

Constitutional provisions which protect the rights of children in India

The constitution ensures the rights and protection of children through its various provisions. Children on the account of their sensitive age and immature age need special care and protection. They have specific rights and legal entitlements that are being recognized nationally and internationally. The constitution has recognized the rights of children to a great extent and included many articles dealing with the compulsory and free education, liberty and development in childhood, non-discrimination in educational spheres and prohibition of their employment in factories, mines and hazardous conditions.

The legal provisions are: -

ARTICLE 14 – RIGHT TO EQUALITY

According to this article, the State shall not deny to any person the equality before the law or the equal protection of laws within the territory of India.

Citizen of India including children must be treated equally before the law and must be given equal protection by law without any discrimination or arbitrariness. This right which is provided in the Indian Constitution protects the rights of children so that their dignity and integrity as a child is not exploited. Children being vulnerable have more chance to be treated unequally in the Indian society. Article 15 of the Indian Constitution prohibits discrimination. In Article 15(3), nothing in this Article shall prevent the State from making any special provision for women and children. It is very clear from Article 15(3) that “special provision” does not mean unequal treatment but it is established for the well-being and development of the children in India.

ARTICLE 21A –RIGHT TO EDUCATION

According to this article, The State shall provide free and compulsory education to all the children of the age of six to fourteen years in such manner as the State may by law, determine

The Constitution (Eighty-sixth Amendment) Act,2002 inserted Article 21A in the Constitution to provide free and compulsory education of all the children in the age group six to fourteen years as a Fundamental Right. There have been many backlashes in providing education to all the children in the state. There are many reasons for the same. The right to education is reflected in international law in Article 26 of the Universal Declaration of Human Rights and Article 13 and 14 International Covenant on Economic, Social and Cultural Rights.

Most importantly these articles ensure education to all the children irrespective of religion, caste, gender and financial condition. This article makes sure that no child is deprived of his/her basic education. Everyone shall be provided with elementary education.

ARTICLE 24 –PROHIBITION OF EMPLOYMENT OF CHILDREN IN FACTORIES

According to this Article, no child below the age of fourteen shall be employed to work in any factory or mine or engaged in any other hazardous employment.

Hazardous conditions may include construction work or railway. This article does not prohibit and harmless work. This Article provides the regulation and prohibition of child labour in India. Child Labour is defined as the work which deprives children of their childhood, potential and their dignity; it is something which causes a threat to their physical and mental development. UNICEF estimates India with such a high population has a high rate of child labourers. India, after its independence from the colonial rule, has passed many constitutional protections and laws on child labour.

DIRECTIVE PRINCIPLES OF STATE POLICES

There have been many provisions in the Directive Principles of state policies which specify how the state is responsible for the protection of rights of children.

ARTICLE-39 – Certain principles of the policy to be followed by the state.

Article 39(e) states that the health and strength of workers, men and women, and the tender age of children are not forced by economic necessity to enter avocation unsuited to their age or strength.

Child Labour is one of the social evils that is forced by economic necessity; it is the responsibility of the state to ensure that no child is subjected to any physical or mental abuse.

Article 39 [1](f) states that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

This provision also protects childhood and provides opportunities and facilities to grow with the safe explosion.

ARTICLE 45 This provision is for early childhood care and education children below the age of six years.

According to this provision, the State shall Endeavour to provide early childhood care and education for all the children until they complete the age of six years. According to this Act of the Indian Constitution, the state shall protect the child and is responsible for the development within them. The state shall ensure the safe growing environment, where their childhood can be experienced by themselves without any external threat. After that, it is the responsibility of the state to provide them with free and compulsory education

No matter how the condition of the child is, even if they are not protected by their own parents or they are denied with their rights by their own parents. The State has to take strict measures for the well-being of the child.

FUNDAMENTAL DUTIES

Fundamental duties refer to the basic obligations of a citizen in India. It contains about 11 duties which are to be followed by the citizen of India.

It is defined as the moral obligation of all citizens to help promote a spirit of patriotism and to uphold the unity of India.

I ARTICLE-51A(k) It shall be the duty of every citizen of India who is a parent or guardian to provide opportunities to provide education for his child or, as the case may be, ward between the age of six and fourteen years. Through this provision, the Constitution strictly mentions the providing of education as the duty of the parent as it is for the future and development of the country.