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## CHILD SURVIVAL AND DEVELOPMENT LAWS

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### ABSTRACT

Child survival is a field of public health concerned with reducing child mortality. Child survival interventions are designed to address the most common causes of child deaths that occur whereas child development refers to the sequence of physical, language, thought and emotional changes that occur in a child from birth to the beginning of adulthood. Subsequently child survival and development law are an area of legislation and policy focused on promoting and protecting the rights, well-being, and healthy development of children. It encompasses a wide range of legal frameworks, regulations, and initiatives designed to ensure a child's survival, growth, and holistic development. The holistic concept of the right to development includes the state obligation to ensure the child's physical, mental, spiritual, moral, psychological and social development. It is a comprehensive legal framework aimed at safeguarding the rights and promoting the overall well-being of children. The article provides an overview of the importance of child survival and development, the international legal frameworks in place, and the implementation and impact of such laws at the national level. It explores key provisions related to child protection, health, education, and social development, highlighting the measures taken to ensure children's rights are upheld and their potential is maximized. The article also examines challenges and future potential orchestrations in the field of child survival and development.



**Keywords:** Child survival, Human Rights Council resolution 22/32, Child development, The Commissions for Protection of Child Rights Amendment Act, 2006, United Nations Convention of Child Rights

## INTRODUCTION

In order to understand the legal aspects of the child survival and development laws, it becomes pertinent to grasp the genesis of its articulation in the first place as well as its importance. This article emphasises precisely on the above-mentioned aspects.

The Importance of Child Survival and Development Law: Childhood is a critical phase of life that significantly impacts a person's future character as well as his/her level of contribution in the nation building. Ensuring the survival and development of children is not only a moral imperative but also vital for the well-being of societies. Child survival and development law is essential for several reasons:

1. Protecting children's rights: Child survival and development law upholds the fundamental rights of children, including the right to life, health, education, protection from abuse and exploitation, and participation in decisions affecting their lives. These laws serve as a legal framework to safeguard children's rights and hold duty-bearers accountable for their well-being.
2. Promoting holistic development: Children require access to quality healthcare, nutrition, education, and a safe environment to reach their full potential. Child survival and development law aims to provide comprehensive support to children, ensuring their physical, cognitive, emotional, and social development.
3. Reducing child mortality: Child survival laws focus on reducing child mortality rates by addressing preventable causes of death, such as malnutrition, infectious diseases, and lack of healthcare. These laws emphasize the provision of essential healthcare services, immunization programs, and interventions to combat diseases that disproportionately affect children.
4. Combating poverty and inequality: Child survival and development law recognizes that children from disadvantaged backgrounds are more vulnerable to poor health,



inadequate education, and other social challenges. By addressing systemic issues and promoting equity, these laws contribute to poverty reduction and social inclusion.

In protecting and promoting the interests of the child, the International Forums like UNICEF (United Nations Children's Fund) and CRC (United Nations Conventions on Rights of Child) are formed and have a greater role to ensure the over all development of the child across the world. The Forums also take active part in creating awareness amongst the people and to support the countries in possible ways achieve the goal.

### **United Nations Convention on Rights of Child (CRC)<sup>50</sup>**

**Definition:** Article 1 of the UNCRC defines a child as an individual below the age of 18 years. a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

1. The Convention is the part of the nine core human rights treaties.
2. The Convention on the Rights of the Child is adopted by the United Nations General Assembly in the year 1989 and widely acclaimed as a landmark achievement for human rights, recognizing the roles of children as social, economic, political, civil and cultural actors. The Convention guarantees and sets minimum standards for protecting the rights of children in all capacities. UNICEF, which helped draft the Convention, is named in the document as a source of expertise.
3. Art 6 of the Convention guarantees every child with the inherent right to life, survival and development of the child.

The various challenges that the world face today in protecting the rights of Child include:

1. Child Labour which prevails across the world and is the most critical problem to be addressed to.
2. Growing Juvenile Delinquency
3. Poverty induces to employment and abuse and children
4. Unemployment of parents forcing the children to forced labour

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<sup>50</sup> Convention on the Rights of the Child, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989)



5. Lack of Educational and Health Facilities resulting in detrimental health and unawareness leading to child mortality.
6. Child Trafficking
7. Child Sexual Abuses
8. Lack of Political Will
9. Lack of stringent rules and regulations

### **Key Components of Child Survival and Development Law:**

1. Health and healthcare: Child survival and development law encompasses legislation and policies that aim to ensure access to quality healthcare services for children. This includes provisions for prenatal care, immunization programs, prevention and treatment of diseases, nutritional support, and mental health services.
2. Education and early childhood development: Children have the right to education and early childhood development opportunities. Child survival and development laws focus on promoting access to quality education, early childhood care and education, and inclusive learning environments that support children's cognitive and social development.
3. Protection from abuse and exploitation: Child protection laws play a crucial role in safeguarding children from abuse, neglect, violence, and exploitation. These laws address issues such as child labour, child trafficking, child marriage, and child abuse, ensuring that children are protected from harm and have access to appropriate legal remedies.
4. Social protection and welfare: Child survival and development law includes provisions for social protection programs and welfare measures targeting vulnerable children and families. This may involve access to social security benefits, child support services, foster care, adoption regulations, and alternative care arrangements.
5. Participation and child rights awareness: Laws related to child survival and development emphasize children's participation in decision-making processes and the promotion of child rights awareness. These laws encourage the involvement of



children in matters affecting their lives, empowering them as active contributors to their own development and well-being.

**Indian Outlook on Child survival and development rights:** According to Government of India, a child life begins after twenty weeks of conception. Hence the right to survival is inclusive of the child rights to be born, right to minimum standards of food, shelter and clothing, and the right to live with dignity. The Constitution of India, which came into effect on 26<sup>th</sup> January 1950, guarantees children's rights. **Article 21-A** guarantees the right to free and compulsory elementary education for all children in the age group 6-14 years. **Article 24 (a)** secures the right to be protected from any hazardous employment until 14 years. **Article 39(e)** of the Indian Constitution] That appropriate opportunities shall be given to children that would help them in building in a healthy manner, and in the condition of freedom and dignity. **Article 45**, Constitution of India 1950 The State shall endeavour to provide for free and compulsory education for all children until they complete the age of fourteen years and provisions for early child care & education to children below six years

The core child protection legislation for children is enshrined in four main laws: The Juvenile Justice (Care and Protection) Act (2000, amended in 2015); The Prohibition of Child Marriage Act (2006); The Protection of Children from Sexual Offences Act (2012), and The Child Labour (Prohibition and Regulation) Act (1986, amended in 2016). In 2019, the Protection of Children from Sexual Offences Bill was amended, stipulating stricter punishment for sexual crimes against children.

- **Shiela Barse vs. Union of India**<sup>51</sup> on Trafficking of Children: On 12th July, 1986 this Court issued various directions in regard to the physically and mentally retarded children as also abandoned or destitute children who are lodged in various jails in the country for 'safe custody'.
- **M.C. Mehta vs. State of Tamil Nadu**<sup>52</sup> on Problem of Child Labour: On the issue of child labour, The Court held that Articles 24, 39(e) and 9(f), 41 and 47 obligated the State to abolish child labour while ensuring healthy development of the child. Under Article 32 the Government of India is required to take legislative, administrative, social and educational

<sup>51</sup> Shiela Barse vs. Union of India [AIR (1986) SC 1883, AIR (1988) SC 2211]

<sup>52</sup> M.C. Mehta vs. State of Tamil Nadu [JT 1990 SC 263]



measures to ensure protection of the child from hazardous exploitation and its healthy development. In the domestic sphere, the Court held that there are several pieces of legislation such as the **Child Labour (Prohibition and Regulation) Act, 1986** (the Act) that protect children from exploitation. However, the Court took note of the fact that poverty compels a family to push their child into hazardous employment. The Court held that it was thus necessary to fulfil the legislative intent behind the Act to ensure the healthy development of a child.

- **Vishal Jeet vs. Union of India**<sup>53</sup> on Problem of Child Prostitution: The petition brought out the fact that poor parents on account of acute poverty were selling their children and young girls hoping that their children would be engaged only in household duties or manual labour. However, pimps – brokers – keepers either purchase or kidnap them by deceitful means and unjustly and forcibly inveigle them into ‘flesh trade’. The SC issued the following directions inter alia to the State Governments and Union Territories.
- **Gaurav Jain vs. Union of India**<sup>54</sup> on Problems of Prostitution and Children forced into Prostitution: This writ petition has been filed pleading for separate schools and hostels for the children of prostitutes. On behalf of respondents, it was contended that since they are in fact unwanted children of prostitutes it is in the interest of such children and the society at large that they are segregated from their mothers and be allowed to blend with others and become part of the society.

**Global Initiatives and Challenges:** Child survival and development law operates within a global context, with numerous international conventions and initiatives shaping its implementation. The United Nations Convention on the Rights of the Child (UNCRC) is a key international instrument that outlines the rights of children and provides a framework for national legislation. While significant progress has been made in advancing child survival and development globally, challenges persist. These challenges include:

1. Inadequate implementation and enforcement of laws: Despite the existence of child survival and development laws, their effective implementation and enforcement can

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<sup>53</sup> Vishal Jeet vs. Union of India [1990 (3) SCC 318]

<sup>54</sup> Gaurav Jain vs. Union of India [1997 (8) SCC 114]



be lacking in some regions due to limited resources, weak governance, and a lack of awareness.

2. Poverty and inequality: Poverty and social inequality continue to pose significant barriers to child survival and development. Access to healthcare, education, and other essential services remains unequal, particularly for marginalized and disadvantaged children.
3. Armed conflict and humanitarian crises: Children in conflict-affected areas and humanitarian crises face heightened risks to their survival and development. Efforts to protect children in these situations require specific legal measures and international cooperation.
4. Emerging challenges: New challenges, such as the impact of climate change, technological advancements, and online risks, demand ongoing adaptation of child survival and development laws to effectively address these evolving threats.
5. Child survival and development law plays a vital role in safeguarding the rights and well-being of children worldwide. By focusing on health, education, protection, social welfare, and children's participation, these laws contribute to reducing child mortality, promoting holistic development, and combating poverty and inequality. While challenges remain, continuous efforts to implement and enforce child survival and development laws are crucial for creating a safer and brighter future for all children.



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