

RIGHT TO PROTECTION AND RIGHT AGAINST EXPLOITATION

Juvenile Justice System

The Juvenile Justice System in India deals with two distinct categories of children.

1. Children who have come into Conflict with the Law
2. Children who are in need of Care & Protection

The Law provides protection against harsh criminal liability for persons under 18. - The Law also has provisions to rescue, protect, and provide for the growth and development of children declared as 'Children in Need of Care and Protection'.

LAWS GOVERNING THE JUVENILE JUSTICE SYSTEM IN INDIA

Historical background:

As a follow-up to the United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"), adopted by General Assembly resolution 40/33 of 29 November 1985, the Government of India brought in the Juvenile Justice Act of 1986, which became the first central Act applicable to the entire Country. Earlier, different Children's Acts were in force in individual States, and in some states, there was no legal system protecting children against criminal liability.

According to the 1986 Act, a "juvenile" refers to a boy who has not yet reached the age of 16 or a girl who has not yet reached the age of 18. Subsequently, **the Juvenile Justice Care & Protection of Children Act, which** came into force in 2000, raised the age of criminal liability protection for both boys and girls to **18 years**. The above Act was replaced in 2015 with a new Act that placed

greater focus on the social reintegration and rehabilitation of children brought under this Act, and it was further amended in **2021**.

- **Offences committed by children and young persons below 18 years of age:** There are multiple reasons that could contribute to children and young persons coming into conflict with criminal laws.

Violence and insecurity perpetrated by and against young people are caused by various factors that work simultaneously to create situations of social instability. These factors can include the availability of firearms, the abuse of alcohol, large-scale migration to urban areas and overpopulation, drug trafficking, weak educational and policing systems, unequal distribution of wealth, and the frustration of many young people faced with unemployment and socio-political exclusion. In combination, these elements fuel hopelessness and frustration not only among the youngest segment of the population but within families, communities, and society more broadly.” **UNITED NATIONS FACT SHEET ON Juvenile Justice**

Protection Against Criminal Liability - The Juvenile Justice System operates on the premise that Youth are fundamentally different from adults in terms of their level of responsibility and potential for rehabilitation, and that adult society is responsible for safeguarding its young members from criminal liability.

THE ACT OF A CHILD UNDER SEVEN YEARS OF AGE:

“Nothing is an offence done by a child under seven years of age” - Section 20 of Bharatiya Nyaya Sanhita (BNS) of 2023 & Section 82 of the former Indian Penal Code (IPC) of 1860)

Hence, children under seven are exempt from all forms of criminal liability under our criminal laws.

THE ACT OF A CHILD ABOVE SEVEN AND UNDER TWELVE YEARS OF AGE, OF IMMATURE UNDERSTANDING:

“Nothing is an offense which is done by a child - **above seven years of age and under twelve years of age, who has not attained sufficient understanding to judge the nature or consequences of his conduct on that occasion.”**

(Section 21 of BNS & Section 83 of IPC of 1860).

The above sections under the IPC or BNS mandate responsibilities on the part of the enforcement authorities and the competent courts or authorities to determine the level of criminal intent or the necessity of imposing criminal liability for acts committed by children aged 7 to 12 years.

The *Juvenile Justice (Care and Protection of Children) Act, 2015 – (amended 2021):*

The Act primarily deals with two different categories of children:

“Child who has come in Conflict with Law”, and “Child in Need of Care & Protection”

The Act defines a ‘**child**’ as someone who has not completed 18 years of age.

Children who had come into Conflict with the Law

The Act makes efforts to be more child-friendly, including using non-stigmatizing language when dealing with children who have come into conflict with the Law.

- (The use of adversarial or accusatory words such as **arrest, remand, accused, charge sheet, trial, prosecution, warrant, summons, conviction, inmate, delinquent, etc.,** is avoided)

Section 2(13) of the act defines a “*child in conflict with Law*”

- *as a child who is alleged or found to have committed an offense and who has not completed eighteen years of age on the date of commission of such an offense”.*

Such children will not be subjected to many of the procedures applicable to adults under our criminal laws, and they will not be tried in regular criminal courts.

“The Juvenile Justice Board” (JJB) is the competent authority to enquire and pass orders concerning children in conflict with the Law. Under certain circumstances, a **Children’s Court** will have the jurisdiction to pass orders.

Chapters III and IV of the Act detail the roles and responsibilities of the JJB and other authorised persons, including police, probation officers, parents, and guardians.

Juvenile Justice Board (J.J.B)

Composition:

- The Juvenile Justice Board shall comprise a *Metropolitan Magistrate* & *Two Social Workers* (at least one shall be a woman)
- The Bench shall have the powers conferred by the Code of Criminal Procedure, 1973.
- The Board shall function as a Bench of Magistrates, and the majority's opinion shall prevail in the event of a difference of opinion among members. Where there is no such majority, the opinion of the Principal Magistrate shall prevail.

Norms & Proceedings

Norms to be followed during the apprehension and inquiry of a Child in Conflict with the Law

- Police should inform the parents/ guardians and the Probation officer or Child Welfare Officer, without time loss.
- No child or Juvenile can be kept in a police lock-up. Instead, the child could be sent on bail or handed over to an authorized Observation Home or a place of safety as per the norms laid down in the Rules.
- The Child should be produced before JJB within 24 hours of apprehension of the child by the police, excluding travel time.
- When initiating the inquiry, the Board should satisfy itself that the child is not subjected to any ill-treatment by the police or any other person involved in the process.
- J.J.B. TO Call for probation officers' report – interim /final
- Time limits for investigation & disposition are prescribed.
- Recommends Dispensation with the child's attendance unless it is necessary
- J.J.B. atmosphere – to be informal.
- Participatory rights of the child – to be respected: hence Ample time and opportunity should be given to the children to express themselves.
- The Board could dispose of petty offenses through a summary proceeding.
- Inquiry into serious offenses can be conducted as per the existing Law of Criminal Procedure.

- **When it is proved beyond doubt that The Child had done something deliberate that conflicts with the Law, then the following are the orders that may be passed:**
 - Send the juvenile after advice and admonition
 - Direct the juvenile to participate in group counselling
 - Order the juvenile to perform community service
 - Order the parent or juvenile to pay a fine
 - Release the juvenile on probation
 - Release on probation and place under the care of any fit institution
 - Direct the juvenile to be sent to a ***Special Home***
- **Prison Sentencing Prohibited**

HOMES AUTHORIZED FOR JUVENILES IN CONFLICT WITH THE LAW

- **OBSERVATION HOMES** – run by Government / Non-Government Organisations - for temporary custody
- **SPECIAL HOMES** - run by Government / Non-Government Organisations

Rules are to be framed to segregate children by age and the nature of the offense committed, and to provide every child with adequate opportunities for education, development, and reintegration into society.

Other features of protection offered to a juvenile under the Act:

- **Eligible for Bail** – Irrespective of whether an alleged act is a boilable or a non-boilable offense as per any of the prevailing criminal Laws, a Juvenile may be sent on bail at an
- **Claim of juvenility could be raised before any Court, at any stage of trial, or even after conviction:** When a Juvenile was wrongly produced as an adult in a criminal Court, he or she could claim juvenility by

producing proof during the trial period or even after conviction and claim the protections under the Act. Similarly, when a person commits an offense while under 18 and is apprehended by the police after reaching adulthood, all procedures and protections under this Act will apply, and he cannot be treated as an adult criminal.

- **Criminal Record – gets Wiped Out:** (excluding the orders issued by the Children's Court): Whenever a child/juvenile in conflict with the Law is found guilty of the act and is punished by the JJB, his or her criminal record gets wiped out once the term of punishment is completed. Hence, this negative record will not imperil his future progress in life.

As per Section 18 (3) of the Act, any Serious offense committed by a person whose age at the time of the commission of the offense was above 16 and below 18, and the Board concludes that there is a need for the trial of the said child as an adult. the case could be transferred to a **Children's Court** having jurisdiction to try such offences.

Hence, under certain special circumstances, a juvenile can be tried like an adult in a children's court and can be punished according to the applicable criminal Law.

Orders that may not be passed - by the Children's Court against a juvenile:

- No Juvenile in conflict with the Law shall be sentenced to death
- No Juvenile shall be committed to prison while still below 21 years of age. Instead, the Children's Court could send the person to a place of safety until they reach 21 and then transfer them to prison.

- No punishment in default of payment of fine or default of furnishing security

Children who are in Need of Care & Protection

JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015 –

The second part of the above Act deals with: *all Children between the ages of 0 -and 18 years - **who are in need of Care & Protection** -*

As per Section 2(14) of the J.J. Act, the following children are broadly classified as children needing care and protection.

- Those children who are left alone, without a home or means of subsistence
- are in the company of unscrupulous persons.
- Has parents or guardians who are unfit persons who are found working or likely to be married off, contravening existing laws.
- Has no parents and no one to take care of
- A child who is likely to become vulnerable to abuse, torture, and exploitation by a person who has custody of the child.
- A child who is physically or mentally challenged, or a terminally ill child who is denied care and protection

Hence, under this Act, all those children who are victims of Child Labour, Child beggary, Child marriage, and any child who is forced to live in an insecure environment under the custody of an adult who abuses the child physically, mentally, or sexually, could be brought under this Act for rescue and rehabilitation. Most importantly, this Act is empowered to remove the custodial rights of a child from the parents themselves who are found to be acting against the child's interest or are deemed unfit persons to provide care and protection to the child.

Competent authority to deal with children in need of protection:

Child Welfare Committee **(CWC)**

The Committee shall consist of a Chairperson and four other members as the State Government may think fit to appoint, of whom at least one shall be a woman and another an expert on the matters concerning children.

Powers of the Child Welfare Committee concerning child abuse & child protection

- ❖ To order for investigation of all children found abandoned or orphaned
- ❖ To receive complaints of child abuse or child maltreatment and order for the immediate rescue of the child if the situation warrants;
- ❖ To issue notice for production of the child to parent/guardian/institutions/individuals holding custody of the child;
- ❖ To order for investigation by the Probation officer/ by the police;
- ❖ To refuse/ remove custody of the minor from parents/ lawful guardians/employers;
- ❖ To Order for Rehabilitation and social integration that is appropriate for a child who requires care and protection.

Persons mandated to rescue and produce a child before the Child

Welfare Committee: **Any Police Officer, *Special Juvenile police unit or designated Child Welfare Police officer, *Labour Inspector, *any Public Servant, *CHILDLINE Services (with a toll-free No.1098), *Probation Officer/ Child Welfare Officer, *Non-Government Welfare Organisations, *Nurses, *Doctors and management of hospitals and maternity homes, *any social worker or public-spirited individuals or children themselves.*

All the above persons could report/produce a child before a Child Welfare Committee.

Hence, whenever a child is found abandoned or is in a situation as defined above, a member of the public can inform any of the entities mentioned above. Persons authorised to take custody of such children should produce them before C.W.C. within 24 hrs., excluding travel time.

CWC could order interim and final reports from probation officers / social workers, psychologists, etc. Speak to the parents/guardians / and other family members, if available, before coming to a conclusion and passing an order.

Orders that a CWC could pass regarding a Child in Need of Care and Protection.

- After due verifications, CWC could declare that a child needs care and protection.
- Restore to parents/ family if they are found to be fit persons after due counselling.
- Order for removal of custody from parents /family/guardian/ or any person holding custody of the child if they are found to be abusers or unfit persons to provide care and protection.
- Order to place such children through Foster Care or in an authorized Child Care Institution.
- After due inquiry, certify an orphaned or abandoned child as a **child Legally Free for Adoption** and place the child in an authorized Adoption Agency.
- CWC is also authorised to receive a child from parents who, in the best interest of the child, wish to surrender their child for adoption. After counselling and due inquiry, parents will be allowed to execute a

Document of Surrender in their presence, giving their consent for the child's future adoption. After the completion of the declared waiting period, the child will be certified as **Legally Free for Adoption** by the CWC.

- ❖ While Chapter VII of the Act deals with the Rehabilitation and Social Reintegration of children who need Care and Protection, Chapter IX deals extensively with the process of Adoption of such children who are surrendered or abandoned by their own parents/family.

Restoration and Rehabilitation of a child in need of care and protection would be as follows: **1) Sending the child back to the parents. 2) Placing a child in adoption, Foster Care, with guardians, or with fit parents – whichever is feasible and keeping the best interest of the child in mind. 3) Placing a child in a Children's Home registered under this Act**

Institutional care is considered the last option for such children. Children's Homes can be run by either a State Government or a non-governmental organisation.

- ❖ Chapter IX prescribes punishments for adults who commit offenses against children. CWC can also lodge complaints with the enforcement authorities against serious adult offenders for further action.

The above Act was further amended in the year 2021.

Provisions of Juvenile Justice (Care and Protection) Amendment Act 2021:

- Offenses committed against children, as mentioned in Chapter IX, that attract imprisonment between 3 and 6 years are declared as “non-cognizable.”

- The district magistrate is given the authority to issue adoption orders for all adoptions done under this Act which were previously issued by the competent Courts in India.

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

https://www.iccwtnispcanarc.org/upload/pdf/7716517779JJAct_2015.pdf

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AUTHOR : MINISTRY OF LAW AND JUSTICE

➤ JUVENILE JUSTICE (CARE & PROTECTION OF CHILDREN) ACT – MODEL RULES 2016

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AUTHOR : CENTRAL ADOPTION RESOURCE AUTHORITY – (CARA)

➤ JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT 2021 (amendment)

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AUTHOR: MINISTRY OF LAW AND JUSTICE

➤ JJ MODEL AMENDMENT RULE 2022

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AUTHOR: FROM WIKIPEDIA, THE FREE ENCYCLOPEDIA

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<https://ialm.academy/blog/role-of-juvenile-justice-system-in-india>

AUTHOR: INDIAN ACADEMY OF LAW & MANAGEMENT ("IALM")

➤ WORKING EFFECTIVELY WITH YOUNG OFFENDERS Dr. Kerry Baker *

https://www.unafei.or.jp/publications/pdf/RS_No101/No101_8_VE_Baker_2.pdf

AUTHOR : Dr. Kerry Baker*

➤ JUVENILE CRIMES IN INDIA

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AUTHOR: Pleadings – powered by LawSikho

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<https://www.nipccd.nic.in/file/reports/kit17.pdf>

AUTHOR: NATIONAL INSTITUTE OF PUBLIC COOPERATION AND CHILD DEVELOPMENT, 5, SIRI INSTITUTIONAL AREA, HAUZ KHAS, NEW DELHI- 110016

DEALING WITH YOUNG OFFENDERS

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SEXUAL ABUSE ON CHILDREN

The Protection of Children from Sexual Offences (POCSO) Act 2019

This act came into force in the year 2012 and was subsequently amended in the year 2019 to make it more stringent and to provide greater clarity on child abuse and punishment. The punishment could even be extended to life imprisonment or the death penalty.

The Act offers punishments for all forms of offenses against children that are sexual, such as **Sexual harassment, sexual assault, using children for pornographic purposes**, etc.

❖ *The Act is gender-neutral. Hence, the victim or the offender could be either a male or a female.*

Stringent punishments are provided for different types of offenses.

- Any offense under this Act committed by a person who officially has control over a child, like a police officer within his jurisdiction or a person in charge of a children's home, etc., such an offense is described as an **Aggravated Offense** and attracts more severe punishment.
- The act criminalizes the production, collection, viewing, or sharing of pornographic content that involves children or forces children to view any pornographic material - all such acts are punishable under the Act.
 - Attempting to commit or Abetment for the commission of any of the above-mentioned offenses is also punishable.

Sexual Offences described under the Act

- **Penetrative Sexual Assault**
- **Aggravated Penetrative Sexual Assault**
- **Sexual assault**
- **Aggravated sexual assault**
- **Using children for phonographic purposes**
- **Attempt to commit an offence**

Mandatory Reporting:

It is mandatory for anyone who comes to know of an offense committed under this Act, to report the matter to the competent authority. **There are punishments for failure to report.**

- Punishments are also there for making **false complaints** or for **providing wrong information**

Special Courts for Speedy Justice:

The act provides for the establishment of **special courts** to try offenses related to child sexual abuse.

Chapter VIII of the Act extensively deals with the powers of the Special Court and the procedures to be followed while dealing with the victims of abuse. For example, when the child victim is present and gives evidence in the Court, he or she must be protected from the threat of facing the accused directly. But at the same time, the suspected offender must be allowed to see the child and hear the evidence for his defence.

Obligations on the part of the Media: The Privacy of the child victim is protected, and the media is prohibited from revealing identifying information or publishing photos of the child victim.

For the effective implementation of this Act:

The Act designates the ***National Commission for the Protection of Child Rights (NCPCR)*** & the ***State Commissions for the Protection of Child Rights (SCPCRs)*** to monitor the implementation of this Act.

To prohibit Commercial Sexual Exploitation of Children - *Along with the above-mentioned POCSO Act, the following acts are available:*

Sections 98 & 99 of the Bharatiya Nyaya Sanhita;

Sections 2, 4, 5 & 6 of the Immoral Traffic (Prevention) Act;

Section 67B of the Information Technology Act

THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012

<https://www.indiacode.nic.in/bitstream/123456789/2079/1/AA2012-32.pdf>

AUTHOR : INDIA CODE

POCSO RULES, 2012 14-NOV-2012 (2).PD

[https://upload.indiacode.nic.in/showfile?actid=AC_CEN_13_14_00005_201232_1517807323686&type=rule&filename=POCSO%20Rules,%202012%2014-Nov-2012%20\(2\).pdf](https://upload.indiacode.nic.in/showfile?actid=AC_CEN_13_14_00005_201232_1517807323686&type=rule&filename=POCSO%20Rules,%202012%2014-Nov-2012%20(2).pdf)

AUTHOR: INDIA CODE

MODEL GUIDELINES WITH RESPECT TO SUPPORT PERSONS UNDER SECTION 39 OF POCSO ACT

https://ncpcr.gov.in/uploads/172422913166c5a60bbfda7_final-guidelines-on-section-39-of-pocso-act-2012-dated-18032024-1-33.pdf

Author: NCPCR

Handbook on Implementation of POCSO Act, 2012 for School Management and Staff

<https://www.nipccd.nic.in/file/reports/pocso12.pdf>

Author: National Institute of Public Cooperation and Child Development 5, Siri Institutional Area,
Hauz Khas, New Delhi-110016

User Handbook for POCSO Act

<https://www.iccwtnispncanarc.org/upload/pdf/4739980460USER%20Handbook%20-%20POCSO.pdf>

Author: National Commission for Protection of Children's Right

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<https://www.ungei.org/sites/default/files/Learning-to-Protect-Children-from-Abuse-A-handbook-for-facilitators-2012-eng.pdf>

Author: SAVE THE CHILDREN –

Child Protection Training Manual

<https://bettercarenetwork.org/sites/default/files/Child%20Protection%20Training%20Manual%20-%20%20Facilitators%20Guide%20for%20Teacher%20Training.pdf>

Author: SAVE THE CHILDREN

National Commission for Protection of Child Right

<https://www.iccwtnispncanarc.org/upload/pdf/4331734679HOW%20TO%20USE%20POCSO%20E-BOX.pdf>

Author: NCPCR

A GUIDEBOOK FOR THE MEDIA ON SEXUAL VIOLENCE AGAINST CHILDREN

<https://www.iccwtnispncanarc.org/upload/pdf/2152351960MedGuideChild.pdf>

Author: NATIONAL HUMAN RIGHTS COMMISSION - PRASAR BHARATI

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CHILD MARRIAGE

Girl children - as victims of [Child Marriage](#)

- **Child marriage** - legitimizes human rights violations of girl children – under the guise of **culture, honour, tradition, & religion**.
- It robs her of her right to education and all other choices in life.
- Has grave consequences for girls' reproductive and sexual health, impeding their overall development and well-being.
- Becomes a causative factor for high maternal and neonatal mortality, the birth of low-birth-weight babies / physically or mentally deformed babies.
- Hence requires a holistic response with a supportive legal framework from **Governments** & Social action from **families** and **communities**

THE PROHIBITION OF CHILD MARRIAGE ACT, 2006

“child” means a person who, if a male, has not completed twenty-one years of age, and if a female, has not completed eighteen years of age;

“Child marriage” means a marriage in which either of the contracting parties is a child

➤ **"minor"** - means a person who has not completed the age of **18**

- **Offences to be cognizable and non-bailable**

Persons who are liable to be punished under the Act:

- *All those adults who are responsible for performing a child marriage*
- *A person who is above 18 years of age and has entered into to a child marriage*
- *Persons who aided, abetted, attended, or had knowledge of child marriage but have not made an effort to prevent it or report the matter*

Punishments:

- Rigorous imprisonment which may extend to **2 years**
- Shall also be liable to a fine which may extend to **one lakh rupees**
- If a person who has committed an offence under the Act happens to be a woman, she will be exempted from imprisonment.
- **Even when the male party to the marriage is defined as a child when he has not completed 21 years of age, he could also be punished under this Act if he is over 18 years of age and marries a girl who is under 18 (section 9). If the marriage is consummated, then there is also a possibility of getting prosecuted under the POCSO Act**
- ❖ It is the duty of the State Government to nominate at least one person in each District as 'Child Marriage Prohibition Officer', with powers to act under this Act.
- ❖ **The legality of child marriage:**

A child marriage is voidable at the option of a party to the marriage who happened to be a child at the time of the marriage, by petitioning in the court for the declaration of the marriage as null and void, provided such a petition is made in the following manner:

If the petitioner is a minor, they can petition through a guardian or a next friend, along with the Child Marriage Prohibition Officer.

If the petitioner has reached the age of 18, they can file a petition independently, provided it is done within two years after attaining the age of majority. Otherwise, the marriage remains valid even though the persons responsible for it could be punished under this act.

A Child Marriage could be declared void at any point in time – when a child had been enticed without the knowledge of his or her guardian, compelled by force, deceit, or when a child was found to be sold for the purpose of marriage.

There is an attempt to raise the minimum age for marriage for a female from 18 to 21 – but implementation is yet to happen.

THE PROHIBITION OF CHILD MARRIAGE ACT, 2006

<https://www.iccwtnispcanarc.org/upload/pdf/9590410353The%20prohibition%20of%20chid%20Marriage%20Act.pdf>

Author: MINISTRY OF LAW AND JUSTICE

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<https://www.iccwtnispcanarc.org/upload/pdf/936457624Strategychildmarriage.pdf>

Author: MINISTRY OF WOMEN AND CHILD DEVELOPMENT,2013

HANDBOOK ON CHILD MARRIAGE PROHIBITION ACT ,2006

<https://www.iccwtnispncanarc.org/upload/pdf/723966688Child-Marriage-handbook.pdf>

AUTHOR: MINISTRY OF WOMEN AND CHILD DEVELOPMENT,

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AUTHOR: UNICEF INDIA

CHILD MARRIAGE AND ITS IMPACT ON HEALTH: A STUDY OF PERCEPTION AND ATTITUDE IN NEPAL

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AUTHOR: JOURNAL OF GLOBAL HEALTH REPORT

YOUNGER AGE IN ADOLESCENT PREGNANCIES IS ASSOCIATED WITH HIGHER RISK OF ADVERSE OUTCOMES

[HTTPS://PMC.NCBI.NLM.NIH.GOV/ARTICLES/PMC8391576/](https://pmc.ncbi.nlm.nih.gov/articles/PMC8391576/)

NIH – PMC AUTHOR :HAQ:CENTRE FOR CHILD RIGHTS & UNICEF

Child Labour / Child Trafficking - For Labour

PROVISIONS IN THE INDIAN CONSTITUTION TO CHECK ON CHILD LABOUR

Article 23: Prohibits the trafficking of human beings for forced labour, including Child trafficking for begging or any form of labour

Article 24: Prohibits employment of children in Factories

Article 39 (e) & (f): states that the State shall, in particular, direct its policy towards securing that the health and strength of workers and men and women and the tender age of children are not abused and that the citizens are not forced by economic necessity to enter an avocation unsuited to their age and strength

Article 21 (a) declares that the Right to Education is the fundamental right of every child below 14 years of age.

The term “child labour” is often defined as work that deprives children of their childhood, their potential, their education, and their dignity, and that is harmful to physical and mental development.

The International Labour Organization states that not all work done by children should be classified as child labour that is to be targeted for elimination. Children's or adolescents' participation in work that does not affect their health and personal development or interfere with their schooling is generally regarded as something positive. This includes activities such as *helping their parents around the home, assisting in a family business, or earning pocket money outside school hours and during school holidays*. These kinds of activities contribute to children's development and the welfare of their families, providing them with skills and experiences that help prepare them to be productive members of society in their adult life.

Historical background:

The Child Labour (Prohibition and Regulation) Act, 1986, was the initial Act that came into force in 1986. **The Act defined a child as a person below 14 years of age**, and prohibited the employment of such children only in **Hazardous Occupations** as listed in the Rules framed under the ACT.

Unfortunately, in all other occupations, children under 14 could be employed full-time at the expense of denying their right to education. Although certain regulations were established for non-hazardous occupations, they were hardly enforceable. The act was silent about workers between the ages of 14 and 18.

Following the amendment of the Constitution of India in 2009, the Right to Education was declared a fundamental right for every child below 14 years of age or up to the 8th standard (Article **21A**). As a follow-up, certain critical amendments were brought into the Child Labour Act in the year 2016, known as - *THE CHILD AND ADOLESCENT LABOUR (PROHIBITION AND REGULATION) ACT, 1986*.

The Child Labour (Prohibition and Regulation) Act of 1986 (amended 2016) -

The above Act classifies labour performed by a child under 14 as **‘Child Labour’** and labour performed by a young person who has completed 14 but has not completed 18 as **‘Adolescent Labour’**.

As per this current Act, no child below the age of 14 could be employed by any third-party employer, either full-time or part-time, except for two exceptions given under this Act.

Exception 1: A child could help his own family by working in a family-run occupation, provided it is not **hazardous**, and that too **only after school hours or on holidays**. (Family is defined in the ACT)

Exception 2: A child is allowed to work as an **artist** – as an actor, singer, or sports person provided the child's right to education is taken care of. Rules to be framed under the ACT that are to be followed by the **audio, television, and film media**, while using a child in their productions.

- **Child Labour in all other sectors is totally prohibited.**

Legal protection for adolescent workers:

The other positive aspect is that the amended Act covers adolescents between 14 and 18 years of age, as a considerable number of them are part-time or full-time workers in this country. The act prohibits the employment of such persons in hazardous occupations listed in the Rules and regulates them. The working hours and working conditions in such occupations that are not declared as hazardous are also to be spelt out in the Rules laid down by respective State Governments.

- Any employment of a child contrary to this Act is a cognizable offense, and the punishment is more severe if the employer is a third party other than the child's own family.
- State Governments to list out the hazardous occupations where employment of adolescent employees is prohibited.
- Rules are framed to regulate working hours and other conditions of employment while employing adolescent workers.

MODEL RULES: Child who helps in family occupation

2B. Child to help his family without affecting education.-

(1) Subject to the provisions of section 3, a child may, without affecting his school education, in any manner, –

(a) help his family in his family enterprise, subject to the condition that such help, -- (i) shall not be in any hazardous occupation or process listed in Part A and Part B of the Schedule to the Act;

(ii) shall not include work or occupation or process at any stage of the manufacturing, production, supply or retail chain that is remunerative for the child or his family or the family enterprise;

(iii) shall only be allowed to help in his family, or in a family enterprise, where his family is the occupier;

(iv) shall not perform any tasks during school hours and between 7 p.m. and 8 a.m.;

(v) shall not be engaged in such tasks of helping which hinders or interferes with the right to education of the child, or his attendance in the school, or which may adversely affect his education including activities which are inseparably associated to complete education such as homework or any extracurricular activity assigned to him by the school;

(vi) shall not be engaged in any task continuously without rest which may make him tired and shall be allowed to take rest to refresh his health and mind, and a child shall not help for more than three hours excluding the period of rest in a day; II (i) 11

(vii) shall not include in anyway substitution of the child for an adult or adolescent while helping his family or family enterprise; and

(viii) shall not be in contravention to any other law for the time being in force;

(b) aid or assist his family in such manner which is not incidental to any occupation, work, profession, manufacture or business, or for any payment or benefit to the child or any other person exercising control over the child, and which is not detrimental to the growth, education and overall development of the child.

Explanation 1.- For the purposes of this rule, only – (a) biological brother and sister of the child; (b) brother or sister of the child through lawful adoption by parents of the child; and (c) biological brother and sister of parents of the child, shall be included for comprising the family of a child.

Explanation 2.- For the purposes of

Explanation 1, it is hereby clarified that preliminarily, any doubt as to whether a person is a biological brother or sister, may be removed by examining the pedigree of such person issued by the concerned Municipality or Panchayat, as the case may be, or any other legal document issued by concerned authority of the appropriate Government.

(2) Where a child receiving education in a school remains absent consecutively for thirty days without intimation to the Principal or Head Master of the school, then, the Principal or Head Master shall report such absence to the concerned nodal officer referred to in clause (i) of sub-rule (1) of rule 17C for information.

MODEL RULES: Child When works as an artist

2C. Child to work as an artist.- (1) Subject to the provisions of section 3, a child may be allowed to work as an artist subject to the following conditions, namely:

(a) no child shall be allowed to work for more than five hours in a day, and for not more than three hours without rest;

(b) any producer of any audio –visual media production or any commercial event involving the participation of a child, shall involve a child in participation only after obtaining the permission from the District Magistrate of the district where the activity is to be performed, and shall furnish to the District Magistrate before starting the activity an undertaking in Form C and the list of child participants, consent of parents or guardian, as the case may be, name of the individual from the production or event who shall be responsible for the safety and security of the child, and ensure that all screening of his films and television programmes shall be made with a disclaimer specifying that if any child has been engaged in the shooting, then, all the measures were taken to ensure that there has been no abuse, neglect or exploitation of such child during the entire process of the shooting;

(c) the undertaking referred to in clause (b) shall be valid for six months and shall clearly state the provisions for education, safety, security and reporting of child abuse in consonance with the guidelines and protection policies issued by the Central Government from time to time for such purpose including –

(i) ensuring facilities for physical and mental health of the child;

(ii) timely nutritional diet of the child;

(iii) safe, clean shelter with sufficient provisions for daily necessities; and

(iv) compliance to all laws applicable for the time being in force for the protection of children, including their right to education, care and protection, and against sexual offences;

(d) appropriate facilities for education of the child to be arranged so as to ensure that there is no discontinuity from his lessons in school and no child shall be allowed to work consecutively for more than twenty-seven days; (e) one responsible person be appointed for maximum of five children for the production or event, so as to ensure the protection, care and best interest of the child;

(f) at least twenty per cent, of the income earned by the child from the production or event to be directly deposited in a fixed deposit account in a nationalised bank in the name of the child which may be credited to the child on attaining majority; and

(g) no child shall be made to participate in any audio visual and sports activity including informal entertainment activity against his will and consent.

(2) For the purposes of clause (c) to the Explanation to sub-section (2) of section 3, the expression —such other activity|| contained therein, shall mean — 12 THE GAZETTE OF INDIA : EXTRAORDINARY [PART

II—SEC. 3(i)] (i) any activity where the child himself is participating in a sports competition or event or training for such sports competition or event; (ii) cinema and documentary shows on television including reality shows, quiz shows, talent shows; radio and any programme in or any other media; (iii) drama serials; (iv) participation as anchor of a show or events; and (v) any other artistic performances which the Central Government permits in individual cases, which shall not include street performance for monetary gain.’.

- The act makes **child labour** a **cognizable offence**. Employing children below **14 years** will attract a jail term between **6** months and 2 years or a penalty between twenty thousand and fifty thousand rupees or both for the first time.
- Repeat offenders will attract imprisonment between **1** year to **3** years. In case the offender is a parent, it provides a relaxed penal provision and proposes a fine of Rs . 10,000 for a repeat offence committed by a parent.

- **Child Trafficking for labour**

Sections 137; 139; 141; 146 of the Bharatiya Nyaya Sanhita - (358 to 364 and 374 of IPC);

- Protection of adolescent employees from being employed in hazardous occupations:

Persons above 14 years and have not completed 18 years are prohibited from being employed in mining, production of inflammable, explosive substances, Metallurgical Industries and other hazardous processes under the Factories Act.

The ACT and the Rules spell out lots of powers and responsibilities on the District Magistrate and the Labour Department officials in enforcing this law. Implementations of this Act are with the State Governments.

➤ THE CHILD AND ADOLESCENT LABOUR (PROHIBITION AND REGULATION) ACT, 1986

[https://www.indiacode.nic.in/bitstream/123456789/19582/1/the_child_and_adolescent_labour_\(prohibition_and_regulation\)_act,_1986_no._61_of_1986_date_23.12.1986.pdf](https://www.indiacode.nic.in/bitstream/123456789/19582/1/the_child_and_adolescent_labour_(prohibition_and_regulation)_act,_1986_no._61_of_1986_date_23.12.1986.pdf)

Author: INDIA CODE

➤ REVISED NCLP GUIDELINES

https://labour.gov.in/sites/default/files/revised_nclp_guidelines_from_01.04.2016.pdf

<file:///D:/ARC%20CHILD%20LABOUR%20REVISED%20GUIDELINE.pdf>

AUTHOR: MINISTRY OF LABOUR AND EMPLOYMENT

➤ CHILD LABOUR

<file:///D:/ARC%20CHILD%20LABOUR%202.pdf>

AUTHOR: MINISTRY OF LABOUR AND EMPLOYMENT

➤ CHILD LABOUR ISSUES AND CHALLENGES

<https://pmc.ncbi.nlm.nih.gov/articles/PMC3425238/>

Author: Kalpna Srivastava – NIH - NATIONAL LIBRARY OF MEDICINE^{1,83}

➤ CHILD LABOUR LAWS IN INDIA

<https://blog.ipleaders.in/laws-related-child-labour-india/>

RIGHT TO LIFE

Laws concerning an unborn child

Denial of a female child's right to life:

Child sex ratio in India - **Child Sex Ratio – 0 to 6 years - girls / 1000 boys**

- **Census 2001** - **927** girls / **1000** boys
- **Census 2011** - **914** girls / **1000** boys

■ **Child sex ratio is the lowest in India since Independence – as per Census data - Reference: Census of India 2011**

Fewer female babies were born in urban areas in comparison with rural areas, indicating that the usage of technology to find the gender of a fetus was more easily available in urban than in rural areas.

Likelihood of an imbalanced child-sex ratio

The natural "sex ratio at birth" is often considered to be around 105. This means that, on average, at birth, there are 105 males for every 100 females. Thus, a significant departure from the ratio of 1.05 boys per every girl born indicates an imbalanced child sex ratio.

Sex-Selective Abortions] In Asian culture, families want baby boys because it is traditional that the boys take care of the parents while the daughters marry and leave the family. These families want to ensure elderly security; therefore, they want more boys in the family. Typically, it costs more to have a daughter, and they cannot contribute to the family nearly as much as a son can. These factors cause families to get an abortion Contrary to popular opinion, this is not driven by poorer families but by wealthier ones who can afford access to gender screening technology.

WIKIPEDIA

Hence, in India, the following two important Laws are in force to ensure the Right to Life of an unborn child.

1. THE MEDICAL TERMINATION OF PREGNANCY ACT, 1971

2. THE PRE-NATAL DIAGNOSTIC TECHNIQUES (REGULATION AND PREVENTION OF MISUSE) ACT, 1994 - (PCPNDT ACT)

The Medical Termination of Pregnancy Act 1971

"The right to life," which is proclaimed as a fundamental right of every citizen in Article 21 of our Indian Constitution, is applicable even to a child who is yet to be born, of course, with certain limitations.

As per current Law, Termination of pregnancy is allowed when the duration of pregnancy is less than 20 weeks and under certain special circumstances before the pregnancy crosses 24 weeks.

Failure in family planning procedures, pregnancy that could endanger the life of a pregnant woman, women & minor girls who were victims of rape, when medical evidence proves that the child will be born with multiple deformities, are some of the causes when this act could be used to terminate a pregnancy.

The act strictly prohibits abortions conducted by unqualified persons and provides adequate restrictions and provisions for qualified medical professionals to follow while performing a termination of a pregnancy.

THE MEDICAL TERMINATION OF PREGNANCY ACT, 1971

[HTTPS://WWW.INDIACODE.NIC.IN/BITSTREAM/123456789/1593/1/A1971-34.PDF](https://www.indiacode.nic.in/bitstream/123456789/1593/1/A1971-34.pdf)

AUTHOR: INDIA CODE

THE MEDICAL TERMINATION OF PREGNANCY (AMENDMENT) ACT, 2021 NO. 8 OF 2021

https://prsindia.org/files/bills_acts/acts_parliament/2021/Medical%20Termination%20of%20Pregnancy%20Amendment%20Act%202021.pdf

AUTHOR: MINISTRY OF LAW AND JUSTICE (LEGISLATIVE DEPARTMENT)

LAW COMMENT: THE MEDICAL TERMINATION OF PREGNANCY (AMENDMENT) ACT, 2021: A STEP TOWARDS LIBERATION - VERONICA ARORA, ISHWAR C VERMA

[HTTPS://IJME.IN/WP-CONTENT/UPLOADS/2021/05/ARORA_THE-MEDICAL-TERMINATION-OF-PREGNANCY_65-68.PDF](https://ijme.in/wp-content/uploads/2021/05/ARORA_THE-MEDICAL-TERMINATION-OF-PREGNANCY_65-68.PDF)

AUTHOR: PUBLISHED IN: INDIAN J MED ETHICS VOL VII (CUMULATIVE VOL XXX) NO 1 JAN-MAR 2022

THE MEDICAL TERMINATION OF PREGNANCY ACT, 1971

AUTHOR: INDIA CODE

AUTHOR: PUBLISHED IN: INDIAN J MED ETHICS VOL VII (CUMULATIVE VOL XXX) NO 1 JAN-MAR 2022

the Pre-Natal Diagnostic Techniques (regulation and prevention of misuse) Act, 1994- (PCPNDT ACT):

The purpose of the Act is to prevent the use of medical technology from promoting any existing social discrimination on account of gender. The Act prohibits gender selection before or after conception, and misuse of technology to commit female feticide. The act extensively deals with rules and norms to be followed by persons who conduct these tests, and they are forbidden from revealing the sex of the foetus at any time.

While regulating the prenatal diagnostic techniques for the purposes of detecting genetic abnormalities, metabolic disorders, chromosomal abnormalities, or certain congenital malformations, the Act tries to prohibit the termination of pregnancies only on account of gender discrimination

Stringent punishments are prescribed for those who violate these laws and rules. It is compulsory for all those genetic-related technology centres as defined in the Act to register under this Act.

PRE-CONCEPTION AND PRE-NATAL DIAGNOSTIC TECHNIQUES (PCPNDT) ACT, 1994

[HTTPS://WWW.INDIACODE.NIC.IN/BITSTREAM/123456789/8399/1/PRE-CONCEPTION-PRE-NATAL-DIAGNOSTIC-TECHNIQUES-ACT-1994.PDF](https://www.indiacode.nic.in/bitstream/123456789/8399/1/pre-conception-pre-natal-diagnostic-techniques-act-1994.pdf)

AUTHOR: INDIA CODE

PCPNDT

[HTTPS://PMC.NCBI.NLM.NIH.GOV/ARTICLES/PMC3498638/](https://pmc.ncbi.nlm.nih.gov/articles/PMC3498638/)

AUTHOR: NATIONAL INSTITUTES OF HEALTH (NIH GOV)

AMENDMENT TO PCPNDT ACT

[HTTPS://WWW.MUSK.ORG.IN/RECENT-AMENDMENTS-IN-PC-PNT-LAW.PDF](https://www.musk.org.in/recent-amendments-in-pc-pnt-law.pdf)

AUTHOR: MINISTRY OF HEALTH AND FAMILY WELFARE

CHILD SEX RATIO – CENSUS OF INDIA 2011

<file:///C:/Users/thani/Downloads/Census%20of%20India%202011-Child%20Sex%20Ratio.pdf>

AUTHOR: Dr C Chandramouli Registrar General & C C i i I di Census Commissioner, Indi a

RIGHT TO FAMILY CARE

Every parent is legally bound to provide the care, protection, and development of a child to the extent that is feasible for them. Even in the event of parents getting separated due to marital discord, all our civil and family Laws support orders for payment of maintenance by the parent who does not have custody of the child. In the event of a child being abandoned by its own parents and family or voluntarily surrendered, placement of such children in childcare

institutions should be considered as a last option after exhausting all possibilities of alternate family care, such as adoption or foster care.

Foster Care: In India, Foster care is a system where a child lives with a family that is not their biological or adoptive parents, often on a temporary basis. This offers a family environment for children who are unable to live with their own parents, whether due to neglect, abuse, or other circumstances. (clause 3 of Section 40 – J.J.Act)

Child Adoption

Child Adoption is a legal act through which the rights and responsibilities of a child are permanently transferred from birth parents to adoptive parents.

Child adoption can be of different types: It could be a family adoption where one set of biological parents / legal guardians willingly place a child in adoption to another set of parents, or it could be an adoption of an abandoned or a surrendered child being placed in adoption by a qualified third party.

Such adoptions could be further classified as '**In-Country Adoption**' if the adoptive parents are Indian Citizens living within India, or 'Inter-Country Adoption' if the adoptive parents are Non-resident Indians, Overseas Citizens of Indian origin, or foreign nationals.

The Supreme Court judgment in the case of Lakshmikanth Pandey v. Union of India, delivered on September 19, 1986, remains a landmark to date in establishing a well-laid-out process for In-Country and Inter-Country Adoptions.

After this judgment, extensive Rules, regulations, and guidelines were brought out, especially for the adoption of parentless children who were either abandoned or surrendered and were placed in adoption by a third party.

Currently, **the Hindu Adoption and Maintenance Act of 1956 and the Juvenile Justice (Care & Protection of Children) Act of 2015** are the two Acts available for adopting a child in India.

Those who are not eligible under the above two Acts could take the Guardianship of the child alone under the ***Guardian and Wards Act of 1890***

Hindu Adoption and Maintenance Act of 1956

Even though Child Adoption has been in practice since time immemorial among Hindus, the above is the first codified Law that came into practice throughout India.

Under this Act, only a Hindu parent can adopt a child who is born as a Hindu or brought up as a Hindu.

If parents themselves directly place a child in adoption to another set of parents, the adoption deed can be registered in a competent registration office. When both parents are dead or certified they be of unsound mind, then a legal guardian could give a child up for adoption with the permission of a competent court.

Once an adoption order is issued, it becomes irrevocable, and the child gains all the rights as if they were a natural-born child of that family. that includes inheritance rights to self-earned as well as traditional Hindu Joint Family Properties.

The Juvenile Justice (Care & Protection of Children) Act 2015

This is an enabling Act for all persons, irrespective of their religion, to adopt any abandoned or surrendered child who is declared as **‘legally free for adoption’** by the **Child Welfare Committee, which is the competent authority under the Act.**

As per Section 2(2) – **“adoption”** means the process through which the adopted child is permanently separated from his biological parents and becomes the lawful child of his adoptive parents with all the rights, privileges, and responsibilities that are attached to a biological child.

Chapter VIII of the Act deals with the procedures to be followed while placing children in Adoption. While Section 58 deals with procedures for adoption by Indian prospective adoptive parents living in India, Section 59 deals extensively with adoption by Indian citizens /persons of Indian origin or foreign nationals.

Central Adoption Resource Authority (CARA) is a body created by the Government of India to monitor the entire process of adoption of abandoned or surrendered children in India under the above Act.

The same Act also has provisions for family adoption, where a child from one member of the family can be placed in adoption with another, subject to certain limitations.

However, there are still some types of adoption placements that are not possible in India today due to a lack of legal provisions under any existing Act. For example, if one set of Non-Hindu parents wants to place their child in adoption to a family member or a friend who does not come under the definition provided under the J.J.Act, then they can only give the guardianship rights over the child under the Guardian and Wards Act of 1890, and such legal rights would last until the child completes 21 years of age.

The **Central Adoption Resource Authority (CARA)** is an autonomous body under the Ministry of Women & Child Development, Government of India. It functions as the nodal body for the adoption of Indian children and is mandated to monitor and regulate in-country and inter-country adoptions.

The child will not have any legal claim over the properties of such guardians.

CARA primarily deals with the adoption of orphaned, abandoned, and surrendered children through its associated /recognized adoption agencies. The entire process is done online, wherein nationwide details of all available children for adoption and details of all certified parents wishing to adopt a child are uploaded to the specified CARA website. Matching of children with adoptive parents is done centrally through this website.

Click the link below to learn more about CARA

- <http://cara.nic.in/InnerContent.aspx?Id=16#About> CARA

Eligibility of a child for adoption - With reference to Abandoned / Surrendered Children

- Only those children who are certified as “**Legally Free for Adoption**” by a *Child Welfare Committee (CWC)* could be placed in adoption
- A child could be certified as “**legally free for adoption**” When its own biological parents voluntarily surrender their child for adoption by executing a *Document of Surrender* in the presence of CWC;
- or After due process of enquiry, it has been proved beyond doubt that a child was genuinely *abandoned* by its own parents/family.

Eligibility of Prospective Adoptive Parents (S. 57 J.J.Act .2015)
(Rule 5 of Adoption Regulations 2017) – to adopt a child

Prospective Adoptive Parents shall be physically fit; financially sound; mentally alert; and highly motivated to adopt a child & give a good upbringing to the child.

- ✓ Must have had at least two years of stable married life
- ✓ Age criteria to be followed
- ✓ Age criteria, existing no. of children- not applicable to Relative / Step Parent Adoptions
- ✓ In case of a couple, consent of both parties is required
- ✓ A single female can adopt a child of any gender
- ✓ A single male shall not be eligible to adopt a girl child
- ✓ The minimum age difference between an adopter and the adoptee shall not be less than twenty-five years.
- ✓ A couple with more than three children is not eligible to adopt, except for a special needs child

Agencies involved for adoption of surrendered or abandoned children by Indian Citizens living within India (In–Country Adoption)

- **CWC** - Child Welfare Committee under J.J .Act
- **SAA** - Specialised Adoption Agency
- **CCI** - Child Care Institution
- **DCPU** – District Child Protection Unit
- **CARINGS** – Child Adoption Resource Information & Guidance System of India
- District Magistrate

Agencies involved in Inter-Country Adoption of Indian Minors

- **CWC** - Child Welfare Committee under J.J Act
- **SAA** - Specialised Adoption Agency
- **SARA** - State Adoption Resource Agency

- **CARINGS** – Child Adoption Resource Information & Guidance System of India
- **CARA** - Central Adoption Resource Authority
- **AFAA** - Authorised Foreign Adoption Agency
- **CARINGS** – Child Adoption Resource Information & Guidance System of India
- District Magistrate

The Hindu Adoption and Maintenance Act of 1956

https://www.indiacode.nic.in/bitstream/123456789/1638/1/AA1956_78.pdf

Author: The Hindu Adoption and Maintenance Act of 1956

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

<https://www.indiacode.nic.in/bitstream/123456789/8864/1/201602.juvenile2015pdf.pdf>

AUTHOR: Ministry of Women & Child Development

[HTTPS://INDIANKANOON.ORG/DOC/34919523/](https://indiankanoon.org/doc/34919523/)

AUTHOR: MINISTRY OF WOMEN AND CHILD DEVELOPMENT

MODEL GUIDELINES FOR FOSTER CARE, 2016.

<https://sesindia.org.in/wp-content/uploads/2022/08/foster-care-guidelines.pdf>

AUTHOR: MINISTRY OF WOMEN AND CHILD DEVELOPMENT

GUIDELINES GOVERNING ADOPTION OF CHILDREN, 2015

[HTTPS://WWW.SCCONLINE.COM/BLOG/POST/2015/07/29/GUIDELINES-GOVERNING-ADOPTION-OF-CHILDREN-2015/](https://www.scconline.com/blog/post/2015/07/29/guidelines-governing-adoption-of-children-2015/)

AUTHOR: MINISTRY OF WOMEN AND CHILD DEVELOPMENT

chrome-

extension://efaidnbmnnnibpcajpcglclefindmkaj/https://cara.wcd.gov.in/pdf/MODEL%20FOSTERCARE%20GUIDELINES,%202024.pdf

Guideline on Foster Care by CARA

RIGHT TO DEVELOPMENT

EDUCATION

The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine. Article 21A in the Constitution of India

The Constitution (Eighty-sixth Amendment) Act, 2009, inserted Article 21-A in the Constitution of India to provide free and compulsory education to all children in the age group of six to fourteen years as part of the 'Right to

Life.’ Originally, the Right to Education was enshrined in Article 45 under the Directive Principles of the State Policy. It is by way of the above amendment **that the Right to Education was declared as the fundamental right of every child in India between the ages of 6 and 14.**

Subsequent to it, ‘The Right of Children to Free and Compulsory Education Act (RTE) of 2009’ was enacted in the Parliament and came into force on the 1st of April 2010.

The Right of Children to Free and Compulsory Education Act (RTE) 2009:

Under this Act, a “**child** “**means** a male or female child aged between 6 to 14 years (section 2 c)

Chapter III of the Act Discusses extensively the duties and responsibilities of the Central / State, and Local governments in establishing neighbourhood schools within specified time limits.

Chapter IV of the Act talks about the responsibilities of the schools and teachers

As per this Act and the model rules framed on it -

- ✓ It is the obligation on the part of every State in India to provide a free elementary school up to standards 1 to 5 within 1 Kilometre Distance of the neighbourhoods where the children reside and within 3 Kilometres distance for children studying 6th to 8th standard. For those children living in difficult and remote terrain transport facilities to be provided to go to school.
- ✓ It requires all private schools to reserve 25% of seats for children (to be reimbursed by the state as part of the public-private partnership plan).

Such kids are admitted into private schools based on economic status as well as caste-based reservations.

- ✓ Schools to ensure employment of adequate teachers with necessary qualifications.
- ✓ Children who had dropped out or were out of school were to be admitted back into age-appropriate classes by providing additional coaching classes to cope with their studies.
- ✓ No child to be detained in the same class or expelled from the school. Whenever a child wishes to change schools, a Transfer Certificate (T.C) be provided.
- ✓ Schools should not deny admission for lack of TC or age proof.

- **CORPORAL PUNISHMENTS PROHIBITED:**

SECTION 17: Prohibition of physical punishment and mental harassment of children. — (1) No child shall be subjected to physical punishment or mental harassment.

(2) Whoever contravenes the provisions of sub-section (1) shall be liable to disciplinary action under the service rules applicable to such person.

18. No School is to be established without obtaining a certificate of recognition.

Section 10 of the Act discusses the duty of every parent to ensure their children receive a school education.

Section 21 of the ACT talks about the formation of the Management Committee. —

1. A school, other than a school specified in sub-clause (iv) of clause (n) of section 2, shall constitute a School Management Committee consisting of the elected representatives of the local authority,

parents or guardians of children admitted in such school, and teachers:

Provided that at least three-fourths of members of such Committee shall be parents or guardians: Provided further that proportionate representation shall be given to the parents or guardians of children belonging to disadvantaged groups and weaker sections: Provided also that fifty percent. of Members of such Committee shall be women.

2. The School Management Committee shall perform the following functions, namely: — (a) monitor the working of the school; (b) prepare and recommend school development plan; (c) monitor the utilisation of the grants received from the appropriate Government or local authority or any other source; and (d) perform such other functions as may be prescribed:

PART V – of Model Rule on SCHOOL MANAGEMENT COMMITTEE

Composition and functions of the School Management Committee for the purposes of Section 21

13 (1) A School Management Committee shall be constituted in every school, other than an unaided school, within its jurisdiction within six months of the appointed date and reconstituted every two years.

(2) Seventy-five percent of the strength of the School Management Committee shall be from amongst parents or guardians of children.

(3) The remaining twenty-five percent of the strength of the SMC shall be from among the following persons

a) one-third of members from amongst the elected members of the local authority, to be decided by the local authority.

b) One-third of members from amongst teachers from the school, to be decided by the teachers of the school.

c) remaining one-third from amongst local educationists/children in the school, to be decided by the parents in the committee

Hence, the RTE Act empowers parents, especially those in government and local body schools, to participate in enhancing the quality of functioning in such schools.

THE RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION ACT, 2009 Clarification on Provisions

https://www.education.gov.in/sites/upload_files/mhrd/files/upload_document/RTE_Section_wise_rationale_rev_0.pdf

AUTHOR: MINISTRY OF EDUCATION- GOVERNMENT OF INDIA

RIGHT OF EDUCATION ACT 2009

https://www.education.gov.in/sites/upload_files/mhrd/files/upload_document/rte.pdf

AUTHOR: MINISTRY OF LAW & JUSTICE – GOVERNMENT OF INDIA

MODEL RULES UNDER THE RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION ACT, 2009

https://www.education.gov.in/sites/upload_files/mhrd/files/upload_document/RTI_Model_Rules.pdf

AUTHOR: MINISTRY OF EDUCATION – GOVERNMENT OF INDIA

School Education

<https://www.education.gov.in/rte>

AUTHOR: MINISTRY OF EDUCATION – GOVERNMENT OF INDIA

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

https://www.indiacode.nic.in/bitstream/123456789/13238/1/the_right_of_children_to_free_and_compulsory_education_act%2C_2009.pdf

AUTHOR: INDIA CODE

STATUS OF EDUCATION IN INDIA – NATIONAL REPORT

<https://www.iccwtnispcanarc.org/upload/pdf/8649632484INDIA%20NATIONAL%20REPORT%20ON%20THE%20DEVELOPMENT%20OF%20EDUCATION%20-%20UNESCO.pdf>

AUTHOR: NATIONAL UNIVERSITY OF EDUCATIONAL PLANNING & ADMINISTRATION –

For DEPARTMENT OF HIGHER EDUCATION - MINISTRY OF HUMAN RESOURCE – GOVERNMENT OF INDIA

CHILD PROTECTION A HANDBOOK FOR TEACHERS

<https://www.haqcrc.org/publication/child-protection-handbook-teachers/>

<https://www.slideshare.net/slideshow/child-protection-a-handbook-for-teachers/57815456#22>

AUTHOR: CENTRE FOR CHILD RIGHTS

CHILD PROTECTION TRAINING MANUAL

<https://bettercarenetwork.org/sites/default/files/Child%20Protection%20Training%20Manual%20-%20%20Facilitators%20Guide%20for%20Teacher%20Training.pdf>

AUTHOR: SAVE THE CHILDREN

THE TEACHER AS A GUIDE: LETTING STUDENTS NAVIGATE THEIR OWN LEARNING

<https://www.edutopia.org/teacher-learning-guide>

AUTHOR: EDUTOPIA

HANDBOOK FOR TEACHERS

https://cbseacademic.nic.in/web_material/Manuals/Handbook_for_Teachers.pdf

C B S E

TIME MANAGEMENT: A GUIDE FOR TEACHERS AND EDUCATION STAFF

[HTTPS://WWW.EDUCATIONSUPPORT.ORG.UK/RESOURCES/FOR-INDIVIDUALS/GUIDES/TIME-MANAGEMENT-AND-WELLBEING-AT-WORK/](https://www.educationsupport.org.uk/resources/for-individuals/guides/time-management-and-wellbeing-at-work/)

EDUCATION SUPPORT - 37 POWERFUL TEACHING STRATEGIES TO LEVEL UP LEARNING IN 2024

CHILDREN WITH SPECIAL NEEDS

Understanding and nurturing a child's development holistically

Every child is born with a unique potential. This potential needs nurture and support to thrive and develop! Children develop their potential and well-rounded personalities when ALL areas of development are considered and nurtured holistically.

A child's sense of self (emotional,) sensory, physical-motor, social, understanding, and communication form the different areas of development. They are interrelated, equally important, and weave together to form the child's personality.

The early years, from birth to six, are a period of rapid development that sets the foundations for a child's life.

Parents and caregivers, play an important role in supporting and enabling development at this vital stage. They need information and skills to effectively parent their child. Community workers need information and skills that will help them include all children in their realm of work effectively.

Understanding and nurturing the development of a child with disability holistically – A vital and different perspective

Different parts of the brain have been found to control different functions. If before, during or after birth, the developing brain suffers trauma or damage, it can result in a delay or disorder in the area of development which the part of the brain controls. According to the area and extent of damage, the child may have a particular delay/disorder or disability.

However, the brain has enormous potential, and the neural plasticity in the early years enables parts that are not damaged to take over the functions of the parts that are. Much can be done in the early years to optimize this potential. Early holistic intervention greatly enhances the child's development. **Children with disabilities have the same rights as other children. They need equal opportunities to play and learn in the early years, in a way best suited to their individual profiles.**

A child with cerebral palsy has difficulty with movement, a child with intellectual disability (mental retardation) has difficulty with understanding, and a child with autism has difficulty with social interaction and communication. These areas of difficulty usually get focus and attention.

The child's abilities and potential in other areas may lie hidden beneath the more obvious difference/disability. These abilities also need focus and attention, for they contribute vitally to the child's self-esteem, the core of a personality.

If the abilities are not harnessed, they lie dormant or just fade away, resulting in a passive child with a disability.

When the abilities are harnessed, the child emerges confident despite differences and disabilities. ALL children benefit when they are together:

Children with disabilities can grow up to be confident, caring, contributory members in inclusive societies despite their disability when they have the opportunity to interact with other children.

Non-disabled children make friends with others of their age who have different abilities and needs. They learn to accept and respect differences naturally and--- importantly early in life they become caring and empathetic. Truly a “WIN-WIN” approach

THE RIGHTS OF PERSONS WITH DISABILITIES ACT, 2016 (RPWD Act)

- The act defines a person with a benchmark disability if a person suffers 40% or more of a particular disability.

The following are some of the Disabilities included in the RPWD Act 2016:

1. Blindness 2. Low-vision 3. Leprosy Cured persons 4. Hearing Impairment (deaf and hard of hearing) 5. Locomotor Disability 6. Dwarfism 7. Intellectual Disability 8. Mental Illness 9. Autism Spectrum Disorder 10. Cerebral Palsy 11. Muscular Dystrophy 12. Chronic Neurological Conditions 13. Specific Learning Disabilities 14. Multiple Sclerosis 15. Speech and Language disability 16. Thalassemia 17. Haemophilia 18. Sickle Cell Disease 19. Multiple Disabilities, including deaf-blindness 20. Acid Attack victim 21. Parkinson's disease. 22. Three Blood Disorders 23. Parkinson's Disease.

Chapter II of the Act deals extensively with the Rights, equality, and non-discrimination of persons with disabilities and mandates the provision of special facilities to meet their needs.

Section 9 of the Act insists upon the right of a child to a family and family care.

The Act insists that no child with a disability shall be separated from his or her parents on the grounds of disability except on order of the competent court, taking into account the best interest of the child (Sec.9.1).

Where the parents are unable to take care of a child with a disability, then as per Sub-Section 9.2 - the competent court shall place such a child with his or her near relatives, and failing that within the community in a family setting and **in exceptional cases** in a shelter home run by the appropriate Government or non-governmental organisation, as may be required.

EDUCATIONAL RIGHTS OF SPECIAL NEEDS CHILDREN

Reservations and special scholarships are available for admission to schools and colleges, as well for job opportunities.

Section 16 of the act spells out the duties of educational institutions as follows:

The appropriate Government and the local authorities shall endeavour that all educational institutions funded or recognised by them provide inclusive education to children with disabilities and, towards that end, shall—

(i) admit them without discrimination and provide education and opportunities for sports and recreation activities equally with others;

(ii) make buildings, campus, and various facilities accessible;

(iii) provide reasonable accommodation according to the individual's requirements;

(iv) provide necessary support, individualised or otherwise, in environments that maximise academic and social development consistent with the goal of full inclusion;

(v) ensure that the education to persons who are blind or deaf or both is imparted in the most appropriate languages and modes and means of communication;

(vi) detect specific learning disabilities in children at the earliest and take suitable pedagogical and other measures to overcome them;

(vii) monitor participation, progress in terms of attainment levels, and completion of the education in respect of every student with a disability;

(viii) provide transportation facilities to the children with disabilities and also the attendants of the children with disabilities having high support needs.

➤ THE RIGHTS OF PERSONS WITH DISABILITIES ACT, 2016

[HTTPS://WWW.INDIACODE.NIC.IN/BITSTREAM/123456789/15939/1/THE_RIGHTS_OF_PERSONS_WITH_DISABILITIES_ACT%2C_2016.PDF](https://www.indiacode.nic.in/bitstream/123456789/15939/1/the_rights_of_persons_with_disabilities_act%2C_2016.pdf)

AUTHOR: INDIA CODE

➤ INDIAN LAWS PERTAINING TO PERSONS WITH DISABILITIES - Key legislations and court cases that paved the way for greater protection and empowerment

<https://cjp.org.in/indian-laws-pertaining-to-persons-with-disabilities/>

AUTHOR: CITIZENS FOR JUSTICE & PEACE (CJP)

➤ LEGAL RIGHTS OF THE DISABLED IN INDIA

<https://en.vikaspedia.in/viewcontent/education/parents-corner/guidelines-for-parents-of-children-with-disabilities/legal-rights-of-the-disabled-in-india>

AUTHOR: VIKASPEDIA

- DISABILITY RIGHTS THROUGH COURTS

<https://www.disabilityrightsindia.com/p/welcome.html>

AUTHOR: CABE FOUNDATION

- A HANDBOOK FOR PARENTS OF CHILDREN WITH DISABILITIES

<https://schoolofeducators.com/wp-content/uploads/2012/05/Handbook-of-Disability.pdf>

AUTHOR: GOVERNMENT OF INDIA PLANNING COMMISSION (EDUCATION DIVISION)

- INCLUSIVE TEACHING : BLIND AND VISION IMPAIRED

<https://www.adcet.edu.au/inclusive-teaching/specific-disabilities/blind-vision-impaired>

AUTHOR: AUSTRALIAN DISABILITY CLEARING HOUSE ON EDUCATION AND TRAINING
(ADCET)

- Unique Needs of the Visually Impaired Child

<https://prntexas.org/unique-needs-of-the-visually-impaired-child/>

AUTHOR: PARTNERS RESOURCE NETWORK

- INCLUSIVE TEACHING: DEAF AND HARD OF HEARING:

<https://www.adcet.edu.au/inclusive-teaching/specific-disabilities/deaf-hearing-impaired>

AUTHOR: **ADCET**

- Children With Hearing Loss: Guidelines for Schools

<https://www.nationwidechildrens.org/family-resources-education/health-wellness-and-safety-resources/helping-hands/children-with-hearing-loss-guidelines-for-schools>

AUTHOR: HH-IV-237 ©2021, *Nationwide Children 's Hospital*

- LEARNING SUPPORT STRATEGIES FOR LEARNERS WITH NEURODEVELOPMENTAL
DISORDERS: PERSPECTIVES OF RECENTLY QUALIFIED TEACHERS

<https://pmc.ncbi.nlm.nih.gov/articles/PMC7057733/>

AUTHOR: NATIONAL LIBRARY OF MEDICINE (NIH) An official website of the United States government

➤ INCLUDING CHILDREN WITH SPECIAL NEEDS

<https://ncert.nic.in/pdf/publication/otherpublications/SpecialNeeds.pdf>

AUTHOR: NCERT

➤ *TEACHERS GUIDE TO ADHD*

<https://childmind.org/guide/teachers-guide-to-adhd-in-the-classroom/>

AUTHOR: CHILD MIND INSTITUTE -CARE EDUCATION CENTRE

➤ INCLUSIVE EDUCATION

https://cbseacademic.nic.in/web_material/Manuals/handbook-inclusive-education.pdf

AUTHOR: CENTRAL BUREAU OF EDUCATION (CBSE)

➤ Navigating Education Rights: A Guide for Visually Impaired Students in India

<https://blindwelfaresociety.in/>

BLIND WELFARE SOCIETY

➤ Training Module on VISUAL IMPAIRMENT

<https://dsel.education.gov.in/sites/default/files/publication/modulea4.pdf>

MINISTRY OF EDUCATION GOVERNMENT OF INDIA

➤ DALM Project –MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT

“Project on Financial Support for Development of Accessible Learning Materials(DALM Project) under SIPDA Scheme”

<https://depwd.gov.in/dalm-project/>

Department of Empowerment of Persons with Disabilities

PARENTING AND CHILD DEVELOPMENT

Science is telling us today what our ancestors knew thousands of years ago: every child's development is a miracle and needs nurturing.

Introduction

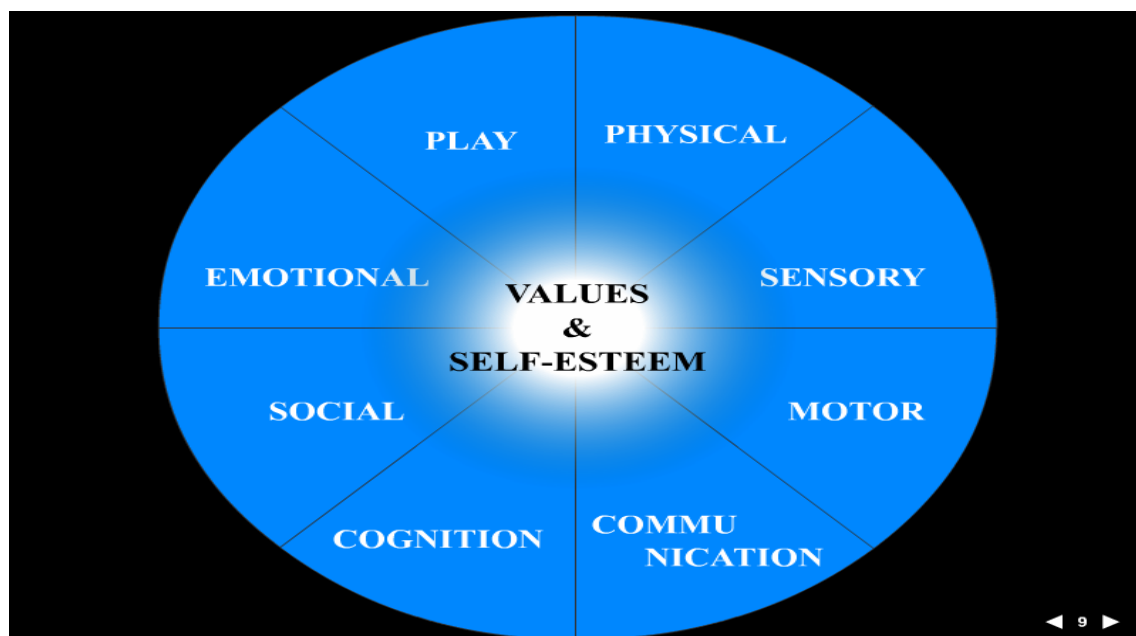
Every child is born with a unique potential. Very importantly, these potentials need nurture and support to develop!

The child and potential require parenting, which involves understanding a child holistically and responding appropriately and

lovingly to needs that are different at different ages ... they greatly enhance the child's development

Children develop their potential and well-rounded personalities when ALL areas of development are considered and nurtured holistically. A child's physical, sensory, motor, understanding, social, emotional, and communication are different areas of development.

They are interrelated, equally important, and weave together to form the child's personality. At the core is the child's self-esteem: feeling loved and capable.



Parents, caregivers, play an important role in supporting and enabling development.

They need information and skills to effectively parent their child or teen

Community workers need information and skills that will help them include ALL children in their realm of work effectively

HELPING YOUR BABY GROW FROM 0 TO 5 YEARS

<https://www.pregnancybirthbaby.org.au/helping-your-baby-grow-from-0-to-5-years>

AUTHOR: DEPARTMENT OF HEALTH & AGED CARE -AUSTRALIA

PARENTING STYLES IN INDI

<https://www.parentcircle.com/parenting-styles/articles>

AUTHOR: PARENT CIRCLE

RESEARCH STUDIES ON PARENTING IN INDIA

[https://www.researchgate.net/publication/349462985 Gendered parenting and returns from chi](https://www.researchgate.net/publication/349462985_Gendered_parenting_and_returns_from_chi)
[ldren in contemporary India A study of IIT students and their parents ***](https://www.researchgate.net/publication/349462985_Gendered_parenting_and_returns_from_chi)

RESEARCH GATE

POSITIVE PARENTING – A READY RECKONER

https://www.cbse.gov.in/cbsenew/documents/CBSE_Positive_Parenting_Book.pdf

AUTHOR: CBSE CHILD-REARING BELIEFS AND PRACTICES IN INDIAN CULTURE

<http://people.opposingviews.com/childrearing-beliefs-practices-indian-culture-8160.html>

AUTHOR: A LEAGUE FOR INNOVATION FOR COMMUNITY COLLEGES

PARENTING SKILLS FOR DIFFERENTLY ABLED CHILDREN

- a) <https://www.psychologytoday.com/us/basics/parenting/parenting-children-special-needs>
(covers all disabilities)

AUTHOR: PSYCHOLOGY TODAY (INTL)

- b) TIPS FOR PARENTS OF VISUALLY IMPAIRED CHILDREN

<https://www.webmd.com/eye-health/tips-for-parents-visually-impaired-children>

AUTHOR: WEB MED

- c) RAISING A BLIND CHILD WITH PURPOSE

<https://pneumasolutions.com/parenting-with-purpose/>

AUTHOR: BY PNEUMA SOLUTIONS TEAMAPRIL 28, 2023

10 Tips for Parents of Children with Visual Impairments

<https://www.pathstoliteracy.org/10-tips-parents-children-visual-impairments/>

Written by: [Charlotte Cushman](#)

Multi-level Systems - in place for the protection of children in the Country

- National Human Rights Commission
- State-level Human Rights Commission
- *National Commission for the Protection of Child Rights* (NCPCR)
- *State Commissions for the Protection of Child Rights* (SCPCR)
- National Commission for Women
- State Commission for Women
- Central Adoption Resource Authority
- State Adoption Resource Agency
- National/State-level Ministries and Departments for Women and Child Development

- District Level Child Protection Units
- CHILDLINE 1098, Police 100
- Child Welfare Committees / Juvenile Justice Boards / other
Judicial Systems
- Other Government and Non-Government agencies