

INTERNATIONAL EDITION

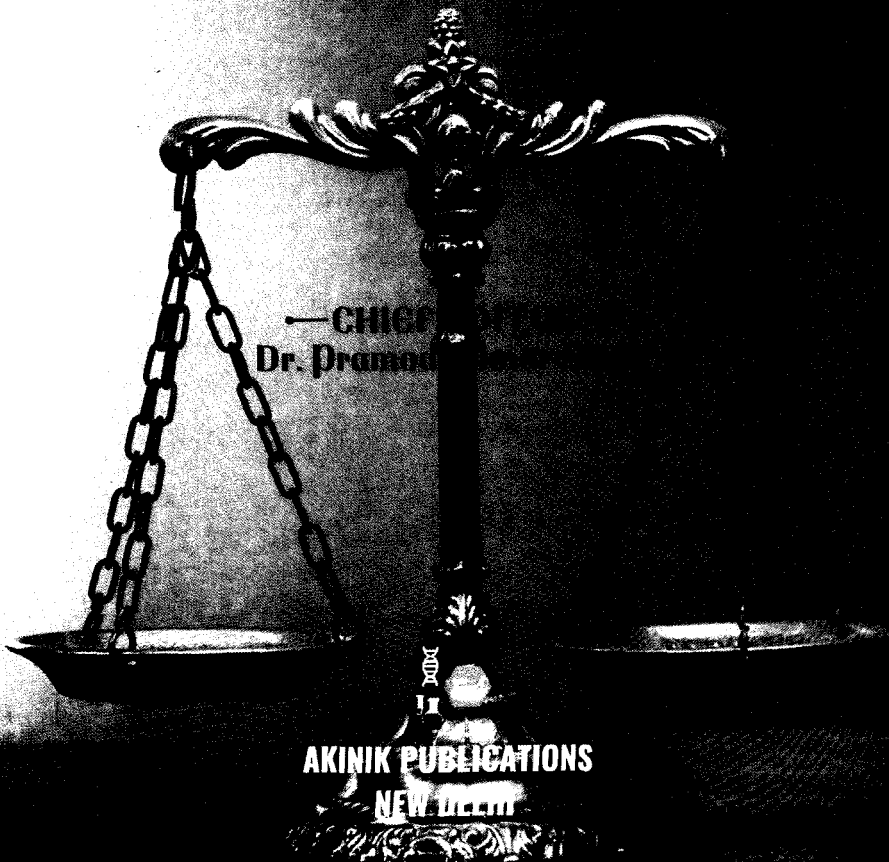
Peer Reviewed & Refereed

# PERSPECTIVES

*in*

# LAWS

VOLUME - 4



AKINIK PUBLICATIONS  
NEW DELHI

**Published By:** AkiNik Publications

AkiNik Publications

169, C-11, Sector - 3,

Rohini, Delhi-110085, India

Toll Free (India) – 18001234070

Phone No. – 9711224068, 9911215212

Email – [akinikbooks@gmail.com](mailto:akinikbooks@gmail.com)

**Chief Editor:** Dr. Pramod Kumar Singh

The author/publisher has attempted to trace and acknowledge the materials reproduced in this publication and apologize if permission and acknowledgements to publish in this form have not been given. If any material has not been acknowledged please write and let us know so that we may rectify it.

© **AkiNik Publications**

**Publication Year:** 2021

**Pages:** 109

**ISBN:** 978-93-91216-16-0

**Book DOI:** <https://doi.org/10.22271/ed.book.1223>

**Price:** ₹ 731/-

## Contents

Chapters	Page No.
1. Importance of Directive Principles of State Policy in India <i>(Dr. Amaresh Chandra Sahoo)</i>	01-25
2. Legal Instruments for Protection and Promotion of Child Rights <i>(Vijay Madhu Gawas)</i>	27-42
3. Process for Extradition of Fugitive Offenders from Abroad to India <i>(Varanasi Rahul)</i>	43-58
4. Validity of the Clause Waiving 1266 of the Civil Code as a Basis for Unilateral Termination of Contract (A Review of Law Doctrines and Court Decisions) <i>(Dr. Natasya Yunita Sugiastuti, SH, MH)</i>	59-78
5. Initiating and Administering Arbitration Proceeding Remotely <i>(Shantanu Pachahara)</i>	79-90
6. An Etymological Analysis of Biodiversity and Its Impact on Human Environment <i>(Bashudeb Guha)</i>	91-109

**Chapter - 2**  
**Legal Instruments for Protection and Promotion  
of Child Rights**

**Author**

**Vijay Madhu Gawas**

B.Com, LLM, NET, M.A (Political Science), Assistant  
Professor-cum-Assistant Director, UGC Centre for the Study  
of Social Exclusion and Inclusive Policy, Goa University,  
Taleigao Plateau, Goa, India

# Chapter - 2

## Legal Instruments for Protection and Promotion of Child Rights

Vijay Madhu Gawas

### Abstract

The Progressive movement for Protection of Children Rights has underway throughout the world. On point of views, the children are deemed to be part of the quasi-property and economic assets. The Global and National Instruments had taken the enlightened steps towards the welfare of children by providing the compulsory Education and the prevent the crime against children. The Paper focuses on the Global and National Instruments for protection of children's Rights. For this Purpose, Secondary data from books, Articles, Journals, Newspapers, etc. have been used.

**Keywords:** international instrument, constitutional law, other laws, acts

### Introduction

Very often, the children's have enough opportunity to enjoy the healthy life because their living condition are denial, neglect, exploitative and abusive environment. The large number of children are become Victims of neglect, abuse and exploitation in throughout the world. In every year, the millions of children are directly experiencing or witnessing increased violence and abused in their homes, neighbourhood and schools.

The violation of Child rights is various forms and description in respective of developed and underdeveloped country. The main problems of children are being victims of abuse, violence, child prostitution, trafficking, begging, pornography is persisting in India. In some case the child abuse practices are still supported by society in the name of tradition and Culture. For Instance, Child marriage, Child labour, female foeticide/infanticide, gender bias etc. currently the thousands of children are facing the worst problems due to sexual abuse, physical torture, hunger, oppression, poverty, neglect by the parents etc.

Apart from the several provisions contained in the Indian Constitution and also various other legislation for the protection of Children. The state

machinery to create awareness about the right of the child and it also needs commitment for protecting the Children from sexual abuse and all forms of exploitation.

The exploitation and other abusing incidents of violence against children are not a minor issue but is a serious offence among the children. Approximately, more than 375 million Child population in India. The India has a large number of the Child population in the world around 40% of the total population. According to the national crime bureau report, the total of 94,172 cases of crime against children were registered in the country during 2015 as compared to 89,423 cases during 2014 showing an increasing of 5.3%<sup>[1]</sup>. In India most of the children are living in a condition based on the denial, neglect, exploitive and abuse environment. The root of cause due to poverty, family pressure, migration, carelessness of parents and other social ill etc. The basic needs for children such as adequate shelter, food, basic education etc. The child Labour is an important reason for the failure of the universalization of elementary Education in India. In the context of child Labour and the educational status of heterogeneous group of more than 13 million working Children<sup>[2]</sup>.

### **International legal instrument**

The international legal framework establishing the obligations of States in relation to children Rights. In first Geneva Declaration the League of Nations was accepted the basic rights of children's in 1924. After second world war, the Universal Declaration of Human Rights just revealed the policy about the development of the Children Rights. On 1959, the Declaration of the Rights of the child was adopted unanimously by all the member's states of the United Nations General Assembly. According to the preamble to the Declaration of the Rights of the Child highlighted Children's need for special care and protection. According to the principles Declaration of the Right of the Child are entitled basic rights namely the equal rights without any kind of discrimination; and adequate protection of all forms of neglect, cruelty and exploitation; and universal brotherhood. Meanwhile, the Minimum Age Convention was adopted in 1973 by the International Labour Organization. The aim of the Minimum Age Convention to abolition of Child Labour. That the Each Member for which this Convention is in force undertakes to pursue a national policy designed to ensure the effective abolition of child labour and

---

<sup>1</sup>[https://ncrb.gov.in/sites/default/files/crime\\_in\\_india\\_table\\_additional\\_table\\_chapter\\_reports/Chapter%206-15.11.16\\_2015.pdf](https://ncrb.gov.in/sites/default/files/crime_in_india_table_additional_table_chapter_reports/Chapter%206-15.11.16_2015.pdf)

<sup>2</sup> Ranan Ghosh, Mathew Zachariah, 1987, Education and the Process of Changes, published by sage publication India Pvt.Ltd, New Delhi.pp at 21

to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons <sup>[3]</sup>.

However, its bound that each member have to ratified this Convention fixed the minimum age for admission for employment and work which was specified in the article 4 and 8 of this convention; subsequently notify the Director-General of the International Labour Office, by further declarations, that it specifies a minimum age higher than that previously specified <sup>[4]</sup>. Even some exception also to be permitted for light work which as discuss in the article 7 and 8 within the Convention and fixed the minimum age for employment or work for nature of the circumstance less than 18 years <sup>[5]</sup>.

The international convention is a very important for promotion and protection of the Rights of Child. This convention applies to all children in all circumstances, and after ratification convention it obligation that States to protection and promotion the rights of children. This Convention is unique and legally binding instrument towards Rights of Child i.e. Civil, Political, Economic, Social and Cultural.

The Convention of Child Right 1989 as defined the term of child are below the age of eighteen years <sup>[6]</sup>. The Child Right Convention have been described as fivefold firstly on the subject to Articles 7 to 8 such as Child Right to preserve his or her identity. Similarly, the rights of vulnerable Children like refugees to special protection in article 20 and 22. But Article 8 and 30 are discussed about the right to practices their culture. In the regard of freedom of expression and the right to a fair trial (Article 13 and 40). The Right to be heard in any proceedings to be affecting by children <sup>[7]</sup>. In addition, the safeguards in adoption procedures and the rights of the disabled Children (Article 21 and 23). Finally, every states should take the appropriate step for protection of Rights and dignity of Child <sup>[8]</sup>. The United Nation was adopted two protocols related to Child Right Convention in the year 2000 <sup>[9]</sup>.

Similarly, the African Charter on the rights and Welfare of the Child 1990

---

<sup>3</sup> Article 1, (Minimum Age Convention 1973)

<sup>4</sup> Article 2

<sup>5</sup> Article 3

<sup>6</sup> Article. 1 (Convention on the Rights of the Child 1989)

<sup>7</sup> Article 12

<sup>8</sup> Article 39

<sup>9</sup> *Explanation Note:* The United Nations adopted two protocols to the CRC on May 25, 2000, the Optional Protocol to the CRC on the Sale of Children, Child Prostitution, and Child Pornography 2000 (Sex Trafficking Protocol) and the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (Child Soldiers Protocol).

and European Convention on the exercise of Children's rights 1996 stresses in the preamble the aim of promoting the rights and interest of the Children. The international Instruments like Universal declaration of Human Right contain two articles that specifically refer to Children's related to special care and assistance on motherhood and Childhood <sup>[10]</sup>.

However, the right to education for all, and deals both with access to and the aim of education. Thus, education is to be free, at least in the elementary and fundamental stages; elementary education is to be compulsory and education should be directed to the full development of the human personality and to the strengthening of respect for human right and fundamental freedom <sup>[11]</sup>.

Secondly, the International Covenant on economic, Social and Cultural Right is also applicable to Children's Rights. The specific provision are responsible for the care and education of dependent children; before or after child birth; and protected them from economic and social exploitation <sup>[12]</sup>. It further stipulates that reduction of the still birth-rate and of infant mortality and for the healthy development of the child <sup>[13]</sup> and the Primary education are compulsory and free to every Children <sup>[14]</sup>. Thirdly, the International Covenant on Civil and Political Rights (ICCPR) contains general provisions on safeguards for Children. The specific provision are related to Children that any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children <sup>[15]</sup>. Furthermore, the criminal proceeding should take account of the interest of juvenile persons age and the desirability of promoting their rehabilitation <sup>[16]</sup> and the Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status <sup>[17]</sup>. According to the covenant given the liberty to parent and legal guardians to ensure the religious and moral education of their children in conformity with their own convictions <sup>[18]</sup>. It also recognize the family is entitled to protection by society and the State <sup>[19]</sup> and the case of dissolution, provision shall be made for the necessary

---

<sup>10</sup> Article 25(2) Universal Declaration of Human Right

<sup>11</sup> Article 26

<sup>12</sup> Article 10 (International Covenant on Economic, Social and Cultural Rights)

<sup>13</sup> Article 12

<sup>14</sup> Article 13

<sup>15</sup> Article 14(1) (International Covenant on Civil and Political Rights)

<sup>16</sup> Article 14(4)

<sup>17</sup> Article 10(3)

<sup>18</sup> Article 18(4)

<sup>19</sup> Article 23(1)



protection of any children <sup>[20]</sup>. It further prescribed that the every Child have the right to acquire a nationality after birth <sup>[21]</sup>.

Another four important Convention for European Convention on Human rights 1950 has a specific reference to the Children are found in two articles concern legal proceeding. In order the lawful procedures for depriving a minor of his or her liberty; detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority <sup>[22]</sup>. It also stipulated that everyone is entitled to a fair and public hearing and the Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice <sup>[23]</sup>. The African Charter on Human and people rights makes it incumbent on the individual to preserve the harmonious development of the family and to work for the cohesion and respect of the family; to respect his parents to all times to maintain them in case of need <sup>[24]</sup>.

However, the American Convention on Human rights ‘pact of an Jose, costa Rica stated that Parents or guardians, as the case may be, have the right to provide for the religious and moral education of their children or wards that is in accord with their own convictions <sup>[25]</sup>. In order the public entertainments may be subject by law to prior censorship for the sole purpose of regulating access to them for the moral protection of childhood and adolescence <sup>[26]</sup>. In case of dissolution, provision shall be made for the necessary protection of any children solely on the basis of their own best interests <sup>[27]</sup> and its recognize equal rights for children born out of wedlock and those born in wedlock <sup>[28]</sup>. It stipulated that every Children have right to use the his or her parent surname <sup>[29]</sup> and the minor Child should provide the protection from his or her family, society and state <sup>[30]</sup>.

---

<sup>20</sup> Article 23(4)

<sup>21</sup> Article 24

<sup>22</sup> Article 5 (European Convention on Human rights 1950)

<sup>23</sup> Article 6(1)

<sup>24</sup> Article 29(1)

<sup>25</sup> Article 12(4)

<sup>26</sup> Article 13(4)

<sup>27</sup> Article 17(4)

<sup>28</sup> Article 17(5)

<sup>29</sup> Article 18

<sup>30</sup> Article 19

The convention on the elimination of all forms of discrimination against women 1979 also refer to the interest of Children being paramount in relation to the common responsibility of men and women in the upbringing and development of their Children, it being understood that the betrothal and the marriage of a child shall have no legal effect; and to make the registration of marriage in an official registry compulsory<sup>[31]</sup>.

The Progressive movement for Protection of Children and the placement of Agreement are important conventions like Hague Convention on Jurisdiction, etc., Relating to Adoptions 1965; European Convention on the Adoption of Children 1967; Hague Convention on Jurisdiction, etc., for the Protection of Children 1996; Hague Convention on the Protection of Children in Intercountry Adoption 1993; Inter-American Convention on Conflict of Laws Concerning the Adoption of Minors 1984; Hague Convention on the Civil Aspects of International Child Abduction 1980; The European Convention Concerning the Custody of Children 1980 and the Worst Forms of Child Labour Convention 1999.

### **Constitutional provisions and other laws for child rights protection in India**

The Constitution of India is the supreme law of land. In hence, the Constitution of India sets out the basic Provisions for the protection of rights to all Citizens including the Children, women, disabled, minority, and depressed class. The Indian Constitution has made the specific Provisions with regard to promotion, protection and advancement of the Children's. There are a number of the Constitutional provisions especially for protection the Rights of Children in India and this basis constitutional safeguarded are divided into two category i.e. Fundamental Rights and Directive Principle of the state Policy.

While begin with the Indian constitution say that every person born in the territory of India is a Citizen of India<sup>[32]</sup>. It means that every Children are entitled to protection under the law of land. There is certain exception in the specific provision to provide the promotion and protection of Children Rights in India. Whereas the exception was lay down under the Article 15 clause 3 of the Indian Constitution with regard to empowers the state have to make the special provisions for the advancement and welfare of the children due to their vulnerability. Similarly, the another important the factor was considered for empowerment of children in India through Education. The Education are play

---

<sup>31</sup> Article 16(2)

<sup>32</sup> Article 5 Constitution of India

a great role in shaping the future of Children and the National progress. However, the Constitution of India inserted the important Article 14, Article 21 A, mandates the free and Compulsory Education for all Children in the 6-14 age group [33]. The two main objects of the article firstly to abolish the illiteracy in the country and secondly to get the benefits from disadvantages in the society. Even after the commencement of the Indian constitution the objects of the article 21 A are not fully achieved because the majority of children were preferring to work due to poverty rather than go to school.

Another important provision seeks to protect the person from being forced to provide labour or service against his/her will. In Article 23 of the Indian Constitution totally bans on forced labour or bonded labour to make such practices punishable under law. Whereas the article also relied upon to impose the positive obligation on every state of the country to take the major step for abolishing the evil practice of trafficking the human beings and beggars are concerned to children.

Similarly, the Indian constitution inserted the very important Article 24 to forbid the employment of children below the age of 14 years in any factory; or any other hazardous activities and its directly related to the interests of public health and safety of life of children. Despite the constitutional provisions and various legislative enactments have been passed by many states which prohibited the employment of children, and child labour. The country like India the child labour is a major issue and has many challenges. Even today the problem of child labour is still remained unsolved.

Particularly, the Article 24 covered the various enactments like Mine Act, 1952; Merchant Shipping Act 1958; Motor Transport Workers Act, 1951; Plantation Labour Act, 1951; Bidi and Cigar worker (condition of employment act, 1961) are prohibiting the employment of children below a certain age.

Besides the Directive Principles of the State Policy play a vital role in the Indian Constitution. Whereas, the Directive Principles of state policy listed Social and Economic rights which especially offer for protection of children's rights in India. Whereas the duty of state to secure that "children of tender age are not abused and forced by economic necessity to enter vocations unsuited to their age and strength" [34]. It also required the state to direct its policy towards securing that children are given "opportunities and facilities to develop in a healthy manner and in condition of freedom and dignity and to protect the childhood and youth against exploitation and against moral

---

<sup>33</sup> Article 45

<sup>34</sup> Article 39(e)

material abandonment”<sup>[35]</sup>. It also contain a directive that “the state shall, within the limit of its economic capacity and development; made effective provision for securing inter alia, the right to education and public assistance in cases of unemployment and other cases of undeserved want”<sup>[36]</sup>. However, the constitution obligations state to make provisions for securing just and human condition of work besides some maternity benefits. It envisages a healthy psychological environment particularly when the child require a normal upbringing<sup>[37]</sup>. Similarly the “state require to endeavour to provide early childhood care and education for all children below the age of six year”<sup>[38]</sup>. In latter the government bring an amendment within the article 45 and it imposed the upon “the state to provide free and compulsory education for children below the age of 14 years”<sup>[39]</sup>. Despite the constitutional mandate that the “State shall promote with special care the educational and economic interests of the weaker sections of the people ; and protect them from social injustice and all forms of exploitation”<sup>[40]</sup> and also require “raise the level of nutrition and the standard of living of its peoples including children”<sup>[41]</sup>. However, also have the basic provision within the constitution of India on regard who is parent or guardian to provide opportunities for education to his child or as the case be, ward between the age of six and fourteen years<sup>[42]</sup>. Similarly the constitution of India as specified the Schedule 11 provide for institutionalization of child care by seeking to entrust programmes of women and child development to panchayat (item 2of schedule 11), apart from education (item 17), family welfare (item 25), health and sanitation (item 23) and other items with a bearing on the welfare of children. Finally, the basic rights are guaranteed under various article which as specified in the constitution of India. The constitutional mandates which as imposed on the state a primary responsibility of ensuring that all the basic needs of children are meet and their basic right are fully protect tot eh vulnerable section of the society.

### **Judicial pronouncement for protection of child rights in India**

The judiciary in India has in fact given some pioneering judgments for promoting Children’s rights in India. The following are few instance of child

---

<sup>35</sup> Article 39(f)

<sup>36</sup> Article 41

<sup>37</sup> Article 42

<sup>38</sup> Article 45

<sup>39</sup> 86<sup>th</sup> Constitutional Amendment Act, 2002

<sup>40</sup> Article 46

<sup>41</sup> Article 47

<sup>42</sup> Article 51A

specific cases which make clear that the judiciary has also shown a positive attitude towards the protection of the child rights in India.

The issues of hazardous employment were brought into question and the same was clarified. In the case supreme court directed the employers of children below 14 years to comply with the provisions of the child labour (prohibition and regulation) Act providing for compensation, employment of parents/guardians and their education <sup>[43]</sup>. Hence the court was also clarified thought the Employment of Children Act, 1938 does not includes Construction work projects. Such the Construction was a hazardous occupation prohibited under Article 24 of the Constitution. Further the court held that the right of the child was under protection even in the absence of the legislation <sup>[44]</sup>. The supreme court also observed that the right to life includes the right to live with human dignity. In case the Child labours are first children and then labourers such as the child should not be treated cruelty and inhumanity <sup>[45]</sup>. The issue of Trafficking and Sexual abuse of Children was raise in India. The supreme court directed that children of prostitution should receive an empathetic response for the state and society they would be given them equal opportunity to dignity care, protection and rehabilitation <sup>[46]</sup>.

### **Other law protected the children rights in India**

There is no compressive law to deal with cases of child sexual abuse but there are serval provisions deal with child sexual abuse under the Indian penal code. Whereas the protection the children from any form of sexual assault or sexual harassment are falls under section 375 and 376 of Indian penal code. An attempt to cause by an act or by an omission under various section of Indian Penal Code. On regards special protection of Child are covered on specific sections punishment for non-recording information <sup>[47]</sup>; sexual Harassment <sup>[48]</sup>; Assault or use Criminal force <sup>[49]</sup>; Voyeurism <sup>[50]</sup>; stalking <sup>[51]</sup>; kidnapping from India <sup>[52]</sup> or lawful guardianship <sup>[53]</sup>; Procurement of minor girl

---

<sup>43</sup> M.C. Mehta v. Union of India, AIR 1977 SC

<sup>44</sup> Peoples Union for Democratic Rights v. union of India AIR 1982 SC

<sup>45</sup> Francis Calais Mullin v. Administration, Union Territory of Delhi

<sup>46</sup> Gaurav Jain v. Union of India AIR 1997 SC

<sup>47</sup> Section 166A, IPC

<sup>48</sup> Section 354A, IPC

<sup>49</sup> Section 354B, IPC

<sup>50</sup> Section 354C, IPC

<sup>51</sup> Section 354D, IPC

<sup>52</sup> Section 360, IPC

<sup>53</sup> Section 361, IPC

[<sup>54</sup>]; Importation of girl from foreign country [<sup>55</sup>]; Trafficking of person [<sup>56</sup>]; Exploitation of a trafficked person [<sup>57</sup>]; Habitual dealing in slaves [<sup>58</sup>]; Selling minor for purposes of prostitution [<sup>59</sup>]; Buying minor for purposes of prostitution [<sup>60</sup>]; Unlawful compulsory labour [<sup>61</sup>]; Punishment for causing death or resulting in persistent vegetative state of victim [<sup>62</sup>]; Punishment for rape on woman under twelve years of age [<sup>63</sup>]; Sexual intercourse by husband upon his wife during separation [<sup>64</sup>]; Sexual intercourse by person in authority [<sup>65</sup>]; Gang rape [<sup>66</sup>]; Punishment for gang rape on woman under sixteen years of age [<sup>67</sup>]; Punishment for gang rape on woman under twelve years of age [<sup>68</sup>]; Punishment for repeat offenders [<sup>69</sup>]; Unnatural offences [<sup>70</sup>] and Word, sign or act intentional to abuse the humility of a woman [<sup>71</sup>].

Apart from this law, the following section from the Indian Penal Code 1860 are also important for protection of rights of child. Whoever, causes death by doing an act with the intention of causing death is committed an offence [<sup>72</sup>] or if the act by which the death is caused is done with the intention of causing death [<sup>73</sup>]. It also emphasizes that the voluntarily cause a pregnant woman to miscarry the unborn baby [<sup>74</sup>] or when the act done with intent to prevent a child to be born alive or before or cause to die after birth [<sup>75</sup>] is an offence. When the causing death of an unborn child [<sup>76</sup>] by act amounting to be offence or exposing and abandoning such child below 12 years in any place with the intention [<sup>77</sup>] or secretly burying or disposing her/his dead body

---

<sup>54</sup> Section 366A, IPC  
<sup>55</sup> Section 366B, IPC  
<sup>56</sup> Section 370, IPC  
<sup>57</sup> Section 370A, IPC  
<sup>58</sup> Section 371, IPC  
<sup>59</sup> Section 372, IPC  
<sup>60</sup> Section 373, IPC  
<sup>61</sup> Section 374, IPC  
<sup>62</sup> Section 376A, IPC  
<sup>63</sup> Section 376AB, IPC  
<sup>64</sup> Section 376B, IPC  
<sup>65</sup> Section 376C  
<sup>66</sup> Section 376D  
<sup>67</sup> Section 376DA  
<sup>68</sup> Section 376DB  
<sup>69</sup> Section 376E  
<sup>70</sup> Section 377  
<sup>71</sup> Section 509  
<sup>72</sup> Section 299  
<sup>73</sup> Section 300  
<sup>74</sup> Section 312  
<sup>75</sup> Section 315  
<sup>76</sup> Section 316  
<sup>77</sup> Section 317

of child by act is punishable offence <sup>[78]</sup>.

### **Specific acts related to child rights in India**

The constitutional protection there are many more enactment was passed which clearly recognized the rights of the Child. There are several national and states Acts that address the different age-group and categories of children India. These include: Standard Operating Procedure for Enforcement of The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986; Protection of Children from Sexual Offences Act-2012; The Right of Children to Free and Compulsory Education Act, 2009; Juvenile Justice (Care and Protection of Children) Act (Amendment, 2006); Prohibition of Child Marriage Act 2002; The Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Amendment Act 2000; Juvenile Justice (Care and Protection of Children) Act (2000); Information Technology Act 1996; Persons with Disabilities (Equal Protection of Rights and Full participation) Act 1994; Transplantation of Human Organ Act 1992; Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act 1987; Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act 1986; Child Labour (Prohibition and Regulation) Act 1976; Bonded Labour System (Abolition) Act 1974; National Policy for Children 1960; Orphanages and Other Charitable Homes (Supervision and Control) Act 1956; Probation of Offenders Act 1956; Immoral Traffic (Prevention) Act (amended in 1986); Hindu Adoption and Maintenance Act 1956; Factories Act (Amended in 1949, 1950 and 1954); Guardians and Wards Act 1890.

Above theses all acts related to Child are promising the respect for Child rights, their protection and wellbeing have not resulted in much improvement in lives of millions of Indian Children who continue to be deprived of their right, abused and exploited.

### **Conclusion and Discussion**

The Specialized Agencies of the United Nations like International Labour Organization, United Nations Educational, Scientific and Cultural Organization, United Nations Children's Emergency Fund (UNICEF), South Asian Association of Regional Countries (SAARC) and World Health Organization (WHO) etc. plays an important role for elimination of child labour. Similarly, the International Instruments provides codification of children rights into one international document and recognizing aspirations which mankind has for its children.

---

<sup>78</sup> Section 318

Access to Justice is the primary need and right of every human being including children, and its lay down the various constitutional and other statutory provisions to protect the interest of the children. Most of the constitutional and other statutory provisions are protective in nature to promote the wellbeing of children. Apart from the existing laws need recognize the vulnerability of children on ground of neglect ions and exploitation. The state responsibility to protect the Children's from situations which may jeopardize their development. Sometime the protective laws are unable to cover all type of working children in all the juvenile care institutions. Especially a comprehensive legislation to deal with the problem of child sexual abuse by parents.

The laws should protect children from child abuse including commercial sexual exploitation, child pornography and grooming for sexual purpose. It also required to deal with physical abuse including corporal punishment and bullying, economic exploitation of children, trafficking of children and the sale and transfer of children.

Even the National Legislation to deal with all types of Child Right violations and it needs legislative reforms is the protection of victims of begging and sexual exploitation. For instance, the Immoral Traffic (Prevention) Act, 1986, though covers the sexual abuse of children but is not an effective and efficient law. Similarly, the Child begging is a form of organized trade and need a strict anti-begging legislation. In some cases, the child prostitutes need for effective enforcement machinery for rehabilitation of child prostitutes. Sometime the problems of children in prostitution and pornography etc. need to be considered and well-planned policy measures are required to deal with child prostitution and the rehabilitation, of children who have been rescued from this trade.

The National Policy should also view the needs of children both normal as well as abnormal to maintain provisions to promote their development into society. The children of economically weaker sections, neglected and abandoned children must be provided facilities to overcome their difficulties. It also need for a separate National Child Protection Policy and Multiple strategies need to be developed Children. Since there is no unitary law or scheme can provide a solution to protect Child Rights. In Every States Commission has a duty to Protection of Rights of the Child and formulate Plans of Action for Child Protection each district level within the and States.

There are a various legal provisions under various enactments for protection of child rights. But for the effective application of these enactments,



a sensitive and some positive changes in Existing Legislations, National Policy and Judicial Attitude towards the process of enforcement of laws. There also need independent body should be constituted under Labour Ministry at Centre and State level for monitoring the affairs of child labourers after 14 years who were rehabilitated and mainstreamed. The Judiciary should be more sensitive in dealing with child labour cases.

Besides, the National as well as state Commission of children have main duty to provide the protection and for speedy trial of offences against violation of Child Rights. To strengthen and several rule are framed for the functioning of the state and national commission for Children. Basically when the rules specify at national and state level commission for protection of Child rights. It also need specify the within the act of Children Commission to promote the incorporation of Child Rights into the School Curricúlum, teachers training and training of personnel dealing with Children. Besides the duty of the commission to analyse existing laws, policies and practices to assess compliance with the convention on the rights of the Child.

However, the Government should encourage the NGOs for elimination of child labour by allocation proper budget and accountability should be fixed on NGOs to ensure that the funds are utilized for this purpose. Apart from the law enforcing agencies in the discharge of their duties, there is need to conduct periodical orientation and training programmes to sensitize them adequately. It also focusses on implementation and enforcement of child labour laws and other laws meant for the protection of the children. The menace of child labour can be effectively tackled and eventually it can be eradicated.

## **Reference**

1. Ranan Ghosh, Mathew Zachariah. Education and the Process of Changes, published by sage publication India Pvt. Ltd., New Delhi, 1987.
2. Bakshi PM. (13th Edition), The Constitution of India, published by universal Law Publishing, Haryana India, 2016.
3. Suman Nalwa, Hari Dev Kohli. Commentary on the juvenile Justice Act, Published by Universal Law Publishing Co., New Delhi, 2011.
4. Gupta MC. Child victim of crime, problem and prospective, published by Gyan Publishing house, New Delhi, 2001.
5. Dr. U Chandra. Human Right, Published by Allahabad Law Agency Publication, 2000.
6. Bakshi P. The Constitutional of India, published by universal Law Publishing, New Delhi, 2002.

7. Bakshi PM. The Constitution of India, published by Universal Law Publishing, Haryana, India, 2016.
8. Pandey JN. Constituted Law of India, publisher Central Law Agency, 30D/1, Motilal Nehru Road, Allahabad, 2003.
9. Subhash C Kashap. Our Constitution: An introduce to Indian Constitution and Constitutional Law, (first reprint, published by Director, National book trust India Nehru Bhawan, 5 institutional Area, phase-II, New Delhi, 2011.
10. Thakkar CK. Ratanlal & Dhirajlal's Law of Crimes, published by Bharat Law house, New Delhi, 2002.
11. [https://ncrb.gov.in/sites/default/files/crime\\_in\\_india\\_table\\_additional\\_table\\_chap](https://ncrb.gov.in/sites/default/files/crime_in_india_table_additional_table_chap)
12. <https://www.humanium.org/en/declaration-rights-child-3>.  
<https://www.icmec.org/wpcontent/uploads/2015/10/> \_
13. <https://hrln.org/wp-content/uploads/2019/02/Child-sexual-abuse-and-law.pdf>
14. [https://www.unicef.org/policyanalysis/files/postscript\\_Childrens\\_Codes\\_formatted\\_](https://www.unicef.org/policyanalysis/files/postscript_Childrens_Codes_formatted_)
15. [https://en.wikipedia.org/wiki/Children%2527s\\_rights](https://en.wikipedia.org/wiki/Children%2527s_rights)
16. <https://www.oas.org/en/iachr/reports/pdfs/Report-Right-to-family>.
17. <https://racolblegal.com/child-rights-in-india-an-account-of-landmark-decisions->
18. <https://fr.slideshare.net/HAQCRCIndia/twenty-years-of-crc-a-balance-sheet-volume->
19. <https://www.loc.gov/law/help/child-protection-law/child-protection-laws.pdf>
20. [https://www.loc.gov/law/help/child\\_protection\\_law/child\\_protection\\_laws.pdf](https://www.loc.gov/law/help/child_protection_law/child_protection_laws.pdf)
21. <https://de.slideshare.net/HRLNIndia/child-sexual-abuse->