

Child Protection in India UPSC Notes

All children deserve a happy childhood and the opportunity to lead a dignified life safe from violence, exploitation, neglect, deprivation and discrimination. Child Labour, malnutrition, stunting, trafficking, molestation, etc. are still affecting a large population of Indian children. Children face several issues in India like mentioned above and there were several laws applicable in India to deal with these issues.

Child Protection in India and related issues are important topics in the syllabus of the General studies paper for the UPSC exam. Aspirants who prepare for the UPSC exam will find it more effective in the preparation methodologies. Go through this article to get a glimpse of Child Protection in India related issues, Child rights and various Acts enabling child rights etc.

Child Protection in India

India has extended laws to protect children and child protection is increasingly undertaken as a fundamental part in social development. The child has the right to life before its birth. The right to survival also has the right to be born, the right to basic needs such as food, shelter, and clothing, and dignified living.

As per The Constitution of India, Article 15(3), States must make special provisions for children. Article 39 of Part IV of the Constitution asks the State to direct its policy towards securing (among other things), that children are not abused; not forced by economic necessity to enter avocations unsuited to their age or strength; and that they are given opportunities to develop in a healthy manner and in conditions of freedom and dignity, protected against moral and material abandonment.

The challenge is in implementing the laws due to inadequate human resource capacity on the ground and quality prevention and rehabilitation services. As a result, millions of children face various protection risks.

Indian legislation for child protection

The core child protection legislation for children is set forth in four main laws: The Juvenile Justice Act/Care and Protection (2000, amended in 2015); the Child Marriage Prohibition Act (2006); the Protection of Children from Sexual Offences Act (2012) and the Child Labour Prohibition and Regulation (1986, amended in 2016).

- **The Juvenile Justice (Care and Protection of Children) Act**, promotes the vision of the UNCRC, Juvenile Justice Act 2015 is India's fundamental law in dealing with children in need of care and protection. It provides for their needs through care, protection, development, treatment, social reintegration, through its child-friendly approach by addressing matters in the best interest of children.
- **The Protection of Children from Sexual Offences Act (POCSO)**, 2012 is one of the Indian government's most progressive laws, to combat sexual violence against children. POCSO qualifies penetrative sexual assault on a child below the age of 12 as aggravated penetrative sexual assault, a crime punishable with a fine and a minimum term of rigorous imprisonment for 10 years, which can be extended to life imprisonment.
- **The Criminal Law (Amendment) Act**, 2013's introduction of several new sexual offences under the Indian Penal Act, such as Section 376(2), IPC, which punishes rape of a female under 16 years is considered an aggravated form of rape punishable with a fine and a minimum term of rigorous imprisonment for 10 years, which can be extended to life imprisonment.

National Commission for Protection of Child Rights

- The National Commission for Protection of Child Rights (NCPCR) was initiated in March 2007 under the Commissions for Protection

of Child Rights (CPCR) Act, 2005, an Act of Parliament (December 2005).

- National Commission for Protection of Child Rights (NCPCR) is a regulatory body under the Commissions for Protection of Child Rights (CPCR) Act, 2005 under the administrative control of the Ministry of Women & Child Development, Government of India.
- The Commission's Mandate is to ensure that all Laws, Policies, Programmes, and Administrative Mechanisms are in accordance with the Child Rights approach as consecrated in the Constitution of India and also the UN Convention on the Rights of the Child.
- The Child is defined as a person in the 0 to 18 years age group.

Fundamental Rights

- **Article 14-** The State shall not deny to any person equality before the law or the equal protection of laws within the territory of India.
- **Article 15-** The State shall not discriminate against any citizen. Nothing in this Article shall prevent the State from making any special provisions for women and children.
- **Article 21-** No person shall be deprived of his life or personal liberty except according to procedure established by law.
- **Article 21 A-** The State shall provide free and compulsory education to all children of the age of 6-14 years in such manner as the State may, by law, determine.
- **Article 23-** Traffic in human beings and beggars and other forms of forced Labour are prohibited and any contravention of this provision shall be an offense punishable in accordance with the law.
- **Article 24-** No child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

- The Constitution (86th Amendment) Act was notified on 13th December 2002, making free and compulsory education a Fundamental Right for all children in the age group of 6-14 years.

Directive Principles

- Article 39(e) & (f) direct that the state policies are directed towards securing the tender age of children.
- Article 45 states that the state shall endeavor to provide early childhood care and education for all children until they complete the age of six years.
- Article 47- The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties
- Article 51A mentions that it shall be the fundamental duty of the parent and guardian to provide opportunities for education to his child or as the case may be, ward between the age of six and fourteen.
- Article 243G read with Schedule 11 - provide for institutionalization of child care by seeking to entrust Programmes of Women and Child Development to Panchayat (Item 25 of Schedule 11), apart from education (item 17), family welfare (item 25), health and sanitation (item 23) and other items with a bearing on the welfare of children.

Various Acts for Enabling Child Rights

- **Guardians and Wards Act, 1890:** The act supersedes all the laws regarding guardianship of a child. It is a universal code specifically designed for Muslims, Parses, Christians and Jews as their personal laws don't allow full adoption but only guardianship.
- **Child Marriage Restraint Act, 1929 (Amended in 1979):** It restrains child marriage until the minimum age, i.e. 21 for male

and 18 for female, has been attained by them. It applies to the people of all the religions.

- **Immoral Traffic (Prevention) Act (Amended in 1986), 1956:** This act with respect to children deals with person(s) who procure or attempt to procure any child for prostitution or person(s) who are found with a child in a brothel (it is presumed child has been detained for the purpose of prostitution) and punishes them. It also provides for the due care of rescued children.
- **The Women's and Children's (Licensing) Act, 1956:** The Act was enacted with an object to protect women and children from exploitation and inhuman activities going on in institutions. It mandates the institutions for women and children to get a license from the licensing authority before establishing or maintaining the institution.
- **National Policy for Children, 1974:** It is the first written policy for the children in India. It aims at providing better enforcement of constitutional rights of the children along with those granted by the CRC. Some of the provisions include free education, comprehensive health and nutritious plans, etc.
- **Bonded Labour System (Abolition) Act, 1976:** The act aims at eradicating the bonded Labour system in India which exploits the weaker sections of society, especially children.
- **Child Labour (Prohibition and Regulation) Act, 1986:** This act regulates the working conditions for children in employment and prohibits working of children in certain kinds of employments.
- **National Policy on Child Labour, 1987:** The act endeavors to eradicate child Labour from Indian society wherever necessary.
- **Juvenile Justice (Care and Protection of Children) Act, 2000:** This act is one of the important acts in India for the children in need of care and protection and also children in conflict with the law. It requires that the state provides free legal support to the juveniles, and proper care and protection is provided to those in need. It also

calls for a child-friendly approach in adjudication and disposition of matters involving children.

- **The Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Amendment Act, 2000:** The main objective of the Act is to regulate and prevent the pre-natal sex determination in order to prevent female miscarriage.
- **Protection of Children from Sexual Offences Act, 2012:** The act aims at punishing the offenders who are guilty of sexual offences against children below the age of 18 years of age. It also lays down procedures for the trial, such as, the name of child victim shall not be disclosed, proceedings of the case are to be conducted in court with cameras recording the trial, accused is not to be kept in-front of the child victim during examination or cross examination, etc.