



A STUDY ON PLIGHT OF MIGRANT CHILDREN AND THEIR ACCESS TO RIGHT TO EDUCATION

Dr. Asha Verma

Assistant Professor of Law, Head, Centre for Women and Child Rights
Gujarat National Law University

Dr. Bindu Vijay

Assistant Professor of Science and Technology, Gujarat National Law University

ABSTRACT

Migration is a global phenomenon that affects people, families, and societies worldwide. Among its many impacts, the most important is its effect on education and health of the migrant children. This paper explores how migration can either help people by providing access to education or make things harder, creating inequalities and affecting the health of the children. We'll look at the various aspects of migration and education, the challenges migrants face, and what can be done to improve the situation. Our goal is to understand how migrants, especially young people, deal with the challenges of migration, education and health. Poor socio-economic status of families pushes parents along with children to migrate or parents migrate alone leaving behind the children in the village. This process goes through a chain of events leading to further deprivation of care, affection, and education to children and finally pushes these children into different forms of exploitative situations including child labour. These children, when they grow, become migrant workers and thus the family remains trapped in illiteracy, poverty, ignorance, forced labour, and migration in search of livelihood. Political instability, conflict, and persecution can force people to flee their home countries. This form of migration, often involving refugees, is called "forced migration." People seek safety and protection in other countries when their own become too dangerous. Environmental changes, such as natural disasters (e.g., hurricanes, floods, droughts), can lead to migration as people are displaced from their homes due to the destruction of their communities or loss of livelihoods. The paper highlights the various problems of migrant children and other issues and challenges.

KEYWORDS : Migrant, education, health, child labour

INTRODUCTION:

The Right of Children to Free and Compulsory Education (RTE), 2009 provides for free and compulsory education of equitable quality to all children, including the children of migrant workers, of 6-14 years age. The RTE Act provides for norms and standards for opening of schools in neighborhood at elementary level.

There is an obligation upon the appropriate government and local authorities to establish schools within three years from the commencement of the Act. There is also an obligation upon the State to ensure that no child from the weaker sections or disadvantaged groups is discriminated against in any manner or prevented from pursuing and completing elementary education.

India, being a diverse nation, has witnessed successive waves of migration, resulting in an increasing number of children and adolescents. Internal migration in this country has significantly surged due to population pressure and scarcity of resources. The discussions on Migrants often overlooks children from migrant families in India with low income. The migrant children are more exposed to child labour, child trafficking and do not get educational opportunities.

Right To Education Enshrined As A Fundamental Right In International Agreements And Declarations

The right to education is a fundamental human right recognized and protected in several international agreements and declarations. These agreements emphasize the importance of ensuring that every individual, regardless of their background or status, has access to quality education. Here are some key international agreements and declarations that highlight the right to education:

1. Universal Declaration of Human Rights, 1948 (UDHR):

UDHR is a foundational document adopted by the United Nations in 1948. It outlines the basic human rights to which all people are entitled, including the right to education. Article 26 of UDHR states that "everyone has the right to education," and it should be free, at least in the elementary and fundamental

stages. This means that migrants, regardless of their status, have a fundamental human right to education.

2. Sustainable Development Goals (SDG) 4:

In 2015, the 2030 Agenda for Sustainable Development was adopted by the United Nations General Assembly. Sustainable Development Goal 4 (SDG 4) is aimed at addressing the global education crisis, which affects millions of children and young people around the world who do not have access to quality education. SDG 4 has several targets, including the following: (a) ensuring that all girls and boys have access to quality early childhood development, care and pre-primary education; (n) ensuring that all girls and boys complete free, equitable and quality primary and secondary education (c) increasing the number of adults who have relevant skills for employment, decent jobs and entrepreneurship and (d) securing equal access to affordable and quality technical, vocational and tertiary education. SDG 4 also aims to eliminate gender disparities in education and ensure equal access for all, including people with disabilities, indigenous peoples and refugees. Achieving SDG 4 is critical for migrant children's access to education, as it is a fundamental human right and a key driver of economic growth, social development and environmental sustainability.

3. International Covenant on Economic, Social and Cultural Rights, 1966 (ICESCR)

4. Convention on the Rights of the Child, 1989 (CRC):

CRC is the most universally accepted human rights instrument. It incorporates the full range of human rights - civil, political, economic, social and cultural rights of every child under the age of eighteen years.

5. UN Global Compact for Migration, 2018

International Convention On The Protection Of The Rights Of All Migrant Workers And Members Of Their Families

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families is a United Nations treaty adopted on December 18, 1990. It aims to protect the rights and dignity of migrant workers and their

families, regardless of their immigration status, and ensures that they are not subject to discrimination and exploitation. While the Convention covers a wide range of rights and protections for migrant workers and their families, it does include provisions related to education.

Under the Convention, States Parties are obligated to ensure that migrant workers and members of their families have access to education on the same basis as their nationals. This means that migrant children should have the right to education in the host country, and this education should be free and compulsory, or at least accessible without discrimination.

Right To Education Regime In India For Migrant Children

1. Legislative Mechanism: Right Of Children To Free And Compulsory Education Act, 2009

Right of Children to free and Compulsory Education Act, 2009 provides for free and compulsory education to all children of the age of six to fourteen years. This legislation followed an amendment to the Constitution of India which incorporated right to education as a fundamental right, directive principle of state policy and fundamental duty.

(I) Fundamental Right:

Article 21A of the Constitution provides that *"The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine."*

(ii) Directive Principle of State Policy:

Article 45 of the Constitution provides that *"The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years"*.

(iii) Fundamental Duty:

Article 51A(k) of the Constitution provides that *"It shall be the duty of every citizen of India- who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years."*

Here are the main features of the Right of Children to free and Compulsory Education Act, 2009:

1. Free and compulsory education:

The Act makes it mandatory for the government to provide free and compulsory education to all children in the 6-14 age group. This means that no child can be denied admission to school on the basis of inability to pay fees.

2. Infrastructure and facilities:

The Act lays down specific norms and standards for school infrastructure and facilities, including classrooms, playgrounds, libraries, and separate toilets for girls and boys. These provisions aim to improve the quality of education.

3. Qualified teachers:

The Act mandates that schools hire well-trained and qualified teachers. Teacher-pupil ratios are specified to ensure that there are enough teachers to provide quality education.

4. No discrimination:

The Act prohibits discrimination against children on the grounds of religion, caste, gender, or socio-economic status. It ensures that every child has an equal opportunity to receive an education.

5. Special provisions for disadvantaged groups:

The Act recognizes the need to address the educational disparities faced by marginalized and disadvantaged groups. It includes provisions for the admission and inclusion of children with disabilities and those belonging to Scheduled

Castes, Scheduled Tribes, and economically weaker sections.

6. Continuous and comprehensive evaluation (CCE):

The Act promotes a system of continuous and comprehensive evaluation to assess students' learning progress. It aims to reduce the emphasis on rote learning and promote holistic development.

7. Financial provisions:

The Central and State Governments are responsible for funding the implementation of the Act. The Act outlines the financial responsibilities of each government in supporting free and compulsory education.

8. Private schools:

Private unaided schools are also expected to adhere to certain provisions of the Act. At least 25% of the strength of the class shall be reserved for children belonging to weaker section and disadvantaged group in the neighbourhood and these children must be provided with free education.

9. School Management Committees (SMCs):

The Act establishes School Management Committees at the school level to enhance community participation in school governance. These committees play a crucial role in monitoring school functioning.

10. Monitoring and accountability:

The Act establishes mechanisms for monitoring and evaluating the implementation of its provisions. It emphasizes transparency and accountability in the education system.

The Act encompasses migrant children by incorporating the following provisions:

(I) Section 9(c) directs the local authorities to ensure that the child belonging to weaker section and the child belonging to disadvantaged group are not discriminated against and prevented from pursuing and completing elementary education on any grounds.

(ii) Section 9(k) directs the local authorities to ensure admission of children of migrant families.

(iii) Section 5 grants children the right to request a transfer to any school, excluding private unaided and special category schools, and stipulates that the head teacher or school in-charge must promptly issue a transfer certificate.

The National Education Policy, 2020

National Education Policy, 2020 includes 'migrant communities' under its broader ambit of socio-economically disadvantaged groups and talks about migrant children and their needs in the light of curtailing dropouts in education as well as ensuring universal access to education.

CONCLUSION

In conclusion, the complex interplay between migration and access to education reveals the profound challenges and opportunities faced by individuals, families, and societies worldwide. By examining the multifaceted dimensions of this issue, understanding the right to education in international agreements, and acknowledging the causes of migration, we gain insight into the critical importance of ensuring that all migrants, regardless of their circumstances, have equitable access to quality education. This reading material underscores the urgent need for inclusive policies, global cooperation, and a commitment to human rights to pave the way for a brighter and more equitable future for all.

REFERENCES:

- 1) Development, M. o. (n.d.). *SAMAGRA SHIKSHA - FRAMEWORK FOR IMPLEMENTATION.*

- 2) Pattnaik, D. N. (June, 2023 8). *Emerging Issues and Concerns in Providing Education to Migrant Children in India*. Retrieved from LSE Blogs: <https://blogs.lse.ac.uk/humanrights/2023/06/08/emerging-issues-and-concerns-in-providing-education-to-migrant-children-in-india/>
- 3) Rajput, D. S. (2023, June 5). *Right to Education of Migrating Children in India*. Retrieved from World Bank Blogs: <https://blogs.worldbank.org/peoplemove/right-education-migrating-children-india#:~:text=One%20of%20the%20significant%20vulnerabilities,aspirations%20for%20their%20well%2Dbeing%20.>
- 4) Yüksek Telsaç, Ö. K. (2022). The educational problems of migrant children: Findings and recommendations. *International Journal of Educational Research Review*, 345-355.