

# LAWS RELATING TO JUVENILE JUSTICE: NATIONAL AND INTERNATIONAL PERSPECTIVES

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## Abstract

It is an open fact that children are the future of the family, state, nation and the world as a whole. No one disputes this fact, yet these tender flowers, in the past never had special recognition towards their rights by way of legislations. 'Rights of Children' was an untold phrase till the League of Nations had adopted Geneva Declaration of Rights of Child in 1924. However, the rights of children got prominence with the Universal Declaration of Human Rights, 1948 which was followed by a Declaration on Rights of Children, 1959. An obligation was imposed on the State Parties to ensure the rights of children in 1989 with the Convention on Rights of Children. With the Convention of 1989, child rights have been given a momentum and explicit legislative actions have taken place. India having signed the Convention in 1992 has made a remarkable progress to ensure the rights of children. The term 'Rights of Children' within its umbrella covers the rights of juveniles who because of their tender age and immaturity come in conflict with laws. The present juvenile justice legislation is the third national legislation providing for a framework for juveniles, apart from various state legislations which were repealed with the passing of the first national legislation on juvenile in 1986. Each juvenile justice legislation has gone a step further with its re-enactment with an aim to have an appropriate legislative framework for children. The paper discusses the evolution of rights of children in general and juveniles in special at the international and national levels. It also discusses the active role that the Indian judiciary has played for protecting the rights of children.

## 1. Introduction

Childhood is considered as the 'golden period' in an individual's life. This is the time when a person is full of joy, emotions, innocence and is learning the ways of life. Children need ample protection during their tender age. Each child is special. But a question comes as to when can he enjoy his special life. The answer is very simple: When his rights are protected he can live a special life, full of dignity and freedom. There had been misconception in many countries that children can be possessed or they are like chattels and families can claim ownership over a child. Because of this misconception, many times children face violation of their rights.

Children are the most vulnerable population in the world as they are incapable to understand their rights and protect them. Their minds are like that of a sponge, they absorb whatever is available around them. So they can be very easily misled if brought in the vicinity of bad people. If they are impressed upon by such anti-social elements they may turn out to be liabilities on the country and society. They also easily become victims of assaults, exploitation, slavery and many other forms of violations of human rights. Vulnerability is also measured by the child's capability for self-protection. Various factors can be identified which makes the child vulnerable and hinders with the overall development of a child. These factors are physical and mental disabilities, neglect, powerlessness, defencelessness, passive role in society, physical, sexual and emotional exploitation etc.

The Supreme Court in *Gaurav Jain vs Union of India & Ors.*<sup>1</sup> Observed

“Children of the world are innocent, vulnerable and dependent. They are all curious, active and full of hope. Their life should be full of joy and peace, playing, learning and growing. Their future should be shaped in harmony and co-operation. Their childhood should mature, as they broaden their perspectives and gain new experience. Abandoning the children, excluding good foundation of life for them, is a crime against humanity. The children cannot wait till tomorrow; they grow every day; along with them grows their sense of awareness about the surroundings. Tomorrows are no answer; the goal of their present care, protection and rehabilitation is the need of the hour.”

In *Sheela Barse vs Secretary, Children Aid Society*<sup>2</sup>, the Court observed

“Gerontocracy in silence manner indicated that like a young plant a child takes roots in the environment where it is placed. Howsoever good the breed be if the sapling is placed on a wrong setting or an unwarranted place, there would not be the desired growth. Same is the situation with the humane child. The Child Welfare Officer (Probation) as also the Superintendent of the Observation Home must be duly motivated. They must have the working knowledge in psychology and have a sense of keen observation on their good functioning would depend the efficacy of the scheme.....Children in Observation Homes should not be made to stay long and as long as they are there, they should be kept occupied and the occupation should be congenial and intended to bring about adaptability in life aimed at bringing about a self-confidence and picking of humane virtues.”

## 2. International Framework

The issues relating to the well-being and protection of children have not only been of a national phenomenon but the same is taken care of by the international community too. The following steps have been taken by United Nations to provide children with their rights.

### 2.1 Convention on the Rights of Child, 1989

The apathy of children was not unknown to the United Nations. To promote and protect children's rights the UN General Assembly adopted the Convention and it was opened for signature on 20 November 1989 (the 30th anniversary of its Declaration of the Rights of the Child). United Nations Convention on the Rights of the Child (UNCRC) universally defined child rights. The Convention came into force on 2 September 1990. Currently, 193 countries are party to it. According to the UNCRC, Child Rights are minimum entitlements and freedoms that should be afforded to all persons below the age of 18 regardless of race, colour, gender, language, religion, opinions, origins, wealth, birth status or ability and therefore apply to all people everywhere. The UN finds these rights interdependent and indivisible, meaning that a right cannot be fulfilled at the expense of another right<sup>3</sup>.

The purpose of the UNCRC is to outline the basic human rights that should be afforded to children. There are four broad classifications of these rights. These four categories cover all civil, political, social, economic and cultural rights of every child.

- Right to Survival: A child's right to survival begins before a child is born.
- Right to Protection: A child has the right to be protected from neglect, exploitation and abuse at home, and elsewhere.

<sup>1</sup> AIR 1997 SC 3021

<sup>2</sup> 1987 AIR 656, 1987 SCR (1) 870

<sup>3</sup> United Nations General Assembly Resolution 25 session 44 Convention on the Rights of the Child on 20 November 1989

- **Right to Participation:** A child has a right to participate in any decision making that involves him/her directly or indirectly. There are varying degrees of participation as per the age and maturity of the child.
- **Right to Development:** Children have the right to all forms of Emotional, Mental and Physical development. Emotional development is fulfilled by proper care and love of a support system, mental development through education and learning and physical development through recreation, play and nutrition.

## 2.2 Optional Protocols to UNCRC

On May 25, 2000, the Optional Protocol to the CRC on the Sale of Children, Child Prostitution, and Child Pornography 2000 (Sex Trafficking Protocol) and the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (Child Soldiers Protocol) were adopted by UN. India has signed and ratified both of the optional protocols.

The international commitments have strongly expressed a demand for the protection of the rights of children. The commitments strive to commit that children are not exploited and deprived of their basic rights and enable the children to live a decent life.

## 2.3 Additional Rules on Juvenile Justice

United Nations being concerned with the treatment of children within state juvenile justice systems has drafted three documents of rules concerning child justice.

2.3.1 United Nations Standard Minimum Rules for the Administration of Juvenile Justice ('Beijing Rules') (1985)

2.3.2 United Nations Rules for the Protection of Juveniles Deprived of their Liberty ('JDLs' or 'Havana Rules') (1990)

2.3.3 United Nations Guidelines for the Prevention of Juvenile Delinquency ('Riyadh Guidelines') (1990)

The main principles of the three rules are:

- Depriving a child of his/her liberty should be a last resort and there should be a minimum period of deprivation set out by the state.
- Deprivation of children's right to liberty should follow the provisions and norms as laid out in international law
- The state should set up small open facilities where children can be tended to on an individual basis and hence avoid additional negative effects of deprivations of liberty
- The institutions should have adequate facilities and meaningful activities for children to promote their health, safety and responsibilities. It should also provide them with all necessary skill trainings to become responsible members of society
- Institutions should be decentralized to allow for children to continue having access to their families and community.
- Juveniles deprived of their liberty should be aided in understanding their rights and obligations.
- Personnel dealing with juveniles should have adequate training regarding child rights and welfare.
- Juvenile Justice Systems should be aimed at helping and benefiting the child so that he/she can return to society with a better understanding of rights and responsibilities.

2.3.4 Guidelines for Action on Children in the Criminal Justice System, 1997<sup>4</sup> have been accepted to

- To implement the Convention on the Rights of the Child and to pursue the goals set forth in the Convention with regard to children in the context of the administration of juvenile justice, as well as to use and apply the United Nations standards and norms in juvenile justice and other related instruments;
- To facilitate the provision of assistance to States parties for the effective implementation of the

<sup>4</sup>Annex to UN Resolution 1997/30 – Administration of Juvenile Justice ('Vienna Guidelines')

Convention on the Rights of the Child and related instruments.

2.3.5 The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption is an international convention dealing with international adoption, child laundering, and child trafficking in an effort to protect those involved from the corruption, abuses and exploitation which sometimes accompanies international adoption. The Convention has been considered crucial because it provides a formal international and intergovernmental recognition of intercountry adoption to ensure that adoptions under the Convention will generally be recognized and given effect in other party countries.

### 3. National Framework

The principles of equality, justice, equal protection and opportunities are enshrined in our Constitution and various other legislations in India. The brief overview of the same is presented.

#### 3.1 Constitutional provision

Constitution of India sets out the basic provisions for the protection of human rights of all its citizens including those of children. The Constitution lays special emphasis on the rights of children through its various provisions. Broadly it guarantees the following fundamental rights;

- Right to Equality
- Right to Freedom
- Right against Exploitation
- Right to freedom of Religion
- Cultural and Educational Rights
- Right to Constitutional Remedies

The Constitution, promulgated in 1950, encompasses most rights included in the UNCRC. The Indian Constitution in its Part III dealing with Fundamental Rights protects various rights of children. Part IV dealing with the Directive Principles of State Policy directs the State to ensure the rights of children in various provisions. Rights ensured in Part III are enforceable in the Courts of Law whereas the Directive Principles of State Policy are non-enforceable and non-justifiable rights. The Indian Judiciary by its activism has converted most of the Directive Principles into Fundamental Rights.

Article 14 guarantees the right to equality to every citizen of India. It declares that “The State shall not deny to any person equality before the law and equal protection of the laws within the territory of India”. The article succeeds with Article 15 to 18 to enact particular applications of the rule. Article 15 of the Constitution of India deals with Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth. Clause (1) specifies the prohibited grounds in any matter in which the State has exclusive control. Clause (2) specifies the prohibited grounds in any matter in which the State and even private individuals have exclusive control. Further, Clause (3) enables the government to make special provisions for the protection of women and children. The reason is clear as women and children require special treatment on account of their very nature. Based on this mandate, the Parliament has passed several legislations for the protection of rights of the children.

The soul of all Fundamental Rights is Article 21. It lays that “No person shall be deprived of his life or personal liberty except according to procedure established by law.” Various decisions have been given by the Supreme Court interpreting Article 21 and rights like Right to education, ban on child labour in hazardous occupation, speedy trial of juveniles etc. have been included in within the scope of Article 21. Over the years, many individuals and public interest groups have approached the Apex Court for restitution of fundamental rights, including child rights.

In case of Sheela Barse v. Union of India<sup>5</sup>, decided by Supreme Court in 1986, the Court issued various directions with respect to children lodged in various jails in the country. The Court held that children offenders should be kept in remand homes or released on bail. Laxmikant Pandey v. Union of India<sup>6</sup>, dealt with the malpractices indulged in by social organization and voluntary agencies engaged in the work of offering Indian Children in adoption to foreign parents. In Vishal Jeet v. Union of India<sup>7</sup>, the Court gave various directions to all the Governments to take specific measure to stop the evil of prostitution.

In Gaurav Jain v. Union of India<sup>8</sup>, a writ petition was been filed pleading for separate schools and hostels for the children of prostitutes. However, the Court held that “While separate schools and hostels for prostitute children are not desirable, accommodation in hostels and other reformatory homes should be adequately made available to help segregation of these children from their mothers living in prostitute homes as soon as they are identified. “Centre for Enquiry into Health and Allied Themes v. Union of India”<sup>9</sup>, directions are issued by the Court for the proper implementation of the PNDT Act and for eliminating this Social evil of female foeticide.

In Mohini Jain v. State of Karnataka<sup>10</sup>, it was held that right to education is an unenumerated right which is a concomitant to fundamental rights. The same was reiterated by the Supreme Court in the case of Unnikrishnan v. State of A.P.<sup>11</sup> The Court converted the Directive principle of providing compulsory primary education to all up to 14 years of age into a fundamental right of all children up to 14 years. Based upon these, the 86<sup>th</sup> Amendment of the Constitution in 2002 inserted Article 21A, providing for free and compulsory education to all children of the age of 6-14 years in such manner as the State may, by law, determine.

To stop flesh trade and exploitation of children Article 23 prohibits traffic in human beings and beggary and other forms of forced labour. Various Labour Legislations have been passed to protect children from illicit traffic and forced labour.

Article 24 prohibits employment of children below 14 years in any hazardous occupations. In M.C.Mehta v. State of Tamil Nadu<sup>12</sup>, the Supreme Court dealt with the situation of Children working in manufacturing process of matches and fireworks brought by a public spirited person Mr. M.C.Mehta and gave certain directions as to how the quality of life of children employed in the factories could be improved. The court constituted a committee to oversee the directions given.

The Supreme Court in cases of People's Union for Democratic Rights v. Union of India<sup>13</sup> and Labourers Working on Salal Hydro Project v. State of J & K<sup>14</sup> held that Construction work is a hazardous employment and no child below 14 years of age should be employed in it.

In Bandhua Mukti Morcha v. Union of India<sup>15</sup>, Carpet industries in Uttar Pradesh employed children, under the age of 14, where they were “being treated as slaves” and were “subjected to physical torture.” A writ petition was filed in the Supreme Court under Article 32 as a public interest matter. The Court appointed a committee to report on the exploitation of children in the carpet industry. The Court directed the Government of India to establish policies, in consultation with state governments, to progressively stop employment of children under

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<sup>5</sup> (1986) 3 SCC 596

<sup>6</sup> AIR 1984 SC 469

<sup>7</sup> (1990) 3 SCC 318

<sup>8</sup> AIR 1997 SC 3021

<sup>9</sup> AIR2001 S C 2007

<sup>10</sup> (1992) 3 SCC 66

<sup>11</sup>(1993) 1 SCC 645

<sup>12</sup>(1983) 1 SCC 283

<sup>13</sup> (1982) 3SCC 235

<sup>14</sup> (1983) 2 SCC 181

<sup>15</sup> (1997) 10 SCC 549

the age of 14. Referring to the scheme laid down in *M.C. Mehta v. State of Tamil Nadu & Ors*<sup>16</sup>, the Court stated that the policies should provide for:

“Compulsory education to all children either by the industries itself or in co-ordination with it by the State Government to the children employed in the factories, mine or any other industry, organized or unorganized labour with such timings as is convenient to impart compulsory education, facilities for secondary, vocational profession and higher education; It directed other states to implement the welfare measures mentioned in the order as well.

The Directive Principles of State Policy articulate social and economic rights that have been declared to be “fundamental in the governance of the country and ... the duty of the state to apply ... in making laws” (Article 37). The government has the flexibility to undertake appropriate legislative and administrative measures to ensure children’s rights; no court can make the government ensure them, as these are essentially directives. These directives have enabled the judiciary to give some landmark judgements promoting children’s rights, leading to Constitutional Amendments as is in the case of the 86th Amendment to the Constitution that made Right to Education a fundamental right.

Article 39(e) and (f) provides that the State shall, in particular, direct its policy towards securing to "ensure that the health and strength of workers, men and women and the tender age of children are not abused" and "that the citizens are not forced by economic necessity to enter avocations unsuited to their age or strength" and that "the children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity" and that the childhood and youth are protected against exploitation and against moral and material abandonment.

Article 45 which before the Constitutional Amendment of 2002 stood for providing free and compulsory education up to 14 years of age is amended to provide early childhood care and education for all children until they complete the age of six years. Government is running Integrated Child Development Scheme which provides for an integrated package of services. These services include supplementary nutrition, immunization, medical check-ups, recommendation services, pre-school non-formal education and nutrition & health awareness. The Scheme basically advances nutritional and health standing of children in the age-group 0-6 years.

Article 47 provides the State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties. Schemes and programmes like Mid-day meals, Integrated Child Development Scheme, Integrated Child Protection Scheme, Wheat based nutritional programme, Nutrition Programme for Adolescent Girls, Reproductive and Child Health Programme etc are in force to ensure health amongst children.

Article 51A (k) casts a duty on every parent and guardian to provide opportunities for education to his child, or as the case may be, ward between the age of six and fourteen years of age.

Article 243G read with Schedule 11 - provide for institutionalization of child care by seeking to entrust programmes of Women and Child Development to Panchayat (Item 25 of Schedule 11), apart from education (item 17), family welfare (item 25), health and sanitation (item 23) and other items with a bearing on the welfare of children.

Various National Policies have been implemented to fulfil the constitutional obligations like National Policy for

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<sup>16</sup> (1996) 6 SCC 756

Children, 1974; National Policy on Education, 1986; National Policy on Child Labour, 1987; National Nutrition Policy, 1993 and National Health Policy, 2002. The National Policy for Children was revised in 2013 with survival, health, nutrition, development, education, protection and participation as the undeniable rights of every child and these have been considered to be the key priorities of this Policy. Apart from these National Charter for Children, 2004 and National Plan of Action for Children, 2005 was also implemented with specific objectives.

### 3.2 Evolution of Juvenile Justice Legislations in India

The first legislation in India dealing with children was the Apprentice Act, 1850. The Apprentice Act, 1850 was passed which authorized the Magistrates to bind over children between 10 and 15 as apprentices to learn a trade, craft or employment instead of sending them to prison for minor offences. This Act for the first time introduced the concept of neglected children like orphaned and poor who were brought up by charity. The Indian Penal Code came after another ten years had passed. Though it is not a specific legislation dealing with juvenile justice, nevertheless it has some provisions when it comes to underage criminals. Then came the Reformatory Schools Act 1876 and the same was modified in 1897 which provided Special Courts which could order 3-7 years' detention and training instead of punishment.

The first move to enact a Children's Act came from the Indian Jails Committee (1919-1920) which recommended special treatment for young offenders to reform and rehabilitate them. The first of these legislations were passed by the states Madras in 1920, Bengal in 1922 and Bombay in 1924 which provided special procedure and institutions for the trial, custody, correction and rehabilitation of delinquent children. The trend continued and various states enacted legislations for children with some variations.

In 1960 a new Children Act was for passed for the care, protection, maintenance, welfare, training, education and rehabilitation of neglected and delinquent children and for the trial of delinquent children in Union Territories<sup>17</sup>. But the problem was different states had different Acts to deal with juvenile delinquency which led to inequality amongst children belonging to different states.

The Supreme Court observed in the case of *Sheela Barse v. Union of India*<sup>18</sup> to have a uniform legislation in the entire territory of the country and to have mandatory provisions for ensuring social, economic and psychological rehabilitation of the children who are either accused of offences or are abandoned or destitute or lost. Based on the observations of the Supreme Court the Juvenile Justice Act, 1986 was passed for the care, protection and rehabilitation of juvenile delinquents and neglected children.

The Act sought to achieve a uniform legal framework for juvenile justice in the country as a whole so as to ensure that no child, in any circumstance, is lodged in jail and police lock-up. Juvenile was defined as a boy below 16 years of age and a girl below 18 years of age. A Juvenile Court was established under the Act for delinquents and Juvenile Welfare Boards for neglected juvenile. Both categories of children were kept together in Observation Homes while their inquiry was pending. Whereas the neglected juveniles were kept in juvenile homes the delinquents were to be kept in Special Homes after the completion of inquiry.

However, the Act has many loopholes and hence it was replaced by the Act of 2000. The Act of 2000 was enacted taking into consideration International standards as prescribed in UNCRC, Beijing Rules and JDL rules.

<sup>17</sup>Ademwalla Maharukh, Child Protection and Juvenile Justice System: For Juvenile in Conflict with Law, 13, Childline India Foundation, December 2006

<sup>18</sup> (1986) 3 SCC 632

The aim of the Act of 2000 is to consolidate and amend the law relating to juveniles in conflict with law (delinquent juvenile) and children in need of care and protection (neglected juveniles) by providing for proper care, protection and treatment by catering to their development 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 the Act<sup>19</sup>.

The major changes that were brought by the Act of 2000 are as under:

- Uniform age of boys and girls
- Change in the terminologies. Juvenile Delinquents were termed as Juveniles in Conflict with laws and Neglected Juveniles were termed as Children in need of care and protection.
- Separation of both categories of children in homes. Pending inquiry juveniles in conflict with laws to be kept in Observation Homes and thereafter in Special Homes. Whereas for children in need of care and protection in Children Homes. Various other institutions like Shelter homes as drop-in centres and After-care organizations established.
- Constitution of Juvenile Justice Board (JJB) comprising of Magistrate as Chairperson along with two social workers, one of whom should be a woman for juveniles in conflict with laws.
- Constitution of Child Welfare Committee (CWC) comprising of a Chairperson and four other members (one of whom should be a woman) having experience in dealing with child related issues for children in need of care and protection.
- Victims of armed conflict, natural calamity, civil commotion and child found vulnerable and likely to induct into drug abuse included in the category of child in need of care and protection.
- More legal protection assured for the juveniles in conflict with law – detention to be resorted to as the last option, disqualification of past records and privacy maintained.
- Restoration of the child considered as the focal point, with restoration being conceptualized as restoration to parents, adopted parents or foster parents.
- Four options of restoration for children in children's homes and special homes which include adoption, foster care, sponsorship and after care.
- Establishment of Special Juvenile Police Unit in each District or group of districts.

The December 16, 2012 Delhi gang rape case triggered the issue relating to the age of juvenile after one of the co-accused who was described by the Delhi police as the most brutal amongst all accused was found to be juvenile.

In light of heinous crime being committed by one of the co-accused, two petitions were filed by BJP leader Subramanian Swamy and parents of the December 16 gang-rape victim, challenging the constitutional validity of the Juvenile Justice (Care and Protection of Children) Act 2000. The petitioners had sought fresh interpretation of the term 'juvenile'.<sup>20</sup>

They pleaded that the juvenile, accused in December 16, 2012 gang rape be prosecuted in a criminal court in view of the gravity of his offence. However, the Supreme Court refused to lower the age of a juvenile from 18 to 16, saying the legislature has fixed the age, which is constitutionally permissible.

The Court observed that:

“If the legislature has adopted the age of 18 as the dividing line between juveniles and adults and such a decision is constitutionally permissible, the enquiry by the courts must come to an end. Even otherwise, there is

<sup>19</sup> Preamble to Juvenile Justice (Care and Protection of Children) Act, 2000

<sup>20</sup> Subramanian Swamy v. Raju 2014(8) SCC 390



a considerable body of world opinion that all under-18 persons ought to be treated as juveniles and separate treatment meted out to them so far as offences committed by such persons are concerned.”<sup>21</sup>

A Judicial Committee headed by Justice J. S. Verma, a former Chief Justice of India and one of India's most highly regarded Chief Justices and eminent jurists, was appointed by the Central government to submit a report to suggest amendments to criminal law to sternly deal with sexual assault cases. Standing firmly against lowering of the age criteria for juveniles accused of heinous crimes including rape, the Justice J.S. Verma Committee report on ‘Amendments to Criminal Law’ noted that “the Juvenile Justice Act has failed miserably to protect the children in the country. We cannot hold the child responsible for a crime before first providing to him/her the basic rights given to him by the Indian Constitution.”

The Committee cautioned, “Any attempt of reducing the age of juvenility, or excluding certain children from the purview of the Juvenile Justice (Care and Protection of Children) Act 2000 on the basis of nature of the offence and age, will violate guarantees made under the Constitution and international instruments, the United Nation Convention of Rights of the Child (UNCRC).

The former Chief Justice of India added in the light of Delhi gang rape case: "The law is for general application and not for a particular case. And at any rate criminal law can't be retrospective. Even if a law were to be made today it will only be applicable to future cases."

In July 2014, Ministry of Women and Child Development prepared a new Bill on Juvenile Justice to punish children between 16-18 committing heinous crimes like murder, rape etc. The Bill was approved by both the houses and the Act of 2015 came into force from 15<sup>th</sup> January, 2016 repealing the Act of 2000.

The major changes brought by the Act of 2015 are as follows:

- General Principles of care and protection of Children specified in the Act
- Offences committed by children divided in three categories viz. Petty offences, Serious offences and heinous offences
- Offences against children specified and punishments provided for the same
- Composition, Procedure, Functions and Responsibilities of JJB and CWC specified
- Fair and speedy inquiry of juveniles
- The term 'Juvenile' changed to 'Child'
- Procedure to deal with Children in Conflict with law as per age and gravity of offence specified as under:

<b>Petty Offences (Maximum punishment of imprisonment is up to 3 years in any laws)</b>	<b>Serious Offences (Punishment of imprisonment between 3 to 7 years)</b>	<b>Heinous Offences (Punishment for imprisonment is 7 years or more)</b>
By children below 18 years	By children below 18 years	By children below 16 years
Procedure adopted in Summary proceedings as per Code of Criminal Procedure to be completed with four months and an extension of two months with reasons in writing	Procedure adopted in Trial in summons case as per Code of Criminal Procedure to be completed with four months and an extension of two months with reasons in writing	Procedure adopted in Trial in summons case as per Code of Criminal Procedure
		By children between 16 and 18
		<ul style="list-style-type: none"> <li>• Preliminary Assessment by Board to find out the circumstances in which the child has committed</li> </ul>

<sup>21</sup>The Hindu, New Delhi, 28<sup>th</sup> March, 2014

		<p>crime to be completed with three months</p> <ul style="list-style-type: none"> <li>• If Board is satisfied then Board may follow the procedure of trial in summons case OR Send the child to Children Court to be tried as an Adult</li> <li>• Children Court will may again decide whether to try the child as an adult as per Cr.P.C. Or to conduct inquiry as per Act of 2015</li> </ul>
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- Provisions relating to Children in need of Care and Protection:
  - Definition of Child in need of care and protection amended to include a child who is at a risk of child marriage
  - Mandatory reporting regarding a child found separated from guardian. If not reported, then it is an offence
  - The social investigation to be completed within fifteen days so as to enable the Committee to pass final order within four months of first production of the child
- Provisions for Rehabilitation and Social Reintegration made more specific
- Procedure for adoption specified as per International Conventions
- Establishment of Central Adoption Resource Authority to govern the procedure for in-country and inter-country adoptions

### 3.3 Other legislations for Children

#### 3.3.1 The Commission for Protection of Child Rights Act, 2005:

The Act mandates the establishment of The National Commission for Protection of Child Rights and State Commission for Protection of Child Rights. The Commission's Mandate is to ensure that all Laws, Policies, Programmes, and Administrative Mechanisms are in consonance with the Child Rights perspective as enshrined in the Constitution of India and also the UNCRC. The Child is defined as a person in the 0 to 18 years' age group.

#### 3.3.2 Right of Children to Free and Compulsory Education Act, 2009:

The Act covers all children between 6 and 14 and ensures the right to obtain elementary education in neighbourhood school without any kind of payments.

#### 3.3.3 Protection of Children from Sexual Offences Act, 2012:

The Act aims to strengthen the legal provisions for the protection of children from sexual abuse and sexual exploitation. For the first time, a special law has been passed to address the issue of sexual offences against children. Before this enactment sexual offences were covered only under different sections of Indian Penal Code which were not adequate for protecting children. The Act addresses sexual abuse and sexual exploitation and pornography of children and lays down stringent punishments.

#### 3.3.4 The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986:

The Act has been recently amended to add a new category of children between 14-18 as adolescents. The Act lays down Prohibition of employment of children below 14 years in all occupations or processes except where child helps his family that too when the school is not functioning. It lays down Prohibition of employment of adolescents in hazardous occupations as specified (mines, hazardous processes and inflammable substance)

#### 3.3.5 The Prohibition of Child Marriage Act, 2006:

The object of the Act is to prohibit solemnization of child marriage and connected and incidental matters. The Act is armed with enabling provisions to prohibit for child marriage, protect and provide relief to victim and enhance punishment for those who abet, promote or solemnize such marriage

### 3.3.6 Rights of Persons with Disabilities Act, 2016:

Special provisions with respect to education of disabled children are provided under the Act.

The Act obligates the Educational Institutions to ensure, promote and facilitate inclusive education to children with disabilities in all schools funded by government and local authorities. With respect to healthcare, the Act binds the Government or appropriate local authority to screen all children at least once in a year to identify children 'at-risk'. For Children with benchmark disability, the Act envisages to provide free and compulsory education to such children between six to fourteen years in a neighbourhood school or a special school of his choice.

### 3.3.7 The Bonded Labour System (Abolition) Act, 1976:

The Act aims to abolish bonded labour system and declares slave or bonded labour as illegal with reference to adults and children. However, the Act does not outline a more severe punishment for offences committed against children.

### 3.3.8 The Immoral Traffic (Prevention) Act, 1956:

The Act provides for the prevention of immoral traffic and intends to combat trafficking and sexual exploitation for commercial purposes. While prostitution is not an offence, practicing it in a brothel or within 200 m of any public place is illegal. The Act defines child as a person below the age of 18 years.

### 3.3.9 The Young Persons (Harmful Publications) Act, 1956:

The Act aims to prevent the dissemination of certain publications harmful to young persons. Young person is defined to be a person below the age of 20 years.

### 3.3.10 The Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992:

The Act provides for the regulation of the production, supply and distribution of infant milk substitutes, feeding bottles and infant foods, with a view to protecting and promoting breast-feeding and ensuring the proper use of infant foods.

### 3.3.11 Pre-Conception and Pre-Natal Diagnostic Techniques (Regulation and Prevention of misuse) Act, 1994:

The Act is aimed for the regulation of the use of pre-natal diagnostic techniques for the purpose of detecting genetic or metabolic disorders or chromosomal abnormalities or certain congenital malformations or sex linked disorders and the prevention of the misuse of such techniques for the purpose of pre-natal sex determination leading to female foeticide. It provides for the regulation of genetic counselling centres, genetic Laboratories and Genetic Clinics and makes it compulsory to get it registered. It prohibits employment of persons who does not possess the prescribed qualifications.

## 4. Conclusion

Keeping in mind that today's present is going to be the future for the country, children- today's present, need to be protected adequately in all senses for the better future of our country as a whole and also for the individual development of the child himself. To have a just, progressive, happy and prosperous society, the components of the society i.e. the people living in it need to be well cultivated. Therefore, the emphasis for a better future needs to be had on the all-round development of children to groom them into good adults. For this, the legal framework needs to be in proper place and must be implemented properly and judiciously.

An appraisal of the national and international framework leads to a conclusion that there are adequate provisions for the protection of rights of children. India has shown enthusiasm in ratifying the international conventions on children and has made appropriate amendments to its laws to ensure the rights of children. The rights have been recalled and proactively protected by the Indian judiciary. This has helped in building confidence amongst the citizens of India for the protection of the rights of children. To conclude, we can say that having known the fact that, children can be exposed with the violation of laws, the national and international fora have played a progressive role which will lead the world to be a better place to live.