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“PROTECTION OF CHILDREN’S RIGHTS IN INDIA: CONSTITUTIONAL & STATUTORY PROVISIONS”

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ABSTRACT

The legal framework governing the protection of children’s rights in India constitutes a sophisticated intersection of constitutional imperatives and statutory safeguards. At the foundational level, the Constitution of India serves as the *fons et origo* of child rights, leveraging Article 15(3) to enable the State to make special provisions for minors, alongside Article 21A and Article 24, which mandate educational access and prohibit hazardous employment, respectively. These provisions are further reinforced by the Directive Principles of State Policy, which obligate the State to ensure that children are provided with opportunities to develop in a healthy manner and protected against exploitation.

Complementing these constitutional mandates is a robust array of statutory enactments designed to address specific vulnerabilities. The Juvenile Justice (Care and Protection of Children) Act establishes a comprehensive system for children in conflict with the law and those in need of care and protection, prioritizing rehabilitation over retribution. Simultaneously, the POCSO Act and the Prohibition of Child Marriage Act provide stringent penal frameworks to combat sexual exploitation and social malpractices. This legal architecture reflects an evolving rights-based paradigm, shifting from mere custodial care to the holistic enforcement of the "best interests of the child" doctrine. The efficacy of this system relies on the harmonious construction of these laws and the proactive role of the judiciary in upholding the fundamental dignity of the child.

Keywords: Constitutional Safeguards, Child Rights Jurisprudence, Statutory Framework, Juvenile Justice, POCSO Act, Fundamental Rights, Directive Principles of State Policy, Socio-Legal Protection, Rights-Based Paradigm.

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INTRODUCTION

The protection of children's rights is a crucial aspect of any society's legal and social framework, reflecting its commitment to nurturing and safeguarding the well-being of its youngest members. In India, children constitute a significant portion of the population, and their protection and development are vital for the nation's progress. The Indian legal system, through its constitutional and statutory provisions, has established a comprehensive framework aimed at ensuring the rights and welfare of children. However, despite these efforts, challenges in implementation and enforcement continue to hinder the full realization of children's rights.

India's commitment to protecting children's rights is enshrined in its Constitution and various laws that address issues such as education, health, protection from exploitation, and juvenile justice. The Constitution of India guarantees fundamental rights to all citizens, including children, and mandates the state to ensure their protection and development. Specific articles within the Constitution, such as Articles 21A, 24, 39(e) and (f), and 45, focus explicitly on children's rights, emphasizing the importance of education, protection from hazardous employment, and provisions for early childhood care and education.

In addition to constitutional safeguards, several statutory provisions have been enacted to further protect children's rights. Key legislations include the Juvenile Justice (Care and Protection of Children) Act, 2015; the Protection of Children from Sexual Offences (POCSO) Act, 2012; and the Child Labour (Prohibition and Regulation) Amendment Act, 2016. These laws aim to provide a robust framework for the protection, rehabilitation, and welfare of children, addressing various forms of abuse, exploitation, and neglect.

Despite the existence of these legal frameworks, the actual enforcement and realization of children's rights in India face significant challenges. Issues such as inadequate resources, lack of awareness, socio-economic barriers, and systemic inefficiencies contribute to the persistent violations of children's rights. This study aims to explore the constitutional and statutory provisions for the protection of children's rights in India, evaluate their effectiveness, and identify the gaps in their implementation.

The following sections of this study will provide a detailed analysis of the constitutional and statutory provisions, review relevant literature, outline the research objectives and hypotheses,

and describe the methodology used for this research. By examining the legal framework and its practical application, this study seeks to contribute to the ongoing discourse on children's rights in India and offer recommendations for enhancing their protection and welfare.

I. THE DILEMMA OF THE LEGAL AGE OF THE CHILD

The problem begins with the very definition of a child under the law. There are several grey areas in the law here.³ Who is a child? When does Childhood cease? Age limits differ from activity to activity and from country to country and, in India, for legislation to legislation. The word “child” in Indian laws has been used in various forms of legislation as term denoting relationship, a term indicating capacity, or as a term of special protection. Underlying these alternative specifications are very different concepts about the child.

The Indian Majority Act, 1875 was enacted basically to bring about uniformity in the applicability of laws to person of different religions. *It provides. unless a particular personal law specifies otherwise, every person domiciled in India is deemed to have attained majority upon completion of eighteen years of age. But in case of a minor for whose person or property or for both, a guardian has been appointed or declared by any Court of Justice the majority may be attained before the age of eighteen years.*⁴

Under the Indian Contract Act, 1872, a person below the age of eighteen years has no capacity to contract.⁵

The Hindu Minority and Guardianship Act, 1956 (HMGA) defines a minor, as a person who has not completed the age of eighteen years.⁵ Under Muslim Law also, the age of Majority is completion of eighteen years. Even under the Christian Law and Parsi Law the age of Majority is completion eighteen years. However, the age of marriage, under the Prohibition of Child Marriage Act, 2006 is twenty one years for males and eighteen years for females.

Under the Child Labour (Prohibition and Regulation) Act, 1986, a child means a person, who has not completed his fourteen years of age, and is prohibited from working in hazardous

³ Asha Bajpai. *Child Rights in India-Law, Policy and Practice* (New Delhi: Oxford University Press, Second Impression, 2006).

⁴ Section 3, The Indian Majority Act, 1875.

⁵ Section 3, The Indian Contract Act. 1872.

processes. However, children of fourteen years and above can work in hazardous industries. The various State Shops and Establishment Acts define the age of child between twelve and fifteen years.

Under The Juvenile Justice (Care and Protection of Children) Act, 2015 the age of majority is eighteen years for both boys and girls. Under the Commission for Protection of Child Rights Act, 2005, the word Child has not been defined anywhere, but from the objective of the Act, it appears that the Commission for Protection of Child Right has adopted the definition provided under the Convention on the Rights of the Child (CRC) i.e. children upto the age of eighteen years. The Code of Criminal Procedure states the juvenile means a person who is under the age of sixteen years. The recently passed Right of Children to Free and Compulsory Education Act, 2009, defines child to mean a male or female child of the age of six to fourteen years.⁶

II. CONCEPT OF CHILD RIGHTS

The children have equal value as other human beings. The best interest of the child should be the primary consideration; the weight should be given to the child's opinion. Every child without any exception whatsoever shall be entitled to basic fundamental rights without distinction or discrimination on account of race, colour, sex, language and religion and political and social background. The child shall be entitled from his birth, to a name and a nationality. The Child shall be protected from practices which may foster social, religious and any other form of discrimination and shall be brought up in a spirit of understanding.

According to the Commission for Protection of Child Rights Act, 2005, Child Rights includes the Children's Rights adopted in the United Nations Convention on the Rights of the Child on 20 November, 1989 and ratified by the Government of India on 11th December, 1992.

Under this Convention the *Civil Rights* of children included the right to a name and a nationality, protection from torture and maltreatment, special rules governing the circumstances and conditions under which children may be deprived of their liberty or separated from their parents. The *Economic Rights* under the Child Rights Convention include the right to get benefit from social security, the right to a standard of living, which is adequate to ensure proper development and protection from exploitation at work.

⁶ Section 2(c), The Rights of Children to Free and Compulsory Education Act, 2009.

The *Social Rights* includes the right to the highest attainable standard of health services, the right to social care for handicapped children, protection from social exploitation and abduction, and access to appropriate information. *The Cultural rights* of the children under the Child Right Convention include recreation, leisure and participation in artistic and cultural activities. *The Right to Survival* of a child includes the right to life, the highest attainable standards of health and nutrition and adequate standards of living. *The Right to Protection* of the child includes freedom from all forms of exploitation, abuse, inhuman or degrading treatment and neglect, including the right to special protection in situations of emergency and armed conflicts.

The *Right to Development* includes the right to education, support for early childhood development and care, social security and the right to leisure recreation and cultural activities. The right to participation includes the respect for the views of the child, freedom of expression access to appropriate information and freedom of thought conscience and religion.

The United Nation Committee on the Rights of the Child has identified thematic clustering of Child Rights as laid down in Article 4, 42 and 44 of the Child Rights Convention. These Articles highlight the need to constantly review the relevance of the existing legislations and the importance of bringing national legislation in conformity with the Convention. The Child Rights Convention is guided by the principle that the essential needs of children are met all the time.

The Convention stresses that the rights shall be extended to all children without discrimination of any kind irrespective of the child's or his or her parents or legal guardian's race, nationality, colour, sex, language, religion, political or other opinion, social origin, property, disability, and birth or other status.³⁸ In all matters relating to the placement of a child outside the care of the child's own parents, the best interest of the child, particularly need for affection and right to security and continuing care, should be the paramount consideration.

III. EXPLOITATION OF CHILD AND VIOLATIONS OF CHILD RIGHTS

Child welfare has been given considerable importance both nationally and internationally. But it is also true that child abuse and Child Rights violation is rampant at large scale. According

to *Black's Law Dictionary*,⁷ child abuse is defined as any form of cruelty to a child's physical, moral or mental wellbeing. It is also used to describe some forms of sexual attack which may or may not amount to rape. To make it wider, the *Black's Law Dictionary* defines Abused and Neglected Children, as those children who are suffering serious physical or emotional injury inflicted on them, including malnutrition.

Under the *Juvenile Justice (Care and Protection of Children) Act, 2000*, "Child in need of care and protection"⁸ means a child who:

- Is found begging or who is a street child or a working child;⁹
- Is found without having any home or settled place of abode and without any ostensible means of subsistence;
- Who resides with a person (whether a guardian of the child or not) and such person has threatened to kill or injure the child and there is a reasonable likelihood of the threat being carried out, or has killed, abused or neglected some other child or children and there is a reasonable likelihood of the child in question being killed, abused or neglected by that person;
- Who is mentally challenged or ill, or children suffering from terminal diseases or incurable diseases having no one to support or look after;
- Has a parent or guardian who is unfit or incapacitated to exercise control over the child;
- Lives in a brothel or with a prostitute or frequently goes to any place used for the purpose of prostitution or is found to associate with any prostitute or any other person who leads an immoral, drunken or depraved life;
- Who is being or is likely to be grossly abused, tortured or exploited for the purpose of sexual abuse or illegal acts;
- Who is found vulnerable or is likely to be inducted into drug abuse or trafficking;
- Who is a victim of any armed conflict: civil commotion or natural calamity?

Physical abuse can be understood as inflicting of physical injury upon a child. This may include beating, hitting, punching, shaking, kicking, burning or otherwise harming a child.

Sexual abuse means inappropriate sexual behavior with a child. It includes fondling a child's genitals, intercourse, incest, rape, sodomy, exhibitionism and sexual exploitation.

⁷ The Right to be A Child: UNICEF, New Delhi, India 1992.

⁸ Section 2(d), The Juvenile Justice (Care and Protection of Children) Act, 2000.

⁹ Added by Juvenile Justice (Amendment) Act, 2006.

Emotional abuse is also known as verbal abuse, mental abuse and psychological maltreatment. It includes acts or the failures to act by parents or caretakers that have caused or could cause serious behavioral, cognitive, and emotional or mental trauma.

The United Nations Study on Violence against Children¹⁰ across the world and what can be done about it basically focuses on violence that happens when someone uses their strength or their position of power to hurt someone else purposely, not by accident. For United Nations Study children are everyone under the age of eighteen years and violence against children includes:

- All forms of physical or mental violence, injury and abuse (harming body or mind);
- Neglect or bad treatment;
- Maltreatment or exploitation, including sexual abuse and exploitation (such as child prostitution);
- Trafficking (sale and trading) of children;
- Child abuse is any form of violence against children, when it is done by someone who is responsible for them or has power over them and that they should be able to trust (such as parents, other close family members and teachers).

The definition of child abuse according to a study conducted by the Ministry of Women and Child Welfare refers to, the intended, unintended and perceived maltreatment of the child, whether habitual or not, including:¹¹

- Psychological and physical abuse, neglect, cruelty, sexual and emotional maltreatment;
- Any act, deed or word that debases, degrades or demeans the intrinsic worth and dignity of a child as a human being;
- Unreasonable deprivation of his or her basic needs for survival such as food and shelter, or failure to give timely medical treatment to an injured child resulting in serious impairment of his or her growth and development or in his or her permanent incapacity or death;
- Inflicting physical injury upon a child, i.e. hitting, kicking, beating or otherwise harming a child physically;
- Emotional abuse such as verbal abuse, mental abuse and psychological maltreatment.

¹⁰ P.S. Pinheiro, 2006, <http://www.ponline.org> as accessed on 24.03.2025.

¹¹ Study on Child Abuse India, 2007, Ministry of Women and Child Welfare, Government of India in association with Prayas, a Non-Governmental Organization working towards Child Right (2007).

It also includes failure to act by parents, caretakers, peers and others who have caused or could cause serious behavioral, cognitive, emotional or mental distress or trauma to the child's;

- Inappropriate sexual behavior including fondling of child's genitals, making the child fondle an adult's genitals, sexual assault (intercourse, incest, rape and sodomy), exhibitionism and pornography. To be considered as child abuse, these acts have to be committed by neighbors, relatives, extended family members, peers, older children, friends, and strangers or by a day care provider;
- Child neglect is an act of omission or commission leading to the denial of a child's basic needs. Neglect can be physical, educational, emotional or psychological. Physical neglect means denial of food, clothing, appropriate medical care or supervision. It may also include abandonment, failure to provide appropriate schooling or special educational needs and lack of emotional support and love.

To constitute the aforesaid behaviors as child abuse, these acts must be committed by the person who is responsible for the child's welfare.

IV. CONSTITUTIONAL PROVISIONS

The Government of India has endorsed twenty seven survival and development goals for year 2000 laid down by the World Summit for Children. The Indian Government has also ratified the Convention on the Rights of the Child on 12th November, 1992. A proper reading of the certain Articles of the Indian Constitutional law makes it clear that International Conventions can be enforced by Indian Parliament by making laws and by the Judiciary to grant relief under certain circumstances even in the absence of a Statute.

Article 73 of the Constitution states, the executive power of the Union extend to the matters with respect to which Parliament has power to make laws and to exercise of such rights, authority and jurisdiction as are exercisable by the Government of India by virtue of any treaty or agreement. The Constitution also states that Parliament has power to make laws for the whole or any part of the territory of India for implementing any treaty, agreement to Convention with any other country or countries or international decisions made at conferences, associations or any other body. Therefore, International Conventions like Convention on Rights of Child, 1989 can be enforced in Indian Legal System even in the absence of a

statute. Such as the Indian Supreme Court in *Vishaka v. State of Rajasthan*,¹² reiterated this principle that in the absence of a domestic law the contents of International Conventions and norms are relevant for the interpretation of the Fundamental Rights.

Fundamental Rights represent the basic values cherished by the people of this country and are aimed at protect the dignity of the individual and creating conditions in which every human being can develop his personality to the fullest extent.

- a) **Article 14** provides :- the State shall not deny to any person equality before the law or equal protection of laws within the territory of India. Thus, nobody including the children should be denied any equality of status and opportunity as all are equal before the eye of law.
- b) **Article 15(1)** speaks that; —State shall not discriminate against any citizen on ground only of religion, race, sex, place of birth or any of them.
- c) **Article 15(3)** enables —the State to make special provisions for women and children which indicates that it seeks to protect the interest of women and children and nothing else. Part of Fundamental Rights; providing discretion to the government to make special laws/policies and schemes for women and children.
- d) **Article 19(1) (a)**, all citizens shall have the right to freedom of speech and expression and it is also applicable to children too. The most important Article i.e. “Right to life”, under
- e) **Article 21**, as interpreted by the Supreme Court, says that —right to life means something more than just physical survival, not merely the right to the continuance of a person’s animal existence. It would include the right to live with human dignity. It would also include the right of a person not to be subjected to bonded labour, or any other unfair conditions of labour. So, the State is under obligation to see that there should not be any violation of fundamental rights of any person-adult or child.¹³
- f) **Article 21A** says that education from 6 to 14 years of age a fundamental right within the meaning of Part III of Constitution. This Article deals with —the State shall provide free and compulsory education to all children of the age of 6 to 14 years in such manner as the State may by law determine. Article 21 A may be read with new substituted Article 45 and new clause (k) inserted in Article 51 A by 86th Amendment

¹² 1997 AIR SCW 3043; AIR 1997 SC 3011; (1997) 6 SCC241.

¹³ *People’s Union for Democratic Right v. Union of India*, AIR 1982 5C1473.

in the constitution. Part of Fundamental Rights; added to the Constitution in 2002. The Right of Children to Free and Compulsory Education Act, 2009 was enacted in pursuance of Article 21 A of the Constitution.

- g) **Article 23** and **Article 24** have much importance which aims at recognition of restoration of the dignity of a person and crystallizes the philosophy of child welfare. Part of Fundamental Rights; only two Articles in the Constitution in 1950, listed as 'offences' and which, provided for 'punishment' were - trafficking and untouchability. Particularly, **Article 24** provides the most relevant provisions which are directly connected with Child labour. It prohibits the employment of children below the age of fourteen years, in any factory, mine or any other hazardous employment which involves danger or risk to the physical or mental health of children. Part of Fundamental Rights; protecting children from performing hazardous labour.
- h) **Article 39(e)** directs the State to adopt protective measures so that the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.
- i) **Article 39(f)** urges upon the State to see that —children are given opportunities and proper facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth, are protected against exploitation and against moral and material abandonment.¶
- j) **Article 41** requires that, —the state shall within the limits of its economic capacity and development, make effective provision for securing the right to education¶
- k) **Article 42** indirectly aims at the healthy and favorable atmosphere for securing just and humane condition of work as Article 24 does not prohibit their employment totally.
- l) **Article 43** seeks that the State shall endeavor to secure by suitable legislations etc. to all workers (which also includes the Child labourers), not only to work, but living wages, conditions of work ensuring a decent standard life and full enjoyment at leisure and social as well as cultural opportunities.
- m) **Article 45** the State is obliged to provide compulsory early childhood care and education to the children. The main aim of this Article is to provide compulsory education along with eradication of illiteracy.
- n) **Article 46** directs the state to promote with special care the educational and economic interest of the weaker sections of the people, and in particular, of the scheduled castes and scheduled tribes and to protect them from social injustice and all forms of exploitation. So this provision, therefore automatically applicable to the children of

suchclass.

- o) **Article 47** says children has a right to nutrition, it is the prime responsibility of the state and the society to see that he is not deprived of that right, because the future of a nation depends on the proper physical and mental growth of its children.
- p) **Article 51A (k)** imposes a fundamental duty on parent or guardian, —to provide opportunities for education to his child or. as the case may be, ward, between the age of 6 to 14 years.¶

V. EXTENT OF PUNISHMENT FOR CHILDREN RELATED CRIMES¹⁴

In India, the punishment for juvenile is governed by the Juvenile Justice (Care and Protection of Children) Act, 2015. This Act defines a juvenile as a person who is below the age of 18 years.

The act emphasizes on the rehabilitation and reintegration of juveniles in dissent with the law, rather than punishment. It promotes a child-friendly approach and aims to ensure the beneficent of the child is protected at all times. Under the act, juveniles can be subjected to various forms of punishment, including counseling, community service, probation, and placement in a special home or observation home. The act also prohibits the sentencing of juveniles to the death penalty or life imprisonment without the prospect of release.

In cases where a juvenile is found guilty of a serious offence, they may be sent to a special home for a period of 3 years, after which they are to be released and reintegrated into society. The intent is on providing them with education, vocational training, and other support services to help them lead a productive and law-abiding life.

Overall, the approach to punishment for juveniles in India is more focused on rehabilitation and reintegration, rather than punitive measures. The aim is to ensure that juveniles are given a second chance to reform and become productive members of society.

¹⁴ <https://aklegal.in/comparative-analysis-of-juvenile-justice-systems-of-india-an-adversarial-system-and-germany-an-inquisitorial-system/#:~:text=In%20contrast%2C%20India's%20juvenile%20justice,on%20individualized%20treatment%20and%20support.>

VI. THE CHILD LABOUR (PROHIBITION AND REGULATION) ACT, 1986

There are a number of enactments which prohibits the employment of children below fourteen years and fifteen years of age in certain specified employments however there is no procedure laid down in any law for deciding which employments, occupation or processes the employment of children should be banned. There is also no law to regulate the working conditions of children in the employments where they are not prohibited from working resultantly they are working under exploitative conditions. It is to be noted that the legislations in India since 1881 have progressively extended legal provisions to the working children.¹⁵ Provisions relating to child Labour under various enactments have concentrated mainly on aspects such as minimizing working hours, increasing minimum age, and prohibition of employment of children in occupation and processes detrimental to the health and welfare of children of tender age. The Employment of Children Act, 1938, which was the earliest enactment on child labour, was repealed by the Child Labour (Prohibition and Regulation) Act, 1986. This Act has been enacted to prohibit the engagement of children in certain employment and to regulate the conditions of work of children in certain other employments.

The Child Labour (Prohibition and Regulation) Act is an outcome of various recommendations made by series of Committees, such as, the National Commission on Labour 1969, the Committee on Child Labour 1979, Gurupadaswamy Committee on Child Labour 1976, and Mehta Committee 1984. From a reading of the recommendations made by various Committees, there was a national consensus in favour of a uniform comprehensive legislation, to prohibit the engagement of children in certain employments.

To achieve this goal, Parliament enacted the Child Labour (Prohibition and Regulation) Act, 1986 which came into force on 23rd December, 1986. Child Labour (Prohibition and Regulation) Act is a social legislation, designed to protect the interest of a class of society who, because of their weak socio- economic conditions, deserves such protection. The Act seeks to achieve the following objectives:

- i. To ban the employment of children, who have not completed their fourteenth year of age in specified operations and processes.

¹⁵ Times News Network: Rajasthan Moves to Register Child Marriages, Sparks Controversy, The Times of India, 23rd January, 2010.

- ii. To lay down a procedure to decide modification to the Schedule of banned occupations or processes.
- iii. To regulate the conditions of work of children in employments where they are not prohibited from working.
- iv. To lay down enhanced penalties for employment of children in violation of provision of this Act, and other Acts which forbid the employment of children.
- v. To obtain uniformity in the dominion of child in the related laws.

The Act prohibits the employment of children in certain occupations and processes set forth in Part A and Part B of the Schedule.¹⁶ The Court also must strive to interpret the statute as to protect and achieve the objective and purpose of the enactment. Any narrow or technical interpretation of the provisions would defeat the legislative policy. The Court must therefore, keep the legislative policy in mind in applying the provisions of the Act to the facts of the case.

The Act also provides that the Central Government may, by notification in the Official Gazette, constitute an Advisory Committee to be called the Child Labour Technical Advisory to advise the Central Government for the purpose of addition of occupations and processes to the Schedule. The Committee shall consist of a Chairman and such other members not exceeding ten, as may be appointed by the Central Government.

The Act penalizes the person who employs any child or permits any child to work in contravention of the provisions of section 3, with imprisonment for a term which shall not be less than three months but which may extend to one year or with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees or with both.¹⁷ Upon repeating the act of employing the child in contravention of provisions of section 3, the employer shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years.

VII. THE PROHIBITION OF CHILD MARRIAGE ACT, 2006

The basic objective of the Prohibition of Child Marriage Act, 2006 is to provide for the prohibition of solemnization of child marriages and for matters connected therewith or

¹⁶ Section 3, Child Labour (Prohibition and Regulation) Act, 1986.

¹⁷ Section 14(fl. *Ibid.*

incidental thereto. According to this law a Child Marriages is a Marriage to which either of the contracting parties is a Child and child means a person who, if male, has not completed twenty one years of age and if a female, has not completed eighteen years of age. Some of the specific features of the Act are –

- 1) Child Marriage is voidable at the option of the contracting party who was a child at the time of the marriage, provided that the petitions for annulling a child marriage by a decree of nullity are filed at the District Court only by a contracting party to the marriage.
- 2) While granting a decree of nullity, the District Court shall make an order directing both the parties to the marriage and their parents or their guardians to return to the other party, money, valuable ornaments or other gifts received on the occasion of marriage by them from the other side, or an amount equivalent to the value of such valuable ornaments and other gifts.
- 3) The quantum of maintenance payable shall be determined by the District Courts having regard to the needs of the child the lifestyle enjoyed by such child during her marriage and the means of income of the paying party.
- 4) If there are children born out of the child marriage, the welfare and the best interest of the child shall be given paramount consideration by the District Court before passing an order.
- 5) Notwithstanding that the child marriage is annulled by a decree of nullity, every child begotten and conceived of such marriage, shall be deemed to be a legitimate child for all purposes.
- 6) If a male adult above eighteen years of age, contracts a child marriage he shall be punishable with rigorous imprisonment which may extend upto two years or with fine which may extend to one lakh rupees or both.
- 7) The Act punishes person performing, conducting directing or abetting any child marriage, with rigorous imprisonment which may extend to two years and shall be liable to a fine which may extend to one lakh rupees, unless he proves that he had reason to believe that the marriage is not a child marriage.
- 8) The Act also punishes for promoting, permitting and participating in a child marriage.
- 9) Under certain circumstances child marriage is void, such as, (a) where child is taken or enticed out of the keeping of a lawful guardian; (b) by force compelled or by any deceitful means induced to go from any place; or (c) is sold for the purpose of marriage

and made to go through a form of marriage afterwards a child may be trafficked for immoral purposes.

10) Under the Prohibition of Child Marriage Act, 2006, the court is given power to issue an interim injunction to prevent a child marriage without giving any notice. Any marriage in contravention of injunction shall be *void ab initio*.

11) All offences under the Act are cognizable and non-bailable.

12) The Act also provides for the appointment of child marriage prohibition officers for the purpose of, (a) preventing the solemnization of child marriages by taking such Actions as he may deem fit; (b) collecting evidence for the effective prosecution of persons contravening the provisions of the Act; (c) to advise either individual cases or counsel the residents of the locality not to indulge in promoting helping, aiding or allowing child marriages; (d) to create awareness of the evils which results from child marriages and to sensitize the community on the issue of child marriages.

VIII. THE RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION ACT, 2009

The Right of Children to Free and Compulsory Education Act, 2009 defines child's as a male of female child of the age of six to fourteen years. Elementary education means the education from first class to eight classes *Capitation fee* means any kind of donation or contribution or payment other than the fee notified by the school. According to this law, a child belonging to disadvantaged group means a child belonging to the Scheduled Caste, the Scheduled Tribe, the socially and educationally backward class or such other group having disadvantage owing to social, cultural, economical, geographical, linguistic, gender or such other factor, as may be specified by the appropriate Government by notification and *child belonging to weaker section* means a child belonging to such parent or guardian whose annual income is lower than the minimum limit specified by the appropriate Government, by notification.¹⁸

The term compulsory education under the act means obligation of the government to:

- i. Provide free elementary education to every child of the age of six to fourteen years; and
- ii. Ensure compulsory admission, attendance and completion of elementary education by

¹⁸ Section 2(e). *Ibid.*

every child of the age six to fourteen years.

It shall be the duty of the appropriate Government –

- i. To ensure availability of a neighborhood school as specified in section 6;
- ii. To ensure that the child belonging to weaker section and the child belonging to disadvantaged group are not discriminated against and prevented from pursuing and completing elementary education on any grounds;
- iii. Provide infrastructure including school building, teaching staff and learning equipment;
- iv. Provide special training facility specified in section 4;
- v. Ensure and monitor admission, attendance and completion of elementary education by every child;
- vi. Ensure good quality elementary education conforming to the standards and norms specified in the schedule;
- vii. Ensure timely to check section 8(i) prescribing of curriculum and courses of study for elementary education;
- viii. And provide training facility for teachers.

IX. THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2000 (REPEALED)¹⁹

In the year 1986 the Juvenile Justice Act, was enacted with a view to provide for the care, protection, treatment, development and rehabilitation of neglected and delinquent juveniles and for the adjudication of certain matters relating to them, and disposition of delinquent juvenile. A review of the working of Juvenile Justice Act, 1986 indicated that much greater attention is required to be given to children in conflict with law and those in need of care and protection. The justice system as available for adults is not considered suitable for being applied to a juvenile or the child or anyone on their behalf including the police, voluntary organizations, social workers, or persons and guardians throughout the country.

An urgent need is also felt for creating adequate infrastructure necessary for the implementation of the proposed legislation with a larger involvement of informal system specially the family,

¹⁹ The Juvenile Justice (Care and Protection of Children) Act, 2015 has come into force from 15 the January, 2016 and repeals the Juvenile Justice (Care and Protection of Children) Act, 2000.

the voluntary organizations and the community.

To achieve the aforesaid objective, the Juvenile Justice Act, 1986 has been repealed and re-enacted as The Juvenile Justice (Care and Protection of Children) Act, 2000.²⁰ This is an Act to consolidate and amend the law relating to juvenile in conflict with law and children in need of care and protection by providing for proper care, protection and treatment by catering to their developmental needs and by adopting a child friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation through various institutions established under this law.

X. THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES (POCSO) ACT, 2012

To deal with child sexual abuse cases, the government has brought in a special law, namely, the Protection of Children from Sexual Offences (POCSO) Act, 2012. The Act has come into force with effect from 14th November, 2012 along with the rules framed there under. The POCSO Act, 2012 is a comprehensive law to provide for the protection of children from the offences of sexual assault, sexual harassment and pornography, while safeguarding the interests of the child at every stage of the judicial process by incorporating child-friendly mechanisms for reporting, recording of evidence, investigation and speedy trial of offences through designated special courts.

The Act defines a child as any person below eighteen years of age, and defines different forms of sexual abuse, including penetrative and non-penetrative assault, as well as sexual harassment and pornography, and deems a sexual assault to be –aggravated under certain circumstances, such as when the abused child is mentally ill or when the abuse is committed by a person in a position of trust or authority vis-a-vis the child, like a family member, police officer, teacher, or doctor. People who traffic in children for sexual purposes are also punishable under the provision relating to abetment in the said Act.

The Act prescribes stringent punishment graded as per the gravity of the offence, with a maximum term of rigorous imprisonment for life, and fine. In keeping with the best

²⁰ Act 56 of 2000, came into force on 1st April, 2001, vide S.O. 177(E), dated 28th February, 2001. Published in the Official Gazette of India, Extra, Pt. II, Section 3(u), dated 28th February, 2001.

international child protection standards, the said Act also provides for mandatory reporting of sexual offences. This casts a legal duty upon a person who has knowledge that a child has been sexually abused to report the offence; if he fails to do so, he may be punished with six months imprisonment and/or a fine.

The Act also casts the police in the role of child protectors during the investigative process. Thus, the police personnel receiving a report of sexual abuse of a child are given the responsibility of making urgent arrangements for the care and protection of the child, such as obtaining emergency medical treatment for the child and placing the child in a shelter home, should the need arise. The police are also required to bring the matter to the attention of the Child Welfare Committee (CWC) within 24 hours of receiving the report. So the CWC may then proceed where required to make further arrangements for the safety and security of the child. The said Act makes provisions for the medical examination of the child in a manner designed to cause as little distress as possible. The examination is to be carried out in the presence of the parent or other person whom the child trusts, and in the case of female child, by a female doctor.

The Act provides for special courts that conduct the trial in-camera and without revealing the identity of the child, in a child-friendly manner. Hence, the child may have a parent or other trusted person present at the time of testifying and can call for assistance from an interpreter, special educator, or other professional while giving evidence; further, the child is not to be called repeatedly to testify in court and may testify through video-link rather than in a courtroom. Above all, the said Act stipulates that a case of child sexual abuse must be disposed of within one year from the date the offence is reported. It also provides for the special court to determine the amount of compensation to be paid to a child who has been sexually abused, so that this money can then be used for the child's medical treatment and rehabilitation.

The Act also recognizes almost every known form of sexual abuse against children as punishable offence, and makes the different agencies of the State, such as the police, judiciary and child protection machinery, collaborators in securing justice for a sexually abused child. Further, by providing for a child-friendly judicial process, the said Act encourages children who have been victims of sexual abuse to report the offence and seek redress for their suffering, as well as to obtain assistance in overcoming their trauma. In time, the said Act will provide a means not only to report and punish those who abuse and exploit the innocence

of children, but also prove an effective deterrent in curbing the occurrence of these offences.

The Act is to be implemented with the active participation of the state governments under Section 39 of the said Act, the State Governmental Organisations, professionals and experts or persons Iramc(1 in and having knowledge of psychology, social work. physical health, mental health and childdevelopment to assist the child at the trail and pretrial stage.

XI. THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015

After the 2012 Delhi Gang Rape Case, it was found that one of the accused was a few months away from being 18, so, as per the *Juvenile Justice Care and Protection of Children Act, 2000* he was tried in a juvenile court. On 31 July, 2013, Subramanian Swamy, a BJP politician filed a Public Interest Litigation in the SC of India seeking that the boy he tried as an adult in a court. The Court asked the juvenile court to delay its verdict. After the SC allowed the juvenile court to give its verdict, the boy was sentenced to 3 years in a reform home on 31 August, 2013. The victims' mother criticized the verdict and said that by not punishing the juvenile the court was encouraging other teenagers to commit similar crimes.

In July 2014, Minister of Women and Child Development, Maneka Gandhi said that they were preparing a new law which will allow 16-year olds to be tried as adult. She said that 50% of juvenile crimes were committed by teens who know that they can get away with it. She added that changing the law, which will allow them to be tried for murder and rape as adults, will scare them. The bill was introduced in the Parliament by Maneka Gandhi on 12 August, 2014. On 22 April, 2015, the Cabinet cleared the final version after some changes.

The Juvenile Justice (Care and Protection of Children) Act, 2015 has come into force from 15th January, 2016 and repeals the *Juvenile Justice (Care and Protection of Children) Act, 2000*. The Juvenile Justice (Care and Protection of Children) Bill, 2015 was passed by Lok Sabha on 7th May, 2015; was passed by Rajya Sabha on 22nd December, 2015 and received Presidential assent on 31 December, 2015.

The Statement of Objects and Reasons of the Act read as follows:

An Act to consolidate and amend the law relating to children alleged and found to be in conflict

with law and children in need of care and protection by catering to their basic needs through proper care, protection, development, treatment, social re-integration, by adopting a child-friendly approach in the adjudication and disposal of matters in the best interest of children and for their rehabilitation through processes provided, and institutions and bodies established, here in under and for matters connected therewith or incidental thereto.¶

- Whereas, the provisions of the Constitution confer powers and impose duties, under clause (3) of Article 15. clauses (e) and (f) of Article 39, Article 45 and Article 47, on the State to ensure that all the needs of children are met and that their basic human rights are fully protected;
- Whereas, the Government of India has acceded on the 11th December, 1992 to the Convention on the Rights of the Child, adopted by the General Assembly of United Nations, which has prescribed a set of standards to be adhered to by all State parties in securing the best interest of the child;
- Whereas, it is expedient to re-enact the Juvenile Justice (Care and Protection of Children) Act, 2000 to make comprehensive provisions for children alleged and found to be in conflict with law and children in need of care and protection taking into consideration the standards prescribed in the Convention of the Rights of the Child, the United Nations Standard Minimum Rule for the Administration of Juvenile Justice, 1985 (the Beijing Rules), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990), the Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption (1993), and other related international instruments.
- The Juvenile Justice (Care and Protection of Children) Bill, 2015 was passed by Lok Sabha on 7th May, 2015; was passed by Rajya Sabha on 22nd December, 2015 and received Presidential assent and came into force on 31st December 2015, to whole India except the state of Jammu and Kashmir¹³. The JJ (C&P) Act, 2015 provides for strengthened provisions for both children in need of care and protection and children in conflict with law. And in the new Act some important and many new definitions also included such as orphaned, abandoned and surrendered children; and petty, serious and heinous offences committed by children; clarity in powers, function and responsibilities of Juvenile Justice Board (JJB) and Child Welfare Committee (CWC); clear the timelines for inquiry by Juvenile Justice Board (JJB); special provisions for serious offences committed by children above the age of sixteen year and also included a new

chapter on Adoption to streamline adoption of orphan, abandoned and surrendered children; inclusion of new offences committed against children; and mandatory registration of Child Care Institutions.²¹

XII. CONCLUSION

A Child is the only bridge which connects present with the future. Child because of his tender age and mental immaturity requires to be nourished as a little plant needs to develop into a big tree. Cultural, social, and economic factors significantly influence children's rights in India, often acting as barriers to their full realization. Poverty, for instance, can force children into labor, limiting their access to education and healthcare. Cultural norms, like preference for sons or early marriage, can also negatively impact girls' rights. Addressing these complex issues requires a multi-pronged approach, including poverty reduction, education, and awareness-raising about child rights.

Being an asset for the nation and humanity at large as well, it is the duty of the society and the state that „child welfare schemes’ should be kept in mind while making countrywide policies. Such Programs should be incorporated into our national policies so that our children may grow up to become robust citizens, physically fit, mentally alert and morally healthy, endowed with skills and motivations needed by society.

Child Labour, Child Trafficking, Child Marriage, Child Sexual Abuse, Child Abandonment, Cyberbullying of Children. Child Begging are some types of crimes against children and these crimes are caused by Poverty and Economic Inequality, Lack of Education, Weak Law Enforcement Social and Cultural Factors.

Explaining importance of children, the Supreme Court of India, in *People’s Union for Democratic Rights v. Union of India*,²² termed the children as “section of humanity” and observed that whenever any fundamental right, which is enforceable against private individuals such as, for example, a fundamental right enacted in Article 17, 23 or 24, is being violated, it is the constitutional obligation of the state to take the necessary steps for the purpose of prohibiting such violation and ensuring observation of the fundamental right by the private individual who is transgressing the same.

²¹ (2000] 5 SCC 488] 13 www.pib.nic.in

²² AIR 1982 SC 1473.

In Indian law, the legislative perspective on children primarily revolves around safeguarding their rights and welfare, encompassing protection from harm, ensuring access to education and healthcare, and promoting their overall well-being. Key legislative frameworks include the Juvenile Justice (Care and Protection of Children) Act, 2015, the Right of Children to Free and Compulsory Education Act, 2009, and the Protection of Children from Sexual Offences Act, 2012.

For the protection of child rights judiciary has pronounced various judgments related to the protection of children from sexual offences, protection under the penal code, protection through the Indian constitution, protection in the process of adoption etc.²³

As it is a commonly known fact that children are very delicate by both physical and mental faculties, so incidences of exploitation occurred with them leave long living effects on their physical, mental and social behavior. Exploited children may develop maladaptive, anti-social and self-destructive behaviors and thoughts. Sometimes such children try to cope with abusive activities and to understand the situation that why such things are being happened with them. This makes the situation worse and the incidences of exploitation start to occur much more frequently. To avoid such incidences children try to do things differently and in making such efforts they develop a range of maladaptive behaviors which can lead them into some pathological problems. In addition to this, children also start to hide the family-secrets. This situation prevents children from having real relationships with others and has life-long effects. Another negative aspect of abuse is the mental restraint over children. As abused children are always under an unknown fear of violent attack by their perpetrators, so they never try to do anything new. Abusive parents, relatives, guardians or any other abuser keep children under extremely tight control, in such situations children lose their sense of curiosity and stop to try new things and to apply their own minds in a condition of dilemma. They always look at their parents or guardians before taking any decision. This affects the process of achieving their natural intellectual potential adversely.

Continuous exposure to violence and trauma cause physical stress, autonomic and endocrine hyper-arousal in which victim children get stressed out. When abused children experience this hyper-arousal again and again they undergo permanent physiological changes.²⁴ These

²³ <https://www.ijcrt.org/papers/IJCRT2410547.pdf>

²⁴ <http://www.findcounseling.com/journal/child-abuse/child-abuse-effects.html>

changes result into over- reactions to stimuli, especially by things that remind the victim of the original event, generally being emotionally numb; craving high risk, stimulating, or dangerous experiences or self injuries; difficulties in attention and concentration; cardiovascular problems; and immune suppression which leads to a higher risk for colds and more severe illness.

However, it cannot be said that the list of effects abovementioned is exhaustive as besides these effects, children experiencing exploitation show so much changes in their behavior. Such behavioral changes range from very mild and unnoticeable symptoms to full-blown breakdown in their normal functioning.

In conclusion, it is also evident that there are significant differences in the child related laws system of India and Germany. While both the countries aims to rehabilitate Juvenile offenders and provide them with a second chance, the approaches taken by each country vary greatly. Germany's child related laws system is more focused on the rehabilitation and reintegration of juvenile offenders into society, with an emphasis on education, vocational training, and therapy. In contrast, India's child related laws system is more punitive in nature, with a focus on deterrence and punishment. Furthermore, Germany's system places a strong emphasis on the rights and welfare of the child, with a focus on Individualized treatment and support, in contrast, India's system often lacks adequate resources and infrastructure, leading to overcrowded and under-resourced juvenile detention centers. Overall, it is clear that there is room for improvement in both countries' child related laws system. India could benefit from adopting more rehabilitative and child focused approaches, while Germany could work on addressing Issues of overrepresentation of minority youth in the juvenile justice system. By learning from each other's strengths and weaknesses, both countries can work towards creating more effective and equitable child related laws system.²⁵

As far as child neglect is concerned, family support services can help families to care for their children and act as a safeguard so that signs of neglect can be spotted. We are learning more about what can be put into place to make a difference to children and families where neglect is occurring.

²⁵ <https://aklegal.in/comparative-analysis-of-juvenile-justice-systems-of-india-an-adversarial-system-and-germany-an-inquisitorial-system/#:~:text=In%20contrast%2C%20India's%20juvenile%20justice,on%20individualized%20treatment%20and%20support.>

It has come to be accepted that child exploitation is usually not an isolated incident but a series of incidents as child exploitation is not an individual's problem, it is also a social issue. The problem needs to be given special attention and perpetrators should be given exemplary punishment. Interestingly, the newspapers rarely report the action taken and conviction of the abuser in the fullest sense. Additionally, the victim is left to himself/herself without any substantial support from welfare agencies or other state machinery.

In India, being a closed society, victim children are compelled to remain silent sufferers by their parents because of fear of defamation, prestige and reputation. After independence in 1947, our forefathers made great efforts to prepare our Constitution. They were also well aware about the problem of child exploitation existing in the country. For this reason, various provisions were incorporated in our Constitution for safeguarding children and for their welfare. Article 23 of the Constitution provides the prohibition of traffic in human beings and forced labour. Article 24 specifically provides that no child below fourteen years of age shall be employed in factories and hazardous employment. These provisions are kept under the chapter „Fundamental Rights’ which are enforceable by the court. Article 39 (e), 39 (f) and 45 also make provisions for the welfare of children. However, these provisions find their place under chapter “Directive Principles of State Policy” and are not enforceable by the court but still they are important as the state has to achieve these goals. Despite of various constitutional provisions, national and international instruments, children are still being abused which is adversely affecting the growth of children and ultimately of our country.

Analysis of the legal machinery for control of sexual abuse of children in previous chapters makes it clear that it is scattered in different legal instruments. The existing laws do not contain any suitable definition of child exploitation. The Indian Penal Code, 1860 contemplates only three sexual offences namely, rape, unnatural offences and outraging modesty. Thus, the provisions of Indian Penal Code or any other existing enacted laws in India, do not deal with the child exploitation exhaustively. But after the amendment in existing provisions of Indian Penal Code, some peculiar matters pertaining to the child sexual abuse have been come under the circumference of the definition. Taking into consideration the seriousness of this offence on account of the relationship between the victim and the offender and the impact of the offence on the development of overall personality of the children, it should have been dealt with as a distinct offence.

The law, as it exists, is riddled with loopholes. For instance, India's LawBook has different ages to define restricting children from different acts, which provides a canopy for criminals. There is a plethora of children's issues that the state needs to tackle aggressively begging, child labour and sex work being the most urgent ones.

The Immoral Traffic (Prevention) Act, 1956 aims at the prevention of sexual offence only for trade or commercial purposes and overlooks the various causes of child sexual abuse or exploitation of children. Further, the penalties, prescribed by the Indian Penal Code, 1860 and the Immoral Traffic (Prevention) Act, 1956 for the sexual offences are not proportionate to the gravity of the offences of sexual abuse of children. Moreover, there is no provision under the existing laws for compensating the sexually victimized hapless children. As we know that the Juvenile Justice (Care & Protection) Act, 2000 focuses only on providing care and protection to children, who are being abused or likely to be abused. It does not contain any provision for penalties for child sexual abuse.

Beside it, various statutes provide rights to the children in various forms. Some of such statutes may be enumerated as Factories Act, 1948, Minimum Wages Act, 1948, Plantation Labour Act, 1951, The Mines Act, 1952, Hindu Adoption and Maintenance Act, 1956, Bombay Prevention of Begging Act, 1959, Orphanages and Other Charitable Homes (Supervision and Control) Act, 1960, The Motor Transport Workers Act, 1961, The Apprentice Act, 1961, Atomic Energy Act, 1962, Bidi and Cigar Workers (Conditions of Employment) Act, 1966, Immoral Traffic Prevention Act, 1956, Child Labour (Prohibition and Regulation) Act, 1986, The Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994, Persons with Disabilities (Equal Protection of Rights and Full Participation) Act, 1995, The Commission for Protection of the Rights of the Child Act, 2005, The Prohibition of Child Marriage Act, 2006, The Right of Children to Free and Compulsory Education Act, 2009 and The Protection of Children from Sexual Offences Act, 2012 etc.

Rape and sexual abuse of children in India, is a large problem without an easy solution. Though the issue persists worldwide, India's culture which traditionally keeps women below men, makes talk of private matters which are unallowable, and a corrupt and weak legal system, when it comes to rape of girl child, makes the problem even larger. However, the situation could be improved by appropriately educating children and adults on sexual abuse, and educating police and strengthening laws. Further women's empowerment may lead to healthy

changes as well.

No statute can be implemented in absence of corresponding policy measures. Policy is answer to what, how, when and where to do or not to do certain things. The Indian Government comes out with several policy measures in order to curb the menace of child exploitation. Some of them may be mentioned as National Policy for Children, 1974, National Policy on Education, 1986 and Programs of Action, 1992, National Policy on Child Labour, 1987, The National Health Policy, 2002, National Charter for Children, 2004 and National Plan of Action for Children, 2005.

It may be mentioned here that although our Constitution has a number of salutary provisions as Articles 14, 15, 16, 23 and 24 under Fundamental Rights but in what manner these provisions should be given effect to, is an unanswered question even after 66 years of enforcement of the Constitution. Even today we are struggling with the problem of child exploitation and working to make new laws as child labour, child prostitution; child sex tourism, child pornography etc. are still grim reality of Indian society. Laws made by the legislature are the dead letters closed in books and documents; we cannot expect the laws to be operated in vacuum. It is the duty of state and society to bring the laws in operation for the holy purpose for which they were enacted by our forefathers.

While on one side we realize a positive change in the attitude of society towards children there are some emerging issues where it can be seen that their position is going from bad to worse. In this regard, we may treat malnutrition as abuse against the children. Every child has right to get basic needs from their parents. If the parents are unable to provide minimum basic amenities, it is the duty of the concerned state to avail the needs of children. It is important to know what categories of individuals suffer from what sorts of malnutrition problems. The most important form, worldwide, is protein-energy malnutrition.

No doubt, India has excellent nutrition Programs on the ground and devotes substantial resources to the alleviation of malnutrition. However, the purposes of these Programs vary a great deal. As any military commander knows assets on the ground become more effective if they are coordinated and goal-directed, all pointing in the same direction. India's resources for alleviating malnutrition could be used more efficiently and effectively if they were organized in a goal directed Programs based on clear nutrition rights.

The response of society and various organs of state is commendable vis-à-vis condemnable in certain spheres. India, having the greatest cultural heritage and legacy, is very responsive towards any abuse of vulnerable part of society. Indian institutions by their inherent spirit combat any sort of discrimination.

While we are talking about organs of state and the institutions, it means the legislature, executive, judiciary, civil society; NGOs, pressure groups etc. contributed their roles in the existence of current response against the child exploitation. The role of judiciary needs special mention while the apex court as well various high courts come out with various pronouncements relating with the various aspects of child welfare and protection of child rights such as child labour, adoption, maintenance, sexual harassment and exploitation, juvenile justice etc. One of the landmark judicial pronouncements with regard to well being of children is *M. C. Mehta v. State of Tamil Nadu*²⁶ in which the Apex Court of India issued certain directions for the employers of children and the appropriate government. The Court directed for setting up of Child Labour Rehabilitation Welfare Fund and asked the concerned employer to pay Rs. 20,000/- for each child to be deposited in the fund which shall form corpus whose income shall be used only for the concerned child. Not only this, the court said that the liability of the employer would not cease even if he would desire to disengage the child presently employed.

Further, for the welfare and protection of children adopted by foreigners living abroad, the Apex Court in *Lakshmi Kant Pandey v. Union of India*²⁷, laid down that the Constitutional provisions reflect the great anxiety of the constitution-makers to protect and safeguard the interests and welfare of children in the country. While supporting transnational adoption, the Court observed that the primary object of adoption is the welfare of the child and great care has to be exercised in permitting the child to be given in adoption to foreign parents. The Court also laid down certain measures to make inter-country adoptions full proof.

The POCSO Act, 2012²⁸ strengthens child protection in India by specifically targeting sexual offences against children, providing stringent punishments, and establishing child-friendly procedures. It defines various sexual abuse acts, including sexual assault, sexual harassment,

²⁶ AIR 1997 SC 699

²⁷ (1984) 2 SCC 244

²⁸ Encated: 14th November, 2012, vide notification No.S.O. 2705 (E), dated 9th November, 2012, see Gazette of India Extraordinary, Part II, sec. 3(ii)/.

and pornography, and prescribes punishments graded by the severity of the offence. The Act also mandates special courts for speedy trials, ensuring that cases are handled with urgency and sensitivity.

XIII. SUGGESTIONS

1. Strengthening Enforcement Mechanisms:

- Enhance the capacity of enforcement agencies through training and resource allocation. Specialized training programs for police, judiciary, and social workers can improve their ability to implement and enforce children's rights laws effectively.

2. Increasing Awareness and Education:

- Conduct widespread awareness campaigns to educate the public about children's rights and the legal protections available. Schools, community centers, and media can play a significant role in disseminating this information.

3. Improving Socio-Economic Conditions:

- Addressing the root causes of violations of children's rights, such as poverty and illiteracy, is crucial. Implementing social welfare programs that focus on poverty alleviation, healthcare, and education can create an environment where children's rights are better protected.

4. Enhancing Collaboration with NGOs:

- Strengthen partnerships between the government and NGOs. NGOs have valuable experience and resources that can complement governmental efforts in protecting children's rights. Collaborative projects and funding support for NGO initiatives can enhance the overall impact.

5. Implementing Technology Solutions:

- Leverage technology to improve the monitoring and reporting of children's rights violations. Creating accessible platforms for reporting abuse and exploitation, and using data analytics to track progress and identify areas needing attention, can enhance enforcement.

6. Regular Review and Amendment of Laws:

- Continuously review and amend existing laws to address emerging issues and challenges. Ensuring that the legal framework remains relevant and effective in protecting children's rights is crucial for adapting to changing socio-economic conditions.

7. Community Involvement and Support Systems:

- Engage communities in the protection of children's rights. Community-based monitoring and support systems can provide a safety net for children and ensure that violations are promptly reported and addressed.

To conclude it is submitted that this is the need of hour that we should create child friendly environment in which a child may feel safe and secure. This is our collective duty to feel our children safe and keep them happy.

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