



CONTENTS

CERTIFICATE

DECLARATION

ACKNOWLEDGEMENTS

LIST OF CASES

IF A CHILD

CHAPTER I.	INTRODUCTION.....	1
1.1	Prelude.....	1
1.1.1	Relationship of Child Rights & Human Rights.....	6
1.1.2	National Commission for Protection of Child Rights.....	7
1.1.3	Child as defined under various laws.....	8
1.1.4	Age of Child : A Dilema.....	11
1.2	Objective and Scope of the Study.....	12
1.3.	Hypothesie of the Sudty.....	15
1.4	Significance of the Study.....	17
1.5	Methodology Adopted.....	19
1.6	Scheme of the Study.....	20
1.7	Utility of the Study.....	24
1.8	Variables.....	26
1.8.1	Adolescent.....	26
1.8.2	Adult.....	27
1.8.3	Child.....	27
1.8.4	Cyber Crimes.....	27
1.8.4.1	Harassment through Email.....	27
1.8.4.2	Cyber Stalking.....	27
1.8.4.3	Cyber Pornography	27
1.8.4.4	Morphing.....	28
1.8.4.5	Email Spoofing.....	28
1.8.5	Child Labour.....	28
1.8.6	Child Marriage.....	28
1.8.7	Child Pornography.....	28
1.8.8	Child Prodigy.....	28

1.8.9	Child Sexual Abuse/Exploitation.....	28
1.8.10	Child Trafficking.....	29
1.8.11	Delinquent Juvenile.....	29
1.8.12	Doli Incapax.....	29
1.8.13	Ethology.....	29
1.8.14	Feticide.....	29
1.8.15	Fetus.....	29
1.8.16	Incest.....	30
1.8.17	Infanticide (Check the shade).....	30
1.8.18	Intercountry Adoption.....	30
1.8.19	Jus Sanguinis.....	30
1.8.20	Prodigy.....	30
1.8.21	Refugee.....	30
1.8.22	Stateless Child.....	31
1.8.23	Tabula Rase (John Locke,1632-1704)	31
1.8.24	Zygote.....	31
CHAPTER II.	HISTORICAL PERSPECTIVE AND DEVELOPMENT OF RIGHTS OF CHILD	32
2.1	Prelude.....	32
2.2	Egyptian Period (3400 B.C. – 2980 B.C): The dawn of History of the Child	32
2.3	Greek Period (3000 B.C. – 1150 BC): A Life Time of Learning.	34
2.4	Roman Period (753 B.C. – 473 A.D.): The Trustee Family.....	40
2.5	Christian Period (325 A.D – 590 A.D): Revolution in the Child Status.....	43
2.6	Dark Age (400 A.D – 1000 A.D): An attempt for the Revival of Family Authority.....	47
2.7	Medieval Period (500 AD – 1500 AD): Civilization Preg Again.	50
2.8	Renaissance and Reformation (1515 AD-1569 AD): Childhood and Creativity.....	55
2.8.1	Renaissance.....	55
2.8.2	Reformation : Religious Reformation	59
2.9	Modern Era (1600 AD – Onwards).....	62

2.9.1	Period of Enlightenment : 17 th & 18 th Century.....	62
2.9.2	Scientific Beginnings (See Spelling of Beginnings).....	71
2.9.3	Information Age : Late 20 th Century & 21 st Century.....	76
2.10	Traditional Cultural Attitudes Towards Children.....	82
2.10.1	Child Practices Among Hindus (B).....	83
2.10.1.1	Namkaran Sanskar.....	83
2.10.1.2	Nikarshan Sanskar.....	83
2.10.1.3	Annaprasan or Ushtavan.....	83
2.10.1.4	Choodakarma or Vapan Vidhi.....	83
2.10.1.5	Upanayan Ceremony.....	83
2.10.2	Child Practices Among Muslims.....	84
2.10.2.1	Azan.....	84
2.10.2.2	Chhati.....	84
2.10.2.3	Aqqa.....	85
2.10.2.4	Chilla.....	85
2.10.2.5	Khatna (Circumcision).....	85
2.10.2.6	Bismillah.....	85
2.10.2.7	Hadiya or Amin.....	86
2.10.2.8	Roza (Fasting) Kusar.....	86
2.10.3	Child Practices Among Sikhs.....	86
2.10.3.1	After the Child is Born.....	86
2.10.3.2	Name Ceremony.....	86
2.10.3.3	Dastar Bandhi.....	86
2.10.4	Child Practices Among Christians.....	87
2.10.5	Child Practices Among Parsees.....	87
2.11	Abusive Child Rearing Practices in India.....	88
2.11.1	Infanticide.....	89
2.11.2	Child Sacrifice.....	89
2.11.3	Child Marriage.....	89
2.11.4	Prohibition Against Widow Marriage.....	90
2.11.5	Purdah System.....	90
2.11.6	Devdashi.....	91
2.11.7	Jogins.....	92
2.11.8	Prostitution.....	93

2.11.9	Sati.....	94
2.11.10	Child Export for Camel Race.....	94
2.10.11	Eunuchs.....	95
2.12	Conclusion.....	96
CHAPTER III	RIGHTS OF CHILD: STATUTORY PROVISIONS IN INDIA.....	98
3.1	Prelude.....	98
3.2	Labour Legislations.....	99
3.2.1	Pre-Independence Labour Legislation.....	102
3.2.1.1	The Apprenticeships Act, 1850.....	103
3.2.1.2	The Reformatory School Act, 1986.....	103
3.2.1.3	The Factories Act, 1881.....	104
3.2.1.4	The Madras Children Act, 1920.....	105
3.2.1.5	The Bengal Children' Act, 1922.....	105
3.2.1.6	The Bombay Children's Act, 1924.....	106
3.2.1.7	The Child Marriage Restraint Act, 1933.....	107
3.2.1.8	The Children (Pledging of Labour) Act, 1933.....	108
3.2.1.9	The Employment of Children Act, 1938.....	109
3.2.2	Post Independence Labour Legislation.....	110
3.2.2.1	The Factory Act, 1948.....	110
3.2.2.2	Minimum Wages Act, 1948.....	112
3.2.2.3	Plantation Labour Act, 1951.....	113
3.2.2.4	The Mines Act, 1952.....	114
3.2.2.5	The Merchant Shipping Act, 1958.....	116
3.2.2.6	The Motor Transport Workers Act, 1961.....	116
3.2.2.7	The Apprentices Act, 1961.....	118
3.2.2.8	The Atomic Energy Act, 1962.....	118
3.2.2.9	The Beedi & Cigar Works (Conditions of Employment) Act, 1966.....	119
3.2.2.10	The Shops and Establishment Acts.....	119
3.2.2.11	The Child Labour (Regulation & Prohibition) Act, 1986.....	120
3.3	The Constitution of India.....	123

3.3.1	Provisions Relating to Children under Part II of the Indian Constitution.....	124
3.3.1.1	Article 15(3): Special Provisions for Women & Children.....	124
3.3.1.2	Article 21A: Free & Compulsory Education.....	126
3.3.1.3	Article 23(1): Prohibition of “Traffic in Human Beings” and Forced Labour.....	128
3.3.1.4	Article 24: Prohibits Employment of Children in Hazardous Employments	131
3.3.2	Provision Relating to Children in Part IV of The Constitution...	133
3.3.2.1	Article 29 (e) & (f) : Prevents The Abuse And Exploitation of Children.....	134
3.3.2.2	Article 41: The State Shall Make Effective Provisions for Education.....	136
3.3.2.3	Article 45: Early Childhood Care & Education.....	137
3.3.2.4	Article 47: Duty to Raise the Level of Nutrition and the Standard of Living and to Improve Public Health.....	139
3.3.2.5	Article 51-A(K); Duty of Guardians to Provide Opportunity of Education.....	140
3.3.3	Rights of Unborn Child.....	140
3.4	The Indian Contract Act, 1872.....	143
3.4.1	Minor's Contract	143
3.4.2	Non-applicability of the Doctrine of Estopped.....	147
3.4.3	Minor's position under the Doctrine of Restitution.....	147
3.4.4	Position of a minor under the Indian Partnership Act, 1932.....	148
3.5	Position Under Law of Tort	151
3.6	Position of a Child Under the Civil Procedure Code 1908.....	153
3.6.1	Suit Against the Child.....	155
3.6.2	The Position of Guardian in the Litigation Vis-à-vis of Property.....	156
3.7	Position of a Child Under the Indian Evidence Act, 1872.....	160
3.7.1	Presumption of Legitimacy.....	161
3.7.2	Child Witness.....	162
3.8	Position of a Child Under Family Laws.....	163
3.8.1	Marriage.....	163

3.8.1.1	Under Hindu Law.....	163
3.8.1.2	Under Muslim Law.....	164
3.8.1.3	Under the Special Marriage Act, 1872.....	165
3.8.1.4	Marriage Under the Parsi Law.....	165
3.8.1.5	Marriage Under Christian Law.....	166
3.8.2	Right of Minor Child to Claim Maintenance.....	167
3.8.2.1	Under Hindu Law.....	167
3.8.2.2	Under Muslim Law.....	169
3.8.3	Custody and Guardianship of a Minor Child.....	171
3.8.3.1	The Hindu Minority and Guardianship Act, 1956.....	172
3.8.3.2	Under the Guardian & Wards Act, 1890.....	173
3.8.3.3	The Indian Divorce Act, 1869 on Custody and Guardianship...173	
3.8.3.4	The Parsi Marriage and Divorce Act 1936, on custody and Guardianship.....	174
3.8.4	Adoptions.....	174
3.8.4.1	Hindu Adoption & Maintenance Act, 1956.....	175
3.8.4.2	Adoption and the Guardian & Wards Act, 1980.....	177
3.8.4.3	Supreme Court Guidelines on Inter-Country Adoptions	178
3.8.5	Succession	180
3.8.5.1	Under the Hindu Law.....	180
3.8.5.2	Under Muslim Law.....	181
3.9	The Child & Criminal Law.....	183
3.9.1	Indian Penal Code 1860.....	184
3.9.1.1	Offences Committed by Children.....	184
3.9.1.2	Offences Committed against the Children.....	186
3.9.2	The Criminal Procedure Code, 1973.....	192
3.9.3	The Juvenile Justice (Care & Protection of Children) Act, 2000.....	194
3.10	Conclusion.....	197
CHAPTER IV	INTERNATIONAL LEGISLATIONS ON RIGHTS OF CHILD.....	199
4.1	Prelude.....	199
4.2	History of Rights of Child.....	200

4.3	The Genesis: The Geneva Declaration, 1924.....	202
4.3.1	Declaration of Geneva.....	203
4.4	The United Nations International Childrens Emergency Fund (UNICEF): 1946.....	203
4.5	The Universal Declaration of Human Rights 1948.....	210
4.6	The Declaration of the Rights of Child 1959.....	214
4.7	The International Convention on Civil & Political Rights, 1966.....	218
4.8	The International Covenant on Economic, Social & Cultural Rights, 1966.....	221
4.9	The Optional Protocol to the International Covenant on Civil & Political Rights, 1966.....	223
4.10	The Convention on Rights of Child, 1989.....	224
4.11	The Committee on Rights of Child.....	234
4.12	The Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography.....	235
4.13	The World Conference on Education for All, 1990.....	237
4.14	The World Summit for Children, 1990.....	239
4.15	Appraisal of ILO Conventions.....	240
4.16	Conclusion.....	241
CHAPTER V	CRITICAL APPRAISAL OF THE RIGHTS OF CHILD...242	
5.1	Prelude.....	242
5.2	Universal Primary Education: A Dream Yet to be Fulfilled.....	244
5.2.1	National and International Responsibility.....	244
5.2.2	Rights to Education: Indian Scenario.....	246
5.2.3	Right to Education: Position of Girl Child.....	251
5.3	Malnutrition: Harm to National Asset.....	254
5.3.1	The Asian Enigma.....	255
5.3.1.1	The Birth Weight Factor.....	257
5.3.1.2	Food & Diseases.....	258
5.3.2	Nutrition: Indian Position.....	259
5.4	Inadequate Child Health Services: A Moral Outrage.....	261

5.5	Rights of the Child Against Exploitation: Child Labour.....	264
5.6	An Alarming High Rate of Female Feticide.....	266
5.7	Problem of Infanticide: A Grim Reality.....	267
5.8	Customary EVIL: Child Sacrifice.....	268
5.8.1	Crackdown Campaign Against Child Sacrifice.....	270
5.9	Female Child: Victim of Gender Bias.....	271
5.10	Problems Related to Street Children.....	272
5.11	Delinquent Children: Semblance as a Criminal.....	274
5.12	Child Abuse and Neglect: A Socio-Legal Aspect.....	277
5.13	Exploitation of Child in Slavery and Beggary.....	279
5.14	Parents Influence on Children: Victims of Alcoholic & Drug Trafficking Parents.....	282
5.15	Child Trafficking: A Grade Concern.....	285
5.16	Sexual Abuse: Commercial Sexual Abuse.....	287
5.17	Child Prostitution: An Unbearable Business.....	291
5.18	Paedophilia: A Child Mania.....	295
5.18.1	Paedophilia & Sex Tourism.....	295
5.18.2	Paedophilia with Special Reference to Nithari Kand.....	297
5.19	Child Pornography: A Menace.....	299
5.20	Excessive Freedom of Speech & Expression: A Means of Child Exploitation.....	304
5.21	Devdasis and Jogins: Sex Workers.....	307
5.22	Difficulties Faced by Refugee Child.....	309
5.23	Plight of Migrant Children.....	312
5.24	Disabled Children: Delayed Recognition by Government.....	312
5.25	Children of Prisoners: Loss of Parental Attachment	317
5.26	Children of Armed Conflict: A Blameless Victim	318
5.27	Trauma of Growing Eunuch.....	323
5.28	Child Prodigy: A boon or Curse.....	323
5.28.1	Akrit Jaswal: A Child Surgeon.....	324
5.28.2	Budhia: A Marathon Boy.....	325
5.28.3	Lavinashree: Elaphantine Memory.....	327
5.28.4	Ainan Celeste Cawlay: A Chemistry Prodigy.....	328
5.28.5	Manan Vyas: A Mind Which Works Faster than a Computer...	329

5.28.6	Shooting Star Abhinav: From A Child Prodigy to An Olympic Gold Medalist.....	330
5.29.7	Conclusion.....	331
CHAPTER VI	ROLE OF JUDICIARY IN PROTECTION OF WELFARE OF A CHILD: THE TRENDS AND RESPONSES.....	333
6.1	Prelude.....	333
6.2	Child Education & Judiciary.....	335
6.3	Child Labour: Humanistic Approach by Judiciary.....	344
6.4	Sexual Exploitation & the Judiciary.....	355
6.4.1	Child Trafficking	355
6.4.2	Pornography.....	357
6.4.3	Sexual Abuse & Sexual Exploitation.....	361
6.4.4	Incest.....	371
6.5	Care, Protection, Rehabilitation & Judiciary.....	373
6.6	Maintenance & Child Welfarism by Judiciary.....	382
6.7	Judiciary & Custody of a Child.....	386
6.8	Adoption and Judiciary.....	387
6.9	Conclusion.....	390
CHAPTER VII	CONCLUSION & SUGGESTIONS.....	392
7.1	Prelude.....	392
7.2	Finding of the Study.....	411
7.2.1	Facts on Education.....	411
7.2.2	Statistics on Child Labour.....	412
7.2.3	Data on Health.....	413
7.2.4	Special Statistics on Girl Child.....	414
7.2.5	Updates on Nutrition	415
7.2.6	The Right to Expression.....	415
7.2.7	The Right to Information.....	415
7.2.8	The Right to Nutrition.....	415
7.2.9	The Right to Health & Care.....	415
7.2.10	The Right to Protection from Abuse.....	416

7.2.11	The Right to Protection from Exploitation.....	416
7.2.12	The Right to Protection from Neglect.....	416
7.2.13	The Right to Development.....	416
7.2.14	The Right to Recreation.....	416
7.2.15	The Right to Name & Nationality.....	416
7.2.16	The Right to Survival.....	417
7.3	Suggestions.....	417
7.3.1	Changes Required in Family Law.....	418
7.3.2	Changes Required in Criminal Laws.....	418
7.3.3	Changes Required in the Juvenile Justice Act, 2000.....	420
7.3.4	Changes Required in the Indian Evidence Act, 1872.....	420
7.3.5	Changes Required for Prevention of Child Trafficking.....	421
7.3.6	Changes Required for Prevention of Child Sexual Abuse.....	421
7.3.7	Changes Required in the Protection of Prostitutes.....	422
7.3.8	Changes Required in Right to Education.....	422
7.3.9	Changes Required in Preventing Child Labour.....	424
7.3.10	Changes Required in Right to Maintenance & Rehabilitation...	426
7.3.11	Changes Required in Protection of Rights of Disabled Child...	426
7.3.12	Changes Required in Adoption Matters.....	428
7.3.13	Miscellanious.....	428
7.3.14	Awareness Required from the Public.....	429

BIBLIOGRAPHY

1.	Acts.....	I
2.	Articles.....	II
3.	Books.....	V
4.	Electronic Media (Internet).....	VIII
5.	Newspapers	IX

ACRONYMSX