

RIGHTS OF CHILDREN AND REQUIRED AMENDMENTS

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Abstract

Any country that wants to develop must prioritise certain criteria. First are a country's children's rights. A nation's kid rights and resources can indicate its growth. Children are the most vulnerable citizens. To protect children's freedom and rights, a nation must pass laws and provide services. Laws and rules protecting children are essential. To keep up with society, laws must be updated frequently.

In a developing country like India, where 25% of the population is under 18, extra emphasis must be given to implementing current child rights laws and writing new ones to strengthen them. The Geneva Declaration of 1924 requires that children be taught and protected against exploitation.¹ Governments, legislative bodies, and organizations that help children should stand firm on their rights. This study is based on extensive research on child protection and rights at the national and international levels. Researchers examine Indian child rights laws. Finally, the researchers recommend new child legislation and amendments.

Keywords: *Child Rights, Vulnerable, Spiritual, Intransigent, Augment.*

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¹ Leila Seth, "The Rights of the Child" 20 *IICQ* 2 (1993)

INTRODUCTION

Rights of Children refer to the fundamental freedom and protections granted to children under the legal framework of the country. These rights are borrowed from international conventions, agreements and specific laws and policies within India. Improving Child rights contribute to the holistic development of the country. The basic rights which are to be given for a child include, right to Life, right to education, right to protection from discrimination, right to Identity, right to play and recreation etc.

One of the main international conventions which directs all the countries the framework of the skeleton legislation with regards to children is Convention on the Rights of the Child, 1989. In most of the countries, major part of Child laws is based on the Convention on the Rights of Child. In the context of India, Legislations such as:

- Prohibition of Child Marriage Act 2006,
 - Right of Children to Free and Compulsory Education Act 2009,
 - Protection of Children from Sexual Offences Act 2012,
 - The Child Labor (Prohibition and Regulation) Act 1986,
 - The Juvenile Justice (care and Protection of Children) Act 2000, etc.,
- are enacted for the benefit of Children.

The category of Children is the most Susceptible part of a country, even though the rights are granted by the country they are under gross violation, this eventually leads to severe and egregious breaches of the fundamental rights of children. Children are being considered as transient, nonconformists and are being taken for granted by the people. It is not possible to assess the exact magnitude of this problem with the available official statistics as antisocial activities by juveniles are still dealt with

through the prevailing traditional system of social control². One of the main reasons behind this is the dependent nature of children on the society for their basic amenities. An adult is capable in leading an individual life whereas, this is not easily possible in the case of children. Considering the sensitivity of the problem, the countries enacted a set of rules and legislations which grant specific rights for children and safeguard them. The truth rests that even though there are legislations granting rights for children, they are violated on a large scale. In the case of India, despite legislative protections for children's growth and well-being, severe abuses of their rights continue in India. Millions of youngsters around the nation suffer from a variety of problems because of these infractions.

Child trafficking, in which minors are transferred for forced labour, sexual exploitation, or unauthorised adoption, is one of the most concerning infractions. Most of the sexual assaults against small children take place in the home or by people known to the children. Such cases go largely unreported³. When the cases are not reported, even a legislation like POCSO act cannot do justice to the children. Both the Juvenile Justice (Care and Protection of Children) Act and the Immoral Traffic (Prevention) Act, which were designed to safeguard children from such horrible deeds, are violated by this practise. Children still work in dangerous and exploitative jobs in contravention of the Child Labour (Prohibition and Regulation) Act, which is a persistent issue.

These kids often lack access to school, healthcare, and a secure environment, which hinders their entire development. A broad number of

² S. K. Bhattacharyya, "Juvenile Justice System In India", 23 *JILI* 606 (1981)

³ Editorial "Saving Our Children: We Need Better Implementation, Not More Stringent Laws", 51(3) *EPW* 9 (2016)

topics relating to the care, protection, rehabilitation, and adoption of children are covered under the Juvenile Justice (Care and Protection of Children) Act, 2015. The JJ Act and the Adoption Regulations, 2017, both address adoption and give standards for adoption processes in India. Although India has undoubtedly made significant progress in terms of overall social development and has put in place the necessary safeguards for the protection of children, more needs to be done to build the enforcement infrastructure necessary to carry out the nation's various child labour laws⁴.

These changes are intended to strengthen the current system for protecting children and to provide them a caring environment. India aims to establish a strong framework that upholds the rights and safety of its youngest citizens by concentrating on areas like comprehensive child welfare institutions, bolstering the juvenile justice system, encouraging child participation, improving education and skill development, combating child labour and child marriage, and strengthening digital child protection. These changes demonstrate India's dedication to giving its children a better future built on justice, equality, and all-around growth.

CHILDREN INTO TERRORISM

A growing number of children and girls are being used as human shields and explosive detonators, according to the Office of the United Nations High Commissioner for Human Rights. The terrorist groups erroneously mislead young people and persuade them to choose a life of destruction. Children are the victims of violence on many different levels when they are recruited and utilised by terrorist and violent extremist groups. They often endure extreme cruelty while associated with the group, including harsh

⁴ O.P. Maurya, "Child Labour in India", 36(4) *IJIR* 497 (2001)

recruitment tactics, enslavement, sexual exploitation, pervasive fear, indoctrination, and psychological pressure. They are often wounded or killed in combat. In addition, because of their youth and psychological susceptibility, these kids could develop into particularly dangerous tools for the organisations that recruited them, as they could be used to commit crimes like, in some instances, terrorism, suicide bombings, war crimes, or crimes against humanity.⁵ Children being used in terrorism is not a recent development. The Secretary-expert General's Machel Report on the impact of armed conflict on children, which was released more than 20 years ago, brought to public attention the scope and ramifications of armed forces and armed organisations enlisting and utilising minors.

REASONS FOR RECRUITING CHILDREN

Children are not merely recruited alongside adults, but are specifically targeted, as the use of children is a great advantage to the group. In certain cases, armed organisations, especially terrorist or violent extremist groups, are viewed as a community's defence against the danger of violence from another group or the State. In such cases, families and communities may anticipate and urge youngsters to join the group. It may be difficult to recruit adults to a non-State armed organisation if it is unpopular among the community or does not have widespread geographical support. In such instances, recruiting children is simpler for the organisations and ensures that they can continue to build their power base despite decreasing support. Terrorist and violent extremist groups are prominently exploiting children to boost their visibility for an example the propaganda revealed a total of

⁵ United Nations Office on Drugs and Crime, Vienna "Handbook on Children Recruited and Exploited by Terrorist and Violent Extremist Groups: The Role of the Justice System." (2017)

254 events that included 38 percent of children who were engaged in acts of violence or being exposed and normalized to violence.

Economic Advantage

Children are often paid less and need less food to live, regardless of whether they are utilised as support or combatants. Small arms are simple to use terrorist organisations teach youngsters how to use them and make the weapons readily available. Children are relatively low in price than adult warriors, but they are not necessarily less effective in carrying out violence.

Easier to Control

Children are significantly more readily frightened and lot simpler to manage than adults, both physically and intellectually. Children are more likely to exhibit devotion to authoritative figures and are more prone to adopting the ideas and behaviours of people they love and respect, which is especially important when families are engaged in the recruiting process. Groups seeking to assure their future existence may see the use of children as a investment in the subsequent generation

RECRUITMENT

The terrorist organisations use increasingly advanced and cutting-edge methods to enlist children as troops. Children are forced to join these organisations due to circumstances including poverty, instability, marginalisation, and prejudice.⁶ Few parents send their kids to work so they may make money.

⁶ Rachel Stohl, "Targeting Children: Small Arms and Children in Conflict", 9 (1) *BJWA* 287 (2002)

Forcible Recruitment: Kids may be kidnapped, intimidated, or taken in by traffickers. Coercive recruitment schemes target children since they are more likely to be poor, neglected, or living on the streets.⁷

Community Recruitment: Community leaders support terrorist organisations because they believe the organisations will protect the community from dangers posed by other armed organisations. In these situations, the community leaders urge the kids to join such organisations.

Voluntary Recruitment: Some youngsters cross borders with their families voluntarily to join terrorist organisations. The primary cause of this is the instigation of intergroup conflict throughout the children's formative years. Some terrorist groups also use educational institutions to indoctrinate kids with information on the advantages of joining terrorist organisations.

Online recruitment: Online communication is a more recent strategy for spreading violent extremist and terrorist ideologies. It expands the group's message's audience and connects with potential recruits all around the world. Children are particularly at risk since they use the Internet so often. Some websites advertise the existence of the groups, and often, many sites in many languages include unique messages tailored to different audiences.

Tarn Taran bomb blast case: On September 4th, 2019, in the outskirts of Pandori Gola village in Tarn Taran a powerful explosion took place.⁸ Two persons were killed, and another was severely injured. Upon the investigation done by National Investigation Agency, nine 'Pro Khalistan'

⁷ Supra note 5

⁸ Ajay Sura, "Tarn Taran Bomb blast: NIA court can't try juveniles, says HC", *Times of India*, July 28, 2022

youth including a juvenile were booked under various sections of Unlawful Activities Prevention Act, Explosive Act. As per the reports the accused has formed a terrorist gang to carry out secessionist activities on the ground as well as on social media to instigate the members of the Sikh community to agitate for the secession of Punjab from India.

Khalistan Movement is a revolutionary movement which demands the separation of Punjab from India. Some supporters of this movement and their children are being sent as a revolutionist for that Khalistan Organisation.

CHILD LABOUR IN INDIA

Child work is a destructive practice that harms children's physical and mental development and is common in many nations, including India. According to the International Labour Organization (ILO), child labor is any kind of employment that denies children their legal right to childhood, prevents them from attending a normal school, and harms them mentally, physically, socially, or morally.

Child work becomes a huge problem with serious socio-economic repercussions in the Indian setting. An estimated 10.1 million youngsters between the ages of 5 and 14 worked throughout the country in 2017-2018, according to research published by the National Sample Survey Organisation (NSSO).⁹ These young people may be found working in a variety of fields, including household labour, manufacturing, construction, and informal services.

⁹ National Sample Survey Organisation, "NSSO Estimate of Child Labour in Major Indian States, 2004 - 05", *available at*: <https://labour.gov.in/sites/default/files/NSSOEstimateofChildLabourinMajorIndianStates.pdf> (last visited on: 23.07.2023)

The root reasons of the widespread usage of child labour in India are complex. Poverty is one of the main causes of this problem since poor families often depend on the meagre wages of their children. Further contributing factors to the perpetuation of this social ill include restricted access to high-quality education and insufficient enforcement of child work rules.

Child work has significant and far-reaching effects. The basic right to education is unfairly denied to children who work, subjecting them to a lifelong cycle of illiteracy and limited prospects. Additionally, these kids often labour in dangerous situations, which poses a serious risk to their bodily and emotional health. As a result, child labour perpetuates the intergenerational cycle of poverty since it traps illiterate and unskilled adults inside of it, where they struggle to escape.

The Indian government and other organizations have made significant efforts to eradicate child labour. A legislative framework forbidding the employment of minors in risky sectors is provided by the Child Labour (Prohibition and Regulation) Act of 1986. No child shall be employed or permitted to work in any of the occupations or in any workshops mentioned in the legislation.¹⁰ Additionally, children ages 6 to 14 are guaranteed free and required education under the Right to Education Act of 2009. To address the underlying causes of child labour, certain measures have been put in place that seek to reduce poverty and build skills.

Despite these admirable efforts, ending child labour in India is still a difficult task. To provide long-lasting solutions, it is necessary to effectively execute and enforce current laws, increase awareness and advocacy, and

¹⁰ The Child Labour (Prohibition and Regulation) Act, 1986 (Act 3 of 1986).

improve socioeconomic circumstances.

HAZARDOUS CHILD LABOUR

Hazardous child labor is defined as labor done by children in risky or unhealthy situations that have the potential to cause a child's death, serious injury, or illness due to lax safety and health regulations and working conditions. It may lead to long-term impairment, health problems, and psychological harm. Often, health issues brought on by child work do not manifest themselves until the child is an adult.

With an estimated 79 million children, aged 5 to 17, working in hazardous conditions in a variety of industries, including agriculture, mining, construction, manufacturing, as well as in hotels, bars, restaurants, markets, and domestic service, hazardous child labour is the largest category of the worst forms of child labour. Both developed and developing nations contain it¹¹. Boys and girls frequently begin performing dangerous tasks at very young ages. Youngsters are more susceptible to job risks than adults are because their bodies and minds are still growing, and the effects of dangerous employment are frequently more severe and long-lasting for youngsters.

When discussing child employment, it's critical to go beyond the definitions of work hazard and risk as they apply to adult employees and to broaden them to consider childhood development. Because they are still developing, children have unique traits and demands, and because of this, workplace hazards and risks must consider how they may affect children's physical,

¹¹ International Labour Organisation, "Hazardous Child Labour", *available at*: <https://www.ilo.org/ipec/facts/WorstFormsofChildLabour/Hazardouschildlabour/lang-en/index.html%C2%A0> (last visited on: 23.07.2023)

cognitive (thought/learning), behavioral, and emotional development.

RIGHT TO EDUCATION FOR CHILDREN

Children are the pioneers of education, which is one of the major cornerstones for the growth of a country. Since a child's education serves as the cornerstone for all future growth of a country, providing education from the very earliest stages of life becomes crucial for a nation. A well-educated youngster may bring about a lot of developmental changes in the political system. Nations and several organisations have endorsed educating children due to the value of education. Schools must be constructed in order for students to gain from their education, without using any unethical tactics. Any kind of insubordination in the classroom must respect the child's human dignity. Education is both a fundamental human right in and of itself and a crucial tool for achieving other fundamental rights. The implementation of the Right to Education Act in India has been a significant step towards ensuring that every child has access to quality education. This act, which was enacted in 2009, aims to provide free and compulsory education to all children between the ages of 6 and 14. The Right to Education Act recognizes education as a fundamental right and places a responsibility on the government to ensure its effective implementation. It mandates that all private schools must reserve a certain percentage of seats for children from economically disadvantaged backgrounds.

Furthermore, the act emphasizes the importance of inclusive education by prohibiting discrimination against children based on their gender, caste, religion, or disability. It also sets standards for infrastructure, curriculum, and teacher qualifications to ensure that children receive quality education.

While significant progress has been made in implementing the Right to Education Act, challenges still exist. Issues such as inadequate infrastructure, teacher shortages, and high dropout rates continue to hinder its full realization. Efforts are being made at both the central and state levels to address these challenges and ensure that every child can exercise their right to education.

In this section, we will explore the various aspects of the implementation of the Right to Education Act in India. We will examine its impact on access to education for marginalized communities, evaluate its effectiveness in improving educational outcomes, and discuss ongoing initiatives aimed at strengthening its implementation. By understanding the current status of the right to education in India and analyzing its challenges and achievements, we can work towards creating an inclusive educational system that empowers equal growth and development opportunities for every child.

Since every child would have access to a top-notch education and have their right to dignity and development respected, adopting education using a “Rights Based Approach” would do just that. The Constitution (Eighty-sixth Amendment) Act of 2002 inserted Article 21-A, which declares that all children between the ages of six and fourteen have the basic right to free and compulsory education, to the Indian Constitution the delivery of high-quality education, it requires schools to adhere to certain requirements.

The statute also highlights the significance of qualified educators and their continued professional growth. Children from poor homes can reserve seats in private schools under the RTE Act. Children from socially and economically disadvantaged groups must receive a specified percentage of the seats available in private schools. With this clause, the gap between

public and private schools is meant to be closed and diversity encouraged. The act creates systems for keeping track of and guaranteeing that its rules are followed. To oversee school operations and offer suggestions for improvement, it urges the creation of School Management Committees (SMCs) at the local level, made up of parents and community people. The statute also creates State Commissions to supervise the RTE statute's implementation and handle complaints.

After noting that the “right to education” as such has not been guaranteed as a fundamental right under part-III of the Constitution, the Supreme Court held in *Mohini Jain v. State of Karnataka*¹² that reading articles 21, 38, clauses (a) and (b) of articles 39, 41, and 45 cumulatively makes it clear that the Constitution's framers intended for the state to provide education for its citizens, relying on the promises made in the preamble. The court stated: “Human dignity cannot be guaranteed to a person without personality development, which can only occur via education.” This is to secure justice that is “social, economic, and political” for the citizens and assures the dignity of the individual. The court continued, saying, the right to education is the main part and parcel of right to life. Without the right to education, the Article 21 right to life and the dignity of the individual cannot be guaranteed. The state government is required to make efforts to offer its inhabitants educational opportunities at all levels. While affirming that article 21 is the source of the right to education, a bigger bench in *J. P. Unnikrishnan v. State of A. P.*¹³ restricted its application to children up until the age of 14. Following that, the right to education is restricted by the

¹² AIR 1992 SC 1858

¹³ AIR 1993 SC 2178

state's economic capacity and level of development. The Indian Law Institute (ILI) published research stating that the right to education has a profound effect on society. By giving people the knowledge, skills, and critical thinking abilities needed for meaningful involvement in the democratic process, it empowers individuals. Education fosters tolerance, empathy, and respect for variety in addition to intellectual development, fostering societal harmony and inclusivity.

CHILD SEXUAL ABUSE

Children in India suffer from the unpleasant and persistent problem of child sexual abuse, which jeopardizes their physical, emotional, and psychological well-being. It includes, but is not limited to, molestation, rape, indecent exposure, pornography, and internet grooming. It also refers to any sexual act or exploitation committed against minors. Child sexual abuse is a serious violation of a child's rights and creates serious obstacles to the child's growth and chances for the future. Child sex abuse in India is a grave issue that affects people from all socioeconomic levels and geographical areas equally. Due to underreporting and social stigma, complete data on child sexual abuse are few, but the figures that are available shed light on how serious the problem is.

According to statistics, child sexual abuse affects youngsters of both sexes, albeit females are typically more vulnerable. Data from the National Crime Records Bureau (NCRB) for the year 2019 show that 84% of the victims of all recorded instances of child sexual abuse were female.¹⁴ Numerous

¹⁴ Esha Roy, "NCRB data- Crime against kids: a third still under POCSO" *The Indian Express* August 30, 2022 available at: <https://indianexpress.com/article/india/crime-against-kids-a-third-still-under-pocso-8119689/> (last visited on: 03.07.2023)

reasons, such as patriarchal norms, unequal power relations, and the sexual objectification of females, are responsible for this gender inequality. The distribution of victims by age shows that minors between the ages of 12 and 16 are most susceptible to sexual abuse. They were followed by kids between the ages of 8 and 12 in terms of reported instances. It is crucial to remember that kids of all ages, including babies and toddlers, can experience sexual abuse, underscoring the essential need for safety precautions for kids of all ages.

POCSO ACT

India passed the comprehensive Protection of Children from Sexual Offences Act, 2012, to address the problem of child sexual abuse and exploitation. It offers a legal framework for children who have been the victims of sexual offences in terms of protection, welfare, and justice. By establishing a child-friendly legal system, the legislation recognizes the vulnerability of children and tries to safeguard their safety and wellbeing. The POCSO Act lists several sexual offences against children, including but not limited to non-penetrative offences, sexual harassment, penetrative assault, and the use of minors in pornography. All children under the age of 18 are covered by it. The act's provision for special courts to hear cases involving child sexual offences is among its noteworthy aspects. These courts are referred to as 'Special Courts' and oversee handling cases brought under the POCSO Act quickly. To ensure that the child feels safe and comfortable while testifying, the statute stipulates that these courts must have a child-friendly setting.

The act acknowledges the significance of protecting the child's privacy and confidentiality throughout the entire legal process. It forbids the publication

of the child victims identify in print, electronic, or digital media of any kind. The child's right to privacy is upheld and their social stigma is lessened thanks to this clause. Additionally, the statute requires that cases of child sexual offences be reported to several agencies, including the police, medical professionals, and child welfare committees. Under the statute, failing to disclose such cases is a crime. This reporting system strives to make sure that instances of child sexual abuse are quickly brought to the authorities' attention so they can look into them and take the appropriate action.

The POCSO Act emphasises the necessity of offering help and rehabilitation to child victims in addition to addressing the legal elements¹⁵. To address cases involving child victims, it requires the creation of Special Juvenile Police Units and Child Welfare Committees at the district level. These committees oversee guaranteeing the wellbeing of the kid, including their access to support, counselling, and medical care. The law acknowledges the rights of victims who are minors to be heard and take part in court procedures. In order to lessen their trauma, it permits video conferencing to record the child's statement. It also allows for the appointment of a legal guardian or support person to assist the youngster during the legal procedure.

CHILD TRAFFICKING

Child trafficking can be defined as the process of immorally transporting, transferring, or harboring a person below the age of 18, for the purpose of

¹⁵ Sristy, "Protection Of Children From Sexual Abuses: Decoding The POCSO Act," available at: <https://www.legalserviceindia.com/legal/article-8225-protection-of-children-from-sexual-abuses-decoding-the-pocso-act.html> (last visited on: 03.07.2023)

exploitation.¹⁶ Child trafficking is a serious imminence that's current in utmost corridor of the world. By making false pledges, the merchandisers take advantage of the children. It continues to be a serious issue that affects millions of children's rights and weal around the world.

Child trafficking is a complex issue with multiple beginning issues. The poor and vulnerable families that would vend or transport their children in hunt of better living conditions are the main targets of these merchandisers. Armed conflicts and political insecurity undermine societal institutions, leaving youths vulnerable to exploitation. Also, a lack of education causes to fall for the deceptive pledges made by merchandisers and fall victim to their eventual exploitation. Most child trafficking victims are young girls.

Child labour, sexual exploitation, child marriage, and organ trafficking are each considered to be cases of child trafficking. Children are made to work in dangerous sites like mines, manufactories, granges, or domestic yoke. The minors are utilised for harlotry, pornography, and coitus tourism, and other forms of sexual exploitation as well. A many among these victims of trafficking are also abducted, forced, or signed to fight in wars. constantly, the organs are also removed from the children's bodies to vend the organs immorally, leaving the kiddies permanently impaired.

According to the United Nations Office on Medicines and Crime's 2022 Global Report on Trafficking in Persons, which collected the gests of 51,675 victims of trafficking across 166 countries roughly 18 of those traded were womanish children and 17 were manly children. In terms of total rate, the report estimates that victims were detected at a global average rate of 1

¹⁶ Child Trafficking In India, *available at* <https://blog.ipleaders.in/child-trafficking-india/> (last visited on: 03.07.2023)

person per 100,000.¹⁷ According to the National Crime Records Bureau (NCRB) Report children were traded in India and roughly eight children are traded daily.¹⁸ Still, activists say that the factual figure could be much advanced as numerous victims don't go to the police because of the fear of the merchandisers.

Composition of the U.N. Convention on the rights of the Children, 1989 prohibits the illegal transfer of children abroad and composition are directly concerned with the child harlotry, child pornography and child trafficking directing the countries to take immediate action to help these conditioning.¹⁹

India inked the Palermo Protocol in 2002, but it was not ratified until 2011. This clarified what constitutes trafficking and backed in the development of laws to help child trafficking. Significant goods were also seen in other nations. The Immoral Trafficking (Prevention) Act, 1956²⁰ is the premiere legislation for the for entailment of trafficking for marketable sexual exploitation, but it only deals with the trafficking of minors for harlotry. Section 370 of IPC gives the description of the trafficking and section 370A of IPC defines the discipline for the exploitation of a traded person in which section 370A(i) says that “Whoever, deliberately or having reason to believe that a minor has been traded, engages similar minor for sexual exploitation in any manner, shall be penalized with rigorous imprisonment

¹⁷ “Child Trafficking by Country 2023”, 2023 *available at* <https://worldpopulationreview.com/country-rankings/child-trafficking-by-country> (last visited on: 03.07.2023)

¹⁸ Yuvraj, “A Detailed Description of Child Trafficking In India”, *available at*: <https://www.legalserviceindia.com/legal/article-9984-a-detailed-description-of-child-trafficking-in-india.html> (last visited on: 03.07.2023)

¹⁹ Ibid

²⁰ The Immoral Traffic (Prevention) Act, 1956

for a term which shall not be lower than five times, but which may extend to seven times and shall also be liable to fine.²¹

Child trafficking has numerous causative factors and therefore has no simple result. That said, one of the stylish ways to drop child trafficking is to educate the people to be cautious and educate them on the warning signs and pitfalls associated with child trafficking, including grooming and highway robbery. Strong laws against child trafficking are a helpful interference, as is a high rate of conviction for those caught trafficking. Rehabilitation and reintegration should be handed to the saved children with sanctum, health care, education and vocation-al training to help them rebuild their lives. Cross-border cooperation and information sharing should be enhanced among the nations as it's essential to identify trafficking networks and seize merchandisers. All these practices will insure a safer and brighter future for all children.

CHILD MARRIAGE

Child marriage can be described as “any formal marriage or informal union between children under the age of 18 or between an adult and a child.”²² According to UNICEF, even though child marriages have dropped over the once ten times, one in five children worldwide are still being married off at a youthful age.

India has made inconceivable strides in ending child marriages, but the country still has the loftiest proportion of youthful misters in the world. According to UNICEF, one in three of the world's child misters live in

²¹ Supra note 18

²² “Child marriage”, *available at*: <https://www.unicef.org/protection/child-marriage> (last visited on: 03.07.2023)

India. Over half of the girls and women in India who are married in nonage live in the five countries Uttar Pradesh, Bihar, West Bengal, Maharashtra, and Madhya Pradesh. Nearly one in four youthful women in India (roughly 23 of youthful women) are married of before the age of 18.²³

India has legislated numerous laws to help these child marriages. The Child Marriage Restraint Act, 1929²⁴ was legislated by the British government when they were in power. This was the original temporal legislation to address the problem of child marriage. It only outlined the penalties for an adult joker who weds a child as well as the parents who encouraged similar unions. Prohibition of Child Marriage (Correction) Bill 2022²⁵ was approved by the Union Cabinet. The Act raises the age at which women can fairly be married from 18 to 21. The prosecution of the indigenous duty for gender equivalency serves as the foundation for this revision. This measure seeks to increase knowledge rates, drop motherly mortality, and advance equivalency. Despite these developments, the rate of decline in child marriages is inadequate to meet the Sustainable Development Goals by 2023. The forestallment and prohibition of child marriages necessitates a multifaceted approach. Education plays a crucial part, by raising mindfulness of the negative goods of child marriages. A minimal marriage age must be established, and violators must face consequences, according to the strengthened legislation. To combat negative conceptions and offer indispensable options for girls' commission, community engagement

²³ "Ending Child Marriage A Profile of Progress in India", UNICEF data, 2023 *available at*: <https://data.unicef.org/resources/ending-child-marriage-a-profile-of-progress-in-india-2023/> (last visited on: 03.07.2023)

²⁴ The Child Marriage Restraint Act, 1929

²⁵ "The Prohibition of Child Marriage(Correction) Bill, 2021", *PRS Legislative Research*, 2023 *available at*: <https://prsindia.org/billtrack/the-prohibition-of-child-marriage-amendment-bill-2021> (last visited on: 03.07.2023)

involving parents, religious and traditional leaders, and other influential numbers is needed. To insure the physical and internal well-being of girls, access to quality healthcare and social services pivotal. Girls may have druthers to marriage if they're given profitable commission chances through skill development and employment. To bring about long- lasting change, cooperation between governments, organisations, and people is needed.

JUVENILE JUSTICE ACT

In India someone under the age of 18 who has committed a crime is considered a juvenile. There is a distinction between a minor and juvenile, where the minor is someone who has not reached the age of legal responsibility, while a juvenile is someone who has committed an offence or who requires care and protection.²⁶ Juvenile justice is a component of criminal law that reduces the criminal liability based on the assumption that a juvenile lacks the capacity to act maliciously. The conception of Juvenile justice rose with the idea that the challenges of juvenile delinquency and the kids in the unusual settings could not be resolved through standard criminal justice methods.

In the last few decades, there has been an incredible rise in the number of crimes committed by youngsters under the age of 16. The child's rearing environment, economic situations, lack of education, and parental care are all cited as explanations for the development of such behaviour in children. Even more astounding is the fact that children are being used as the tools in the commission of a crime, and this age range includes mainly youngsters aged 6-12 years, since the minds of innocent children may be controlled more easily at this age. The protection of juveniles and an apt treatment for

²⁶ Supra note 2

betterment was always the main motive behind the drafting of the legislations for the Juveniles in India. In India, Juvenile justice policy is largely guided by the constitutional mandate contained in Article 15²⁷, which guarantees special attention to children through the enactment of required and unique laws and policies to protect their rights.

The Juvenile Justice acts of 2000 and 2015, both have been made as the result of the convention and are a major trial to follow the Convention. On December 30, 2000, the president of India signed the Juvenile Justice Act 2000, The Act mandates the care, protection, treatment, development and restoration of neglected and delinquent children, as well as the necessary machinery and infrastructure. This Act addresses children's basic needs and protects their human rights. Important aspects of the Act includes removing disqualification and publishing the juvenile's name, address etc., in any newspaper or magazine, This Act establishes a Juvenile Justice Board to provide juvenile justice, and a Child Welfare Committee to deal with the child-related issues. Section 23 of this Act punishes a person in actual charge or control of a juvenile for cruelty to a youngster. Section 26 punishes obtaining a juvenile to minor for dangerous job, keeping him in bondage, and withholding or misusing his profits. These are all cognizable offences.²⁸

An advocate Shweta Kapoor filed a PIL in the Delhi High Court, seeking revisions to the Juvenile Justice (Care and Protection of Children) Act, 2000. The case of *Mukesh & Anr v. State of NCT of Delhi & Ors*,²⁹ often known as the Nirbhaya rape case, cleared the path for the amendment. In

²⁷ The Constitution of India, Art. 15

²⁸ The Juvenile Justice (Care And Protection of Children) Act, 2015

²⁹ (2017) 6 SCC 1

this case, it was argued that the accused's age should not obscure the character of his brutality towards the victim. The Juvenile Justice Act of 2015 repealed the Juvenile Justice Act of 2000, recognizing the need for a better comprehensive and efficient juvenile justice system that emphasized both deterrence and reformative techniques.

The Juvenile (Care and Protection) Act 2015 defines a kid as a person under the age of 18. The Act divides "child" into two categories: 'Child in legal trouble' and 'kid in need of care'. Children under the age of 18 who have committed a crime are classified as "children in dispute with the law".³⁰ A Child in need of safety and treatment is specified in Section 14 of the Act. After the amendment, a person aged 16-18 can be tried as adults depending on the characteristics of a crime (if it is a heinous crime) and aged 16-18 is a juvenile, and so can be prosecuted as an adult in court. Section 2(33) of the 2015 Act defines 'heinous crimes' as "crimes for which the minimum sentence under the IPC or any other law in force is seven years or more imprisonment."

The rising rates of youth crime in India are a serious worry that must be addressed.³¹ In India, the need for Juvenile Justice System is felt far more in Delhi as compared to other major cities. In Delhi, there has been a constant increase in this type of crime, with the National Crime Records Bureau recording 1,981 crimes in 2015 and 2,368 cases in 2016. According to the data, juveniles were responsible for 46 killings in 2017, the largest number of homicides across all metropolises, as well as the highest number of robberies and fraud across all metropolises. Although the government has enacted different laws and regulations to reduce juvenile crime, the current

³⁰ C. Roberson, *Juvenile Justice: Theory and Practice* (CRC Press, Boca Raton, 2010)

³¹ B. K. Das, *Research Paper Juvenile Justice System in India*, (2016)

laws on juveniles do not have a practical impact on juveniles, and hence the results are ineffective, and the legislative objective is not being fulfilled.³²

SUGGESTION AND CONCLUSION

There are some suggestable amendments to the existing legislations to make them updated and spatial in the contemporary society. There are several areas where Right to Education act could be improved.

Vocational Education: For children, vocational education has several benefits. It improves their employability and job chances by providing them with real-world information and skills that are directly transferable to a variety of industries. Practical instruction offered by vocational education promotes a greater grasp of crafts and professions. Children who become experts in their chosen profession may also develop a sense of independence and self-confidence. Additionally, by fusing academic learning with real-world experience, vocational education supports a well-rounded education by enabling kids to build a mix of theoretical knowledge and practical skills that are crucial in today's labour market.

Introduction of New Courses in Education for Children: New courses can encompass a variety of areas, such as emerging technologies, environmental studies, entrepreneurship, media literacy, financial literacy, global citizenship, and cultural diversity. These courses aim to foster critical thinking, creativity, problem-solving, collaboration, and adaptability among children. They offer avenues for exploring new interests, discovering talents, and developing a well-rounded educational experience. Introducing new

³² Avnish Kumar Sharma & Prof. (Dr.) Meenu Gupta, "The Path of Juvenile Justice System Development in India: A Hypercritical Study of the Legislations" 10 (6) *IJCRT* 148 (2022); available at: <https://ijcrt.org/papers/IJCRT22A6628.pdf> (23.07.2023)

courses also allows educational institutions to address pressing societal challenges and promote sustainable development. For instance, courses focusing on environmental studies can raise awareness about conservation, climate change, and sustainable practices. Courses on digital literacy and cybersecurity can equip children with the necessary skills to navigate the digital world safely and responsibly. Such courses empower children to become informed, engaged citizens capable of contributing positively to their communities.

POCSO act can also be improved in many aspects: Punishments: The punishment given to the offender must be graver and grievous so that, the offender and the public get the element of fear towards law and be cautions in the actions they perform.

The Juvenile Justice (Care and Protection of Children) Amendment Act, 2021³³ was passed to amend various provisions of the Juvenile Justice Act, 2015. Adoption as an instrument has always been seen through the rehabilitative and reformatory lens by the Indian government. In this view, Smt. Smriti Zubin Irani, Union Minister for Women and Child Development, proposed the Juvenile Justice (Care and Protection of Children) Amendment Act. Her main aim was to underscore the need for handing over the ultimate accountability for the welfare and safeguarding of unsafe and disadvantaged children to the District Magistrates.³⁴

In this act it has stated that an adoption agency is required to file the

³³ "The Juvenile Justice (Care and Protection of Children) Amendment Bill, 2021," *PRS Legislative Research*, 2023 available at: <https://prsindia.org/billtrack/the-juvenile-justice-care-and-protection-of-children-amendment-bill-2021> (last visited on: 03.07.2023)

³⁴ "Parliament Passes Juvenile Justice (Care and Protection of Children) Amendment Bill 2021," available at: <https://pib.gov.in/Pressreleaseshare.aspx?PRID=1740011> (last visited on: 03.07.2023)

paperwork in a civil court of law to secure an adoption order as soon as prospective adoptive parents accept a child. This Act also specifies that the District Magistrate as well as the Additional Magistrate are responsible to carry out these duties regarding the adoption procedure. According to this Act, once a parent registers for adoption, a petition for adoption orders is filed. The prospective parent is then meticulously assessed through a home study report, referred a child, and in due course, allowed to take a child in pre-adoption foster care.³⁵ This Act has provided that within 30 days of the District Magistrate's adoption order, any party that feels aggrieved by it may appeal against it to the Divisional Commissioner. Such appeals have to be adjudicated within four weeks of the appeal's filing date.

According to Juvenile Justice (Care and Protection of Children) Amendment Act, 2015, offences against children that are enumerated in the chapter "Other Offences Against Children" and entail sentences of three the sentences range from seven years in prison and are cognizable. The abuse and cruelty committed by staff or those in control of childcare institutions was categorised under this new Act as non-cognizable and non-bailable offences. Majority of these crimes are reported to the police by either parents or child rights organisations, as the victims themselves are unable to directly report them owing to the imbalance in power bodies and Child Welfare Committees (CWC). Making these crimes non-cognizable along with several other serious crimes under the special law would make reporting an offence to the police even more difficult.

On the paper, though this Act seems revolutionary but its implementation in the practical world will decide its impact. The recent amendment is one

³⁵ Editorial, "*The Tedious process of Adoption*", *The Hindu*, September,12, 2022.

of much-needed steps and has been welcomed by most, but it will not yield results without proper training and monitoring of officials especially District Magistrates and implementation of the provisions.

