

CRIME AGAINST CHILDREN IN INDIA: PREVENTIVE AND PROTECTIVE LAWS

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ABSTRACT

A child is reviewed as a huge regal fortune of a nation-state as the inevitable destiny of any country relies upon exactly how its children grow and improve. In the current circumstance, the safeguard of children from abuse and mistreatment has become the fundamental goal of the general public. There have been various instances of child abuse as a sexual attack, child marriage, starving, repulsive assault, child battering, child prostitution, child pornography, and child labour which unexpectedly spotlight our society's own carelessness to secure our future generation. Child safety is seen as one of the essential obligations of the administration similar to the overall population and bearing in mind the challenges and tangles faced by the children. In this paper, we have expressly spoken about the numerous kinds of barbarities tackled by children, local laws, and proposals on child rights in India. Here, we will look into numerous institutions, numerous goals, rules, resolutions, and laws set up concerning child rights and besides look into the issues faced by children and the answer for it. In conclusion, we will finish up what we can do to have the place of an ideal framework taking a gander at the plans and strategies executed by the legislature. In Conclusion, we will examine and propose a couple of changes to the present legitimate structure to join various provisions essential for the security of the rights of children.

INTRODUCTION

The subject of child rights has ascended as one of the liveliest concerns for contention in this new thousand years. The truth rests that even today the children are a bit of the troubled minority pack so far as an affirmation of human rights and social value are concerned. The essential clarification behind this lacuna is that children are as yet not a total political element in the genuine feeling of the term. Also, they are physically, psychologically, and monetarily unprotected. In this quickly changing time of globalization, managing with child rights legitimately at each stage has taken an auxiliary parlour. This impacts the whole worth system, yet furthermore their present social and budgetary desires. In all likelihood that the inevitable destiny of mortality depends upon the child to an enormous degree, and still, by the days end a fragmentary and parochial procedure has been followed towards welcoming them on the standard of the social and political plan.

This underestimation takes even a significantly more awful turn when a child is either transient, nonconformist, a poor, a desperate, a Child Labour, a fortified work, a household help, a road child, a true or a psychologically or physically challenged child. In such conditions, they remain generally in an uncared state and ended up being exceptionally defenceless against crime that is executed against them. The infringement of Child Rights is trapped to socially wrong. It starts from genuine bad behaviours to ignorance by society and unsatisfactory child-raising, honesty, ill-advised consideration, wrong introduction, lack of good direction, and non-presence of the good normalized saving framework are a bit of the huge purposes behind children proceeded with weakness and abuse.

LEGAL DEFINITION OF A CHILDⁱ

As stated by Article 1 of the Convention on the Rights of the Child, 1989, "child implies each individual beneath the age of eighteen years notwithstanding if under the law applicable to the child, the majority is accomplished earlier." Thus, International Law provides the status of the child to the people who are below the age of eighteen years.

Different definitions of 'child' and 'minor', according to distinctive Indian laws abide by:

Section 2(ii) of The Child Labour (Protection and Regulation) Actⁱⁱ, 1986 states that "child implies as an individual who is below the age of fourteen years. This Act targets forbidding the

commitment of children in labour. Consequently, this Act makes provisions for children who are under fourteen years of age.

As indicated by Section 2(c) of The Plantations Labour Act, 1951, the child implies as an individual who is below the age of fifteen years. This Act has been established for the well-being of the people who are involved in the plantation. Section 24 of the Act further classifies juvenile children and implies that no child below twelve years shall be required or permitted to work in any plantation. Section 25 forbids the commitment of 'child' in the plantation work between the times of 6 A.M. and 7 P.M.

Definition of a child in The Prohibitions of Child Marriage Act, 2006 is, "child implies as an individual who, if a male, has not accomplished twenty-one years of age, and if a female, has not accomplished eighteen years of age." The primary intention of this Act is to forestall child marriages and Section 3 of the Act makes the child marriage invalid at the choice of an individual who was a child at the time of marriage.

Child as indicated by The Juvenile Justice Act,ⁱⁱⁱ "signifies an individual who has not accomplished eighteen years of age." The Juvenile Justice Act makes provisions for the well-being and developing desires of the juveniles. An individual who is under eighteen years of age is given the status of a child under this act and therefore, it is pertinent to them.

Section 2(d) of the POSCO Act^{iv} states that "child implies any individual under the age of eighteen years." This Act fundamentally aims to defend children from sexual offenses and annoyance.

Each law is shaped with various aims and consequently, in order to explain the purpose of their formation, 'child' has been characterized distinctively. However, the different definitions of 'child' in Indian Laws create obscurity and dishevelment so it is extremely fundamental to give a solitary definition that is mutual in all the laws of India.

Children and childhood around the globe, have comprehensively been acknowledged in terms of a 'golden age' that is interchangeable with guiltlessness, prerogative, satisfaction, joyfulness, and the like. It is the time when to get along without the conscientiousness of adult life, one barely shoulders any sort of authority or commitments. But, then, it is also veracious that children are helpless, particularly when they are in juvenile age or adolescence. The fact that children are helpless, they should be cared for and secured from 'the cruelty of the outside world and around. This being so, the grown-up child relation, guardians specifically, is said to

be responsible for 'supervision and conservation' – serving thereby the 'eventual benefits of the child' and meeting their everyday 'needs of existence and advancement'.

STATUS OF CHILDREN RIGHTS IN INDIA

In India, there are 472 million children younger than 18 years, representing 39% of the country's finished population. A tremendous rate, 29% of that figure builds up children between the ages of 0 to 6 years. Also, 73% of children in India are living in rustic locales, have restricted access to basic needs, for instance, nourishment, access to human services, education, and assurance.^v The significant level of children living in country districts often brings about negative concealments regarding children getting to major rights. India's commission for the security of children's rights (2005) (amended in 2006), has had some impact on propelling children's benefits in India. Conspicuously clearing out child labour, protection of children, and youngsters. Clearly in India advancing children's rights is an administration need that is adored inside the constitution and secured in the enactment. Despite this, children in India continue to face troubles in achieving these rights, mainly those connected to access to education, constrained work, and child marriage. Given that children make 39% of India's 1.30 billion population, it is fundamental that the benefits of these children are met.

SPEAKING THE RIGHTS OF CHILDREN

I. The right to an identity-

Children are approved with a name, legally enrolled with the administration, and a nationality (to have a place with a country). ^{vi}Further, they ought to have the right to identity, as an open record. This ensures national help, similarly as access to social organizations.

II. The right to health-

Clinical thought, sustenance, security from unsafe penchants (counting drugs) and safe work environments are made sure under the right to health, and articles 23 and 24 recognize access to unique consideration and support for children with remarkable necessities, similarly as quality medicinal services (checking drinking water, food, and a safe surrounding) independently.

III. The right to education-

The right to free education is basic for helping children to thrive discipline, major capacities while finding a sheltered and great environment to sustain a child's mental growth. This incorporates freedom from viciousness, hopelessness, or decay.

IV. The right to a family life-

If not family, at that point the children have the benefit to be taken care of by the guardians. Children should live with their parents until it is destructive to them. Regardless, 'family reunification', for instance, consent for family members living in various nations to head out to reestablish contact between relatives is basic. Under the ward of a guardian or family, they ought to be given isolation against ambushes on their lifestyle and individual history.

Children who don't have entrance to family life, save a benefit to exceptional consideration and must be dealt with fittingly, by individuals who regard their ethnic group, religion, culture, and language. Criminal children maintain a right to special assurance and help. In case of unfortunate behavior, children have the right to seek lawful advice under a juvenile justice component, with the upstanding and fast goal of procedures^{vii}.

V. The right to an opinion-

All children merit the option to communicate their opinions, liberated from judgment or scorn. In circumstances where grown-ups are effectively settling on decisions for children, the latter is authorized to have their opinions mulled over. While children's opinions may not be founded on fact, it is regardless of a significant source of observation for parents and ought to be considered. This relies upon the child's degree of development and age. Children have freedom of expression, as long as they are not abusing their opinions and information.

VI. The right to be protected from exploitation-

As exploitation is normally achieved through vicious methods, security from brutality is basic for liberating children from exploitation. This expands to manhandle, carelessness, and brutality by parents, regardless of whether it is legitimized as an instrument of accomplishing discipline at home. Further, children can't be made to work in arduous or threatening conditions.^{viii} Children can just partake in work doing safe undertakings that don't oblige their well-being or access to education or play. Sexual exploitation, another extent of exploitation, is likewise illegal, as an interest that exploits them. Over-comers of neglect, exploitation, and

abuse must get exceptional help to enable recovery and reintegration into society. Children likewise can't be punished brutally, regardless of whether it is under the degree of the justice system. Death or life sentences with adult detainees are not allowed.

ISSUES AFFECTING CHILDHOOD IN INDIA

I. Poverty in childhood-

The Oxford Poverty and Human Growth drive liberated its details on growing degrees of poverty around the globe. The report uses the Global Multi-level Poverty Index that takes into account impoverishment in wellbeing, education, and expectations for everyday comforts.^{ix} Hence, indicated by this record, a destitute individual is classified as "multidimensionally poor". Its discoveries dependent on the information from across 103 low and centre pay nations to propose that children represent 48% of the multidimensional poor on the planet. Also, tragically 50% of India's children are poor.

In a perfect world, this evaluation shows that all the administration activities focused on children are neglecting to show the ideal outcomes. In India, a child is protected with different development programs from the origination of adulthood. The unplanned population is one of the main reasons behind destitution. Instruction, combined with a little inspirational demeanor and a peaceful environment could do ponders not exclusively to ease however even to destroy the issue. It isn't just the obligation of the state to get it overburdened with uprising individuals from neediness all of a sudden. In any case, it can without a doubt, give an impact on the DPSPs that the state should find a way to guarantee that the youthful age of the child is secured. Conditions and drawn out weaknesses can undoubtedly and positively influence the mind of the child. It is to be plainly understood, on occasion, it might appear to be a small portion of children, not to overlook they make future in India and every one of our residents to have an affectionate expectation that neither the legislation nor the chief needs to build up a rough, more forceful succeeding generations. On the off chance that this is seen plainly, there can be no spot to build up any unfortunate manifestations in the rising generation and evacuating poverty.

II. Child Labour-

Child labour supports neediness, joblessness, lack of education, population development, and other social issues.

-Kailash Satyarthi

It is exceptionally discouraging when we see a child at a young age doing work in the city to gain some cash destitution, and related craving being its essential guilty party. As characterized, Child labour is the work that denies children of their adolescence, their latent capacity, and their poise, and that is hurtful to their physical and psychological development. Child labour has been a consistent hazard afflicting Indian culture for a considerable length of time. As the Indian economy creates at an emotional pace to get one of the world's future monetary superpowers, it is getting exceptionally imperative to secure the people in the future of the nation, which is without a doubt the children. Child labour holds a disgusting picture in present India. India bests the rundown in the world of having the greatest number of child labours,^x younger than 14, of approximately 100-150 million out of which at least 44 million are occupied with hazardous jobs. Even though the Indian Constitution disallows children less than 14 to be utilized in any occupation or a dangerous environment, child labour exists in this nation.

In the first place, Child labour is a gross encroachment of human rights. Initially, it contradicts Indian Constitutional laws and it additionally contravenes the UNICEF's 1989, Convention on the Child's Rights whose article 32, states the child's right to freedom from financial abuse and from performing any work that is probably going to be perilous or to meddle with the child's education, or to be detrimental to the child's well-being, or physical or societal growth.^{xi} At the point when the thought of childhood rings a bell in our mind, pictures like children playing and going around in school uniform emerges. In any case, for child labourers in India, its depictions of processing plant smoke, battered fingers, and exploitation that emerge. These children work for lengthy periods breathing in smoke, working with hazardous machines, and meeting abusing bosses. The labour showcase where these children work, the work supply becomes more than demand, and, consequently, they lack bargaining power with the equalization consistently favors the businesses prompting exploitation.

III. Child Abuse-

Childhood should be lighthearted, playing in the sun; not living a bad dream in the dimness of the spirit.

– Dave Pelzer

One of the greatest social marks of shame appended to society is child abuse. A child can be abused physically, explicitly, or psychologically. It tends to be a type of wound, ignorance, or careless conduct, accusing, forced sexual incitement and activity, and sexual exploitation. Child abuse leaves a profound scar on the life of a child and negatively affects their raising and further coordination with the general public. As shown by the National Crime Records Bureau, the occurrences of rape and murder rise consistently.^{xii} The emerging complications of life and changes in social-monetary situations have presented the children with new and various types of abuse.

Child abuse and neglect have a long-running impact on the child, their family, and the following generations. For the sake of protecting children from this situation, it is obligatory to develop preventive programs and to develop and enforce legal consequences.

ACTORS ROLE IN A CHILD’S LIFE

Children are the people of the future era,^{xiii} the best possible raising of children, and giving them legitimate training ensures that they end up being good members of society. The environment plays a significant role in building up their character which could likewise prompt the causation of crime among children. The term 'environment' incorporates home, school, and all associates that a child meets during its life. The two significant actors in the child's life are its parents and the state. The family practices an enormous impact on the child and crime. Secondly, society as a whole has a huge effect on child crime. The ignorance of a child from its parents, family, and society can make a negative impact on the physical, mental growth, and overall development of the child.

I. Role of Parents-

Childcare is fundamentally the obligation of the parents. The family supports the child and makes him/her what he/she should be. During the early stages, a child doesn't have the idea of right and wrong unless the parents teach it in the direction. Every child isn't blessed to have a

happy family because of various reasons. They might be dead, or alcoholic, or vicious and injurious, or in prison, or lost, or have abandoned their child.

Parental Responsibility:

Parental help is amoral responsibility and not legally enforceable. This can be deciphered extensively to include the provisions of physical care and appropriate bringing^{xiv}. The mother is lawfully obliged to keep up her legitimate and illegitimate children. Step-parents likewise have a responsibility to maintain their stepchildren. Deciding paternity is an essential piece of upholding the father's responsibility to help the child. Parents have to provide food, clothes, asylum, and necessary medical consideration and education. Parents who neglect to give fundamental care might be expelled from the home. This responsibility is enforceable by a court order, those parents without permission have a constrained option to visit their children. Courts can select guardians at whatever point there is a dispute and the undertaking is to see that the child is raised similarly as its natural parents. A guardian remains in a fiduciary connection to his ward. In designating a guardian for the child, the courts are directed by the opinion of the welfare of the child.

II. Role of the State:

At the point when the child isn't a member of any family, the king was the supreme guardian who protected every single such child. This principle of distinguishing the king was known as 'parent's patriae' or as the father of the nation who practiced his powers of guardianship where family failed. This doctrine of 'parent's patriae' has been subject to the child's upbringing. Today the premise of juvenile justice courts is the idea of parent's patriae. This principle is likewise observed by the Indian Constitution. Consequently, the state is liable for the welfare of the residents which includes children. The state utilizes the idea of guardian ad litem to secure a child whose parental rights are questioned. If a child has committed an offense, at that point, the child is put under the watchful eye of a fit institution or a state observation home which is generally run by the State^{xv}.

To guarantee justice, the criminal justice system has four significant parts in India, to be specific, the Investigating Agency i.e police, the Judiciary, the Prosecution Wing, and the Prison and Correctional Services. In many cases, the State applies forces in light of the child's conduct in opposition to criminal law. State obstruction also extinguishes non-criminal conduct in children like running away, disrupting disciplinary rules, breaking curfews, and

inconsiderate behavior. In Juvenile Justice, the State is liable for infringement of children's rights because of the state. The state has the obligation of securing the life, limb, and property of the subjects, and failure ought to be made acceptable by the compensatory framework. Delivering justice to victims comprises recognizing and protecting the victim's rights.

SCHEDULE OF THE CONSTITUTION AND PROVISIONS RELATING TO CHILDREN

The Founding Fathers of the Constitution has achieved certain arrangements in Chapters III and IV of the Indian Constitution under Fundamental Rights and DPSP's appropriately, perceiving the significance of child welfare and improvement^{xvi}.

Fundamental Rights-

Article 14 of the Indian Constitution gives equality before law or equal protection of law inside the territory of India. This provision of Indian Constitution is also applicable for the children too.

According to **Article 15^{xvii}** of the Indian Constitution, the state cannot discriminate any person on the grounds of race, caste, creed, sex and origin etc. It also says that there will be no obligation to anyone on using any resource of the country. Nothing in this article will stop the state from making any amendments for children and women. This Article is a constructive advance in support of women and children.

Article 17^{xviii} of the Indian constitution states about abolition of Untouchability, this exercise has been prohibited under this article and if anyone found who is still indulged in such odious crime will be punished by law. The requirement for such privilege was acknowledged in the light of the fact that children were exposed to fierce abuse previously.

According to **Article 21^{xix}** of the Indian Constitution it has been stated that no individual will be deprived from securing his right to life and liberty. It triggers the essential significance of childhood improvements and the privilege of food, sustenance & well-being is a vital part of the right.

According to **Article 21A** all the children from the age of 6 to 14 years will dispense free and mandatory education.^{xx} Because of the famous judgement like Mohini Jain vs. State of

Karnataka & Unnikrishnan vs. State of A.P and so forth finished in changing over a non-enforceable right to education in DPSP in to a feasible F.R prompting the consolidation of Article 21A. In the Judgement by the Apex court, the right to life of an individual is completely acknowledged when it is persuaded with the Right to education and henceforth it was included in Article 21 and was further added in the F.R and was expelled from DPSP.

Article 23^{xxi} of the Indian Constitution prohibits Human trafficking and forced labour. Trafficking of poor people and others the same kind of constrained work is denied and any infringement of this arrangement will be an offence and culpable under law.

Article 24^{xxii} of the Indian Constitution prohibits the employment of children in factories. This article says no child below the age of 14 is allowed to engross themselves towards any hazardous jobs or business.

Directive Principle of State Policy-

In spite of the fact that the DPSP are complementary to Fundamental Rights and give supervision to administration, nevertheless, nonjusticiable in themselves and needs legitimate assent for awareness. There are some specific provisions under this for children and awareness of their rights.

Article 39(a)^{xxiii} states, The State shall make sure that the procedure of the legal system supports justice, based on an equal opportunity, and shall, specifically, deliver free legal aid, by appropriate enactment or schemes or in some other manner, to guarantee that the justice is not being denied to any citizen on the basis of financial or social condition.

Article 39(e) states, men, women, or children should not associate themselves with any financial requirement to enter occupations unsuitable to their age and strength and moreover they couldn't be forced to do any such things.

Article 39(f) states that the children are being given an opportunity and various facilities to carry on with their life in a solid and prosperous way. And it is also being looked after that their adolescence and youth days are being shielded from exploitation and harassment. This provision in the Indian Constitution speaks explicitly about the chances and facilities to be evaluated out to them in a way that ensures their freedom and pride. Different provision under the DPSP incorporates Article 47 and Article 51 that cherishes the rising of sustenance level to

satisfy the calibre of individuals and the basic to respect the international treaties entered upon by India.

WELFARE PROVISIONS OF CHILDREN UNDER NATIONAL POLICIES OF INDIA:

Taking into consideration the difficulties and challenges encountered by children, laws have been led and numerous policies and programs are implemented for the growth and development of children in India: -

I. Legislation related to children:

- **Protection of Children from Sexual Offences Act, 2012** – It is an extensive law to protect the children from the crimes of rape, sexual annoyance, and pornography while protecting the interest of the child at each stage of the judicial proceeding by consolidating child-friendly frameworks for reporting, recording of proof, inquiry and quick trial of offenses through assigned Special Courts. This Act portrays various types of sexual abuse, comprising of penetrating and non-penetrating sexual assault, sexual annoyance, and pornography, and esteems a rape to be 'aggravated' in specific situations, for illustration, when the abused child is conceptually nauseating or when the abuser is an individual who is in a position of trust or power, similar to a relative, police official, educator, or doctor. Persons who traffick child for sexual intentions are likewise punishable under abetment under this Act.^{xxiv} This Act recommends rigorous sentence reviewed according to the magnitude of the offense, with a maximum punishment of rigorous imprisonment for life, and fine.

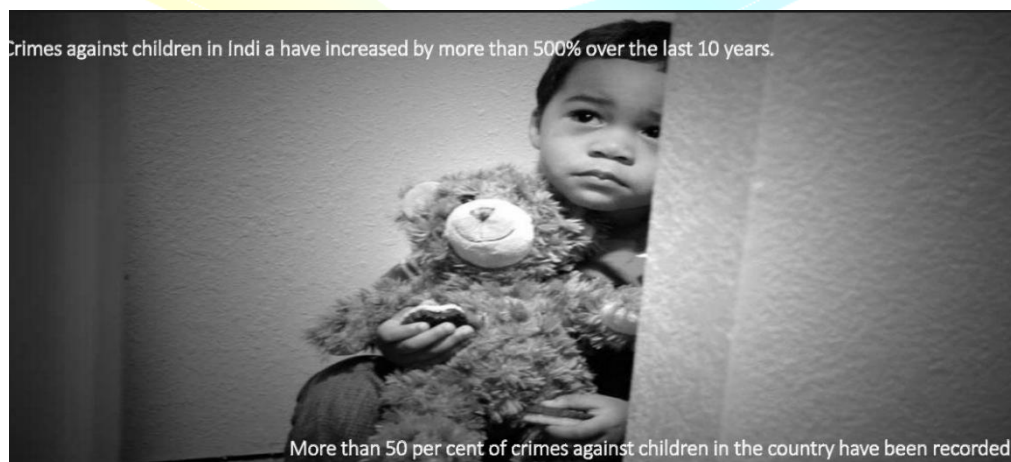


Fig: Photograph showing the picture of a scared child.

- **The Hindu Adoptions and Maintenance Act, 1956** - It classifies laws for adoption and care of children and pronounces that the children are treated equally in the matter of progression. The Act presents that women can adopt for herself with her own right.
- **The Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994** - It directs the utilization of pre-natal determination procedures.^{xxv} In spite of the fact that it allows the utilization of pre-natal sex determination strategies for identifying sex-linked disorders only by registered organizations but stringently denies determination of the gender of fetus and slaying of a female child in the mother's womb not only by medicinal specialists, gynecologists or pediatricians but also by any chromosomal research center, therapy center or hospital. The Act likewise prohibits the commercial ad using the pre-natal analytic method for sex determination.
- **The Child Labour Act, 1986** - It prohibits the commitment of children in specific employment and manages the environment of work of children in certain different occupations. The Act manages the well-being and safety of the child work in jobs or in forms.^{xxvi} The Act additionally states that if an accused owner can't prove that children employed were not under the age of 14 years, he can be imprisoned for an offense for engaging in child labour.
- **The Juvenile Justice Act, 2000** - It figures laws relating to juveniles in conflict with the law and give appropriate maintenance and safety for children in help. The Act receives a child-friendly method by taking into account the improvement requirements of the children and their therapy in institutes built up under the law. The Act carries Juvenile law and recommended a set of principles to be followed by all States for protecting the best interest of the child and gives choices, such as adoption, funding, child care, and official care.

II. Institutional Framework for Child Welfare:

- **National Commission for Protection of Child Rights (NCPCR)** - It was established as a legal body underneath the Ministry of Women and Child Development in 2007 and underneath the Commission for Protection of Child Rights (NCPCR) Act 2005 to ensure, help and protect child rights in the nation.^{xxvii} The primary objective of the Commission is to survey the precautions given to the safety of child rights and suggests methods for successful execution, extent child proficiency, investigate into

infringement of rights of the child, investigate the issues identifying with minimized and disadvantaged children who don't have family, families of detainees, study the juvenile home and suggest suitable actions.

- **Integrated Child Development Scheme (ICDS)** – It is a Centrally Supported Scheme of Government of India for childhood development and growth. The primary goal of the program is to establish a framework for legitimate emotional, physical and societal advancement of the child, develop well-being and nourishing status of children under the age of six years, decrease newborn child mortality, unhealthiness, and school dropouts, accomplish powerful policy enactment to advance child development and upgradeability of the mother to take care of the well-being, nourishment, education and different necessities of her child^{xxviii}.
- **Right of Children to Free and Compulsory Education (RTE) Act** – It came into power in the year 2010 which gives the right to children of free and mandatory education in the local institute which is to be established within 3 years' time frame.^{xxix}The target of the plan was that all children should be in school and all-inclusive maintenance by 2010, connecting all gender and societal gaps at an essential stage by 2007 and at basic schooling level by the year 2010.
- **Integrated program for Street Children** – It looks to avoid desperation of children who do not have homes and family relations and are helpless against exploitation and abuse. The program recovers these children and encourages their drawing from life in the city.

CRIME AGAINST CHILDREN WHICH ARE PUNISHABLE UNDER I.P.C

Children everywhere throughout the sphere are contemplated amid the most defenseless and blameless victims of crime in the general public. The IPC, 1860 perceives the different offenses committed against children and punishes their commission under different heads. These offenses may incorporate crime, kidnapping, sexual acts, and so on and are discussed herein.

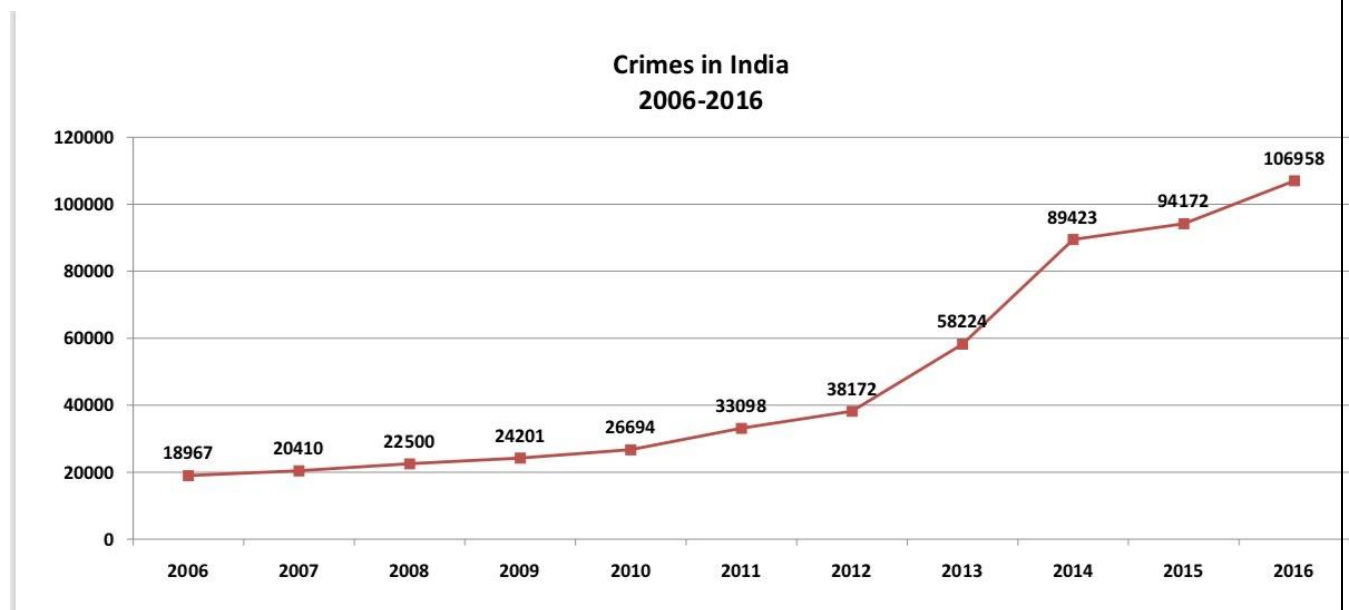


Fig: Crime in India against Children in the year 2015-2016

I. Murder –

Murder, as explained under Section 300, is a kind of the offense of punishable crime. The demonstration excepted under this section is found as culpable homicide not amounting to murder. Any individual who executes an offense of Murder is guilty under Section 302 with death or detainment forever and fine; given that capital punishment is articulated uniquely in the most extraordinary and uncommon cases whereby the complete internal voice of the system expects the holders of the legal force centre to correct such punishment dismissing of their personal opinion, for example, when the victim is an innocent youngster.

II. Abetment of Suicide -

Section 305 of the IPC permits “that a person who abets suicide, committed by a child below the age of eighteen years will be punished with death/life detainment, or detainment for as long as 10 years and fine. This provision depends on a sensible open strategy rule to forestall others' inclusion, affectation, and aiding at the end of a child's life.”

III. Kidnapping & Abduction-

Abducting in any layout diminishes the opportunity of an individual, subsequently impinging the right to life ensured under Article 21 of the Indian Constitution. The IPC, under Section 359, sees two sorts of Kidnapping: Kidnapping from India and Kidnapping from lawful guardianship. A wrongdoer of abducting will be rebuked under Section 363 of the IPC with the confinement of as long as 7 years and fine. Under Section 360 of IPC it is stated that whoever

fetches the individual outside the territory of India from their lawful guardian without consent commits the offence of kidnapping.

● **Kidnapping to compel for marriage-**

Section 366 provides “that whoever kidnaps/abducts any woman with aim/information prone to propel her to get married to any individual without wanting to, or altogether that she might be constrained/allured to illicit intercourse will be culpable with the detainment of up to 10 years and fine. Further, if such offense is carried out by utilizing the methods for criminal intimidation/maltreatment of power, a similar sentence will apply. The Bombay HC, on account of Emperor v. Ayubkhan Mir Sultan^{xxx}, has set out that a minor's consent to marry the accused can't be powerful in any event, even for the purpose of this section, and that it would amount to an offense under such conditions. This was later attested by the Apex Court in its judgment of Thakorlal D Vadgama v. The State of Gujarat,^{xxxi} by expressing that if the accused had established a foundation by inducement/allurement/threat and on the off chance that this addition impacts the minor to leave her guardians custody, then it'd be prima facie challenging for him to plead guiltlessness on the ground that minor willingly came to him.”

IV. Rape-

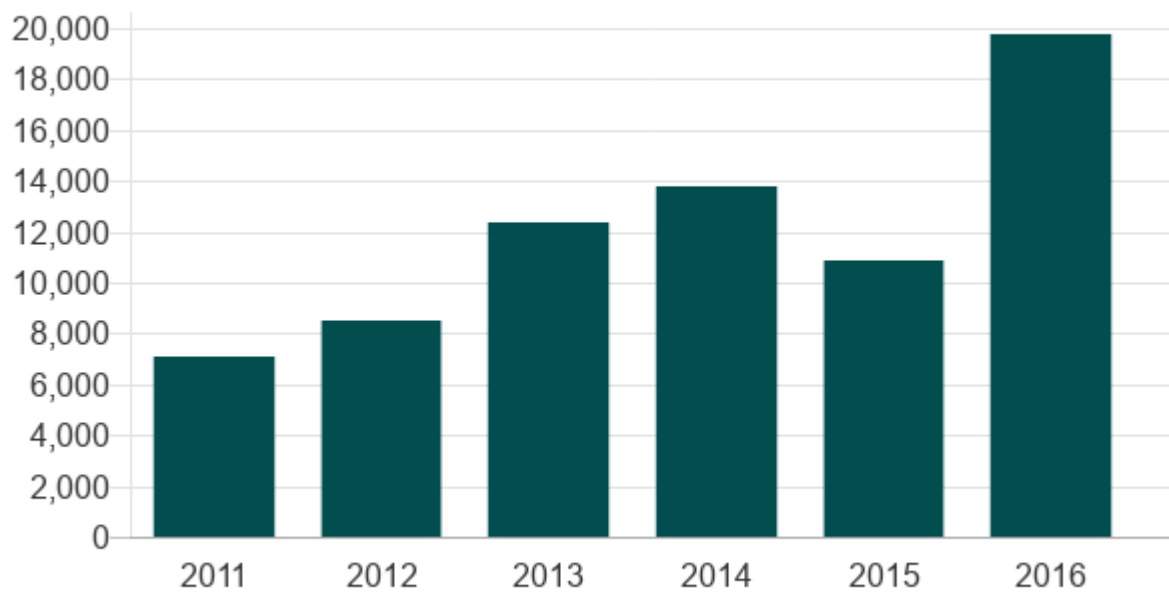
Section 375(6) of the IPC provides that “the commission of sexual intercourse in any of the forms referenced in clauses (a),(b),(c), and (d), with a minor girl younger than 18 years of age will add up to rape, regardless of her consent. It regards the minor girl's assent irrelevant and insignificant on a likely ground that she's unequipped for intuition objectively and giving any assent. Conceivably, the Legislature presumes that such a minor can be effectively tricked into consensual sexual intercourse without realizing its implication. In addition, this section under Exception 2, likewise secures married women younger than 15 years of age from being subjected to any kind of sexual acts.”

The offense of rape committed against minor girls is punished under IPC are as follows:

Section 376 (3)	Rape of woman below the age of 16 years.	Rigorous punishment of not less than 20 years/life imprisonment & fine.
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Section 376- AB	Rape of woman below the age of 12 years.	Rigorous punishment of not less than 20 years/life imprisonment & fine or the death sentence.
Section 376-DA	Gang rape of woman below the age of 16 years.	Imprisonment for life & fine.
Section 376-DB	Gang rape of woman below the age of 12 years.	Life Imprisonment & fine or the death sentence.

Recorded cases of child rape in India



Source: National Crime Records Bureau

BBC

Fig: Graph showing the number of rape cases recorded in India as per BBC till 2016.

V. *Offences against New Born and Unborn Children-*

The offenses against new-born and unborn children under the Indian Penal Code, 1860 incorporate those enrolled under Sections 312-318, for example causing miscarriage, wounds

to the unborn child, rejection, and exposure of new-born children, hiding of births and secret clearance of their dead bodies.

Voluntarily causing miscarriage-

The provision under the above-mentioned Sections is relevant to such situations where miscarriage is deliberately caused. Section 39 of the IPC characterizes 'voluntarily' as to deliberately cause/utilize such methods as known to probably cause an impact, subsequently, intention/mens rea to cause miscarriage is a basic component of this offense.

Woman with child & Woman quick with child-

The factum of pregnancy is a precondition to the offense. The section provides particular obligations to offenses against a woman who is known to be 'pregnant' or 'quick with child'. On account of *Queen-Empress v. Ademma*,^{xxxii} it was said that “the second a woman conceives and the pregnancy period starts, the woman is supposed to be pregnant; while for an additional situation of *Re: Malayara Seethu*^{xxxiii}, a woman 'quick with child' was alluded to as a further developed phase of pregnancy wherein 'quickening' is seen to be the mother's incitement to the development of her baby. In any case, an offense against a woman 'quick with child' is an aggravated type of that against a woman 'with child', and thus, the punishment endorsed for the latter is detainment for as long as 3 years or fine or both, and for the previous is as long as 7 years along with fine.”

Exception-

The exception to the offense of causing miscarriage or abortion are twofold:

Good Faith Section 312 of the IPC excludes such people who cause miscarriage in good faith (as characterized under Section 52) to save the woman's life.

In the case of *Dr. Jacob George v. The State of Kerala*,^{xxxiv} “a surgical operation for abortion removal was performed by a quack on a woman with her assent, which caused her death because of the damage in her uterus. The Supreme Court confirmed his conviction while setting out the rule that an individual could be held subject under this section if the abortion isn't completed in compliance with good faith for the objective of saving a woman's life.”

In another case of *State of Maharashtra v. Flora Santuno Kutino*,^{xxxv} “one of the respondents, who had unlawful relations with a woman and impregnated her, was involved in causing

miscarriage, and henceforth, was convicted by the High Court since such miscarriage was caused, not in compliance with good faith, however, to wipe off his illegal relationship.”

Medical Termination of Pregnancy Act, 1971- “It was instituted to legalize the closure of specific pregnancies by enlisted medical experts so as to accommodate safe abortion. The Act, dominant over the previously mentioned provisions of IPC, permits a woman to lawfully abort her gestation if its continuation would be harmful to her life (physically/psychologically); if the fetus is distinguished with irregularities; or if such pregnancy is a consequence of sexual assault or failure of contraceptives.”

Injury to an unborn child-

Section 315 and 316 foresee the provisions involving injuries caused to an unborn child. They cover the situation where an act is committed with the aim of forestalling such a child to be born alive or causing the death of a child who's quick unborn by an act amounting to culpable homicide.

Responsibility is on either father & mother or person having care of such child:

Opposing to the provision of the Guardians and Wards Act 1890, “wherein the father is pronounced as the usual guardian of a child, the IPC according to Section 317 similarly obliges both the father and mother the same to give care and security to the child, regardless of the kid being conceived in/outside marriage.”

Section 317 additionally puts a comparable obligation and risk, as imposed upon the guardians of the child, on the person made answerable for the care and security of the child, and henceforth, as highlighted in *Emperor v. Blanche Constant Cripps and Anr*^{xxxvi}, child care centre, orphanage, and so on are completely included under it.

Concealment of birth of a child-

Section 318 of the IPC deal with “a circumstance where an individual purposefully attempts to hide a child's birth by secretly concealing or disposing of the dead body of the child, irrespective of the death occurring before/after/during its birth. An individual will be sentenced under this Section will be obligated with detainment which may stretch out to 2 years/fine/both.”

Further, on the case of *Radha v. State of Rajasthan*,^{xxxvii} “It was said that if the child were alive at the hour of such secret disposal, at that point no offense would be made out under this Section, however, would draw in the different provision of the IPC.”

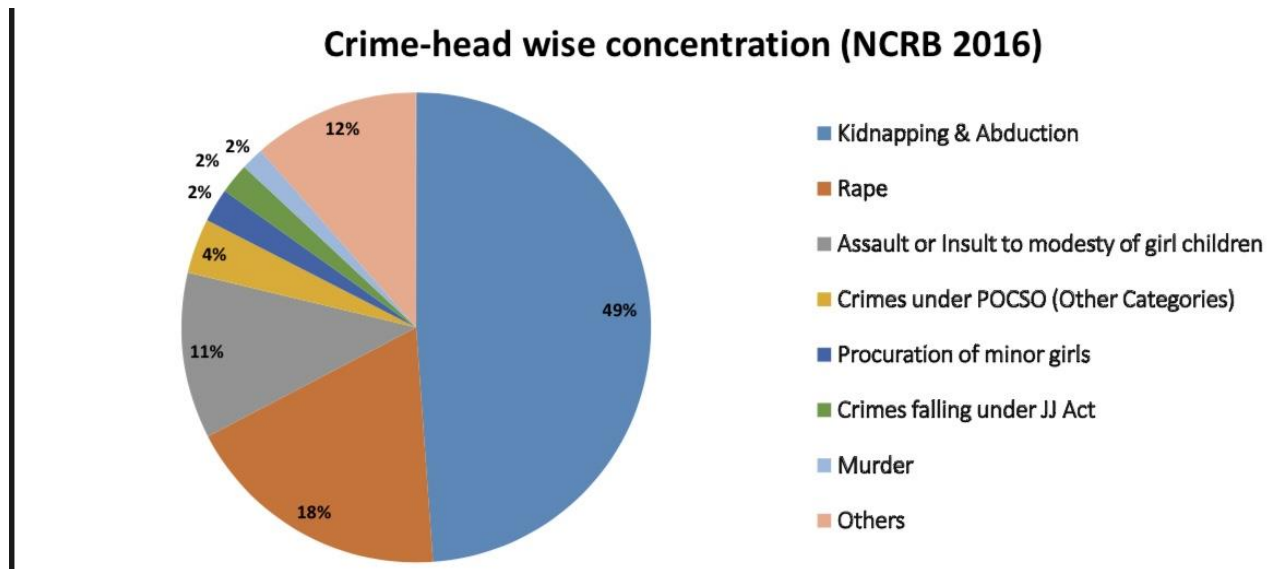


Fig: Crime-head wise concentration as per NCRB 2016

PREVENTION STRATEGIES OF CRIME AGAINST CHILDREN

Protecting children from abuse includes dynamic child-rearing and family care. Community associates can likewise be active in the security of protection. Working with children to create awareness and fearlessness is a significant part of teaching them self-protection. They should have the option to recognize potential dangers and take action. Teaching children about the most ideal approaches to prepare for slayers, particularly slayers the child may know, is perhaps the best shield against child abduction. Approaches to prevent child abduction and expand educating children on how to prepare for child molestation, and stranger abduction rest with parents and their children's awareness. Children's self-confidence to take action is a significant feature of getting enabled to secure themselves, regardless of whether through bodily force, escape, working with children to create awareness and mental fortitude is a significant part of educating them self-protection. Since we can't be around our children twenty-four hours, seven days out of each week, children must have the option to recognize potential dangers or issues and take action.

- **Implement policies to curb violence and advance facilities:** Making defensive conditions for girls and boys and adolescents requires investment and improved facilities over all areas. Such a facility runs from a safe mechanism to report violence face to face and on the web and sensitive treatment of child victims by law implementation and justice systems to physical and psychosocial support from the wellbeing and welfare system. Numerous nations need to reinforce their social service system and train social workers to offer help to children who have encountered violence. Frameworks and facilities additionally should be stronger to guarantee that children are protected if emergencies happen.
- **Build Awareness:** Awareness is simply the establishment of individual wellbeing and self-defense. Awareness is required before applying any personal safety or self-defense strategies, methods, and systems. There are no full-proof methods and security equipment that can ensure individual wellbeing and security. We live in a changing world and safe conditions can never be totally characterized or ensured. Personal security can't be appointed to other people, it is your duty. Effective individual security must be dynamic or liquid, in that awareness of danger must be continually evaluated.
- **Support coordinated national plans and actions to address violence against children:** Activities must be informed by intelligent and all-around facilitated national plans. The most encouraging approaches include thorough, multi-spectral activities that draw in both government and common society and depend on a proof about what attempts to prevent and respond to violence.
- **Strengthen legal and policy frameworks:** Legal and strategy changes can help protect children from harm, give justice to victims, and impact perspectives about the worthy treatment of children. Various nations need to reinforce the laws and strategies that protect children from violence, exploitation, and abuse – and to back these endeavors with strong monitoring and enforcement.
- **Shift norms and practices that spread violence:** National approaches should address cultural opinions that propagate violence against children in all settings. Child-rearing projects can shift norms concerning the resilience of brutality, help make positive parent-child relationships, and decrease cruel parenting practices. School-based projects can teach children to take care of problems in peaceful manners, manage their feelings, relate to other people, and securely manage abusive circumstances.

- **Educate and empower girls and boys to use their rights, manage risks, and look for help:** Children and adolescents can be influencers in their own lives and among their friends, families, and communities. Presentation endeavors based in schools and communities can support boys and girls to understand and securely report brutality in all its forms and look for help when they need it. Life skills and livelihood programs can assist adolescents with getting ready for adult economic responsibilities and delay childbearing and marriage until they are prepared to be parents. Changing gender norms that approve violence can help children and teenagers build more impartial and peaceful relationships.

CHALLENGES AHEAD

In the same way as other developing nations, India faces issues of new born child mortality, child marriage, and the occurrences of child widows, sex tourism, and child trafficking even through domestic borders for prostitution, child abuse, and child labour. There are many challenges ahead. Of all the demographic groups, children are likely the most socially hindered. Thus, a child-centered culture must be created. The legal framework ought to decipher the laws with regard to the rights and guidelines given in the CRC. This will give the child admission to justice through the court framework. All the children's enactments should be reviewed with regards to CRC and its guidelines and there must be connections between them. The legal system of India needs to advance a deal to secure the rights of the child and giving justice to the child. Legitimate change alone can't carry justice to the child. Without a doubt, the best preventive measure is awareness of such conceivable maltreatment and how to deal with it among the different facility providers – the doctors, educators, lawyers, judges, police, volunteers, parents, worker's organizations, and social workers – so they can expressively decrease the risk of abuse, if it happens, by reacting suitably.

Another challenge is the absence of multi-agency cooperation and coordination. Law enforcement divisions may not generally view online sexual abuse as a protection issue. Rather, in various nations, on the online/offline sexual abuse is classified as 'cybercrime'. E-crime or cybercrime police units are regularly principally centered on fraud and organized crime and may, therefore, have next to zero aptitudes, or expert enthusiasm, in child protection. Whereas profitable child exploitation websites may lawfully be categorized as organized crime or be

investigated by police officers more familiar with managing fraud or terrorism, a great part of the exchange of sexual abuse pictures and preparing doesn't fall under this umbrella. Police need to convey a child-centered reaction, which once in a while happens when they investigate online abuse and exploitation of children on their own.

To conclude, these challenges must be quickly addressed. Above all, the basic belief of the general legal principle that approaches be made, arrangements and procedures be established, and actions be made that are consistently and constantly to the greatest interest of the child ought to be followed. The child is a bud, let it bloom like a flower with the nutrition of rights, with sweets of freedom and with care and attention from parents as well as from the state under the support of the society. The battle for acknowledgment of the rights of the child will be a long excursion.

JUDICIAL RESPONSES

M.C Mehta vs. State of Tamil Nadu and others^{xxxviii}

For this Situation, Indian activist M.C. Mehta, the plaintiff in the present case prosecuted the state of Tamil Nadu to advance the functioning environments for children and to deliver children safeguarded from risky work with education. The Apex Court gave a milestone deciding that the Constitution of India (Article 24) requires the state to try to give free of charge, mandatory education for children. The Court establishes that children below 14 years of age couldn't be engaged with dangerous work, and commanded the administration to set up and nourish a child labour recovery welfare fund. Employers that dishonored child labour laws would be required to make a deposit into the reserve; the legislature would likewise be required to offer the parent of every child occupied with an unsafe occupation, or, more than likely make a deposit into the fund.

J.P Unnikrishnan and others vs. State of Andhra Pradesh &ors^{xxxix}

For this situation, the Apex Court stated that people of this nation have the Fundamental Right to Education under Article 21 of the Constitution of India. This right is not an absolute right. Every child of this nation has the right to free education until he finishes the age of 14. From there to, his right to education is a question to limits the financial limit and improvement of the State.

Neeraja Chaudhary vs. State of Madhya Pradesh ^{xi}

Justice P.N. Bhagwati- whenever it is found that any workman is forced to deliver labour for no payment or minimal wage, the assumption would be that he is a bonded labourer unless the owner or the State Government is in disapproval to prove otherwise by denying such assumption. The Court stressed on released and recovery of bonded labourers.

Machhi Singh and others vs. State of Punjab ^{xli}

Punjab Court held that case fell in the class of rarest of the rare cases calling for the death penalty since the victim of the murder was an innocent child who couldn't have or had not given even an excuse, significantly less than incitement for murder or the murder was committed in an extremely merciless, unusual, hateful, disgusting or tortuous way which emerged serious and extraordinary indignation of the community. The inspiration of the culprit, the weakness of the victim, the enormity of the crime, the execution thereof are factors that typically weigh with the court in granting capital punishment defining it as the rarest of the rare cases.

CONCLUSION

Children include the country's important Human Resource. The future success of the country relies upon how its children progress and grow. The prominent poet Milton said *Child Shows the man as sunrise shows the day*. So, it is the compulsion of the general public to take care of every child with the primary objective of guaranteeing full development of its personality. Children are the future administrators and torchbearers of the Society. They are the messengers of our intuition, social inheritance, belief systems, and ways of thinking. Children are extremely future components as incredible educators, researchers, judges, rulers, doctors, and many more, on whom the whole humanity established (rests). Shockingly millions of children are dispossessed of their childhood and right to education and in this manner, they are exposed to mistreatment and abuse.

Initiatives from common society have given millions of children the means of living a dignified life where they can value their childhood. Save the Children has produced incredible connections with government, national, and international bodies to make children rights a 'movement'. While authorities and government can just introduce strategies, disregarding

everyday child abuse and malnourishment should likewise be attacked at an individual level, any place conceivable give care and support this cause. All of the help counts in the battle against issues torturing children's lives.

ENDNOTES

- ⁱ Child means a person who has not completed 15 years.
- ⁱⁱ Shriniwas Gupta, Rights of Child and Child Labour: A Critical Study, JILI, XXXVII,(1995),p.531.
- ⁱⁱⁱ Juvenile Justice (Care and Protection of Children) Act, 2015.
- ^{iv} The Protection of Children from Sexual Offenses Act, 2012.
- ^v School teachers - A focal agents of Child Rights Protection., available at:<http://www.iosrjournals.org/iosr-jhss/papers/Conf.17004/Volume-4/9.%2039-43.pdf>.
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- ^{xi} The National Commission on Labour, 1969, The Committee on Child Labour, 1979, the Gurupadswamy Committee on Child Labour 1976 and the Mehta Committee, 1984.
- ^{xii} Andrea Burks,DO,Child Abuse Prevention,tuesday 15th April,2014, available at :<https://www.pinnaclehealth.org/wellness-library/blog-and-healthwise/blog-home/post/child-abuse-prevention>.
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- ^{xiv} Matrimonial Clauses Act,1973, Chapter-18, S,41(5).
- ^{xv} Juvenile Justice (Care and Protection of Children Act),2000.
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- ^{xvii} Article 15 in The Constitution of India 1949, Indiankanoon.org (2019), <https://indiankanoon.org/doc/609295/>
- ^{xviii} Article 17 in The Constitution of India 1949, Indiankanoon.org (2019), <https://indiankanoon.org/doc/1987997/>
- ^{xix} Article Liberty, Article 21 of the Constitution of India - Right to Life and Personal Liberty - Academike Academike (2019), <https://www.lawctopus.com/academike/article-21-of-the-constitution-of-india-right-to-life-and-personal-liberty/>
- ^{xx} Right to Education, Righttoeducation.in (2019), <http://righttoeducation.in/know-your-rte/about>
- ^{xxi} Article 23 in The Constitution of India 1949, Indiankanoon.org (2019), <https://indiankanoon.org/doc/1071750/>
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- ^{xxiii} Constitution Act & Central Government, Constitution of India Article 39A - Citation 37900 - Bare Act | LegalCrystal Legalcrystal.com (2019).
- ^{xxiv} Akansha, POCSO Act, December 2,2019,available at:<https://blog.nextias.com/pocso-act>
- ^{xxv} Advocate khoj, Pre natal Bare Act Available at <http://www.advocatekhoj.com/library/bareacts/prenataldiagnostic/>
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^{xxxi} Thakorlal D Vadgama v. The State of Gujarat, AIR 1973 SC 2313.
^{xxxii} Queen-Empress v. Ademma, (1886) ILR9MAD369.
^{xxxiii} In Re: Malayara Sethu vs. State of Karnataka, AIR 1955 Kant 27.
^{xxxiv} Dr. Jacob George v. The State of Kerala , 1994 SCC (3) 430.
^{xxxv} State of Maharashtra v. Flora Santuno Kutino and ors , 2007 CriLJ 2233.
^{xxxvi} Emperor v. Blanche Constant Cripps and Anr, 37 Ind Cas 306.
^{xxxvii} Radha vs. State of Rajasthan, 1973 (6) WLL 709.
^{xxxviii} M.C Mehta vs. State of Tamil Nadu and others, 1991 AIR 417, 1990 SCR Supl. (2) 518.
^{xxxix} J.P Unnikrishnan and others vs. State of Andhra Pradesh &ors, AIR 1993 SC 217S.
^{xl} Neeraja Chaudhary vs. State of Madhya Pradesh (1984) 3 SCC 243.
^{xli} Machhi Singh and others vs. State of Punjab (1983) 3 SCC 470.

