

Child Protection Law in India: A Critical Study

Bruhaspati Sabar^{*†‡}

[†]Assistant Professor, Lingoraj Law Collage, Berhampur, Odisha, India

[‡]Ph.D. Scholar, P.G. Department of Law, Sambalpur University, Odisha, India

Abstract: Children are valuable asset of any country. The present child is a feature adolescent. So, any Country's growth and development are depending on its children. Everyone should be a right to protect children from all forms of exploitation and sexual abuse. There different forms of child abuse. Child exploitation, sexual molestation, child marriage, neglect, verbal abuse, child battering, child prostitution, child pornography, and child labour, which are directly or indirectly are running in our society. Whoever, the state has failure to control the crime. The government of India has established a variety of laws to ensure their protection. In 1989, India becomes a signatory to the United Nations Conventions (UNC) on child rights. It is a revolutionary change in the legislation of international humanitarian law. In keeping with requirement of (CRC) India submitted its initial to the committee on the rights of the child in 1997. According to the Protection of Children from Sexual Offences (POCSO) Act, 2012, a child is a person under the age of eighteen years. The Government, along with other institutions like (UNICEF) has been tirelessly working in the formulation and implantation of policies for the protection and overall development of children in India.

Keywords: Child rights, pornography, child abuse, and sexual offences.

1. Introduction

The document starts here. Copy and paste the content in the paragraphs. The term child comes from the Latin Infants which means "the one who does not speak" For the Roman term the child from its birth up to the age of 7 years. (Singh & Bharati 2021) The UNCRC defines, a child as a human being below the age of eighteen years unless under the law applicable to the child majority is attained earlier¹. In 1994, Geneva conference widely accepted for child safeguards. Children are mentally, physically immature. As a result, their safeguards and legal protection highly required. The declaration of the child rights was adopted by the General Assembly on 20th November 1959. Thirty years later, it is accepted by world's leaders as a child should have needed a charter. The culture of India is a great witness on the child rights. It has been based on traditional values of sacrifice, mercy and non- violence and equality. The Vedic era is a great rote of child right which has been move forwarded in our society on the sign of the right of a child.

2. Child Protection from a Legal Perspective

According to Indian law, children in this nation have a right

to be safeguarded from vulnerable circumstances and exploitation in whatever way they are subjected to. However, it is necessary for the general public to be educated about child abuse prevention methods and to help disseminate this information. To do this, we must identify the true issues and dangers involved with child rearing in order to prevent youngsters from becoming future victims or criminals. People of all ages, including the elderly, should be familiar with the legal remedies for all types of child abuse so they can abide by those remedies while also persuading others to avoid violating the law and endangering the future of children. From a legal standpoint, everyone should be aware of the rules and regulations in place to protect children from abuse both inside and outside the home (Gupta & Gupta, 2021). Generally, children are seeming to be less experience and small size. This is a cores issue to rise a crime against the children in any society of India. The rights children include every issue as them requires including family care, protection, shelter, food, health and education (Sarma, 2024)

A. The Bhartiya Naya Sanhita 2023

- Section 45 – Abetment of suicide of child or insane person
- Section 88 – Causing miscarriage
- Section 90 – Death caused by act done with intent to cause miscarriage. If the act is done without woman's consent
- Section 91 – Act done with intent to prevent a child being born alive or to cause it to die after birth
- Section 92– Causing the death of a quick unborn child by act amounting to culpable homicide
- Section 93– Exposure and abandonment of child under twelve years, by parent or person having care of it.
- Section 137 (1) – Kidnapping from India (for extortion
- Section 137(1) (b) – Kidnapping from lawful guardianship
- Section 139 – Kidnapping or maiming a minor for purposes of begging
- Section 96 – Procreation of a minor girl
- Section 97 – Kidnapping or abducting child under ten years with the intent to steal from its person.
- Section 98 – Selling minor for purposes of prostitution,

*Corresponding author: sabarbruhaspati@gmail.com

etc.

- *Section 99* – Buying minor for purposes of prostitution, etc
- *Section 63* – Rape
- *Section 64* - Punishment of Rape
- *Section 65 (1)* – Punishment for rape on women under twelve years of age.
- *Section 70 (2)* – Punishment for gang rape on women under sixteen years of age
- *Section 71* – Punishment for repeated offenders

B. *Protection of Children from Sexual Offences Act 2012*

The parliament of India has observed a robust legal framework with the goal of protection of children's rights and combating child abuse in the nation. The protection of children from sexual offences (POCSO) Act 2012 enforced for the protection of children from sexual assault, pornography and sexual harassment of any kind. This law also protects the rights of children involved in the Indian legal system of different stages.

C. *The Constitutional Provisions Relating to Children.*

The constitution of India came into effect on 26th January 1950. There are several articles that have inserted on the rights and protection of the children under the constitution of India.

Article 14: it should be treated equally before law and should be equal protection law by the law with no discrimination.

Article 15: Prohibition of discrimination on grounds of religion, race caste sex or place of birth.

Article 19(1): All citizens shall have the right to freedom of speech and expression.

Article 21: Nobody shall be bereft of his life or personal liberty unless by a due process of law. An individual should have proper and adequate food, shelter, clothing etc, such life shall not mean mere animal existence.

Article 21 (A): The state shall offer free and compulsory education to any children falling the age group of 6- 14 years. guarantees the right to free and compulsory education for all children between the age groups of 6-14 years.

Article 23: Prohibition of traffic in human beings and forced labour.

Article 39 (e): The state shall strive to make sure that the tender age of youngsters is not abused and that people aren't forced by financial necessity to enter into activities which are unsuited to their age or strength.

Articles 39(f): The state shall give opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that that child hood and youth are protected against exploitations and against moral and material abandonment.

Article 45: The state shall endeavour an early childhood care and education to children below the age of six years

Article 46: it is duty of the state to Promote an education and economic interest of scheduled Castes, scheduled Tribes and other weaker sections in the society.

Articles 47: the state shall enforce to raise the level of nutrition and the standards of living and to improve public health.

D. *Child Labour (Prohibition and Regulation) Act, 1986*

The Act is formulated to eliminate child labour and provides for punishment and penalties for employing children below the age of 14 years in various hazardous occupations and process. The act provides power to state government to make rule with reference to health and safety of children, wherever their employment is permitted. It provides for regulation of work conditions including fixing hours of work, weekly holidays, notice to inspectors, provisions for resolving disputes as to age, maintenance of registers etc. Through a recent notification, child domestic workers up to 14 years of age working in hostels and dhabs have been brought within the purview of the Act. It is one step towards the elimination of child labour

E. *The Pre-Conception and Pre-Natal Diagnostic Technique (Prohibition of Sex Selection) Act, 1994*

This is an Act for the regulation of the use of pre-natal diagnostic techniques for the purpose of detecting genetic or metabolic disorder, chromosomal abnormality or certain congenital malformations or sex-linked disorders, and for the prevention of misuse of such techniques for the purpose of prenatal sex determination leading to female foeticide and for matters connected therewith or incidental thereto.

F. *Commission for Protection of the Rights of the Child Act, 2005*

National commission for the protection of child rights Act 2005 (Gupta & Gupta, 2021, p.1878) was enacted ensuring that the provisions of the constitution for state and national commissions to safeguard children's rights were upheld in each federal state within the Union territory of India.

G. *Prohibition of Child Marriage Act, 2006*

The policy intended to protect girls from being forced into early marriage, while this is a worthwhile goal to pursue, cultural and social norms supporting early marriage in India combined with the individuals' right to sexual autonomy might present impediments to the fulfilment of that aim. A recent report on the census data indicates that in India one in six women were married before they 18 years of age of which 17.5% (6.5 million) women had been married within 4 years prior to when the census was conducted (Belur & Singh, 2015). Despite of different legislative efforts, it plays a foul and corrupt cultural practice in every society. In Rajasthan on *Kashia Tritiya day*, which is popular known as the *Akha Teej*, Hundreds of children shall take marriage on the ceremonies. it is a great example in the soil of India.

H. *The Juvenile Justice Care and Protection Act 2015*

The government of India promises to provide comprehensive care of children while also making treatment and protection possible. As a result of these children are required to be cared for safeguarded and treated with respect in any scenario involving conflicting demands for care and development. Because of the guarantee that child-friendly methods are taken into account while disposing of and adjudication cases involving the best interests of children, this act goal was made possible. This act also allows the final rehabilitation

arrangement for child care facilities with by the assistance of different state government in India.

I. The Information Technology Act 2000

Particularly, During the time of covid – 19 pandemics, India, has become more and more dependent on the internet, Due to the lock down, closer of schools and online education most of the children spend their time on the internet. India has witnessed an increased 50% internet usages as an after effect of the pandemic. An intermate can play double -edged instrument as it can be both a boon and bane of children. So, most of the children are addicted on uses of internet and effected on different crimes like child pornography, Cyberbullying, cyber sexual harassment and cyber grooming and other illegal activities against the children. The government of India has formulated several laws for the child protection and their interest. The Information Technology Act 2002 is one the great mile stone for the Chimkent of cybercrime against the children. This Act enacted several provisions and guidelines for cybercafé also.

J. Right to Education (RTE) Act 2009

This Act was enacted on 4th Augst 2009 by the parliament of India. It clearly describes the modalities of free and compulsory education for the children between 6 and 14 years. It also great challenges for students regarding on continuous and compressive evaluation, funding, teacher training, curriculum development and medium of instruction for the development of the student. The right to education Act is included a provision for children rights on the protecting form physical abuse, mental harassment and shall issue a good environment for leaning.

3. National Polices

The government of India by the joint effort of the different state governments of the country an effort passed different national policy for the children development and their protection.

A. National Policy for Children 1974

The main objective of this policy is comprehension and nutrition free and compulsory health and nutrition. Free and compulsory education until the age of fourteen years. Education should include physical education and recreational time, special attention for children from marginalised backgrounds of children with disabilities. Protection from abuse, neglect cruelty and exploitation, and laws need to be amendment to take into account the best interest of the child.

B. National Policy on Education 1986

In May 1986, The National Policy on education (NPE) was adopted by Parliament. A committee was set under the chairman of Acharya Ramamurthy. He was reviewed National Education Policy (NEP) in 1990. Later, it was modified in 1992 under the National Policy on Education. The objects of the policy are to solve the problems of dropout students and

ensuring retentions at school level and to provide education to the children. (Faisal Ahmed, 2029)

C. National Policy on Child Labour 1986

Report of the committee on prostitution, and child prostitutions and children of prostitutions and plan of action to combat trafficking and commercials sexual exploitation of women and children 1998.

D. The Millennium Development Goals, 2000- 2015

India is a developing country. In course of time, India has signed on the memorandum of United Nations for the lunch of Millennium Development Goals (MDG) in India. The main objects of the schemes are to target a child protection and their development. However, India had taken several steps for the child protection still now. But our country has not received several services till now on the child protection and their development².

E. Rastriya Madhyamik Siksha Abhijan (RMSA) 2009

In 2009, This scheme lunched in India. The main objectives of the scheme are improved the educational opportunities among the students at the age groups of 14-18 years. It indicts high female literacy from 65.38% to 78.04%. (Surjya & Supriya, 2024) in India.

F. Mission Vatsalya

Mission Vatsalya is a central sponsored schemes is being implemented from the year 2011. It is a scheme for the need of care and protection of children. This scheme also identified the Juvenile in conflict with law. Mission vatsalya institutions run by state Government or NGOs for housing children shall be registered under section 41(1) of juvenile Justice Act.

4. International Conventions and Declarations:

A. United Nations Convention on the Rights of the Child 1989

In 1989, the legally binding convention the rights of the child was adopted by the United Nations, Significant features of child of rights (CRC) are as under: The Convention prescribed standards to adhere to by all state parties in securing the best interest of the child and outlines the fundamental rights of children, including the right to be protected from physical or mental violence, as well as ensuring that children will not be separated from their families against their will (Mahoor).

B. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979

It is also applicable to girls under the age 18 years. Articles 16(2) of the Convention lays special emphasis on the prevention of child marriage and states that betrothal and marriage of child shall have no legal effect and that legislative action shall be taken by states to specify a minimum age for marriage.

C. SAARC Convention on Prevention and Combating Trafficking in Women and Children for Prostitution 2002

This Act emphasises that the evil of trafficking in women and children for the purpose of prostitution is in compatible with the dignity and honour of human rights beings and is a violation of basic human rights of women and children.

D. International Documents for the Protection of Children's Rights 1989

Convention on the rights of the child (Article 2, 3, 6, 12) (CRC) (UNHR, 1990) Minimum age convention 1973 (No 138) (ILO1973) Worst forms of child labour convention on the rights of the child on the involvement of children in Armed conflict (CRC-OPAC) (UNHR, 2002) The optional Protocol on the Sale of children, child prostitution and child pornography (CRC-OPSC) UNHR, 2002) Optional Protocol to the Convention on the Rights of the child on the communication procedure (UNHR, 2014).

E. American Convention on Human rights. 1969

The American convention on Human rights (ACHR) was adopted on 22 November 1969 and entered into force in 1978, currently the ACHR has been ratified by 25 of the 31 member states of the organisation of American states (OAS). According to Article of 5 (1) "Every person has the right to have his physical, mental and moral integrity respected" and (2) no one shall be subjected to torture or cruel, inhuman or degradation punishment of treatment"³

F. The African Charter on the Rights and Welfare of the Child. 1990

A draft of the African charter on the Rights and Welfare of the child (ACRWC) was circulated among all of the organizations of African Unity (OAU) Member states in 1990. All the members of the of the charter have noticed the child rights, taking into account the needs to development of physical, mental, moral and social development of every child in the society.⁴

G. Recent Development of Child protection Schemes Issued by Different Countries in the World.

Presently, there are so many countries in the world have taken several projects for the development of the children including their protection. It should be taking more advantage steps for child protection and their development in the global level. As such the researcher has attempted to gist of the schemes here under.

H. Thailand

Thailand, a country who joined the global movement to protect the children, becoming the 68th country worldwide to outlaw all forms of physical punishment against children in all setting, including homes, school and care institutions. The driving force behind this reform was a concerted effort by government agencies, human rights organisations, and

educational bodies to modernise the law and better reflect contemporary understanding of child welfare⁵.

I. United Kingdoms

Recently, the department for sciences, Innovation and technology of the British Government. along with the A artificial Safety institute (IA) report 2025, It shows the imminent risk of the generation, the possession and dissemination of child sexual abuse marital with help of Artificial Intelligence tools. The United Kingdom is making the first legislative attempt to target the threats posed by Artificial intelligence that can generate child sexual abuse martial. It refers to martial (Audio, video and images) that depicts a sexually explicit portrayal of child. In Aa similar vein, the world economic forum, in a 2023 paper, highlighted how generative Artificial Intelligence can create life- like images, especially of children⁶.

J. Council of European Portal on Children's Rights

Each year, the council of Europe invitees its partners to review of the protection of children against sexual Exploitation and sexual abuse in the partner's counties. The main theme of the agenda is "Emerging technology: threats and opportunities for the protection of children against sexual exploitation and sexual abuse"⁷. The aims of the issue are creating an awareness at all levels of the society to prevent the misuse of information technology (IT) and prevention, protection, prosecution and promotion for the child law for the eradication of crime against the children.

K. India

No doubt, child sexual abuse is a widespread problem in the country. As for recent data shows that in nine girls and one in 20 boys under the age of 18 experiencing abuse or assault. Eight to 31 per cent of girls and 3 to 17 per cent of boys under 18 years are victims of sexual abuse and assault.⁸ As for the (NCRB) Data 6, 469 cases have been reported in 2022 in India.

5. Conclusion

Children are the greatest gift to humanity and represent approximately 17 % of the world population, and they are remark as the feature generation, hence for the betterment of the feature. Therefore, it is the immense need of the time that they should be educated in this regard for awareness towards their rights and protection as well. Child protection is integrally linked with right of the children. It secures all right of the child because child is an asset of any country. The government of India has passed several laws regarding the child right and their protection yet evils against the children such as child marriage, child prostitution, child labour prevails in every society. Because of poverty, illiteracy lack of infrastructure and reformatory theory. The media should play an important role to sort out the problem and it shall notice to government for their rights. The allocation funds shall need high for the child

development. The legal counsel should be engaged for the provision of the law and law should be amended as for the requirement of the child development and their safety in every step of a child life.

References

- [1] Grewal Imandeep Kaur (2011), Understanding child rights in India, Early Education and Development, vol. 22(5), pp. 863-882.
- [2] Belur Jyoti & Singh Brijesh Bahadur (2015), Child sexual abuse and the law in India: a commentary, Belur and Singh crimes, pp. 4-26.
- [3] Gupta Krtika & Gupta Meenu (2021) child sexual abuse: Existence of Dreadful ACT in India, Review of International Geographical Education, vol. 11(8), pp. 1876-1881.
- [4] Singh Priya (2020), The Reality of child sexual abuse in India, International Journal of Law Management & Humanities, vol. 3, pp. 1782-1803.
- [5] Bistra Netkora & Ismail Zejneli (2021), "International standard Regarding protection of children of maltreatment," Prizren Social science journal, vol. 5, pp. 75-82.
- [6] Shohreh Mousavi, Behhan Rastegari, & Rohaida (2012), Development and Progress on the Rights of the child within Regional Human rights Instrument.
- [7] Mahoor Sarma Deva Gitangshu (2024), Protecting the feature: upholding child rights in India, International Journal for Multidisciplinary research, vol. 6, pp. 1-13.
- [8] Surjya Kanta Bhunia & Karmakar Supriya (2024), India: Child protection Development and Education, International Journal of creative research thoughts, vol. 12, pp. G983-G992.
- [9] Mohammad Faisal Ahmed (2019) "Child Protection Laws and Policies," Pen Acclaims, vol. 6, pp. 1-7.
- [10] Priyank A. (2022), Legal Mechanism for Protection of Child Rights in India, Indian Journal of integrated research in law, vol. 2, pp. 1-9.
- [11] Dash Sidhartha Sekhar & Das Subhakanta (2020), An Introduction to the right of the children in India, Journal of University of Shanghai for science and Technology, vol. 22, pp. 796- 806.
- [12] Singh Hitaishi & Bharti Jaya (2021), Childs Rights & Human Rights: Review, International Journal of Multidisciplinary Research, vol. 7, pp. 220-224.
- [13] Ganguly Sayanti (2023), Defining a child in India through its different legislations. Journal of Human and social science, vol. 28, pp. 56-61.
- [14] Sadual Manja Kumar (2015), Protection of child rights in India: issues and approaches, Internation Journal Advance Research, vol. 3, pp. 820-826.
- [15] Rena Preeti, A. Laxminarayan & Singh S.P (20021), Evolution of child rights in India. International Journal of Education, Modern Management & Social Science, vol. 3, pp. 228- 231.
- [16] Chowdhury Singha Subhra & Hossain Kazi Masud (2019), A study of Child Rights awareness among the Secondary school teachers of west Bengal, Journal of Engineering Technology and innovate Research, vol. 6, pp. 1129-1134
- [17] Dava J. Parkash (2022), Role of Judiciary in Protection of child rights in India, International Journal of Research, vol. 10, pp. 15-18.
- [18] Ray Jayanta Saha, Chourasiya Tai (2021), Instruments to Protect Rights of Children: Revisiting the Impact of Legislative and Social Policies for the Development and Protection of Children Journal of Emerging Technology and Innovative Research, vol. 8, pp. d748- d750.