



# Impact of Covid -19 on Right to Education of Disabled Child in India; Issues and Challenges

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## Abstract

Children and childhood across the world, have broadly been construed in terms of a 'golden age' that is synonymous with innocence, freedom, joy, play and the like. A child is an invaluable asset of any society and has a definite role to play in the development of the nation. Child rights are those rights that a person possesses by virtue of being a child. They are both a goal as well as an instrument for the development of children but children with disabilities are malnourished, exploited, neglected, abused, trafficked for begging and are deprived of their basic right to family care, protection, play, shelter, food, health and education and indeed in many societies still are, denied access to education, family life, adequate health care and the right to participate in the "normal" activities of childhood and the impact of COVID 19 has hampered the educational rights of disable children .Thus the present paper is an effort to analysis the laws related to disable child rights. While doing so it also explores the various laws national and international for the protection of child with disabilities.

**Keywords:** Covid 19, Children, disabilities, laws, protection, child begging etc.

*The hallmark of culture and advance of civilization consists in the fulfillment of our obligation to the young generation by opening up all opportunities for every child to unfold its personality and rise to its full stature, physical, mental, moral, and spiritual. It is the birth right of every child that cries for justice from the world at whole.*

Justice V.R Krishnan Iyer<sup>1</sup>

<sup>1</sup> Mamta rao, "Law Relating to Women and Children"15 (Eastern Book Company, Lucknow, 3rd edn.,2011).

## 1. Introduction

For full development as human beings, exercise and enjoyment of Human Rights by all the people is necessary. Children and childhood across the world, have broadly been construed in terms of a 'golden age' that is synonymous with innocence, freedom, joy, play and the like. The fact that children are vulnerable, they need to be cared for and protected from 'the harshness of the world outside' and around<sup>2</sup>. In order that potentialities in every human being may be fully explored and creatively utilized every child on earth has got to be loved and cared for good development.<sup>3</sup> They are the asset of society and has a definite role to play in the development of the nation. The future of a country depends on how its children are being nurtured to become the future citizens of the country<sup>4</sup>. In a civilized society, the importance of child welfare cannot be underestimated as they are "supremely important national asset" and the future well-being of the nation. Any human being below the age of eighteen years is considered as child.<sup>5</sup> For the child of today will grow up as a man and woman of tomorrow who will shoulder the responsibilities of the society in days to come.<sup>6</sup>

After the 1st World war, with the adoption of the Geneva Declaration, 1924, Children's rights were recognized<sup>7</sup>. Child rights are those rights that a person possesses by virtue of being a child. Since children are small, immature, inexperienced and dependent on adults for taking care of them, this makes them vulnerable and easy target for exploitation<sup>8</sup>. One of society's most disadvantaged and excluded groups is the group of children with disabilities. Facing daily discrimination in the form of negative attitudes, lack of adequate policies and legislation, they are effectively barred from realizing their rights to healthcare, education, and even survival. They are often denied access to cultural or leisure activities or information and support about reproductive health, sexuality, and other areas that are vital for a child's seamless integration into society and his/her growth and development into adulthood<sup>9</sup>.

Denying education to children with disabilities has a lifelong impact on their learning, achievement and employment opportunities, that lowers their economic, social development. To ensure enjoyment of basic human rights by all children without discrimination, disability inclusion should be mainstreamed in all policies and plans. This applies to education systems, which need to promote inclusion by ensuring the presence, participation and achievement of all children, including children with disabilities<sup>10</sup>.

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<sup>2</sup> Savita Chaudhary, "Children in India and their Rights" 67 (National Human Rights Commission Faridkot House, New Delhi, 2006)

<sup>3</sup> Anupama Kaushik, "Rights of Children: A Case Study of Child Beggars at Public Places in India", Vol. 2, Journal of Social Welfare and Human Rights, 105(2014).

<sup>4</sup> David Malcolm, "Sociological Perspective on Rights of Child" 17 (Cyber Tech Publication) 2013

<sup>5</sup> Dr. B. Ramaswamy, "Child Human Rights; Legal Perspective", 16 (Anmol Publications Pvt. Ltd, New Delhi, 1st ed, 2013).

<sup>6</sup> Supra Note 2, at 69.

<sup>7</sup> Rights of child available at <https://www.humanium.org/en/child-rights>, accessed on 13-1-2020 at 11:00am

<sup>8</sup> Geeta Chopra, "Child Rights in India Challenges and Social Action", 35 (Springer Heidelberg New York Dordrecht, London, 2015).

<sup>9</sup> Anil Bhumali, "Rights of disabled women and children in India" 199 (serial publication 2009)

<sup>10</sup> Nandini ghosh & Supurna Banerjee, "India social development report 2016 Disability rights perspective" 36 (oxford university press 2017)

## 2. Objective

Rights are very important for every human being. Today's child is tomorrow's asset. The objective of this study is to reveal the national and international laws related to disabled child's educational rights given under different convention, declarations. This paper also tries to analyze the impact of covid19 on disabled child's education.

## 3. Issues and challenges

The children with disabilities are facing barriers due to lack of internet access, adequate teaching-learning content, teachers lacking ICT skills and knowledge for teaching online, and necessary support to pursue their online school education. As a result, many students with disabilities are being left behind, particularly students with intellectual disabilities or the children with different levels of intellectual disabilities, the situation is, even worse as teachers need Individualized Education Plans and modified lessons to make every child learn. Commonly used apps, to teach student online in school, such as WhatsApp, Zoom, and Google Meet, are not built with inclusivity in mind. To learn online, they need services and assistive technologies that promote inclusion for persons with special needs. Some schools, particularly the private ones, have been successful in utilising technology to educate their students. Underfunded schools, however, are unable to use these for their students. "Virtual lessons for children with autism and other behavioural issues are still a difficulty. They aggravate the difficulties already faced by children with limited vision or autism. Sometimes the child simply leaves the class. Some of them have extreme sensitivity to sound and dislike colours. An absence of special instructors has added new challenges to parenting. Parents often lack the understanding required to teach special kids. Not every parent has the luxury of time or the ability to do so. Sometimes parents are not educated enough to understand our instructions.

## 4. Concept and Meaning of Child

The definition of child has under National and International perspective is –

- According to Article 21(a) of the Constitution of India, a child is a person under 14 years of age<sup>11</sup>.
- Under the Child Labour (Prohibition and Regulation) Act 1986, sec. 2(ii) defines a child means a person who has not attained the age of 14 years.<sup>12</sup>
- As per the Indian Penal code 1860, nothing is an offence which is done by a child under the age of 7 years (Section 82, IPC)<sup>13</sup>.
- Acc. to The Immoral Traffic (Prevention) Act, 1956 "child" means a person who has not completed the age of sixteen years sec. 7 (aa).
- According to Juvenile Justice (Care and Protection of Children) Act 2000, the age is 18 for both boys and girls<sup>14</sup>.

<sup>11</sup> Constitution of India 1950 article 21 A

<sup>12</sup> The Child Labour and Prohibition act sec. 2(ii)

<sup>13</sup> The Indian Penal Code 1860, sec. 82

<sup>14</sup> The Juvenile Justice (Care and Protection of Children) Act 2000 sec.2(k)

- Acc. to Worst Forms of Child Labour Convention, 1999 (No. 182) Article 2 For the purposes of this Convention, the term child shall apply to all persons under the age of 18.<sup>15</sup>
- According to the United Nations Convention on the Rights of the Child Part 1 of Article 1 of (1989), “a child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier<sup>16</sup>. Acc. to UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, it defines “Child” shall mean any person under eighteen years of age<sup>17</sup>.

## 5. Concept and Definition of Disability

The term disability means a restriction to perform an activity in a way in which a normal human beings perform it very easily, resulting from impairment is termed as disability. Impairment concerns the physical aspects of health; disability is the loss of functional capacity resulting from an impairment organ, handicap is a measure of the social and cultural consequences of an impairment or disability<sup>18</sup>.

- **Acc. to World Health Organisation:**

Disability is an umbrella term, covering impairments, activity limitations, and participation restrictions. An impairment is a problem in body function or structure; an activity limitation is a difficulty encountered by an individual in executing a task or action; while a participation restriction is a problem experienced by an individual in involvement in life situations.<sup>19</sup>

- **Acc. to UN convention on Rights of Persons with Disability 2006 CRPD:**

Disability is the outcome of people who have disabilities interacting with environmental and attitude barriers that prevent their full and equal participation in society. .... People with disabilities include people who experience chronic physical, mental, intellectual, or sensory impairments that, when combined with other factors, may make it difficult for them to fully and equally participate in society.<sup>20</sup>

- **The PWD (Equal Opportunities, Protection of Rights, and Full Participations) Act, 1995**

It was enacted to give an effect to the “Proclamation on the Full Participation and Equality of the People with Disabilities”. The Act consist of seven conditions of disabilities, which were blindness, low vision, leprosy cured, hearing impairment, locomotor disability, mental retardation, and mental illness<sup>21</sup>. Mental retardation was defined as “a condition of arrested or incomplete development of mind of a person which is specially characterized by sub normality of intelligence.” Mental illness was defined simply as “any mental disorder other than mental retardation.” The Act adopted an approach of social welfare in respect of PWD and the main focus was on prevention and early detection of disabilities, education and employment of the PWD. The Act also provided 3%

<sup>15</sup> Worst Forms of Child Labour Convention, 1999 (No. 182) Article 2

<sup>16</sup> Convention on Child Rights 1989 Article 1

<sup>17</sup> U.N Protocol to prevent and suppress and punish trafficking in person especially women and children Art. 3(d)

<sup>18</sup> Awadhesh Kumar Singh “Rights of the Disabled: Perspective legal protection and issues” 49 (Serial publication New Delhi, 2008)

<sup>19</sup> Dr. Rumi Ahmed, “Rights of Persons with Disability in India: A Critical Analysis” 56 (white falcon publishing 2015)

<sup>20</sup> The UN Convention on the Rights of Persons with Disabilities 2006, art.1

<sup>21</sup> The Persons with Disabilities (Equal Opportunities, Protection of Rights, and Full Participations) Act, 1995 sec.2 (i)

reservation in Government jobs and educational institutions. It stressed on making the barrier-free situations as a measure of nondiscrimination.<sup>22</sup>

- **The Rights of Persons with Disabilities Act, 2016**

Disability means a person with long term physical, mental, intellectual or sensory impairment which, in interaction with barriers, hinders his full and effective participation in society equally with others. Disability has been defined based on an evolving and dynamic concept. There are 21 types of disabilities defined under this act<sup>23</sup>.

## 6. International Initiatives

International guidelines paint a relatively clear picture of the legal rights that all children living with disabilities share across the globe. These rights apply regardless of the region in which the child lives. The rights are inherently fundamental. These international human rights standards serve as excellent guidelines for countries looking to adopt and modernize their disability laws.

- **UN Universal Declaration of Human Rights (UDHR) 1948**

UDHR proclaims that motherhood and childhood are entitled to special care and assistance and that all children, regardless of whether they are born in or out of wedlock, shall enjoy the same social protection<sup>24</sup>. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace. It entitles everyone to equal access to education and allows parents the right to choose the kind of education given to their child<sup>25</sup>.

- **The Convention of the rights of the child (CRC) 1989**

The most landmark achievement in the efforts for children's rights is the UNCRC (United Nations Convention of the Rights of the Child 1989). The 1989 UN Convention on the Rights of the Child (UNCRC) was ratified by 192 nations. The Government of India ratified the CRC on 11 December 1992. The UNCRC is a proactive international effort to draw an agreement between nations to give rights and privileges to children across the world. The UNCRC are the standards to which all governments must aspire for helping children realize these rights. The UNCRC is "the most complete statement of child rights ever made"<sup>26</sup>. It also talks about respect for the right of children with disabilities to preserve their identities<sup>27</sup>. It recognises education as a legal right to every child on the basis of equal opportunity. It guarantees free compulsory primary education for all; progressive free

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<sup>22</sup> Ibid. sec. 39

<sup>23</sup> The Rights Of Persons with Disabilities Act, 2016 sec 2(i)

<sup>24</sup> Universal Declaration of Human Rights (UDHR) 1948 , Article 25

<sup>25</sup> Universal Declaration of Human Rights (UDHR) 1948, Art. 26

<sup>26</sup> K.C Joshi, "International Law & Human Rights"507 (Eastern Book Company, 2019)

<sup>27</sup> Ibid. art. 3



secondary education that should in any case be available and accessible to all and accessibility to higher education on the basis of capacity<sup>28</sup>. It defines the aims of education and recognises also the liberty of parents to choose the kind of education they want to give to their children and the liberty to establish and direct educational institutions, in conformity with minimum standards laid down by the State<sup>29</sup>.

- **The 1993 UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities**

Two papers were suggested by the Committee on the Rights of the Child as complementary resources for advancing the rights of children with disabilities. Despite the fact that these guidelines are not legally obligatory, they still demonstrate nations' political commitment to provide people with functional impairments with access to a sensible society. The regulations cover all facets of the life of people with disabilities, including the requirements for equitable participation (awareness-raising, medical treatment, rehabilitation, support services, and accessibility). It declares that general education authorities are in charge of educating individuals with disabilities in settings that accommodate their needs, and it promotes parent organisations' active participation in the educational process. Children with disabilities who are very young and groups at risk of double discrimination are given special consideration<sup>30</sup>.

- **The UN Convention on the Rights of Persons with Disabilities (CRPD) 2006**

It was signed by India on March 30, 2007. India reaffirmed its commitment towards the International Policy Framework in respect of the persons with disabilities. The purpose of the UNCRPD is to promote protect and ensure the full and equal enjoyment of all human rights and fundamental freedom by all persons with disabilities and to promote respect for their inherent dignity. The right to participation is also expressed in many other the CRPD articles, which build upon the CRC. Acc. to the preamble, children with disabilities should have the same human rights and fundamental freedoms as other children as included under the provisions of the CRC<sup>31</sup>. It states that persons with disabilities should be guaranteed the right to inclusive education at all levels, regardless of age, without discrimination and on the basis of equal opportunity. It specifies that children with disabilities must have effective access to free and compulsory primary and secondary education; adults with disabilities have access to general tertiary education, vocational training, adult education and lifelong learning and more<sup>32</sup>.

<sup>28</sup> The Convention of the rights of the child (CRC) 1989, Art. 28

<sup>29</sup> Ibid. art. 29

<sup>30</sup> The 1993 UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities rule 6

<sup>31</sup> Dr. B. Ramaswamy, "Child Human Rights; Legal Perspective", 46 (Anmol Publications Pvt. Ltd, New Delhi, 1st ed, 2013)

<sup>32</sup> The UN Convention on the Rights of Persons with Disabilities (CRPD) 2006, art. 24

- **UNCRPD 2006 & Optional Protocol**

The Convention establishes a comprehensive definition of people with disabilities and reiterates that people with all different kinds of disabilities shall be granted access to all basic freedoms and human rights. Children with disabilities are covered by all of the Convention's provisions just as adults are. Respect for children's developing capacities and their right to maintain their individuality are two broad ideas<sup>33</sup>.

## **7. National Initiatives**

- **The Constitution of India and Persons with Disabilities**

Education is the most potent mechanism for the advancement of human beings. It enlarges, enriches and improves the individual's image of the future. The founding fathers of the nation recognizing the importance and significance of right to education made it a constitutional goal, and placed the same under the constitution of India. The commitment enshrined in the preamble and various articles of the constitution. - Article 15(3) enables the state to make special provisions. Article 21A deals with Right to Education. - Article 24 prohibits employment of children below the age of 14 years in hazardous jobs. - Article 39(f) recommends the protection of childhood against exploitation and moral and material abandonment. The founding fathers made these safeguards to protect interest of the weaker sections of the society. - Article 45 directs the state to provide free and compulsory education to all the children under the age of 14 years. Further, Article 46 declares that state shall promote with special care the education and economic interest of the weaker section of the people. It is important to mention here that among several Articles enshrined in Part IV Article 45 has been given much importance as education is the basic necessity of the democracy. In simple words, compulsory education is one of the elements for stability of democracy, social integration and to eliminate social evils.

In a judgment delivered on 28 October 2021, the Indian Supreme Court took an important step in the direction of improving meaningful access to quality education for children with disabilities. At issue in *Rajneesh Kumar Pandey and Ors. Vs. Union of India*<sup>34</sup> was the determination of the appropriate pupil-teacher ratio to be maintained by schools admitting children with special needs (CwSN).

<sup>33</sup> Ibid. pg. 858

<sup>34</sup> SCC 132 2021 available at , <https://indiankanoon.org/doc/109197273/>

- **National Policy for Disabled People in India 2006**

The policy specifically says this for Children with Disabilities: Children with disabilities are the most vulnerable group and need special attention. Children with disabilities are the most vulnerable group and need special attention. The Government would strive to

- a) Ensure right to care, protection and security for children with disabilities
- b) Ensure the right to development with dignity and equality creating an enabling environment where children can exercise their rights , enjoy equal opportunities and full participation in accordance with various statutes.
- c) Ensure inclusion and effective access to education, health, vocational training along with specialized rehabilitation services to children with disabilities.
- d) Ensure the right to development as well as recognition of special needs and of care, and protection of children with severe disabilities<sup>35</sup>.

- **National Commission for Protection of Child Rights**

The National Commission for the Protection of Child Rights (NCPCR) was set up in March 2007 under this commission it is mandate to ensure that all laws, policies, programs and administrative mechanisms were in consonance with the child rights' perspectives as enshrined in the Constitution of India and also the UN Convention on the Rights of the Child. Children's rights are defined in various ways, and are inclusive of a wide spectrum of civil, cultural, economic, social and political rights<sup>36</sup>.

- **The Right of Children to Free and Compulsory Education Act, 2009**

To ensure that one's child obtains a quality education, the government has made certain specific efforts. First, the Right of Children to Free and Compulsory Education Act of 2009 guarantees that all children between the ages of six and fourteen get free and mandatory education in a local school<sup>37</sup>.

- **The Persons with Disabilities Act of 1995**

Under this act there are certain rights provided for every child with disability which includes the rights to free education till the age of 18 years in integrated schools or special schools. Appropriate transportation, removal of architectural barriers and restructuring of modifications in the examination system shall be ensured for the benefit of children with disabilities<sup>38</sup>. Children with disabilities shall have the right to free books, scholarships, uniform and other learning material. Special Schools for children with disabilities shall be equipped with vocational training facilities. Non-formal education shall be promoted for children with disabilities<sup>39</sup>.

<sup>35</sup> National Policy for Disabled People in India 2006, sec. 32

<sup>36</sup> National Commission for Protection of Child Rights available at <https://wcd.nic.in/sites/default/files/ncpeng06.pdf>

<sup>37</sup> The Right of Children to Free and Compulsory Education Act, 2009, Art. 3

<sup>38</sup> The Persons with Disabilities Act of 1995 art. 26

<sup>39</sup> Ibid. art.27



- **The National Policy for Children, 2013**

It is the first policy document in India that specifically highlights “disability” as a ground for discrimination that must be countered. It focuses on the prevention of disabilities. It recognizes that, at times, children with disabilities are not given access to education and may be in need of additional care and protection. They are included in a larger group of vulnerable children who need to be tracked and have access to their right to education. It specifically states that the views of children with disabilities must be promoted and strengthened within the family, community, schools and institutions, different levels of governance, as well as in judicial and administrative proceedings concerning them<sup>40</sup>.

- **The National Plan of Action for Children (NPAC), 2016**

This policy is made to secure the right of every child to learning, knowledge, (including Skill Development) education, and development opportunity, with due regard for special needs, through access, provision and promotion of required environment, information, infrastructure, services and support for the development of the child’s fullest potential. The National Plan of Action for Children, 2016 is based on the principles embedded in the National Policy for Children 2013. It seeks to ensure convergence of ongoing programmes and initiation of new programmes so as to focus on pre-determined objectives through well-defined strategies and activities and achieve certain level of outcome. The NPAC 2016 takes into account the current priorities for children in India<sup>41</sup>.

- **The National Education Policy (NEP)2020 and educational rights for children with special needs**

A new era of educational reform has been heralded by India's NEP, 2020. Disabled children rarely complete primary school education, out of which only 9% finish their secondary school education. Approximately 45% of disabled people are uneducated and only 62.9% of disabled people up to the ages of 3 and 35 have ever attended regular schools. Particular sorts of disabilities and certain genders are disproportionately impacted. Children with disabilities shall be allowed to participate equitably in all facets of the educational system, according to the NEP. Inclusionary education, which is described as a system of education in which students with and without disabilities study together, is made possible by the 2016 Rights of Persons with Disabilities Act (RPWD) and its provisions. The policy mandates the employment of cross-disability trained special educators and the inclusion of disability awareness in teacher preparation programmes<sup>42</sup>.

<sup>40</sup> The National Policy for Children, 2013 available at: [https://wcd.nic.in/sites/default/files/npcenglish08072013\\_0.pdf](https://wcd.nic.in/sites/default/files/npcenglish08072013_0.pdf)

<sup>41</sup> The National Plan of Action for Children, 2016 [https://pib.gov.in/newsite/PrintRelease.aspx?relid=159142#:~:text=The %20Ministry%20of%20Women%20and,protection%20and%20\(iv\)%20participation.](https://pib.gov.in/newsite/PrintRelease.aspx?relid=159142#:~:text=The%20Ministry%20of%20Women%20and,protection%20and%20(iv)%20participation.)

<sup>42</sup> The rights available to children with special needs when it comes to their education available at: <https://blog.ipleaders.in/rights-available-children-special-needs-comes-education> (accessed on 12/01/2022, at 6pm.)

## 8. Educational status of children with disability in India

Over the last decade, learning outcomes for children in India have steadily declined. This is despite an increase in budgeted expenditure on education, from INR 3.6 lakh crore to INR 4.6 lakh crore over a 10-year period (2006-2016). The epidemic has caused a shift to online learning, which is expected to have an even greater influence on these patterns. The ASER 2020 study showed that this year, 5.3 percent of rural children aged 6 to 10 are not enrolled in school, compared to 1.8 percent last year<sup>43</sup>. Due to Covid-19, many changes came to our world and it took some time for everyone to adopt the new normal. The Covid-19 impact was everywhere, which resulted in the closure of Schools and other educational institutions. The lockdown has its impact on the education of children across the world. Because of covid-19 restrictions, online learning was the only solution globally but children with disabilities have special needs as they have different IQ, rate of learning, memory, retention and require different learning environment. The education of children with disabilities is significantly affected due to the closure of regular schools and special schools in the country. So, the learners with disabilities are more likely to be excluded from schooling and less likely to complete their education due to the COVID-19 pandemic because these children face more inequality in education<sup>44</sup>.

## 9. Statistical Data

According to the UNESCO State of the Education Report, 2019 for Children with Disabilities approximately 26,814,994 persons are differently abled in India differently abled, which constitute 2.21% of India's total population. Out of 26,814,994 there are 7,864,636 are children up to the age of 19 years, which makes up 1.7 per cent of the country's total child population. Of them, 5,572,336 children are 14 years old at the time of the Census. This is probably the group now attending schools and universities and immediately impacted by the interruptions to education brought on by the epidemic. According to the study, only 61.18 percent (4,021,301) of the total 6,572,999 children in the 5–19 age range had attended any educational institution, which also emphasises the low education rates among children with disabilities. This was much lower than the nationwide average for children in all categories, which was 70.97%. In comparison to the national average of 17.21%, about 26.68% (1,753,737) have never attended any educational institution. 797,961 children, or 12.14 percent, attended but subsequently left.<sup>45</sup>

<sup>43</sup> Education in India needs an overhaul, available at: <https://idronline.org/state-of-school-education-india-pre-covid>(accessed on 12/01/2022, at 6pm.)

<sup>44</sup> COVID-19: How viable is online education? available at: <https://www.downtoearth.org.in/blog/economy/covid-19-how-viable-is-online-education-73487>(accessed on 12/01/2022, at 6pm.)

<sup>45</sup> COVID-19: School closure takes a toll on differently abled kids, say experts available at: <https://www.downtoearth.org.in/news/young/covid-19-school-closure-takes-a-toll-on-differently-abled-kids-say-experts>(accessed on 12/01/2022, at 6pm.)

Table 1.

## Educational status of Specially-abled Children (5-19 years)

	Children attending educational institutions			Children not attending educational institutions					
				Attended an educational institution earlier			Never attended an educational institution		
	Total (%)	Boys (%)	Girls (%)	Total (%)	Boys (%)	Girls (%)	Total (%)	Boys (%)	Girls (%)
Children with disabilities	61.18	61.75	60.45	12.14	12.34	11.89	26.68	25.92	27.66
All Children*	70.97	72.26	69.55	11.82	11.70	11.96	17.21	16.04	18.49

## 10. Covid 19 and right to education of disabled child beggars

The pandemic and the lockdown have badly affected country's economy and as a result, the large, medium or small, almost every industry witnessed revenue losses, with consequent increase in the incidence of job losses. The situation is not very different for the begging industry. Like various other business models, begging in India is a multi-million-dollar industry, which although complex in nature, is a very organized business, having disabled children and babies as the most preferred employees of the industry.

since disabled child beggars get more money than healthy ones, criminal groups often increase their profits by cutting out a child's eyes, scarring his face with acid, or amputating a limb. As per Census 2011, India has 3.72 lakh child beggars below 14 years of age. Out of them, 1.97 lakh are boys, and 1.74 lakhs are girls<sup>46</sup>. Many of them are forced into the profession by making them disabled. They are drugged, beaten up, threatened and made to beg every day. According to the National Crime Record Bureau (NCRB) data, on an average, 174 children go missing every day<sup>47</sup> and whereabouts of more than 50 percent of them remain unknown. This number has gone up during the pandemic, because of growing unemployment, immigration from rural areas, acute poverty etc. Thus, while some parents are scared to let their children go out of their homes, for many others, there is no other option for survival but letting their children take to begging. A World Vision study<sup>48</sup> reported that worldwide eight million children have been forced into begging and child labour as a consequence of the outbreak. The report mentioned that 110 million children are facing hunger, and that 85 million households across Asia have little or no food stocks, which will push more children into begging.

Poverty and lack of education are the major factors that lead to desperate acts like child begging, which is one of the most heartbreaking and pertinent problems prevalent in our country<sup>49</sup>. Art. 21A of the Indian Constitution and Right to Education Act (RTE), 2009 made education a fundamental right of every child in the nation. According to Persons with Disabilities Act (1995), children till the age of 18 years should get free of cost education. Right to Education Act has affected in prodigious development in the education of children, ensuring the right to every

<sup>46</sup> Available at: <https://censusindia.gov.in/2011Census/pes/Pesreport.pdf> (accessed on 12/01/2022, at 6pm.)

<sup>47</sup> Available at: [https://www.cry.org/wp-content/uploads/2018/08/International-Missing-Children\\_s-Day-2018.pdf](https://www.cry.org/wp-content/uploads/2018/08/International-Missing-Children_s-Day-2018.pdf)(accessed on 12/11/2021, at 5pm.)

<sup>48</sup> Available at: <https://www.wvi.org/publications/report/coronavirus-health-crisis/aftershocks-out-time/> (accessed on 12/11/2021, at 5pm.)

<sup>49</sup> Dr. Savita Bhakhry, *Children in India and their Rights,19* (National Human Rights Commission, New Delhi,2006), available at: <https://nhrc.nic.in/sites/default/files/ChildrenRights.pdf>, (accessed on 23/12/2020, at 6pm).

child in the nation to be provided with elementary education. Yet education, which is a fundamental right to every child in our country, is still a dream for many disabled children in India, especially the ones who are poor, downtrodden and in dire need<sup>50</sup>. The schools that admit to provide 25% seats to weaker sections has also made it compulsory for all children to produce income certificate of parents, caste certificate, BPL Card and birth certificate. Strict rules on compliance to enroll in schools have barred disabled child beggars from claiming their benefit under RTE. Despite the growing enrolment rate, about 60 lakhs (as per Indian government) to 170 lakh (as per UNICEF, 2014) children are still out of school and 3.72 lakh children are indulged in begging<sup>51</sup>.

The subject matter of relief of the disabled and unemployable is a state subject as per entry no. 9 of State List in the 7th Schedule of the Constitution of India. It is the responsibility of the state to take necessary preventive and rehabilitative steps<sup>52</sup>. Looking at the condition of child beggars in India, the Delhi High Court commented that Monarchy is better than a Democratic government because the government fails to implement its policy for them. Education should be provided to individuals which is accessible, affordable and appropriate for students with disabilities. The Right to life includes in its ambit the Right to live with human dignity. All-round development of a child is hindered when a child begs.

## 11. Conclusion

A child is an invaluable asset of any society and has a definite role to play in the development of the nation. They have certain special rights and legal entitlements that are being acknowledged nationally and internationally. A gross-part of child rights is linked with child education. Education enhances the capability of every child to exert herself in every field of activities. It raises her employability as well as her role in decision making power in the society. But the impact of Covid19 hampers the educational rights of disable children. The closure of regular schools and learning centres due to COVID-19 has led to special difficulties for many disabled children. Having a legislative framework that recognizes and claims to safeguard the rights of disabled child under the Rights of Persons with Disabilities Act and the Right to Education Act, the Indian education system is far from delivering quality education and learning to them. Parents face more difficulties due to a lack of specialized educators. In many cases, parents lack the knowledge necessary to teach disabled child. Not all parents can afford the luxury of time or have the capacity to do so. Sometimes parents are less educated to understand instructions of instructor. The Covid-19 pandemic has exacerbated both, cause and consequence, of their exclusion in education. So, it is necessary to protect these rights as these bring within the ambit every scheme which a child requires, not only to protect their interest, but also to provide them with ample opportunity to grow and develop to the fullest. Child rights are important not for children alone, but for the society and nation at large. The future of a country depends on how its children are being nurtured to become the future citizens of the country.

<sup>50</sup> Asha Bajpai, *Child Rights in India*, 1(Oxford University Press, New Delhi, 3<sup>rd</sup> edn, 2017).

<sup>51</sup> B. Shiva Rao (Ed.), *V The Framing of Indian Constitution: A Study*,243 (Indian Institute of Public Administration, New Delhi, 1968), In Mamta Rao, *Law Relating to Women and Children*, 555(Eastern Book Company, Lucknow, 3<sup>rd</sup>edn, 2012).

<sup>52</sup> Lakshmidhar Mishra, *Child Labour in India*, 145(Deep and Deep Publication, New Delhi,2000)

## 12. Suggestion

- To ensure the enjoyment of basic human rights by all children without discrimination, disability inclusion should be mainstreamed in all policies and plans.
- There is an urgent need for modification in policies that affect access to education and provide long-term solutions to the problem of education through the virtual platform for persons with disabilities. Since there are different types of disabilities, e-learning programs should be disability-specific and not general for all types of disabilities.
- There is a need to create opportunities to enable inclusion for every child in education through e-learning. Teachers need guidelines, training and support for the use of ICT in imparting education to the students with disabilities in a virtual network setting.
- Special provisions or e-learning methods can assist special educators to communicate with maximum children through online classes. Parents and caregivers need assistance in setting up equipment and support the education program of their children with disabilities.
- Developing online personalized learning apps in disability-specific format could be an innovation. To address the disabilities-specific issues related to technology-based e-learning, there is a need for well-analyzed and documented research. Despite current initiatives, much more efforts are still needed on the part of teachers, parents, caregivers, and government in adopting educational technologies for the benefit of the students/children with disabilities.

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