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# Child Protection Laws in India

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## ABSTRACT

*Since a nation's future is dependent on the development and improvement of its children, children are respected as one of its most important national resources. These days, the essential objective of our society is to protect children from all shapes of manhandling and abuse. Various cases of child exploitation including child labour, child prostitution, child explicit entertainment, undernourishment, verbal mishandling, child savagery, and sexual molestation have been detailed. These occurrences serve as a roundabout update of our society's deficiencies in defending another era. Given the challenges and issues that children encounter, child assurance is seen as one of the government's and society's essential obligations. Youths are a valuable but fragile human asset. There are a few laws in India that address the treatment of children as non-entities and the tireless endeavours made to secure them from misuse and mishandling while also giving them with the rise to get to nourishment, well-being care, instruction, and regard, permitting them to reach their full potential. The Tradition on the Rights of the Child, the primary universal understanding laying out children's principal rights, was embraced by the UN Common Get together. A human right is to have a secure childhood. They are enrolled within the military. They persevere through various acts of viciousness, the passing of punishment, vanishing, unforgiving and obtuse discipline, and more. Children can oppose this idea since they are autonomous masterminds. Kids require freedom. Moreover, chances must be given to them for them to develop cognitively, candidly, socially, and physically. The setting must be steady and energizing.*

**Keywords:** *Children Rights, Protection, Legislative Measures, Constitutional View, International Law.*

## I. INTRODUCTION

The rights that come with being a kid are known as child rights. Children must be protected since they are little, immature, inexperienced, and dependent on people to take care of them. This makes them an ideal target for exploitation. This presents an instance when favourable circumstances are created to safeguard them. kid rights encompass all programs that are necessary for a kid to grow and develop to the maximum extent possible, as well as to safeguard their interests. Numerous plans, regulations, laws, and initiatives are designed to look after and

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safeguard children. In addition, children are denied their fundamental rights to family care, safety, play, housing, food, health care, and education. They are also starved, exploited, marginalized, mistreated, and trafficked. As a result, it is imperative to support children's rights and raise public knowledge of the idea, importance, and strategies for realizing these rights.

### **(A) Nature and scope**

Children's rights are their human rights, and they call attention to the extra protection and care that minors get. Numerous government initiatives have been put in place to conceal how adults mistreat and exploit children, diminishing their integrity and ultimately resulting in deprivation, lack of education, or even poverty.

According to this perspective, children belong to a minority group, and society should reevaluate how it treats them. Welfare measures were given to children. Children's rights first became a concept in the twentieth century. In a technical sense, rights are replacing welfare, which was a noteworthy strategy. Rights are privileges with objectives and duties.<sup>2</sup> These individuals represent the "future shoulders" upon which the nation will rest: eminent thinkers, leaders, lawmakers, scientists, technicians, educators, judges, labourers, engineers, and planners. Every human, even youngsters, has certain fundamental rights granted by nature. These essential rights are endowed upon every human being from birth. Humans have rights from the time they are fetuses. Since the beginning, a human has been given some fundamental rights, starting with the fetus in the mother's womb. Everybody has these inherent rights.<sup>3</sup>

## **II. WHAT IS RIGHT**

A "right" is a contract or agreement made between the right-holder and an entity or person that is obligated and capable of upholding that entity or person's rights. Rights are privileges that entail duties and objectives and are related to social fairness, non-discrimination, and empowerment. Referred to as personal assurances, rights are enforceable by an individual. They are very important, and following them is required. The goal of human rights is to guarantee the prerequisites for living at least somewhat well. Child rights are that unique set of rights that are accorded to every person under the age of eighteen. This shift in viewpoint is necessary for the child rights strategy to work. Children are now viewed as rights holders rather than as dependents. Children are also seen as distinct entities. According to the child rights concept, children's growth is both a goal and a tool for achieving their rights. This method interprets

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<sup>2</sup> Child Protection | UNICEF India, <https://www.unicef.org/india/what-we-do/child-protection> (last visited Nov 10, 2023).

<sup>3</sup> *Id.*

poverty as the result of unfair practices rather than only looking at it from the perspective of human needs and development strategies.<sup>4</sup>

### **(A) Concept**

With more and more proof of the suffering and abuse children endure, the idea of children's rights has expanded, and there is a growing global desire to uphold and defend these rights. Here are a few known facts: About 100 million children who have been abandoned by their families either become backbreaking labourers or turn to prostitution, begging, or small-time crime. Millions of people suffer from abuse, neglect, sexual exploitation, and drug addiction, including many members of wealthy cultures (Mythili and Bhagyathara 2007).<sup>5</sup> This makes it abundantly evident how vital it is to save and defend our children from their exploitation and miserable situation by using their rights as legal tools.

### **(B) Protection**

Each child is entitled to security. Not as it were to envelop children from assorted foundations and those who have experienced manhandling, viciousness, and misuse, but they moreover incorporate children who are not in any of these negative circumstances but still require security to remain inside the social security and security net. The objective of child security is to shield youthful individuals from any chance or seen risk to their lives, characters, or childhood. Its goal is to lessen their susceptibility to danger in all forms and circumstances. Each other child's right is inseparably related to child assurance. It must moreover have to do with how well kids can battle for themselves, as well as the parts and obligations of the family, community, state, and society. A few children without a doubt require more assurance than others because of their one-of-a-kind financial, political, and geographic conditions. These kids are more susceptible to harm, danger, or risk to their participation, growth, and survival rights.<sup>6</sup>

### **(C) Challenges**

Justice for the child cannot be served by legal reform on its own. In arranging for the different benefit suppliers (specialist, instructor, attorney, judge, police, volunteer, parent, exchange union, and social labourer) to essentially diminish the chance of mishandling, if it does happen, by reacting fittingly, mindfulness of such conceivable mishandle and how to bargain with it is, without a question, the foremost viable preventive degree. To conclude, these issues must be

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<sup>4</sup> Theertha Dinesh et al., *Laws of Child Abuse in Indian Perspective: A Review*, 12 J. FAM. MED. PRIM. CARE 856 (2023).

<sup>5</sup> Introduction to Child Rights |, <https://lawexplores.com/introduction-to-child-rights/> (last visited Nov 10, 2023).

<sup>6</sup> Legal Thirst, *KNOW CHILD RIGHTS IN INDIA - AN OVERVIEW*, LEGAL THIRST (Mar. 13, 2022), <https://legalthirst.com/know-child-rights-in-india-an-overview/> (last visited Nov 10, 2023).

resolved quickly. Overall, the elemental principle of the all-inclusive lawful concept is that choices ought to be made, methods and frameworks ought to be put in place, and acts ought to continuously be done with the most excellent interface of the child in intellect.<sup>7</sup>

### III. PRESENT SCENARIO

Looking at the current state of affairs, we can see that things are still quite grim and hopeless. We continue to struggle with problems like child labour, marriage, and other related ones despite numerous initiatives and progressive activities. To achieve the intended effects, it is necessary to make changes to the current policies and implement more sensitive programs. The situation of children has persisted indefinitely despite all the efforts made to address it.<sup>8</sup>

Children from the most marginalized groups in society are consistently targeted for exploitation. A significant section of the populace lives in impoverished, backward locations, which pose significant obstacles. There is hope beyond poverty, exploitation, and violence. The academic inequalities and exploitative practices that exist in both developed and developing cultures are major causes of the issues that children confront. The most vulnerable children in the world can thrive and realize their full potential in a safe environment that upholds children's rights. We're determined to fight for these rights so kids can have a childhood they can cherish.<sup>9</sup>

### IV. LEGISLATIVE MEASURES

#### (A) International Law

International law defines a "child" as any person who is younger than eighteen. This definition of a child is widely recognized and is derived from the United Nations Convention on the Rights of the Child (UNCRC), an international agreement that has been adopted by the majority of nations. India has long acknowledged the group of people under the age of eighteen as a separate legal entity. That is the exact reason why individuals can only vote, obtain a driver's license, or sign legal contracts once they are eighteen.<sup>10</sup> The Child Marriage Restriction Act of 1929<sup>11</sup> forbids the marriage of a girl under the age of eighteen and a boy under the age of twenty-one. Furthermore, India modified its juvenile justice laws to guarantee that anyone under the age of eighteen who needs care and protection has the right to get it from the State after ratifying the

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<sup>7</sup> Dinesh et al., *supra* note 4.

<sup>8</sup> Laws and Policies for Protection of Interest of Children: A Critical Analysis, <https://www.legalserviceindia.com/legal/article-346-laws-and-policies-for-protection-of-interest-of-children-a-critical-analysis.html> (last visited Nov 10, 2023).

<sup>9</sup> *Id.*

<sup>10</sup> Realizing Children's Rights in India, HUMANIUM, <https://www.humanium.org/en/india/> (last visited Nov 10, 2023).

<sup>11</sup> The Child Marriage Restriction Act, 1929

UNCRC in 1992. Some laws, on the other hand, have distinct definitions of children and have not yet been updated to align with the UNCRC.<sup>12</sup>

### **(B) Indian Constitution<sup>13</sup>**

The Indian constitution is leading the way in guaranteeing the right to several rights and has not lagged. The constitution contains several sections that guarantee young people a safe future free from prejudice and deprivation. Under Article 21A<sup>14</sup>, the Constitution mandates that all children between the ages of six and fourteen get an elementary education.

Article 23<sup>15</sup> strongly forbids crimes like forced labour and human trafficking. The employment of minors under the age of 14 in dangerous industries, such as mines or factories, is protected by Article 24<sup>16</sup> of the constitution. Protecting children encompasses not only fundamental rights but also overarching policy directives of the state. Article 39<sup>17</sup> ensures equal chances and development for children and expressly safeguards them from abuse.

### **(C) Indian Penal Code, 1860**

Children's rights are recognized and protected by specific parts of both the Indian Penal Code and the Indian Constitution. Anything a youngster does before the age of seven is not illegal under Section 82.<sup>18</sup> A kid between the ages of 7 and 12 is not considered to have violated Section 83<sup>19</sup> unless he can comprehend the nature and repercussions of his acts.

### **(D) Juvenile Justice Act**

Terrible crimes can and are committed by children. When they do, they ought to face consequences, but in a way that takes into consideration their unique ability to turn their lives around. Approximately 2,500 individuals in the United States are incarcerated for life without the chance of release due to offences they committed when they were under the age of 18. It's thought that the US is the only country that sentences minors to life in prison without the possibility of release. Amnesty International is unaware of any instances outside the US where a sentence of this kind has been handed down recently, even though several nations legally allow the practice.<sup>20</sup>

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<sup>12</sup> Realizing Children's Rights in India, *supra* note 9.

<sup>13</sup> Indian Constitution

<sup>14</sup> Indian Constitution, art. 21A

<sup>15</sup> Indian Constitution, art. 23

<sup>16</sup> Indian Constitution, art. 24

<sup>17</sup> Indian Constitution, art. 39

<sup>18</sup> The Indian Penal Code, 1860, § 82

<sup>19</sup> The Indian Penal Code, 1860, § 83

<sup>20</sup> Introduction to Child Rights |, *supra* note 4.

### **(E) Prohibition of Child Marriage Act**

Child marriage is a long-standing problem that is prevalent in society, particularly in rural and underdeveloped communities. The long-standing custom of marrying off young children has always been followed. Despite The Prohibition of Child Marriage Act of 2006's prohibition against it, child marriage is still common.

### **(F) POCSO Act**

With the help of a fitting, kid-friendly legitimate framework, the service of ladies and child improvement explicitly created the act to secure children from sexual ambush, assault, obscenity, and penetrative and non-penetrative offences. In expansion to giving the child the finest conceivable care and security, police must offer assistance with the examination.<sup>21</sup>

## **V. CONCLUSION**

Despite the existence of several legal framework components, there is a shortage and obstacles that need to be addressed in the near and distant future. There are several instances where children have not received justice, and social ills like child labour and marriage are still prevalent. Of course, poverty is the only factor contributing to child labour; there are numerous cases where the IPC's provisions are ineffective. Including many developing nations, India struggles with issues including child marriage, infant mortality, maternal mortality, and the phenomena of child widows, sex tourism, child trafficking for prostitution, child maltreatment, and child labour even beyond national lines. Several difficulties are ahead. Girl children are arguably the most socially disadvantaged demographic group. From conception through adulthood, she is particularly susceptible to violations of human rights. One might cite recent incidences of acid attacks in Pondicherry and gang rapes in Delhi as instances of the violation of girls' human rights. Thus, a culture centred on children needs to be created. As a result, the youngster will have recourse to the legal system for justice. To implement significant changes, strict measures must be taken. A practical strategy will assist in producing the required outcomes.

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<sup>21</sup> Rachit Garg, *Legal Framework for the Protection of Child Rights*, IPLEADERS (Dec. 6, 2020), <https://blog.ipleaders.in/legal-framework-protection-child-rights/> (last visited Nov 10, 2023).