, and improve the flexibility of

government leaders and government workers to connect effectively with youngsters should all be done in a systematic way.

We should hold ourselves accountable to relationships with children if we want to perceive youngsters as contemporaries and collaborators in civil society-led initiatives to develop democratic environments. We must advocate for the formation of political and public climates in which adults value children's voices, encourage their participation, and give their recommendations due poundage; impact judicial change; effect reformation within our own institutions; and help children gain the confidence, understanding, and skills necessary to bring civic intervention and influence modifications. We must examine our personal beliefs and recognise the abundance of experiences and understanding that children possess, before gradually stepping aside to allow kids to take main stage while assuring their safety.⁶

Article 2 and Article 4:

The obligation of States to all children “within their jurisdictions” is referred to in Article 2 of the CRC. Article 4, on the other hand, makes no mention of jurisdiction, with its reference to “within the framework of international cooperation” implying the imposition of extraterritorial responsibilities. While the full scope of Article 4 is still unknown, there has been significant progress in recent years in understanding this obligation, with a growing awareness that “international cooperation,” as defined in the CRC and other international human rights treaties, results in legally binding obligations. A number of CRC ESR explicitly mention international collaboration, including handicapped children's rights, refugee rights of a child, the ability to the best achievable promotion of care, and the rights to an acceptable standard of living.

“The Committee” has stated that “Article 4 underscores that application of the Convention is a joint exercise for the States of the globe,” and that the “Convention” should serve as the structure of worldwide development assistance, with donor countries' programmes based on human rights. States are advised to offer and employ technical support in the implementation of the “Convention” as needed. According to the Committee, states that lack the resources to implement the Convention's rights are obligated to seek international cooperation, while states

⁶ Sarah Rose and Ulrika Cilliers., *The Role of Children in Reimagining Democracy: What Would It Take for a Generation of Children to Be Considered Part of Democratic Societies?* CIVICUS (Aug 10, 2022, 9:29PM), <https://www.civicus.org/index.php/re-imagining-democracy/overviews/3458-the-role-of-children-in-reimagining-democracy-what-would-it-take-for-a-generation-of-children-to-be-considered-part-of-democratic-societies>.

that have such resources are obligated to give such collaboration with the aim of supporting the execution of children's rights in the recipient state. States must show that they may have made every attempt to explore and execute global collaboration to achieve the children's rights and that they will assist with other States' attempt to deploy the greatest resources available, if necessary. Moreover, the "Committee" has urged States to achieve the United Nations objective of giving 0.7% of GNI to foreign development aid, citing the importance of economic resources to accomplish children's ESR in resource-limited countries.

Importantly, "the Committee" has said that States must uphold their duties under the Convention while participating in international development as representatives of international organisations and while signing treaty obligations. States should not accept loans from international organisations or agree to their terms if the loans or regulations are likely to violate children's rights. In the area of global cooperation, the Committee has stated that the "World Bank Group, the International Monetary Fund, and the World Trade Organization" should ensure that their actions pertaining to global collaboration and financial growth prioritise children's best interests and sample size and sampling implementation of the Agreement. In summary, while the interpretation by the Committee of "Article 4" and thus ESR obligations under the CRC has historically mirrored – and almost entirely replicated – "that of the ComESCR in relation to the ICESCR, the Committee has recently taken significant steps toward introducing a child-specific element to its delineation of obligations, focusing especially about the requirement for provinces to ensure child participation in ESR-related decisions and processes." In several instances, the Committee has gone beyond "the ComESCR", particularly in respect to private players and ESR. As a result, "the Committee" appears to have made a firm commitment to regaining ESR as rights of a child under the CRC.

The Locus Standi and Child Labour Welfare

The Indian courts' shifting attitude may be seen in the liberalisation of the idea of locus standi, which allows for easier access to the courts. Working children are commonly found to come from low-income homes, and they have little options for expressing their dissatisfaction with the way their constitutional freedoms are now being violated with indifference. The Supreme Court has showed its empathy to the underprivileged by loosening the idea of locus standi in light of the pitiful situations of child labourers.

"The Peoples Union for Democratic Rights v. Union of India" was a significant case in which

the Supreme Court considered a letter submitted by post as public interest litigation. It is also known as the “Asiad Workers case”. Although “the Employment of Children Act, 1938” didn't even include building work on initiatives as it wasn't a procedure listed in the Act's Schedule, the Supreme Court held that such construction was a dangerous profession, and child below the age of fourteen couldn't have been engaged in a dangerous professions under Article 24. Even in the lack of enacting laws, the protection of a child from abuse under “Article 24” might be enforced in an interest of the public lawsuit.

They don't believe in the current economy and society. The Supreme Court's judgement in “Salal Hydro Project v. Jammu and Kashmir”, in which the Court confirmed the aforesaid position, set a high water mark in the implementation of “Article 24 of the Constitution”. Child labour, according to the Court, is an economic issue. Parents who are poor try to justify their modest earnings by employing their children. In the current socio-economic situation, a comprehensive banning of working children in any kind may not even be ethically possible. As a result, Article 24 simply imposes a realistic limitation on underage labour. The Court went on to say that eradicating child labour will be impossible as long as there is misery and despair in this nation.

Juvenile Justice

“The Juvenile Justice (Care and Protection) Act of 2000” was enacted as “human rights legislation”, and it is now in effect in every state, eliminating the whole Children's Act enacted by each state separately. There are two sorts of minors who are addressed by this act. Section 2(1) defines “juvenile in conflict with the law,” and Section 2(d) defines “kid in need of care and protection”. An individual who hasn't even reached the age of eighteen is referred to as a juvenile or a youngster under Section 2(k). The correctional facility system will include the caring of prisoners, with the primary goal of transformation and social restoration. Juvenile criminals must be kept separate from adults and treated according to their age and lawful standing.

“Union of India v. Sheela Barse Ms. Sheela Barse”, a determined “social worker”, took up the issue of innocent children under the age of sixteen who were being held in jails without their consent. She asked for the discharge of such young kids from prisons, as well as information about juvenile courts, homes, and schools, as well as a directive that District judges attend jail cells or sub-jails under their authority to verify that youngsters are adequately cared for while

in prison. Kids in detention are eligible to special treatment, according to the Court. Youngsters are “national assets” who really should be nurtured with special consideration. The Court advocated for the establishment of detention and youth facilities for children incarcerated. The Supreme Court stepped in to preserve the children's rights in observation homes in “Sheela Barse v Secretary Children Aid Society”.⁷

Children's Sexual Exploitation

“Human rights” are based on the value and dignity that each individual possesses. “The Universal Declaration of Human Rights” has established human rights and fundamental freedoms. As a result, women's human rights, including those of girls under the age of 18, are an intrinsic, essential, and indivisible aspect of universal rights. Discrimination based on gender in any form is a violation of basic human rights and freedom. As a result, it would be critical to take all necessary efforts to prevent sex trafficking. Prostitution, in whatever form, must be eradicated if women are to enjoy social well-being and glory.

Prostitution must be abolished before a child's right to growth may be realised. Effective actions to eradicate prostitution at all levels are critical to success. On 18.04.2011, the Supreme Court of India, in “Bachpan Bachao Andolan v Union of India”, a writ petition brought by HRLN, ordered the execution of proposals made during the trial of this matter, which would result in major modifications to the present child safeguard regime. The lawsuit was first filed in 2006 to handle the problem of juvenile exploitation and abuse in the circus business. The court has directed the Central Government to issue a notice forbidding the employment of minors in circuses, to undertake searches to recover children who are currently working in circuses, and to develop a proper plan for their rehabilitation.

Several proposals were made by the petitioner and respondent during the trial in this matter, all of which were targeted at improving the existing legislative and procedural mechanisms for juvenile welfare. This latest order is only one of a few that the Hon'ble Supreme Court may make in the near future, as the Court has stated its determination to address the problem of child trafficking in a lengthy and methodical way. “We want to deal with the problem of children's

⁷ ADVOCATEKHOJ,
<https://www.advocatekhaj.com/blogs/index.php?bid=8424fe94d205814a366812383&bcmd=VIEW> (last visited Aug 10, 2022)

exploitation systematically,” the Supreme Court stated, assuring a forceful response to child exploitation.

“In Vishal Jeet v. Union of India, the Supreme Court of India”⁸ tackles some critical issues surrounding child sexual exploitation. It has been noted that many poor youngsters and girls in their prime years of life are dragged to the “meat market” and forcefully dragged into “flesh trade,” which is performed out in serious breach of all canons of ethics, humanity, and respect of humanity. The Supreme Court of India ruled in “Gaurav Jain v. Union of India”⁹ that kids of prostitutes have always had the right to be treated equally, respect, treatment, safety, and recovery so that they can participate fully in community interaction without even being stigmatised. The Court ordered the formation of a committee to design and execute a plan for the recovery of these youth’s prostitutes, as well as the production of a periodic report by its “Registry”. “In Sakshi v. Union of India, the Supreme Court of India”¹⁰ filed a PIL requesting the “Law Commission” to explore a number of critical concerns raised by the petitioner, including the viability of amending sections “375 and 376 of the Indian Penal Code.”

Children's Adoption

Adopting deals with two of our most fundamental human worries: “identity and family”. The right of a kid to identification and a family is now widely acknowledged. “The 1989 United Nations Convention on the Rights of the Child” enshrines them.

“In Lakshmikant Pandey v Union of India, the activist Supreme Court of India ruled”¹¹. This writ petition was filed in response to a letter from “Laxmi Kant Pandey”, an attorney working in this Court, alleging that nongovernmental enterprises and community organisations engaged in the activity of placing Indian children for adoption with foreign parents were engaging in unethical acts. The letter cited a press report based on a “empirical investigation conducted by the staff of a reputed foreign magazine” called “The Mail,” which claimed that not only are Indian children of tender age “exposed to the long horrifying journey to distant foreign countries at great risk to their lives, but that in cases where they survive and are not placed in the Shelter and Relief Homes, they eventually become beggars.”

⁸ Vishal Jeet v. Union of India, (1990) 3 SCC 318

⁹ Gaurav Jain v. Union of India 1998 (4) SCC 270

¹⁰ Sakshi v. Union of India (1999) 6 SCC 591

¹¹ Lakshmikant Pandey v Union of India 1987 SCC (1) 66

“The petitioner accordingly sought injunctive relief prohibiting Indian-based private agencies” from “routing children for adoption abroad” and guiding the “Government of India, the Indian Council of Child Welfare, and the Indian Council of Social Welfare” to fulfil their responsibilities in the adoption of children of India by immigrant parents. The correspondence was considered as a “writ petition”, and “the Court gave notice to the Union of India, the Indian Council of Child Welfare, and the Indian Council of Social Welfare” to appear in response to the writ petition and help the Court in laying out norms and standards to be observed in evaluating whether a child should be permitted to be fostered by immigrant parents, and if so, the processes to be performed for that reason, with an Order dated 1st September, 1982. The Supreme Court ruled in this case that if any adoption that is in breach of or non-compliant with may result in the adoption being deemed unlawful and the person involved facing severe consequences, even prosecution. These guidelines have been utilised by social activists for years to safeguard kids and encourage desired adoptions. In this regard, the Indian government has formulated a national strategy.

Conclusion

The present predicament of CRS on childhood poverty and ESR is indeed a “work in progress.” There are, nevertheless, a few present topics that the writers see as viable prospects for furthering and refining such work. “The Committee” has begun to investigate important legal and political mechanisms that obstruct children's enjoyment of ESR, however it has yet to completely address the issues that children face in their enjoyment of ESR as a result of their restricted participatory democracy. “The effect of poverty has substantial ramifications throughout puberty, often leading to social and political isolation,” the Committee underlined in the same “General Comment”. In the future, it is hoped that its activities would recognise and address the significant influence that political and social isolation has on poverty and enjoyment of the children their ESR.