



INTERVENTION OF STATE AND CIVIL SOCIETY FOR CHILD RIGHTS PROTECTION

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ABSTRACT

The role of state and civil society in the protection of child rights in India is primarily analyzed in this article which is based on secondary data analysis. The legislature is responsible for making laws that would benefit the citizens of the country. The executive is responsible for the implementation of the government policies and programmes. The judiciary examines the omissions and commissions and safeguards the interest of the people. The governments must align the laws of their country with international or regional treaties. The state is responsible for undertaking appropriate legislative, administrative, social and educational measures to prevent and protect children from maltreatment. The role of civil society in the promotion and protection of human rights has gained increasing attention of the scholars and various stakeholders. The civil society can also play a decisive role in raising public awareness about the prevention of child rights violation and promotion of child rights. The civil society has to play a pro-active role in the protection of child rights in a pluralistic society like India. The organizations or individuals who are in close contact with children should create opportunities to promote a positive group dynamic in the present times

Preamble

Integrated child development demands active involvement of various stakeholders. Government, civil society, educational institutions, non-government organizations, media

institutions, law and order organizations, health care institutions, corporate houses, local community, parents, teachers and others are required to play a decisive role in the process of child right protection in modern society. The United Nations Convention on the Rights of the Child (1989) identified the various stakeholders of child rights protection across the globe and called upon them to put forth integrated efforts for the protection of child rights. The Constitution of India provides series of safeguards for the protection of child rights under the Fundamental Rights and Directive Principles of State Policy. Series of legislations such as Child Labour (Prohibition and Regulation) Act, 1986 and the Juvenile Justice (Care and Protection of Children) Act, 2000 also provide for the care and protection of the rights of the children there are certain judicial pronouncements which have highlighted the role of various stakeholders of protection of child rights in India. The role of state and civil society in the protection of child rights in India is primarily analyzed in this article which is based on secondary data analysis.

Intervention of State

The legislature is responsible for making laws that would benefit the citizens of the country. Parliaments are responsible for representing the interests of all sectors of society, articulating these interests into relevant policies and making sure that these policies are implemented efficiently. The executive is responsible for the implementation of the government policies and programmes. The judiciary examines the omissions and commissions and safeguards the interest of the people. The media institutions are known as the fourth estate of a democracy. They are also the voice of the people in a democracy.

The term ‘government’ applies to all organs of state at national, provincial and local levels. The government institutions have an obligation to respect, protect, promote and fulfill the rights of the children. The children are entitled to have their rights fulfilled regardless of region, religion, race, creed, caste, gender and so on. The governments are also responsible for taking special measures to check the discrimination of marginalized children in society.

The legislature is responsible for meaningful legislating for child protection. Scholars have noted that parliamentarians should ensure suitable national legislative standards which offer the best possible protection for children from violence, abuse and exploitation. The state is primarily responsible for formulating suitable policies, facilitating institutional reform, training of professionals, mobilizing social action and modification of attitudes and social values which are essential to achieve the goal of child protection in a civil society. The national constitution also contains progressive child protection principles and practices. The

experts have also designed certain parliamentary mechanisms and governmental intervention programmes in order to fulfill the obligations of the state with regard to child rights protection. Some countries have also established national commissions on children over a period of time.

The governments must align the laws of their country with international or regional treaties. Most governments are very good at taking legislative measures, but are less good at delivering programmes that translate the child rights into realities. The plans should be drafted jointly with civil society actors and coordinate the work of government at all levels. The result would be locally integrated development plans that show how the range of duty bearers can partner to improve children's rights delivery (Jamieson, 2008:05). The scholar has emphasized the role of government in the protection of child rights.

In times of need, the government should also act as a mediator of intra-family disputes. The government should play a crucial role in setting the ground rules for family dissolution and the restructuring of the post-divorce family. The government has an obligation to protect children from the damaging economic and emotional effects of parents' divorce. The children should be enabled to have good contact with both parents and gain adequate moral and material support for their growth and development. The government should also strike a meaningful balance between the rights of children and privileges of parents in times of family disputes including the divorce.

The Government is responsible for amending existing laws and enactment of new laws in order to protect the interest of children. There is also a need for uniform definition of child in the context of age in order to create infrastructure and train the required human resources to implement the National Plan of Action for Children. The government is called upon to ensure that all the laws pertaining to children are strictly implemented within a proper time frame. The government is also required to make adequate budgetary provisions to fulfill its commitment to children and launch suitable campaigns for the dissemination of information about child rights protection in the country.

India is home to the largest number of children in the world. The diverse socio-economic, cultural and geographic conditions of the country result in diverse needs of children. It is necessary to facilitate mind-set changes and address long standing social norms and traditions that violate the rights of children. Inclusive growth must begin with children and the fulfillment of children's rights through nurturing and protective policy, programme, community and family environments. There is widening gap between the children of developed families and under – developed families in India. This gap needs to be addressed

so that evidence-based policy-making, planning, programme design and programme review are enabled (Ministry of Women and Child Development, 2011:09).

In India, the number of children needing care and protection is huge and increasing. Uncontrolled families, extreme poverty, illiteracy result in provision of very little care to the child during the early formative years. In India, the State should ensure that all vulnerable children have access to school, basic health care, nutrition, besides social welfare and juvenile justice systems. These child protection systems can contribute to break down cycle of inter-generational poverty and exploitation.

The state is responsible for undertaking appropriate legislative, administrative, social and educational measures to prevent and protect children from maltreatment. In the last two decades, the government has taken several steps for child rights protection but there is a wide gap between policy and implementation. The government should increase the funds for effective implementation of child development programmes. The officials should also ensure that Governmental funds are properly utilized (Seth, 2013:14).

There has been a flurry of activity on the personal law front in our country in the recent past. The issue of child custody continues to languish as a neglected corner of our jurisprudence. There are certain matters which are complicated by a legal process that does not view legal guardianship to be conterminous with physical custody of a child. Usually mothers win custody battles in our country. The Supreme Court of India has consistently held that in deciding cases of child custody the first and paramount consideration is the welfare and interest of the child and not the rights of the parents (Jayant, 2013:06). The higher judiciary in India should formulate a specific set of guidelines on the matter to ensure justice to the children.

Government naturally plays a crucial role in the areas of social service and human development. The government has the direct contact with citizens who are responsible for active participation in child rights protection. It is necessary to generate enforceability procedures and spaces for proposals through which all of society, not just the government, commits to guaranteeing basic rights of the citizens and children. The child development strategies acquire social sustainability if they are appropriated by people (Osvaldo and Seiras, 2014:10).

The government has recognized the different approaches of the devolved administrations and the challenges of child rights protection in order to achieve a coherent overarching implementation of the Convention. The recent moves in the UN to encourage greater parliamentary involvement in its human rights machinery are welcome trends in

regard to child rights protection. The legislative actions particularly with regard to the children and families have facilitated better child rights protection in the United Kingdom (Joint Committee on Human Rights, 2015:07). The government has to identify the best practices in consultation with the experts and beneficiaries for child rights protection.

The government has put in place measures to try and address the increasing violence against children across the country. The national child helpline enables the children to seek necessary remedies in times of emergency. There are also family and child protection units at all police units that can immediately respond to any reported violation of the children's rights. There are trained police officers, probation officers and community development officers to intervene in times of need. Child protection is still not viewed as a core development ingredient which can enhance national social economic development. Adequate stakeholders and resources are required to effectively work and eradicate the vice of child abuse in India.

The government has the responsibility of setting humane standards for the protection of child rights in accordance with the UN Convention. The Convention calls for government action to promote the health, education and welfare of children. The central message of the Convention is that every child deserves a fair start in life without any discriminatory tendencies. The government has the moral duty and responsibility of protecting the rights of the children through effective implementation of welfare programmes. The government has to establish law and order institutions to ensure early prevention and intervention services for the benefit of children. The government should have adequate support initiatives by placing the child's best interest prominently and create a nurturing environment, free from violence. The government should also cultivate the culture of community involvement and enlist active people's participation in the child rights protection programmes.

Intervention of Civil Society

The role of civil society in the promotion and protection of human rights has gained increasing attention of the scholars and various stakeholders. Children status in society, among many other factors, also means that they are more vulnerable to sexual abuse and other forms of violence and exploitation and they do not have any political inconsistency to represent their interests (Sandeep and Madhumati 2003:12). The civil society has a major role to play in the protection of child rights in modern society.

In transgressing the traditional concepts of state centered international regimes, the new approach adopts a perspective that goes beyond nation states and takes into

consideration these non-governmental actors in the form of global public policy networks. The notion of global civil society therefore reflects cross boundary networks and relations of private actors and their interests (Fuchs, 2007:03). The global civil society also symbolizes a space of social self-organization within the triad of state, market and the private sphere.

The civil society can also play a decisive role in raising public awareness about the prevention of child rights violation and promotion of child rights. The civil society can also be an effective forum for the participation of the children in various progressive activities concerning the child rights protection, according to the report of Save the Children Sweden and the International Bureau for Children's Rights (2008).

The bifurcated pattern of civil society engagement entailed the adoption of divergent policy frames on children's rights at the Commission level and limited the Europeanization effects at the domestic level. The fallout of civil society stakeholders regarding EU internal policy has undermined the Commission's capacity to translate the abstract principles contained in the UN Convention on the Rights of the Child into concrete measures for child rights protection (Lusmen, 2012:08).

The children of the poorer countries suffer from hunger, malnutrition, child mortality, disease, lack of basic education, abuse and exploitation. The civil society has to play an important role at the community level to protect the rights of the children. The Sarvodaya movement in Sri Lanka carried out child protection and development programmes including nutrition, health care and psychosocial development. No top-down programmes will benefit the children if they do not take civil society into full confidence and engage their full participation in child rights protection activities (Ariyaratne, 2014:01). The governments should also give full freedom to voluntary and field sector organizations to be partners in the fight against injustice imposed on children.

The issue of guardianship systems for child victims of trafficking has attracted the attention of various stakeholders of child rights protection. The civil society plays a crucial role in the protection of child rights. The policy makers and civil society representatives are required to prepare grounds for implementation of various child rights protection programmes in modern society (Human Rights Monitoring Institute, 2014:04).

An empowered civil society is a key indicator of the sort of open, inclusive and accountable governance, which is necessary for the realization of children's rights. The child rights activists are committed to safeguarding the space that exists for civil society actors and to dedicating resources towards the further expansion of civil society space. There is a need for an enabling environment for children as actors in civil society. Safeguarding civil society

space is not an easy task in modern times (Save the Children, 2015:13). The social activists have to continue to champion the role of civil society in working for children and their rights across the world.

The civil society can monitor the implementation of child rights centered preventative and protective community based services. Advocacy for child rights protection should begin under the banner of civil society. The civil society should also be encouraged to develop partnership with the responsible state institutions in order to meet the emotional, physical and social development needs of children (Reena, 2016:11).

The government is prioritizing aspects of policy and framing issues of children's rights in ways that contrast with the discourse of civil society organizations. The state-centric and bureaucratic model is not conducive for the active participation of civil society in child rights protection. The civil society organizations have to adapt their action repertoires in order secure greater progress in the realization of children's rights in North Africa (Chaney, 2017:02).

The civil societies can prevail upon the government and non-government organizations for development of networks and strengthening their capacity for the empowerment of children. Efforts are made in various developing countries for the active involvement of civil society in the protection of child rights. The civil society can also facilitate meaningful networking, advocacy, mainstreaming and sustainability of child rights protection and child development.

The civil society can sensitize the government to fulfill Constitutional directives and implement the various provisions and programmes relating to the protection of child rights. The civil society can play a vital role in increasing the budgetary provisions to implement child development programmes. The civil society can exercise checks and balances to the participation of children in unorganized sector as laborers. The members of the civil society can contribute writings to the media on real instances of child abuse or child rights violation. The civilians should also take active part in the rehabilitation of the exploited children. The civil society has the responsibility of launching innovative child protection programmes in modern times.

Conclusion

The child rights can be protected on the basis of active stakeholder engagement which is a never ending mission. The state should interact with the affected groups and other relevant stakeholders for designing suitable strategies for child rights protection. Constant

monitoring and evaluation of child rights violation can effectively contribute to potential or actual impacts on children's rights. The state should therefore consider children as a priority stakeholder group since they are the most vulnerable population, requiring specific attention. The civil society has to play a pro-active role in the protection of child rights in a pluralistic society like India. The organizations or individuals who are in close contact with children should create opportunities to promote a positive group dynamic in the present times.

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