

A COMPREHENSIVE GUIDE TO CHILD-RELATED LEGISLATION IN INDIA

Abstract

Child-related legislation in India is of paramount importance in safeguarding the rights and well-being of children. This comprehensive research paper aims to provide an in-depth overview of the key laws and acts that have been enacted in order to ensure the well-being, development, and protection of children within the country. The paper will explore the various legislative measures that have been put in place to safeguard the rights and interests of children, with a particular focus on their physical, emotional, and social welfare. By examining the evolution and impact of these laws and acts, this research paper seeks to shed light on the progress made in promoting and safeguarding the rights of children, as well as identify any gaps or challenges that may still exist in the current legal framework. Through a systematic analysis of relevant legislation, this research paper aims to contribute to the existing body of knowledge on child protection and serve as a valuable resource for policymakers, researchers, and practitioners working in the field of child welfare. This comprehensive guide provides an in-depth analysis of diverse facets pertaining to legislation concerning children.

Keywords: Child Legislations, Child laws, Children Rights, POCSO

Introduction

Research paper comprises a wide range of topics, such as constitutional provisions, educational acts, and measures to safeguard against abuse and exploitation, juvenile justice, and specialize protection for vulnerable groups. This statement further underscores the significance of child participation, the right to development, identity rights, and the role of commissions dedicated to child protection. Moreover, the guide places a strong emphasis on the importance of breastfeeding and the regulation of infant milk substitutes. The comprehension of these laws and acts holds paramount importance for individuals, organizations, and the government in their endeavor to foster and maintain the rights of children, while concurrently establishing a secure and nurturing milieu conducive to their development and overall welfare.

Question of Research

What is a complete guide to child-related legislation in India, containing an overview of the important laws and acts aimed at protecting children's rights and welfare?

Methods of Research

The following Methods are followed to gather relevant information and to analyze the subject matter effectively:

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01. Literature Review
02. Legal Document Analysis
03. Case Studies
04. Legal Framework Evaluation

Definition of Child

Different legislation regards age to be the primary criterion for designating a kid. Among the key meanings of the word "child" in different international and local regulations are:

- The word 'Child' is defined in the 1989 Convention on the Rights of the Child as "[...] any human being under the age of eighteen years, unless majority is attained earlier under the law applicable to the child."
- Article 2 of the 1999 International Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor defines child as "all persons under the age of 18."
- Section 2(aa) of the Immoral Traffic (Prevention) Act, 1956 defines "child" as "any person under the age of sixteen."
- Section 2(12) of the Juvenile Justice (Care and Protection of Children) Act, 2015 defines "child" as "any person under the age of eighteen."
- Section 2(a) of the Prohibition of Child Marriage Act, 2006 defines "child" as "a person who has not completed twenty-one years of age, if a male, and eighteen years of age, if a female."
- According to Section 2© of the Factories Act of 1948, "child" denotes "a person who has not completed his fifteenth year of age."
- According to Section 2(d) of the Protection of Children from Sexual Offences Act of 2012, "Child" implies "any person under the age of eighteen."

However, it is worth noting that in most legislation, the age of 18 years is used as a criterion for classifying a person as a kid; hence, for the purposes of this research, the definition of child is based on the Protection of Children from Sexual Offences Act, 2012.

A. Comprehensive Guide - Child Related Legislation in India

The term "child-related legislation" refers to a wide variety of laws and actions that have been passed in India with the intention of protecting the rights and welfare of children. The following is an all-encompassing overview to the legal framework in India pertaining to children, with subheadings on individual acts and laws:

1. The Constitution of India includes the following provisions:¹

- a. Article 15(3) allows for the creation of specific measures for the protection of children.
- b. Article 21A ensures that all children between the ages of 6 to 14 have the legal right to receive an education that is both free and mandatory.²

2. The Juvenile Justice (Care and Protection of Children) Act, 2015 does the following:³

- a. It establishes a comprehensive framework for the care, protection, and rehabilitation of children who are in conflict with the law and children who are in need of care and protection; this includes both children who have broken the law and children who are in need of care and protection.⁴
- b. Creates committees to address matters involving children by establishing juvenile justice boards and child welfare committees.

Down side of the Legislation

- a. **Age Determination** : The Act classifies all under-18s as minors, regardless of maturity or

1 CLA's Constitution Law of India by Dr J N Pandey

2 Pathak, J. (March 9, 2012). An Analytical Study on Rights of Children and the Constitution of India. Assam.

3 The Juvenile Justice (Care and Protection of Children) Act, 2015.

4 Avinash De Sousa, S. S. (Volume-3, Issue-9, Sept-2014 • ISSN No 2277 - 8160). The Protection of Children From Sexual Offences Act 2012.

mental ability. In circumstances of major and egregious crimes, there have been requests to decrease the age restriction for classifying criminals as adults.

b. Inadequate Rehabilitation and Reintegration:

The Act stresses the rehabilitation and reintegration of children in conflict with the law, however there are worries about the lack of infrastructure, resources, and programs to do so. Counselling, skill development, and education programs for these children's reintegration are few.

c. Overburdened Juvenile Justice System: The Act assigns matters involving children in dispute with the law to Juvenile Justice Boards and Child Welfare Committees. However, heavy caseloads, poor personnel, and limited resources can delay justice and child care in these facilities.

d. Lack of Standardization: Different Indian states execute the Act differently. The Act's interpretation and execution vary, resulting in inconsistent treatment of children in conflict with the law and in need of care and protection.

e. Insufficient Focus on Prevention: The Act largely addresses the repercussions of children breaking the law, although preventative measures and early intervention programs are needed to lower juvenile delinquency rates. Prioritize strategies to address poverty, lack of education, and violence as fundamental causes of offending.

f. Child involvement: The Act acknowledges the significance of child involvement, but the juvenile justice system needs to improve and encourage meaningful child engagement in life-changing choices. A fair and successful system requires children to be heard and considered in decision-making.

3. The Right of Children to Free and Compulsory Education Act, 2006⁵

a. Ensures that all children between the ages of 6 to 14 are provided with an education that is both free and mandatory.

b. Prohibits discrimination in the admissions process, the curriculum, and the process of completing primary school⁶.

4. The Protection of Children from Sexual Offenses (POCSO) Act, which was passed in 2012, does the following⁷

a. It establishes a legal framework for protecting children from sexual abuse, exploitation, and pornography.

b. Defines a variety of sexual crimes committed against minors and outlines severe penalties for those who commit such acts.

Down side of the Legislation

a. **Ambiguity of "Child":** The statute defines a kid as someone under 18. The Indian Penal Code sets the age of consent for consensual sex between two people at 18, which creates uncertainty about sexual behaviour. This mismatch has caused uncertainty and dispute about the POCSO Act's applicability to minors' voluntary sexual behaviour.

b. **Lack of Gender-Neutral Language:** The POCSO Act protects female children but not male youngsters from sexual assaults. This gender-specific phrasing leaves male sexual assault victims vulnerable and may discourage reporting or delay prosecution.

In a case involving the physical relationship between adolescent boy and adolescent girl, the girl is treated as the victim and the boy is treated as an accused. Despite the POCSO Act, gaining convictions is difficult owing to a lack of evidence, judicial delays, and societal stigma surrounding child sexual abuse cases. These obstacles may hinder justice for child victims and deter reporting.

5 The Right of Children to Free and Compulsory Education Act, 2006:

6 Sarin, M. N. The Right of Children to Free and Compulsory.

7 Datta & Das (2018). Indian Child Protection Laws. Law and Social Sciences, 2(1), 22–32.

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C. Rehabilitation and assistance Services: The statute emphasizes punishment, but child victims of sexual assaults require rehabilitation and assistance. To help survivors recover, counselling, medical treatment, and other assistance should be priority.

5. The Child Labour (Prohibition and Regulation) Act of 1986:⁸

- a. Prohibits the employment of children younger than 14 in potentially dangerous jobs or procedures; regulates the conditions under which children may be employed;
- b. Establishes guidelines for the working conditions and hours that minors may be required to labour in jobs that are allowed.

Down side of the Legislation

Ambiguity in the Definition of "Child Labour":

The legislation defines child labor as the employment of children under the age of 14 in certain vocations. The statute, however, enables minors to work in family businesses and some non-hazardous vocations, which may lead to exploitation and the continuation of child labor in disguised forms.

6. The Commissions for the Protection of Child Rights (CPCR) Act, 2005.⁹

- a. Establishes National and State Commissions for the Protection of Child Rights to monitor and oversee the

implementation of child rights and protection.

- b. Provides the Commissions with the authority to investigate complaints, take actions on their own initiative, and make recommendations on child welfare policies.

7. The Child Marriage Restraint Act (CMRA), signed in 2006, does the following:¹⁰

- a. It outlaws marrying a child under the age of 18 and lays out penalties for anyone who is responsible for or promotes such unions.
- b. Minimum age for females to get legally married is 18 and 21 for Male.

8. The National Policy for Children, 2013, does the following

- a. It outlines the guiding principles and action plans for the comprehensive development and well-being of children.
- b. Places an emphasis on the child's ability to live, maintain their health and nutrition, get an education, be protected, and participate.¹¹

9. The Infant Milk Substitutes, Feeding Bottles, and Infant Foods Regulation of Production, Supply, and Distribution Amendment Act of 2003: serves as a modification to the initial legislation established in 1992.

The aforementioned legislation is commonly known as the IMS Act or the Infant Milk Substitutes Act. The primary objective of the IMS Act is to establish regulatory measures for the oversight of the making, supply, and distribution of infant milk substitutes, feeding bottles, and

8 The Child Labour (Prohibition and Regulation) Act of 1986

9 The Commissions for the Protection of Child Rights (CPCR) Act, 2005

10 The Child Marriage Restraint Act (CMRA)

11 The National Policy for Children, 2013

12 The Infant Milk Substitutes, Feeding Bottles and Infant Foods Regulation of Production, Supply and Distribution Amendment Act, 2003

infant foods. The primary aim of this initiative is to safeguard and advance the practice of breastfeeding, which is widely recognized as essential for the optimal health and overall welfare of newborns.¹²

Review of Literature

Datta & Das (2018) examined India's child protection laws, including the Juvenile Justice Act, Child Labor Act, and Protection of Children from Sexual Offences Act. It evaluates the legal framework and suggests improvements.

Gupta & Human (2017) mentioned that The Indian Right to Education Act, Juvenile Justice Act, and Prohibition of Child Marriage Act are critically examined in this paper. It examines how these regulations affect child well-being and proposes improvements.

Sharma & Gupta (2019) discussed Indian child protection laws, institutions, and policies. It explains how the National and State Commissions for Protection of Child Rights, Juvenile Justice Boards, and Child Welfare Committees safeguard children and assesses their implementation issues.

Rani Verma (2018) discussed Child labor, trafficking, marriage, and abuse laws in India are critically examined in this research. It addresses implementation shortcomings and proposes legislative reforms to safeguard children.

Agarwal & Tripathi (2016) examines India's Right to Education Act, Juvenile Justice Act, and Integrated Child Protection Scheme. It addresses implementation gaps, obstacles, and the need for comprehensive child protection.

Das & Chatrabouty (2018) examines India's Child Labor (Prohibition and Regulation) Act its modifications. It evaluates the legislation's impact on child labor and offers ways to improve enforcement and rehabilitation.

Conclusion

In India, laws about children are very important for protecting their rights, keeping them healthy, and helping them grows up. This thorough guide has given a review of some of the most important

laws and acts that are meant to protect children in different areas also talked about parts of the constitution like Article 15(3) and Article 21A, which promise special protections for children and the right to free and mandatory education, respectively. It also talked about specific laws, such as the Juvenile Justice Act, the Right to Education Act, the POCSO Act, the Child Labour Act, and others, that protect children, help them get an education, take care of their health, and give them a voice.

Also Effort to talked about how important it is to nurse and how the Infant Milk alternatives Act regulates milk alternatives for babies. It talked about how important it is for children to be involved, to have the right to grow, to have the right to their own identity, and to have special protections for groups that are weak.

By looking at laws about children, it became clear that putting them into effect and making sure they are followed are still major problems. It is important for government departments, non-government organizations, and civil society to work together to make sure that these rules are implemented, monitored, and evaluated well.

Even though the Research paper gave a complete outline, it is important to remember that child-related laws are always changing. Changes and ongoing work are needed to deal with new problems and improve the safety and wellbeing of children.

Overall, this Research Paper is a useful tool for lawmakers, practitioners, scholars, and other people who work in the area of child safety and rights. It talks about India's legal system and encourages a more complete understanding of laws that affect children. It also stresses the need for everyone to work together to make a safe, caring, and welcoming place for all children.

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