

# INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

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Volume 6 | Issue 4

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2023

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# Structural Framework of Child Rights from Indian Legal Perspective

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## ABSTRACT

*The rights of the Child are always area which has been highly speculated legal domain and India is no exception. So are the rights that is available the children are primordial or it has been progressed to protect the children from every contemporary matter of contentions. This research majorly focuses on the constitutional rights and other legal rights that protects the children and its resonance with international instruments. The research throws the light on the application of the laws and the judicial activism which maintaining the sanctity of child welfare.*

**Keywords:** *historical view on child welfare, child rights, child labor, constitutional philosophy, juvenile justice, child abuse, judicial response.*

## I. INTRODUCTION

*“History will judge by the difference we make in the everyday lives of children”*

- Nelson Mandela<sup>2</sup>

Childrens are always considered as one of the best gifts to mankind, they aren't only the sign and development of nation but also, they are the one who is going to take forward the legacy of the humans in the world after the present generation. They are considered as the symbol of hope to our kind. The welfare and progress of the country depends largely on the well-being of the children in the domain. According to Justice Krishna Iyer, where he states that the civilisation has to open all the opportunities that is available to every child to explore their potential not just physically but also socially, mentally as well as spiritually<sup>3</sup>. From all these we can understand the importance of Child's welfare to a nation and it is their right to speak for their right.<sup>4</sup>

From the important elements of a state given in Montevideo convention from it gives four parameters to attain the state of a country namely Boundaries, Population, Sovereign and

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<sup>2</sup> cafewithcare, A. (2018) Kids, innocence is their strength..., Cafe with Care. Available at: <https://cafewithcare.wordpress.com/2018/05/03/kids-innocence-is-their-strength/> (Accessed: 07 July 2023).

<sup>3</sup> V.R. Krishna Iyer. Jurisprudence of Juvenile Justice: A Preamble

<sup>4</sup> Samuel Olom; Comments et al. (2021) Importance of child right to the world, Voices of Youth. Available at: <https://www.voicesofyouth.org/blog/importance-child-right-world> (Accessed: 07 July 2023).

capacity to enter into a contract<sup>5</sup>, So the population has been placed as the second criteria. Therefore, the population is the major key factor a nation and more over in 21<sup>st</sup> century where the legal system started acknowledging the younger generation as the asset and more over the human rights has been equally bestowed over the children in order to protect the welfare of the children.

**(A) Research question:**

The primary work of this study is to look into the aspect of child right in the present Indian laws mainly in the domain of constitution and juvenile justice system etc.

1. *Is there any evolution of child's right across the Indian society?*
2. *Whether constitution provides sufficient protection for children?*
3. *How India legal system harmonize with international standards?*
4. *Where India stands in terms of Child labour protection compared to US?*

**(B) Data and methods:**

This research is a qualitative study where it focuses on the various laws in India with respect to child rights law, committee reports, case laws and other secondary sources which may include articles, books, journals etc that will help in the progression of the current research. The study will mostly be descriptive and as well as analytical. In the analytical part, the study will focus on the various laws like how the child rights has been evolved in the years and what is the current condition of the rights available to child in India, the descriptive part will look into the judiciary and its decision in protecting the welfare of the child. The research also tries to figure of the fathom of Indian laws whether it resonates with the international instruments.

**(C) Limitations of the study:**

The primary limitation of this study is, since it is a qualitative study so the outlook of the researcher will differ from that of other academicians and the materials used for the study are the books written by different authors so the reliability of the facts may differ. one of the important problems is that materials used is so limited, so we can't come to one solid conclusion only with the available materials.

## **II. TIMELINE OF CHILD'S RIGHTS IN INDIA**

In many national legal systems, children were treated in the same way as married women and

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<sup>5</sup> Art 1 Montevideo Convention 1993

madmen, as if they were legally incapable of exercising a broad range of rights.<sup>6</sup> What was worse was that child, unlike married women or madmen, were not given special protection. In the early legal systems, the child was treated as a property of the parent, and often the father. However, this was not the case in the earliest legal systems. For example, in the Roman law the ‘Pater familias doctrine’<sup>7</sup>, the child was regarded as property of the parent. Over the centuries, however, these attitudes have changed, and childhood has become a special status that justifies special protection.

The concept of children's rights did not come into being until the twentieth century. In Indian law, especially in the Manusmriti, the child, even if it was at the bottom of the social ladder, it wasn't protected sufficiently by society<sup>8</sup>. Children only received welfare benefits and the father became the only guardian of the child. There is a long history of discrimination against children in India. Factors such as age, gender, caste and family background have all contributed to the bias against children.

Rulers such as Ashoka and Chandrakanta sought to promote moral norms by writing that obedience to parents and respect for elders should be observed and followed. This reinforced the idea that obedience to and loyalty to elders was moral and socially accepted and valued behaviour.<sup>9</sup>

During the British rule, the situation of children who belonged to the lower-income or lower-class of Indian society was extremely difficult. The economic, social, and political turmoil in the nation during this time period posed great difficulties and uncertainty to the nation, and the situation of children was even worse during this period. The atrocities against children reached its peak during the expansion of British imperialism as they were further subjected to all forms of oppression. Through the efforts and initiatives of leaders such as Mahatma Gandhi, Lala Lajpat Rai and Lal Bahadur shastri, Indians were inspired and awakened to challenge their traditional beliefs on various forms such as illiteracy, social-cultural practices such as child marriage or neglect of children's well-being etc.<sup>10</sup> As a result, the struggle for freedom encompassed activities such as social action to overcome the customary shortcomings in society

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<sup>6</sup> Katherine H. Federle, *On the Road to Reconceiving Rights for Children: A Postfeminist Analysis of the Capacity Principle*, 42 DePaul L. Rev. 983 (1993)

<sup>7</sup> Burger, Jarod. “The Role of Paterfamilias in Roman Law.” *Academia.Edu*, 1 Jan. 2019,

<sup>8</sup> Manusmriti Verse 9.26 [Duty towards Children], *Wisdom Library; The portal for Hinduism, Sanskrit, Buddhism, Jainism, Mesopotamia etc...*, <https://www.wisdomlib.org/hinduism/book/manusmriti-with-the-commentary-of-medhatithi/d/doc201385.html> (last visited July 7, 2023).

<sup>9</sup> Ashoka and His Dhamma, *Unacademy*, <https://unacademy.com/content/upsc/study-material/ancient-history/ashoka-and-his-dhamma/> (last visited July 7, 2023).

<sup>10</sup> Singh, d. P. “lala lajpat rai: His Life, Times and Contributions to Indian Polity.” *The Indian Journal of Political Science*, vol. 52, no. 1, 1991, pp. 125–36. JSTOR, <http://www.jstor.org/stable/41855539>. Accessed 7 July 2023.

and to build self-reliance in Indians. Thus, proper upbringing of the child came to be seen as an important factor in the restoration of the nation and social concerns for children became important during the formulation of the Indian Constitution by the leaders of the country. This was the start of a sense of autonomy at the group social action level. Various laws were formulated to properly structure and shape children's future in India. These laws were the first effective steps to create an environment for children's growth and development.

In recent years, the children's rights movement has grown in stature, and adopting international legal norms has been seen by many as an especially effective way to incorporate the idea that children have rights into national law. Generally, these rights are closely related to all human rights but also cover a wide range of special rights that children are entitled to because of their vulnerability. This shows there is a drastic change in the child's rights throughout Indian history.

### **III. RIGHTS OF CHILD PROTECTED UNDER THE CONSTITUTION OF INDIA**

Constitution of a nation is the living document of the social contract of mankind. Therefore, going through Indian constitution will help us to navigate the position of child's rights in Indian legal structure.

#### *1. The Right to Nationality and Identity -Article 7 and 8 of Constitution of India*

Children have a right to a name, registered with the state, and a citizenship status (to be a citizen of a country). They also have a right to an identity (a public record). This guarantees national support and social services.

#### *2. Right to Health-Article 23 and 24 of Constitution of India*

The right to health includes the right to medical treatment, the right to adequate nutrition, the right to protection from harmful practices (including drugs), and the right to safe working conditions. Article 23 and Article 24 of the Indian Constitution on child rights further define the rights of children with special needs to receive special care and support, as well as the right to quality health care (adequate drinking water, adequate nutrition, and safe environment).

#### *3. Right to Education -Article 28 of Constitution of India*

The right to free basic education plays an important role in instilling discipline and life skills in children while providing a healthy and safe environment to support a child's physical growth. This includes liberty from violence, maltreatment or abuse.

#### *4. Right to a Family Life -Articles 8, 9, 10, 16, 20, 22 and 40 of Constitution of India*

If family member isn't around then a child has a right to be cared for by a caretaker. Children

must stay with their parents as long as it is not detrimental to them. Family reunification (like allowing family members living abroad to travel in order to reconnect with family members) is essential. Under the caretaker's or family's care, children must be protected from attacks on their lifestyle and personal history.

Children who are not able to have a family life are entitled to special care and to be looked after appropriately, by people who care about their ethnic origin, religion, culture, language and so on. Refugee children are entitled to special protection and assistance. In the event of a minor offence, children are entitled to legal representation under a juvenile justice system, with a fair and speedy outcome.

*5. Right to be protected from violence-Article 19 and 34 of Constitution of India*

Family members should also be protected from violence, and children should not be subjected to ill-treatment and sexual or physical abuse. This includes the use of violence to discipline children.

All forms of sexual abuse and exploitation must be prohibited. This Article addresses the following:

- Child trafficking
- Child prostitution
- Child pornography

*6. Right to freedom of expression- Art 19 of Constitution of India*

Every child has the right to express their point of view, without fear or favour. In cases where adults are making decisions for children, children have the right to have their point of view heard. Children's point of view may not always be supported by facts, but it's a valuable resource for parents and should be taken into account. This, however, varies depending on the maturity and age of the child. Children have a right to their point of view as long as it's not causing harm to others with their opinion and knowledge.

*7. Right to be protected from armed conflict-Articles 38 and 39 of Constitution of India*

Armed conflict can turn innocent kids into refugees, prisoners, or even involved in armed conflicts. These are all things that go against the spirit of war and any kind of armed conflict can really hurt a kid's morale and how they view themselves. This needs to be fixed in a safe and caring environment. The government needs to help kids affected by war but also make sure that kids aren't forced into any kind of armed struggle.

#### 8. *Right to be protected from exploitation -Articles 19, 32, 34, 36 and 39 of Constitution of India*

Protection from violence is essential for the liberation of children from exploitation, as exploitation is typically accomplished through violence. This includes abuse, neglect and violence perpetrated by parents, regardless of its justification as a means of disciplining children at home. Furthermore, children may not be forced to work in arduous or hazardous conditions; they may only volunteer to do safe work that does not endanger their health, nor may they be deprived of education or recreation. Furthermore, sexual exploitation is prohibited, as it is an activity that exploits children. Furthermore, survivors of neglect, exploitation and other forms of abuse must receive special assistance to enable their recovery and re-integration back into society. Lastly, children must not be subject to cruel and unusual punishment, even when it is within the purview of the legal system; death or life sentences are not permissible, nor are sentences involving adult prisoners.

This analysis shows that there is plethora of rights which act as the strong pillar of fundamental and legal rights that protect the vulnerability of children against all form anti-social activities that is prevalent in the society.

### **IV. EMERGENCE OF CHILD RIGHT'S ON INTERNATIONAL LEGAL SCALE**

In 1924 the declaration of the rights of the child popularly known as Declaration of Geneva, was made at the meeting of the League of Nations in Geneva. This document recognized that 'Mankind owes the child the best that it can give',<sup>11</sup> and established the foundation of child rights. The five fundamental principles of the Declaration for Protection of the Weak, Exposed and Vulnerable were used to promote child's growth and development. The five chapters of the Declaration defined and discussed the well-being of children, and recognized the obligations of adults to support the right to develop, support, growth and protect children. The Geneva Declaration is one of the most remarkable documents that acknowledged and declared that children had rights specific to them, and that adults had a legal responsibility towards children for the very first time. It also made it clear that the whole world had a legal responsibility to care, protect and nurture all children, and that it was not limited to families, communities or even countries.<sup>12</sup>

The Second World War brought unspeakable suffering to children around the world. On 11

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<sup>11</sup> Mankind owes to the Child the best that it has to give - Humanium, Humanium, <https://www.humanium.org/en/give-child-best-2/> (last visited July 7, 2023).

<sup>12</sup> Legislative History of the Convention on the rights of the child XXXX (Office of the United Nations High Commissioner for Human Rights 2007).

December 1946, UNICEF was established as a specialized agency with a directive to care for the children of the world. It provided aid and support for children in Europe and elsewhere who were displaced, lost their families and prospects during the war.<sup>13</sup> UNICEF was set up on 11 December 1946 by the UN General Assembly to promote a new ethic of care and protection for children. In response to the millions of children who were displaced and refugees during World War II, UNICEF provided shelter, fuel, and food. In October 1953, the UN General Assembly decided to maintain UNICEF's mandate as a permanent international organization, confirming the broader mandate established for UNICEF in 1950. During the 1970's and 1980's UNICEF became a prominent advocate for children's rights.<sup>14</sup>

United Nations Children's Fund (UNICEF) has been a partner of the Government of India since 1949. UNICEF has worked with the Government of India to organize various programs and activities to promote growth and development for children in India.<sup>15</sup> The Government of India, in partnership with UNICEF, implements various programs to promote child rights, adolescent and women's rights for their fundamental survival, all-round growth, development and most importantly, their protection by eliminating inequalities based on caste, custom, gender, financial situation, region or religion prevalent in society. With over 70 years of experience, UNICEF continues to work towards children's fundamental rights in India. After introduction of UNICEF there was introduction of legal instruments in UN.

## **V. INTERNATIONAL LEGAL INSTRUMENTS DEALING WITH THE WELFARE OF CHILDREN**

On 20 November 1989, the United Nations (UN) General Assembly of the General Council of the World Organization for the Reduction of Child Labor (UNCAL) adopted the Convention on the Right of the Child, which was subsequently reaffirmed by 135 nations, including India, in March 1990.<sup>16</sup> This Convention provides for the protection of the child from economic exploitation, as well as the prohibition of any work that could be hazardous or interfere with their education, or that could be detrimental to their health or spiritual, mental, moral or social development. In order to ensure the implementation of this article, the Convention stipulates that States Parties must adopt legislation, administrative measures, and educational measures. These measures include the establishment of minimum ages and hours of work, the regulation

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<sup>13</sup> UNICEF history, UNICEF, <https://www.unicef.org/history> (last visited July 7, 2023).

<sup>14</sup> *ibid*

<sup>15</sup> UNICEF, Drishti IAS, <https://www.drishtias.com/important-institutions/drishti-specials-important-institutions-international-institution/unicef-1> (last visited July 7, 2023).

<sup>16</sup> Convention on the Rights of the Child, UNICEF, <https://www.unicef.org/child-rights-convention> (last visited July 7, 2023).



of hours and conditions of employment, and the implementation of penalties or other sanctions. Subsequently, the SAARC (South-East Asia, Central Asia, and North-East Africa) countries have committed to the abolition of child labor. On 20 November 1989, the United Nations (UN) General Assembly of the General Council of the World Organization for the Reduction of Child Labor (UNCAL) adopted the Convention on the Right of the Child, which was subsequently reaffirmed by 135 nations, including India, in March 1990.

Since its founding in 1919, the International Labor Organization (ILO) has adopted numerous conventions and recommendations that state that children under the age of 14 must not be employed. However, in India, the ratification of these conventions has been seen more as a "status symbol" and for the purpose of projecting a positive image abroad, rather than for their genuine implementation and adherence in practice.<sup>17</sup> This has been seen as a "window dressing" for the Government, despite the Convention's stated purpose of providing a basis for the development of children's rights in an environment of liberty, dignity, and justice. In February 1997, the Government submitted its first country report on the ILO Convention.

- *Universal Declaration of Human Rights:*

In Art 25 and 26 clarifies that children need to receive special care & support and that primary education should be free and mandatory for all children.

- *International Covenant on Economic, Social and Cultural Rights:*

This text in Art 10 and 13 emphasizes the importance of protecting children and young people from any form of discrimination and social-economic exploitation. It also emphasizes the need to prevent children from engaging in work that could be detrimental to their health, wellbeing, or normal development. Furthermore, it emphasizes the need to prohibit child labour and make it a criminal offence, as well as the importance of providing education to all children.

- *The International Covenant on Civil and Political Rights:*

It states in Art 14, 18 and 24 that a child shall be provided with adequate protection and rights to the status of being a minor from the family, society and the state, without any discrimination based on racial, colour, sexual orientation, language, religious belief, nationality or social origin, ownership or place of birth.

After introduction of all these international instruments there was drastic change in legal system in global level and India is being no exception, so in order to find out how India is coordinating

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<sup>17</sup> India ratifies both fundamental ILO Conventions on Child Labour, International Labour Organization, [https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS\\_557295/lang--en/index.html](https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_557295/lang--en/index.html) (last visited July 7, 2023).

with its foreign counterpart, we have to explore the municipal law of India dealing with the welfare of child.

## **VI. INDIAN LEGISLATIONS ENACTED TO COOPERATE WITH INTERNATIONAL LEGAL FRAMEWORK**

### *A. The Juvenile Justice Act, 1986:*

In accordance with the United Nations Convention on the Rights of the Child (UNCRC), the Juvenile Justice Act was enacted in 1986, making it the first juvenile law to be uniformly applicable throughout the country. Subsequently, the Act was amended and re-enacted in 2000 to include the provisions of the UNCRC. In 2006, the Act was further amended to include the Child Care and Protection of Children Amendment Act, 2006,<sup>18</sup> and in 2011. As a result, the Indian juvenile justice system is now governed by this essential piece of legislation. In June 2014, the Union Government presented proposals to amend the Act.

### *B. Prohibition of Child Marriages Act, 2006:*

In order to address the inadequacies of the Child Marriage Restraint Law in the Indian subcontinent, the Government of the Republic of India has adopted the Prohibition of Child Marriage Act, 2006, which entered into force on 1st November 2007. This Act defines a child or minor as a person up to the age of eighteen years for girls and twenty-one years for boys. Violation of the Act is cognisable and non-bailable, and the solemnisation of Child Marriages is a cognisable offence.

### *C. Child Labour (Prohibition and Regulation) Act, 1986:*

It is the most comprehensive legislation in the world on the prevention of child labour. It is the successor to the 1938 Employment of Children Act. According to the CLPR Act, a child is any individual who has not reached the age of 14. The Act prohibits the employment of children in certain hazardous occupations and in manufacturing processes. It does not cover processes that are carried out by families or their own members. Children are not allowed to work between 7:00 pm and 8:00 am, nor are they allowed to work overtime or in multiple establishments. No child is allowed to work more than six hours per day. After every three-hour duty, children are given one hour of rest. On 10th October, 2006, the CLPR Act was amended to include the prohibition of employing children as domestic help and roadside restaurants. This order also prohibits the employment of a child under the age of 14 in houses and restaurants.

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<sup>18</sup> John Menachery, Evolution of Child Rights in India

*D. Right to Education Act, 2009:*

The right of children to free and compulsory education (RTE) law, 2009, entered into force on 1st April 2010. The aim of the RTE Act is to ensure free and compulsory education for all children aged 6 to 14 in a neighbourhood school up to the completion of basic education.

*E. Immoral Traffic (Prevention) Act, 1987 and Protection of Children from Sexual Offences Act, 2012:*

The objective of this law is to improve the legal framework for protecting children from sexual exploitation and abuse. This is the first time in India that a specific law has been introduced to deal with sexual crimes against children. All children under 18 years of age are protected from sexual assault, sex harassment and child pornography.

*F. National Policy for Children:*

The Policy was adopted in order to demonstrate the Government's dedication to the rights of children in the Country, as it acknowledged that every person under the age of 18 is considered a child. It has identified the fundamental rights of children, such as survival, nourishment, health, and development, as well as education, protection, and participation, as the primary priority areas. The Policy is intended to serve as a basis for the formulation and implementation of legislation, policies, programmes, and initiatives that affect children. All national, state, and local government activities and initiatives must adhere to and uphold the Principles and Provisions of the Policy. National and state commissions for protection of child rights are responsible for ensuring that the Principles of the Policy are adhered to across all levels of government. Furthermore, the Government has established a review of the Policy after five years.<sup>19</sup>

*G. Commissions for Protection of Child Rights:*

An Expert Committee was appointed by the Government of India under the chairmanship of Justice VR Krishna Iyer for the purpose of drafting the 'National Commission for children Bill 2000'.<sup>20</sup> On the basis of this proposal, the Government of India enacted the 'Commissions for protection of child rights Act, 2005'. The Act provides for the establishment of statutory bodies such as a National Commission at national level and State Commissions at state level. The State Commissions were established for the proper protection of children's rights and the effective

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<sup>19</sup> Protection of Childrens Human Rights in India, Legal Service India - Law, Lawyers and Legal Resources, <https://www.legalserviceindia.com/legal/article-11-protection-of-childrens-human-rights-in-india.html> (last visited July 7, 2023).

<sup>20</sup> RAGHAVAN, VIKRAM. "V R Krishna Iyer: A Long Life in Law and Politics." *Economic and Political Weekly* 50, no. 3 (2015)

implementation of the laws and programmes related to children. Several state governments have also established State Commissions for protection of Child Rights. These Commissions are empowered to take Suo motu actions for the protection of child rights.<sup>21</sup>

## **VII. COMPARATIVE ANALYSIS BETWEEN USA AND INDIA IN TERMS OF CHILD LABOR LAW**

As the prevalence of child labor increases, international institutions have had to implement legislation and programs to address this widespread social scourge. The most prominent and specific such legislations are the United Nations Convention against Cruelty to Children (UNCRC), Minimum Wage Control (MAC) and the Worst Form Convention (WFC). India has ratified all three of these conventions,<sup>22</sup> while the United States has ratified only the WFC. The remaining two have yet to be ratified by the US. India has taken a number of steps to address this issue, including the Ratification of the Worst Form of Convention, the Development of a Bill and Sanctions in the Child and Adolescents labor Act, the establishment of a Task Force to implement the laws, and the improvement of the working of administrative bodies and police officers. The United States has not taken any action in this regard, apart from the few provisions already incorporated into its law. To address this issue, India has implemented specific legislation, as well as issuing guidelines and recommendations from the Indian Judiciary to ensure that children are not involved in this area.

India has implemented a variety of laws at both the national and state levels to address the issue of child labor, with the aim of eradicating the issue in the country through a concerted effort between the Centre and the various states. Conversely, the United States of America has limited federal legislation, with the states being given the autonomy to create their own regulations. Consequently, the US does not have the necessary federal laws to address this issue in a unified manner across all its states. India stands out from the US in terms of its policies and programs for children who have been affected by child trafficking, as it has implemented rehabilitation, vocational training, educational programs and policies for these victims.<sup>23</sup> So, from this it is visible that there is a solid legal framework in India but we have to look onto the Judiciary response to maintain the social justice.

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<sup>21</sup> WBCPCR, Functions and Powers, WBCPCR, Home, <https://wbcpcr.org/functions-powers.php> (last visited July 7, 2023).

<sup>22</sup> A landmark step —India ratifies ILO conventions on child labour, International Labour Organization, [https://www.ilo.org/newdelhi/info/public/fs/WCMS\\_557730/lang--ja/index.htm](https://www.ilo.org/newdelhi/info/public/fs/WCMS_557730/lang--ja/index.htm) (last visited July 7, 2023).

<sup>23</sup> Arjit Pandey and Tanisha Yadav, A Comparative Analysis of Child Labour Laws in US & India, 4 (2) IJLMH Page 570 - 591 (2021), DOI: <http://doi.one/10.1732/IJLMH.26104>

## VIII. ROLE OF INDIAN JUDICIARY IN PROTECTING THE WELFARE OF THE CHILD

In the efforts to address the issue of child well-being, the Indian Judiciary has consistently acted as a substitute for the Indian Legislature whenever the latter's efforts were inadequate or proved unsuccessful. The Indian Judiciary has played a significant role in promoting child well-being through its various novel judgments and interpretations.

First time in the history of India, in its judgment in the case of *Lakshmi Kant Pandey v. Union of India*,<sup>24</sup> the Supreme Court observed that the welfare of the whole community, its development and growth depends on the health and wellbeing of its children, and that children require special protection as they are very tender in age and physical condition, mentally immature and unable to take care of themselves. According to the Supreme Court, construction work is a dangerous profession and therefore no child under 14 years of age can work in the construction sector. In 1983, in the case of *Salal Hydro project v State of Kashmir*<sup>25</sup>, the Supreme Court remarked that, as long as there is poverty and poverty-like conditions, the issue of child labour will never be eliminated. The Court stressed on the importance of the education for children and gave guidelines to the government to provide schooling to the children of the construction workers which will eventually help in eliminating this evil problem.

In *M.C. Mehta v. State of Tamil Nadu*<sup>26</sup>, the Supreme Court prohibited children from participating in the production of matches and fireworks, with the exception that they should only be involved in the packing process and be kept away from the manufacturing area. The Court further emphasised the importance of providing education to children until they reach the age of 14, and that there should be a balance between their school and working hours, so that they do not interfere with their education and employment. In 1997, the Supreme Court issued another landmark judgement on child labour *Bandhua Mukti Morcha v Union of India*<sup>27</sup>, in which it held that the government had not been able to effectively address the issue despite making numerous legislative provisions in line with ILO Conventions and the Constitution. The Court further issued compulsory guidelines for the government to address this issue. The following year, the Supreme Court recited the directions given in *M.C. Mehta* and discussed the need to implement them. The Court further asserted that governments should ensure that all children receive nutritious meals, a healthy environment, and compulsory education.

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<sup>24</sup> 1984 AIR 469

<sup>25</sup> (1983)2 SCC 181

<sup>26</sup> 1997 AIR SC 699

<sup>27</sup> 1984 AIR 802

In the Unnikrishnan judgment<sup>28</sup>, the Court held that the fundamental right of free and compulsory education for children should be recognised as a fundamental right and be subject to the ambit of the Constitution's Article 21. In the judgment in the *Bachpan bachao andolan vs union of India*<sup>29</sup>, the Court ruled that children should not be allowed to work in circuses, but compulsory education should be provided and children rescued from these circuses should be provided with care and protection in the form of Care and Protection Homes until they reach the age of 18. Similarly, in the judgment in the case of the child born to a prostitute, the Court found that the children should be treated with equal care and protection and gave directions for the rescue and rehabilitation of child prostitutes, as well as the establishment of Juvenile Homes for such children.

## IX. CONCLUSION

We can deduce from all these data that the welfare of the child has its own journey from the historic time to the contemporary time. Even though there are fragments of Child's right from ancient time but the impact of international law has major role in shaping the rights of child in India. In fact, comparing with other countries India is in a better protection in terms of Child labor law but when there is a uncertainty or when there exist a clash of two rights then Judiciary respond in implementing the social justice. All these elements prove that Indian legal framework isn't weak but there should be further detail study to overlook the Child's welfare in this digital era.

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<sup>28</sup> Unni Krishnan J.P v. State of Andhra Pradesh (1993) 1 SCC 645

<sup>29</sup> 2012 AIR SC 3445

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