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Protection of Child Rights in Indian and Legal Framework to Prevent Child Rights Violation and Abuse

Subhashree Mukherjee

*Former Assistant Professor
JRSET College of Law, West Bengal*

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Protection of Child Rights in Indian and Legal Framework to Prevent Child Rights Violation and Abuse

ABSTRACT

Children are considered a vulnerable group in society. A child cannot protect himself/ herself from crimes committed against them. It is not only the duty of the government but also the duty of society as well to protect the children of the nation. There were so many child protection acts passed by the Parliament of India, some of them are as follows: Immoral Traffic Act, 1956, Child Labour Prohibition Act, 1986, Juvenile Justice Act, 2000, Right of Children to Free and Compulsory Education Act, 2009, Protection of Children from Sexual Offences Act, 2012. Though these acts are there, only enacting laws are not enough to protect the children of the nation. Still date child exploitation is not completely removed from the nation. To remove crime against children completely, spreading awareness among people, including children, is the main weapon to fight against the crime.

KEYWORDS

Children, Sexual Offences, Child Labour, Protection, Juvenile Justice

INTRODUCTION

“Children are like tender plants of the future which will become the future parents of the nation.” Violation of child rights weakens the backbone of the nation. The protection of child rights should be the primary role of the government. India is a growing economy, and we have made progress in several areas, but we are not aware enough about children's rights. In India, many people are not aware of child rights and also about the consequences of child rights violations. In urban areas, most Indian people are aware of child rights and laws, but in rural areas, awareness is still limited. In socio-economic conditions like India, children are forced to be street labourers. The Indian population is faced with serious problems, though the protection of children is provided by Parliament from time to time. But still, children of India are not completely free from child sex exploitation, child trafficking and abuse. The cause is very complex and multifaceted. It is general accepted fact that children are the most precious asset of every nation. Though the constitution of India provides special status of child under article 15(3), 21, 21A, 24, 39(e),(f), 45. But still, children are easy targets for exploitation.

To protect children means to protect the future of the nation. Various offences committed against children are recognised as vulnerable in India. It is not only the duty of the government to protect them, but it is also the responsibility of the people of the entire nation to prevent child rights violations and child abuse.

DEFINITION OF CHILD

The United Nations Convention on the Rights of the Child, 1989 Article 1 provided that a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.¹

In India various Acts define age of a child differently. Age law regulates children's and adults' activities. In maximum Indian legislation age limit is provided -

- According to the Indian Contract Act, 1870, a person under the age of 18 years is a minor and incapable to contract²
- According to the Indian Majority Act, 1875, Sec 3(1) provides that: "Every person domiciled in India shall attain the age of majority on the completion of the age of 18 years."
- According to the Hindu Minority and Guardianship Act, 1956, Sec 4(a), a minor means a person who has not completed the age of eighteen years.³
- According to Sec 2(ii) of the Child Labour (Prohibition and Regulation) Act, 1986, a child means a person who has not completed 14 years of age.
- According to the Immoral Traffic (Prevention) Act, 1956, Sec. 2(aa), child means a person who has not completed the age of 16 years.⁴
- According to Sec 2(ii) of the Child Labour (Prohibition and Regulation) Act, 1986, a child means a person who has not completed 14 years of age.⁵

Sec2(1)(d) of the Protection of Children from Sexual Offences Act, 2012

¹ <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child> (retrieved on 10.03.2026 at 7.35 p.m.)

² Sec.11; Indian Contract Act, 1872

³ Dr. Khan Parveen Nuzhat; Child Rights and the Law; Universal Law Publishing Co.;p-23

⁴ Bare Act short Notes; Immoral Traffic (Prevention) Act, 1956; Universal Law Publishing Co. Pvt. Ltd.; p-3

⁵ https://www.indiacode.nic.in/bitstream/123456789/19582/1/the_child_and_adolescent_labour_%28prohibition_and_regulation%29_act%2C_1986_no._61_of_1986_date_23.12.1986.pdf (Retrieved on 11.03.2026 at 7.15 p.m.)

provides that " child " means any person below the age of eighteen years⁶.

According to sec.20 of Bharatiya Nyaya Sanhita, 2023 Nothing is an offence which is done by child under the age of 7 years.⁷

According to sec 21 of Bharatiya Nyaya Sanhita, 2023, nothing is an offence which is done by a child who is above 7 and under 12 years of age, and has no sufficient maturity of understanding.⁸

CHILD RIGHTS UNDER HUMAN RIGHTS

Article 1 of the Universal Declaration of Human Rights provided the right to equality and dignity for all human beings, including children. Children are also eligible to enjoy rights without any discrimination.⁹

Constitutional Provisions for Child Protection

In India, children are considered the most vulnerable and defenceless section of our human society.¹⁰The Constitution of India provides some special provisions for the protection of children in the country. Article 25(2) provides provision for special care and assistance to motherhood and childhood. Children born in out of wedlock are eligible to enjoy the same social protection.¹¹ Right to free and compulsory elementary education for children.¹²

Constitutional Provisions

Some special provisions are provided under the Constitution of India these as follows:

Article 15(3): According to Article 15(3), the State can make special provisions for women and children.

Article 21: Under Article 21, no person shall be deprived of his life or personal liberty except according to procedure established by law.

According to *Bandhu Mukti Morcha v. Union of India*¹³ it was held that

⁶ The Protection Of Children from Sexual Offences Act,2012; PROFESSIONAL BOOK PUBLISHERS; P-2

⁷ Bharatiya Nyaya Sanhita; Universal Lexis Nexis; p-16

⁸ Gaur KD; Textbook on THE BHARATIYA NYAYA SHANHITA; universal Lexis Nexis; p-183-184

⁹ Article 2 of UDHR.

¹⁰ Dr. Chakrabarti Nirmal Kanti, Dr. Nag Manabendra Kumar; LAW AND CHILD; Cambray CO. Private Ltd; p-16

¹¹ Universal Declaration of Human Rights,1948

¹² Article 26; Universal Declaration Of Human Rights,1948

¹³ AIR1984 SC802

Article 21 is a fundamental right of every citizen to live with dignity. The Court also observed that the right to life includes the right to live with human dignity. It must include protection of the health of workers, men, women and children against abuse and exploitation. Children or wards must be provided opportunities and facilities to develop mental skill and the human is very conditioned to live with dignity. Freedom of educational facilities must be provided to the children¹⁴. According to article 18(4)¹⁵ parents has right to ensure the moral and religious education of their child. According to Article 23(4) provides protection of children in case of dissolution of marriage.¹⁶ICCPR provides guarantees that every child has the right to name, registration of birth, protection and nationality without any discrimination¹⁷.

Article 21A → This article provides that the State shall provide free and compulsory education to children of 6 to 14 years of age.¹⁸

Prohibition of traffic in human beings and forced labour:

Traffic in human beings, beggar and other forms of forced labour is prohibited and contravention of this provision is punishable according to law under executing laws. (Art. 23(1))¹⁹

In *Pinki v. State of UP*²⁰; fact of the case deals with a large interstate child trafficking racket which operates from Varanasi. Children from poor families were kidnaped missing, and sold across the state and used for illegal adoption and exploitation. The Allahabad High Court granted bail to the accused. The Supreme Court cancelled the bail of all accused persons. Hon'ble Supreme Court held that child trafficking is a serious offence and organised crime. SC provides nationwide guidelines

- i. Child trafficking cases must be heard day to day. Speedy trial must.
- ii. Collection of data on pending trafficking cases.
- iii. A treatment facility for the victim child of trafficking and abduction must be provided by the government.
- iv. Police protection, rehabilitation and education facilities for rescued children must be provided.

¹⁴ Professor Kumar Narendra; Constitutional Law of India; Allahabad Law Agency; 5th edition 2006; p-291

¹⁵ International COVENANT ON CIVIL AND POLITICAL RIGHTS;1966

¹⁶ ICCPR, 1966

¹⁷ Article 24; ICCPR,1966

¹⁸ Bare Act with Short Notes; THE CONSTITUTION OF India; Universal Lexis Nexis; p-15

¹⁹ Bare Act with Short Notes; THE CONSTITUTION OF India; Universal Lexis Nexis; p-16

²⁰ SC 781/2025 INSC.

- v. Hospital or centres involved in crime, if proved, licences can be suspended immediately.²¹

According to Article 24, children below the age of 14 years are not allowed to work in any hazardous employment.²²

In *State of Uttar Pradesh v. Anirudh*²³, a girl of 12 years of age was abducted, and an FIR was filed against the abductor. Trial court rejected the bail, Allahabad High Court approved bail. Supreme court observed:

- i) Age determination of the victim is not a matter at the bail stage, but it is a matter to solve during trial.
- ii) High Court's decision is contrary to law, High court exceeded its jurisdiction.
- iii) SC suggested that the Union government to introduce an exceptional clause to protect genuine consensual teenage relationship but under strict child protection laws.
- iv) SC also held that a medical test is not the only option; school records, documents, birth certificate is the age proof. High court cannot make a medical test mandatory when the above-mentioned documents are available²⁴.

*Bachpan Bachao Andolan v. Union of India*²⁵

It was held that child labour is a serious violation of the fundamental rights of children, and the Court directed rescue and rehabilitation as well as education of trafficked or exploited children.²⁶

The Court ordered for prohibition of complete prohibition of child labour and to take action against the child exploitation rackets.

*Just Rights for Children Alliance vs S. Harish*²⁷

In this case, an appeal was made against the Madras High Court judgment, wherein the High Court quashed related proceedings where the accused possessed and viewed child sexual abuse on his phone.

²¹ <https://www.scobserver.in/wp-content/uploads/2025/04/SCO.LR-Pinki-v-State-of-Uttar-Pradesh-Child-Trafficking-guidelines.pdf> (Retrieved on 17.03.2026 at 8.00 p.m.)

²² THE CONSTITUTION OF India; Universal Lexis Nexis; p-16

²³ 2026 INSC 47.

²⁴ <https://indiankanoon.org/doc/127737197/> (Retrieved on 18.03.2026 at 8.27 p.m.)

²⁵ AIR 2011 SC 3361.

²⁶ <https://bba.org.in/wp-content/uploads/2020/04/bba-vs-uoi-wp-c-1-of-2006-2011-5-scc-1.pdf> (Retrieved on 20.03.2036 at 11.05 a.m.)

²⁷ (2024) INSC 716.

The Supreme Court held that such acts fall under the relevant section 15. It (POCSO) will apply in three categories + main sec:

- (i) Storage and possession, and on failure to delete the same within sec 15(1) – punishment (fine).
- (ii) Storage for transmission or distribution comes under sec 15(2) – imprisonment up to 3 years.
- (iii) Even if the storage and distribution is done for so-called commercial purposes, sec 15(3) – 3–5 years’ imprisonment.

The court also held that browsing and downloading is also punishable under sec 67B Indian IT Act 2000.²⁸

CHILD RIGHTS VIOLATION, CHILD ABUSE AND THE REASON BEHIND

Every child is of the nation and is entitled to enjoy fundamental rights without any discrimination on the basis of race, caste, sex, or language or religion. See Sec 2(d) of the Commission for the Protection of Child Rights Act, 2005, provided that child’s rights includes children's rights adopted in the United Nations Convention on the Rights of the Child on 20th November, 1989 and approved by the Government of India in 1992.²⁹ Child rights as mentioned under the Convention, are as follows:

- i) Non-discrimination: No discrimination on the basis of race, sex, caste, language, etc. and religion. (Article 2 of UNCRC)
- ii) Right to life, survival and development (Article 6)
- iii) Best interest principle: The best interest of the child shall be a primary consideration in all actions concerning children in courts and also in society. (Article 3)
- iv) Respect for the views of the child (Article 12)
- (i) Right to name, nationality and birth registration (Article 7)
- v) Right to identity – birth and identity and family life (Art. 7–9)
- vi) Right to protection from violence, neglect and abuse (Art. 19)
- vii) Right to health (Art. 24)
- viii) Right to education (Articles 28–29)
- ix) Right to play, recreation and leisure (Article 31)
- x) Right to freedom of thought, expression, conscience and religion (Articles 13–14)³⁰

Child Rights violation means violation or breach of those rights which

²⁸ <https://www.manupatracademy.com/assets/pdf/legalpost/just-rights-for-children-alliance-and-anr-vs-s-harish-and-ors.pdf> (Retrieved on 20.03.2026 at 11.15 a.m.)

²⁹ Bare Act; Child Laws; Professional’s Book Publishers; p-29

³⁰ <https://worldschildrensprize.org/downloads/teachers/UNCRC.pdf> (Retrieved on 23 .03.2026 at 7.50 p.m.)

are guaranteed by the UNCRC.

The two main categories of child rights:

- a. Violation of the right to survival and development, which includes health, nutrition, education and standard of living.
- b. Protection – it deals with protecting children from neglect, exploitation, armed conflict, abuse, etc.

one of the embedded part of the Indian society is that children are considered as persons, but parents consider their children as their property, not as separate individuals. Children should be protected from violent discipline like beating, slapping, and humiliating children, which is a common practice in Indian families and previously in schools, as well as being beaten by school teachers or by parents.³¹ Injury through physical assault by parents as punishment or sometimes beating is a symbol of neglect by parents due to poverty or for any other reason.

Due to poverty in the family, sometimes children of tender age are forced to work in hazardous factories and become child labour. In India economic condition of a family is the main reason behind child labour and forced labour.³²

Forcing or arranging marriage before the age of 18 is known as child marriage. Due to poverty girls married at 12-15 years of age.

Basically, violation of child rights is described as the acts failure act that deprives a child of rights which are guaranteed under law or international conventions like the UNCRC.

The following acts are considered as violation child rights:

- i. Not providing education to the child.
- ii. Failure to provide nutrition and health care.
- iii. Child labour and health care.

Discrimination among children based on gender, caste, etc.³³

Child abuse is a series of forms of violence not only against the child, but also against the society. Example for different abuse –

³¹ DR. Khan Parveen Nuzhat; Child Rights and the Law; Universal Law Publishing Co.; p-50-53

³² DR. Khan Parveen Nuzhat; Child Rights and the Law; Universal Law Publishing Co.; p-56-58

³³ Ibid p-75-76

- i. physical abuse:- intentional use of physical force against a child that causes injury, pain and harm to the child. Such as –
- ii. beating, slapping, kicking, punching, hitting and hitting a child on the body with or ii) burning with hot water or cigarettes.
- iii. using a belt, sticks and cords to beat a child for punishment or throwing from down stairs or against a wall.³⁴

There are some reasons of child rights violations in India. These are as follows:

i) Poverty and Economic Inequality

One of the main causes of child rights violations in India. Poverty forces many families to have parents to send children to work or to marry them early to reduce family expenses. Conditions like illness, job loss, or disaster push children towards labour or trafficking or any other exploitation. People exploit cheap child labour with low remuneration.³⁵

2) Lack of Education and Awareness

Illiterate parents are unable to understand children's rights. Though there is provision for compulsory –free and compulsory elementary education, but uneducated parents are solely unaware of the fact, and their children also suffered by lack of education and unawareness.³⁶

3) Lack of proper Implementation of Laws

There are so many laws in India for the protection of children. Prohibition of Child Marriage Act, 2006, Child Labour Prohibition and Regulation Act, 1986, Immoral Trafficking Prevention Act, 1956, Right of Children to Free and Compulsory Education Act, 2009, POCSO Act, 2012. But people specially belongs to rural areas, are unaware of the laws, and there is no strict implementation by the government authority. If the above-mentioned laws have been strictly implemented, then child rights will be secured in India. Proper implementation is one of the most significant reasons among all reasons.³⁷

4) Child Labour

³⁴

<https://renaissance.stonybrookmedicine.edu/sites/default/files/2016%20physical%20abuse%20of%20children%20PIR.pdf> (Retrieved on 24.03.2026 at 8.07 p.m.)

³⁵ <https://www.unicef.org/india/what-we-do/child-protection> (Retrieved on 29.09.2026 at 7.28 p.m.)

³⁶ <https://www.pib.gov.in/newsite/PrintRelease.aspx?relid=124086®=3&lang=2> (Retrieved on 29.09.2026 at 7.32 p.m.)

³⁷ <https://www.pib.gov.in/newsite/PrintRelease.aspx?relid=124086®=3&lang=2> and Grok AI (Retrieved on 29.09.2026. at 7.36)

Though child labour is legally prohibited but it is still practised in non-hazardous sectors like agriculture, domestic work, some non-hazardous factories, street vending, etc.³⁸

5) *Social Practices*

One of the significant social practices is gender discrimination. In every aspect of society, boys are more preferred over girls. In India, though there are laws and policies for the development of the girl child and care, the girl child are the victim of gender discrimination. Girl child labour also faces discrimination regarding payment of remuneration. Due to poor economic condition girl child is also a victim of child marriage.³⁹

6) *Trafficking Network*

Not only orphan, abandoned children, but also kidnapped children are also used for begging, sexual exploitation or organ trade.⁴⁰

Child abuse: Child abuse refers to the mistreatment of or causing harm to a child physically, psychologically, or sexually. It is also known as abuse.

According to the estimation of government data and census reports, India has 400 million people under 18 years of age. That indicates India has one of the world's largest child populations, along with other countries (approx. 40%).⁴¹

1. **Physical Abuse:** Physical abuse includes physical assault by parents, guardians, employers, etc..⁴²
2. **Emotional or psychological Abuse:** - Includes verbal humiliation, constant random criticism, isolation, threats and rejection, which can destroy the self-confidence of a child and destroy the confidence of a future person. Almost 49-72% children in India are victims of emotional abuse by parents or guardians.
3. **Use of children for begging:** -Forcing children into begging and for illegal rackets. Begging mafias & drug, kidnap, maim and force

³⁸ <https://www.lawjournal.info/article/49/2-2-13-622.pdf> and ChatGPT AI (Retrieved on 29.03.2026 at 7.45 p.m.)

³⁹ <https://www.cry.org/blog/crimes-against-children-in-india/> and Gemini AI (Retrieved on 29.9.2026 at 7.47 p.m.)

⁴⁰ <https://www.cry.org/blog/crimes-against-children-in-india/> and Grok AI (retrieved on 29.09. 2026 at 7.50 p.m.)

⁴¹ <https://www.mayoclinic.org/diseases-conditions/child-abuse/symptoms-causes/syc-20370864> (retrieved on 31.03.2026 at 7.30p.m.)

⁴² DR. Khan Parveen Nuzhat; Child Rights and the Law; Universal Law Publishing Co. p-50

the children to beg on the streets. Racketeers who are involved in begging are also linked with links to trafficking.

4. **Abuse by trafficking:** - Child trafficking is a serious form of child abuse in India.

There are types of sexual abuse as discussed below:

- **Paedophilia:** This psychiatric condition involves a sexual *attraction* to a child under the age of 13 years. It is also considered as a psychiatric mental disorder.
- **Fondling:** Touching body parts including genitals, breasts, all sexual organs.
- **Exhibitionism:** Exposing the sexual organs or genital of an adult to child.⁴³
- **Hebephilia:** a person who has an interest in the sexual abuse of children aged between 11 and 14.⁴⁴
- **Ephhebophilia:** sexual interest in the mid-to-late child age group, 15–19 years.⁴⁵

"Though there are so many laws to go against trafficking, due to a lack of proper implementation of laws, children are still victims of trafficking and sexual abuse.

LEGAL FRAMEWORK IN INDIA TO PROTECT CHILDREN

There are so many laws enacted by the Parliament of India to protect the children of the nation. Some of these laws are as follows:

Medical Termination of Pregnancy Act (MTP Act)

The MTP Act provides some special medical provisions when termination of pregnancy is not illegal. [Sections] 88, 90, 91 of Bharatiya [Nyaya Sanhita] cannot be removed, and [termination] is not legal when [it is] not covered by MTP. Special medical position when termination of pregnancy is not illegal under Section 88. 90,91 of Bharatiya Naya Sanhita,2023.BNS cannot remove and an abortion is not illegal when it is

⁴³ <https://www.mayoclinic.org/diseases-conditions/child-abuse/symptoms-causes/syc-20370864> (5.04.2026)

⁴⁴ <https://pubmed.ncbi.nlm.nih.gov/18686026/> (Retrieved on 1.04.2026 at 10.a.m)

⁴⁵ https://en.wikipedia.org/wiki/Ephhebophilia#See_also (Retrieved on 2.04.2026 at 8.20 p.m.)

under the MTP Act.⁴⁶

Termination of Pregnancy – Allowed to be medically terminated under MTP: conditions are as follows:

- a. If pregnancy is less than 12 weeks, it is certified by one obstetrician and gynaecologist.
- b. Between 12 and 20 weeks on a certificate of two registered gynaecologists and obstetricians;
- c. If pregnancy causes a risk of to the life of the pregnant woman or a chance of grave injury to her physical or mental health
- d. At any time on the certificate of two registered doctors, if it is immediately necessary to save the life of a pregnant woman.
- e. If there is a risk that the child born would suffer from physical or mental abnormalities, such as being handicapped.
- f. At any time by the certificate of two registered doctors, if act is immediately necessary to save the life of the woman⁴⁷.

According to MTP Rules, 2003, rule 3 medical practitioner shall have experience and training in gynaecology and obstetrics, by –

1. In case a medical practitioner who was registered in a State Medical Register –
2. if he/she has completed 6 months of house surgery in gynaecology and obstetrics, or
3. Rule 4 (2) if he had experience for a period not less than 1 year in the practice of obstetrics and gynaecology.
4. Medical practitioner has assisted a registered medical practitioner to do only 1st timer termination up to 12 weeks.⁴⁸

Pre-Conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 and rules 1996: Pre-Conception and Pre-Natal Diagnostic Techniques Prohibition of Sex Selection Act, 1994: This Act and rules of this Act came into force from 1st January, 1996.

Amniocentesis is a kind of technique to determine genetic abnormalities at the prenatal stage in the mother's womb.

No genetic counselling centre or clinic can conduct pre- natal diagnostic techniques application registered under this Act. No person, including a

⁴⁶ Dr Chakrabarti Nirmal Kanti, Dr. Nag Manabendra Kumar; LAW AND CHILD; Cambray CO. Private Ltd; p-265-266

⁴⁷ Dr. Chakrabarti Nirmal Kanti, Dr. Nag Manabendra Kumar; LAW AND CHILD; Cambray CO. Private Ltd; p-265-26 Bare ACT, CHILD LAWS; [Professional BOOK PUBLISHERS, P-356

⁴⁸ Ibid.

specialist ... shall conduct or cause to be conducted on a woman [any pre-natal diagnostic techniques] on any tissue, embryo, [or] fluid. (Sec 3A).

No person shall sell any ultrasound machine or imaging machine or scanner or any other sex selection machine to any genetic laboratory or clinic or any person not registered under this Act. (3B).

Child Marriage Act, 1929: - If a male above 18 years of age and below 21 of age married then it's child marriage and shall be punishable with simple imprisonment which may extend [to] ..., or with fine which may extend [to] ..., or with both. (Sec 3).

If a male adult male above [21 years] of age conduct shall be punishable with simple imprisonment which may extend to two years and shall also be liable to a fine.⁴⁹

Where the child marriage is conducted by the parent or guardian provides parental permission for child marriage. Solemnization of child marriage shall be punished with simple imprisonment which may extend to 3 months and shall also be liable to fine⁵⁰

The Immoral Traffic (Prevention) Act, 1956:

"Child" means a person below age of 16 years. Trafficking indicates hiring, or receiving a person through transportation because of threat, force, abduction, fraud, deception, abuse, abduction or payment for the purpose of exploitation.

If any person tenants, lessee, person in charge or occupier of any place or premises, use or knowingly allows any other party to the use, shall be punishable with first conviction with imprisonment for a term, which may extend to 2 years, and with fine which may extend to 2,000 Rs and ... subsequent conviction ... rigorous imprisonment ... which may extend to 5 years and also with fine.⁵¹

If a person without knowledge allows the use of his land or premises, as well as with the owner's knowledge, then no person will be punished if he or she has no knowledge about the fact that the lessee is not responsible.⁵²

According to sec.4 If any person above 18 years of age who knowingly lives, his/her life on the earnings of prostitution shall be punishable with

⁴⁹ Bare ACT, CHILD LAWS; [Professional BOOK PUBLISHERS, P-3

⁵⁰ Section 6, Child Marriage Restraint Act,1929

⁵¹; Sec 3(2) The Immoral Traffic (Prevention) ACT

⁵² Sec 3 (2A), The Immoral Traffic (Prevention) ACT

imprisonment for a term which may extend to 20 years or with fine⁵³.

Child Labour (Prohibition and Regulation) ACT, 1986: Though there are some laws where child below the age of 14 and 15 years are in 3 specified sectors. But there was specific law to guide the working conditions of children in these employment sectors. According to section 2 (ii) child means a person below the age of 14 years. No child shall be allowed to work in Bidi making, matches manufacturing, cement manufacturing, soap manufacturing, carpet weaving, wool cleaning, manufacturing of explosives... [fireworks] etc. But this section is not applied to any workshop where the process is carried by the occupier with aid for his family to any school or any government aid receiving organisation⁵⁴. Section 5 of The Child Labour Act, 1986, provided that the central Government may, by an official Gazette may establish Child Labour Advisory Committee to advise central government to solve sociolegal issue of child labour.

Work periods cannot exceed 3 hours without an interval; no child should work for more than 6 hours in total (including rest). Night Work Prohibited: Children are strictly barred from working between 7:00 PM and 8:00 AM.⁵⁵

According to sec.14(1) whoever permits a child to work child in his industry in that case it contravention of Sec-3 it was done shall be punishable with 3 months imprisonment which may extend to 1 year or with fine not exceeding 10,000, which may extend to 20,000.⁵⁶

Section 14 (2) provided that if again convicted for the contravention Sec-3 shall be punished with imprisonment 6 months, which may extend to 2 years. ⁵⁷.

Child labour (Prohibition and regulation) rules: if someone fails to comply with section 12 or any other provisions of this act shall be punished with imprisonment which may extend to one month, or with a fine which may extend to 10,000 rupees or with both.

- i. Every employer who permits children to work as permitted by law must maintain a register with the following details: -
- ii. Name and date of birth of the child.
- iii. Hours and periods of the child.
- iv. Intervals of rest given to the child.

⁵³ Bare Act; The Immoral Traffic(Prevention) Act, 1956; Universal;p-6

⁵⁴ Section 3 ; The Child Labour (Prohibition and Regulation) Act, 1986

⁵⁵ Section 7; The Child Labour (Prohibition and Regulation) Act, 1986

⁵⁶ Bare ACT, CHILD LAWS; [Professional BOOK PUBLISHERS, P-12

⁵⁷ Ibid

- v. Nature of work performed by the child must be mentioned.
- vi. Other particulars prescribed by the law⁵⁸

JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2000, RULE 2007

This law provides provisions for juveniles in conflict with law and children in need of care and protection.

a) A child in need of care and protection includes⁵⁹

- i. Homeless child, weak, without parents and maintenance. (Sec 2(d))
- ii. One who is found begging, or who is either a street child or working child. (Sec 2(c)(ia))
- iii. One who resides with a person who may be a guardian or may not be a guardian, and has threatened to kill or injure the child, or there is a reasonable likelihood of the child being killed, caused fear for the child, or fear about his/her safety. (ii)(a)
- iv. If she has regularly been abused, neglected, and if serious questions arise regarding the safety of his/her childhood. (ii)(b).⁶⁰
- v. Children who are mentally or physically challenged or ill, or suffering from incurable diseases, have no one to support or look after them, and who are victims of any armed conflict, civil commotion, or natural calamity⁶¹

b) Juvenile in conflict with law

It means only those children who is alleged to have committed any offence under any existing law but who has completed 18 years of age. Sec. ⁶²

Observation Home: According to Sec 1 of Sec 8 of the Juvenile Justice Act, 2000, juveniles in conflict with law should be kept in an observation home, either directly maintained by the government or by any organisation with which the State Government. During the pendency of the inquiry under this Act.

Sub-sec (2)⁶³ : If any judicial and any such case, if the State Government

⁵⁸ RULE 17 of The Child Labour (Prohibition and Regulation),1988

⁵⁹ Bare ACT, CHILD LAWS; [Professional BOOK PUBLISHERS, P-106

⁶⁰ *ibid*

⁶¹ Juvenile Justice Act,2000;Sec 2(1) (ix)

⁶² Juvenile Justice Act,2000; Sec 2(1) (L)

⁶³ Juvenile Justice Act,2000; juvenile Board: Under the Juvenile Justice Act, one or more Juvenile Boards are established in every district to discharge their duty of dealing with juveniles in conflict with law. (Sec 4(1))

is of the opinion that any existing institution is suitable as an observation home, then the State Government may be declared as an observation home.

The juveniles who are not handed over to their parents or guardian and if the juvenile is sent to an observation home, initially they should be kept in the reception of the observation home for inquiry and care. Then, they will be shifted to an observation home according to their age group, e.g., 7 to 12 years, 12 to 16 years, and 16–18 years, and provided with considerations for their physical and mental well-being, taking into account the offence committed by them. [Sec. 8(4)]⁶⁴

Special home: After order passed, the Board against the juvenile to send he/she will sent to special home for rehabilitation. According to Sec-9(1) If any State Government may establish or a special home by itself or through, the agreement between two with an organization which one is voluntarily agreed to, to be a special home for rehabilitation of juvenile in conflict with law.

If any institution other than the institutions mentioned u/sec-9(1), it complies with the conditions of special home and State Government as per the order which any institution may also be fit to be in a special home. The it will be declared as a special home by State Government. (Rule 2)

Sec. Accordingly, Sec-9(3) The State Government will provide guidelines for the management of Special home and also provides some guidelines for ato and standard of security for juveniles. No due process & proper application of guideline by the institution certificate to be a special home may be given or may be withdrawn.⁶⁵

Juvenile Board: Under the Juvenile Justice Act, one or more Juvenile Boards are established in every district to discharge their duty of dealing with juveniles in conflict with the law. (Sec 4(1))

The Board shall consist of a Metropolitan Magistrate or a Judicial Magistrate of the First Class, as the case may be, and two social workers,

The Board shall consist of a Metropolitan Magistrate or a Judicial Magistrate of the First Class, as the case may be, and two social workers, out of which at least one must be a woman. (Sec 4(2))

This Board shall have the power to deal exclusively with all proceedings with regard to juveniles in conflict with law. (Sec 6(1))

High Court and the Sessions Court may also exercise these powers on appeal or revision filed before them. (Sec 6(2)) Sec. 8

⁶⁴ Bare ACT, CHILD LAWS; [Professional BOOK PUBLISHERS, p-107

⁶⁵ *ibid*

out of which at least one must be a woman.⁶⁶

This Board shall have the power to deal exclusively with all proceedings with regard to juveniles in conflict with the law. (Sec 6(1))⁶⁷. Any person who is in charge of the juvenile or the child, if he assaults, abandons, exposes, neglects, or causes him physical or mental injury, shall be punishable with imprisonment for a term which may extend to 6 months, or fine, or with both.

According to Sec 24 of the Juvenile Justice (Care, if anyone employs or uses any juvenile or a child for the purpose of begging, shall be punishable for a term of 3 years imprisonment and also liable to a fine. The High Court and the Sessions Court may also exercise these powers on appeal or revision filed before them. (Sec 6(2))

COMMISSION FOR PROTECTION OF CHILD RIGHTS ACT, 2005

India participated in the U.N. Convention & General Assembly, which talks about the survival, protection and development of children. To implement the international treaty, the Government of India has been enabled on adoption of National Charter, 2005. Thus, the Commission for the Protection of Child Rights Act, 2005, provides for the constitution of a National Commission and State Commissions for the protection of child rights and for matters connected therewith or incidental thereto⁶⁸. A state commission consists of a chairperson and six members, out of whom at least two shall be women. It ensures that children's problems are addressed and their rights are protected. Child rights violation and abuse must be prevented and the Commission works to safeguard children from exploitation and injustice. This includes speedy trial to provide justice to the child. National Child Rights Commission consists of a chairperson who has worked in the field of child welfare and six members out of whom two must be women from the social sector having experience to be appointed by the central government from amongst persons of ability, integrity and standing and having experience in: Education, child health care, welfare or development, juvenile justice or care of neglected children, elimination of child labour, child psychology or sociology and laws relating to children.⁶⁹

THE RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION ACT, 2009

In Article 21 In *Unnikrishnan vs. State of Andhra Pradesh & Ors.*⁷⁰. It was

⁶⁶ Juvenile Justice (Care and Protection) Act, 2000, sec.4(2)

⁶⁷Bare ACT, CHILD LAWS; [Professional BOOK PUBLISHERS, p-104

⁶⁸ Section 3(1), The Commission for the Protection of Child Rights Act, 2005.

⁶⁹ Section 3(2), The Commission for Protection of Child Rights Act, 2005.

⁷⁰ AIR 1993 SC 2178.

held that the right to life under Article 21 includes the right to education. The Court specifically mentioned that every child has a right to free and compulsory education until the age of 14 years. Art. 45 of the Constitution provides a provision for early childhood care and education to children below the age of six years. By the 86th Amendment Act, 2002 parliament inserted Article 21A right to education as a fundamental right. After that Right of Children to Free and Compulsory Education Act, 2009 was passed by the Parliament of India.

According to Sec. 3(1) Every child of the age of 6 to 14 years has a right to free and compulsory education.

For this education no child is liable to pay any kind of fees or charges which can prevent him/her from following and continuing the education. (Sec 3(2))⁷¹.

A child above to six years has not been admitted to school and could not complete his or her elementary education, then he or she will be sent to for admission in the class which appropriate to his or her age. (Sec 4)

Duties of Local Authority: Every local authority has duties under this Act. These are as follows –

- i. To provide free and compulsory education to the children of the specified area.
- ii. To make sure availability of such neighbourhood schools.
- iii. To ensure the protection of children belonging from the weaker section or disadvantaged group from any discrimination that can prevent them from pursuing elementary education.
- iv. To maintain records of children up to the age of 14 years residing within its jurisdiction.
- v. Providing standard quality elementary education.
- vi. Providing adequate infrastructure, including buildings, learning material and teaching staff.
- vii. Make sure admission of children of migrant families.
- viii. Monitoring the functioning of schools within its jurisdiction.
- ix. Preventing beatings, shocks, and teachers.
- x. To decide the academic calendar.

Rule 3 (3) (j) of Right of Children to Free and Compulsory Education Rule, 2010 It is the duty of every school management committee to monitor the proper implementation of the mid-day meal in schools.⁷².

THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES

⁷¹ Bare ACT, CHILD LAWS; [Professional BOOK PUBLISHERS, p-415.

⁷² Bare ACT, CHILD LAWS; [Professional BOOK PUBLISHERS, p432-433

ACT, 2012

The main object of this Act is to protect children from offences of sexual assault, sexual harassment and to safeguard them from child pornography. Another object is to establish special courts for trial of such offence-

- i. The exploitative use of children in prostitution or other unlawful sexual practices.
- ii. Incitement or coercion of a child to engage in any unlawful sexual activity.
- iii. To stop the exploitative use of children in pornographic performances.

A person commits penetrative sexual assault if he penetrates his penis, to any extent, into the vagina, mouth, anus or urethra of a child or makes the child to do so with him or any other person.⁷³ If he inserts, to any extent, any object or a part of body, not being the penis, into the vagina, anus or urethra of the child or makes the child to do so with him or any other person.⁷⁴

If he applies his mouth to the penis, vagina, anus or urethra of the child or make the child to do so with him or any other person.⁷⁵

According to sec 4, whoever commits penetrative sexual assault as mentioned above shall be punished with imprisonment of either description for a term which may extend from 7 years but which may extend to for life and shall also be liable to a fine.⁷⁶

if any police officer⁷⁷, or any public servant⁷⁸, management or on staff of a jail remand home⁷⁹, observation home or any other custody or management or staff of a hospital⁸⁰ or management or staff of an educational or religious institution⁸¹ commits sexual assault on a child –

- i. within the limits of his duty or powers of official premises, or
- ii. of any other house, or
- iii. In course of his duty on

⁷³ Sec. 3(a); The Protection of Children from Sexual Offences Act,2012

⁷⁴[Sec. 3(b): The Protection of Children from Sexual Offences Act,2012

⁷⁵ Sec.3(d); The Protection of Children from Sexual Offences Act,2012.

⁷⁶ Bare ACT; THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT,012; Professional Book publishers; p-4

⁷⁷ SEC.5(a);); The Protection of Children from Sexual Offences Act,2012.

⁷⁸ Sec.5(c); The Protection of Children from Sexual Offences Act,2012.

⁷⁹ Sec.5(d); The Protection of Children from Sexual Offences Act,2012.

⁸⁰ Sec.5(e); The Protection of Children from Sexual Offences Act,2012.

⁸¹ Sec.5(f); The Protection of Children from Sexual Offences Act,2012.

iv. where he is identified by his position,

Any person belongs to armed forces⁸², who commits sexual assault on a

- (i) with the intent of this deployment or
- (ii) in any place where he is under the command of armed forces or
- (iii) In the course of active duty, or

Whoever commits aggravated penetrative sexual assault on a child, knowing the child is pregnant.⁸³ According to sec 6Whoever commits aggravated penetrative sexual assault as mentioned under Sec 5 shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life and shall also be liable to a fine.⁸⁴

Whoever commits an act of Sexual assault shall be punished with imprisonment of either description for a term which shall not be less than 3 years but which may extend to 5 years and shall also be liable to fine.⁸⁵

USE OF CHILD FOR PORNOGRAPHIC PURPOSE

If any person uses a child in any programme (or advertisement) which will be described by television channels or internet, making any other, print form on any other language media not of such programme or advertisement intended for personal use or for distributing for the purpose of sexual pleasure, which includes:-

Presentation of sexual organ of child.

- (i) utilization of a child in real sexual acts or activities with or without penetration.)
- (ii) other obscene or indecent representation of a child.

Shall be punished with imprisonment of Either description for a term which may extend to 5 years and with a fine using a child for pornographic purposes.⁸⁶Who is guilty of the use of or children for pornographic purpose Shall be punished with imprisonment for a term which may extend to5 years and also liable to fine. On subsequent conviction, imprisonment may extend to 7 years and also be liable to a

⁸² SEC.5(b); The Protection of Children from Sexual Offences Act,2012.

⁸³ SEC.5(q); The Protection of Children from Sexual Offences Act,2012.

⁸⁴ Bare ACT; THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT,012; Professional Book publishers;p-7

⁸⁵ Sec.8, The Protection of Children from Sexual Offences Act,2012.

⁸⁶ The Protection of Children from Sexual Offences Act,2012; Sec 13

fine.⁸⁷

If any person uses children for pornographic purposes, commits penetrative assault(u/s3) shall be punished with imprisonment not less than 10 years and with any fine which may extend to imprisonment for life and shall be liable to fine.⁸⁸

If any person commits aggravated penetrative sexual assault on a child shall be punished with rigorous imprisonment for life and shall also be liable to a fine.⁸⁹.

If any person stores any pornographic material involving children for commercial purposes shall be punished with imprisonment for 5 years, and with fine or with fine.⁹⁰

BHARATIYA NYAYA SANHITA; 2023: BHARATIYA NYAYA SANHITA, 2023: BHARATIYA NYAYA

According to sec. Section 93 of BNS, if the father or mother of a child under the age of 12 years shall expose or leave the child in any place with the intention wholly abandoning the child, shall be punished with 7 years' imprisonment or with a fine or with both.⁹¹ If anyone secretly buries or disposes of the body of a child who died before or after or during the birth, if his person thereby conceals the birth of the child, he shall be punished with 2 years imprisonment or with a fine or with both.⁹².

If any person hires or engages a child to commit an offence, such person shall be punished with a minimum of 3 years imprisonment, which may extend to 10 years, and with a fine; but if such offence is committed, then the person who hires the child shall be punished with the punishment assigned for that offence.⁹³ According to Sec 96, if a person takes or induces a child to go somewhere with the intention that the child may be forced or seduced to illicit sexual intercourse with another person, it is an offence, shall be punished with 10 years imprisonment and shall also be liable to a fine.⁹⁴

Whoever kidnaps or abducts any child under 10 years of age with the intention of taking any movable property from the child dishonestly,

⁸⁷ The Protection of Children from Sexual Offences Act,2012; Sec 14(1)

⁸⁸ The Protection of Children from Sexual Offences Act,2012; Sec 14(2)

⁸⁹ The Protection of Children from Sexual Offences Act,2012; Sec 14(3)

⁹⁰ Sec.15; The Protection of Children from Sexual Offences Act,2012;

⁹¹ Bare ACT, The Bharatiya Nyaya Sanhita, 2023; Universal Lexis Nexis; p. 41

⁹² Ibid

⁹³ Sec. 95; Bhartiya Nyaya Sanhita,2023

⁹⁴ Bare ACT, The Bharatiya Nyaya Sanhita, 2023; Universal Lexis Nexis; p-41

shall be punished with imprisonment of either 7 years imprisonment and shall be liable to a fine⁹⁵ However, if any person sells or lets to hire or otherwise disposes of any child with the intent that such child shall at any age be used for prostitution or illicit intercourse with any person or for any unlawful or immoral purpose, that person shall be punished with imprisonment for a term which may extend to 10 years and shall also be liable to fine.⁹⁶

(b) If someone buys or hires any child with the intent that such child will be used for prostitution or illicit sexual intercourse or for any unlawful or immoral purpose, shall be punished with imprisonment of less than 7 years, which may extend to 14 years and shall also be liable to fine.⁹⁷ If a girl below the age of 16 years was raped by someone, he shall be punished for a minimum of 20 years' imprisonment, which may extend to life imprisonment. ⁹⁸

If a person commits rape against a girl below the age of 12 years, they shall be punished with a minimum of 20 years imprisonment, which may extend to the death penalty. ⁹⁹:

CONCLUSION

Children are the assets of a nation. To protect the children, Article 15(3) provides special provisions for making laws for the protection of children in the country. There are so many laws enacted by the Parliament of India, e.g. Juvenile Justice Act, 2000, the Child Commission Act, 2005, the Right to Education and Compulsory Education Act, 2009, the Protection of Children from Sexual Offences Act, 2012, and the Bharatiya Nyaya Sanhita, 2023. Not only the parliament but the judiciary has played a great role to protect the childhood from various crimes. But unfortunately Acts and judicial guidelines are unable to change the criminal's mind. The lack of awareness among people, economic, social, scarcity among families, lack of proper implementation of laws are responsible for crime against children. Anyhow, the crime against children should be stopped through strong action, which should be taken by the government and the people of society. This is not only the government's duty, but it's also the duty of society to the children of the nation.

⁹⁵ Sec,97; Bhartiya Nyaya Sanhita,2023

⁹⁶Gaur K.D; TEXTBOOK ON THE BHARATIYA NAYA SANHITA, 2023; Universal Lexis Nexis; p-496-497

⁹⁷ Gaur K.D; TEXTBOOK ON THE BHARATIYA NAYA SANHITA, 2023; Universal Lexis Nexis; p-498.

⁹⁸ Sec. 65; Bhartiya Nyaya Sanhita, 2023.

⁹⁹ Sec. 66; Bhartiya Nyaya Sanhita, 2023.