

Laws Related to Children in India (IPC and CrPC)

The development index of a country depends on the quality of the Human Resource. Children are the future of this country and thus, there arises a greater responsibility on part of the state to ensure a proper development of children of this country. According to United Nations Convention on Rights of the Child (UNCRC), "a child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier." This gives the various countries freedom to fix the age limit in determining that who is a child. In India after passing The Juvenile Justice (Care and Protection of Children) Act 2000, any person below the age of 18 is considered as a child as the mental state of adults and children are different; therefore there is a need to treat them separately under the different purview of law. And so there are different provisions in our legal system to ensure that children do not suffer any ailment due to prevalence of similar legal system. According to the section 82 of Indian Penal Code (IPC), nothing is an offence which is done by a child under seven years of age. Also according to the section 83 of Indian Penal Code (IPC), nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion. To ensure that people come forward to help children in danger, section 89 of IPC asserts that nothing which is done in good faith for the benefit of a person under twelve years of age, or of unsound mind, by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause or be known by the doer to be likely to cause to that person. To ensure that children are not left at the peril of their parents i.e. they are not abandoned section 317 of IPC, whoever being the father or mother of a child under the age of twelve years, having the care of such child, shall expose or leave such child in any place with the intention of wholly abandoning such child, shall be punished with imprisonment of either description for a term which may extend to seven years; or with fine, or with both. According to section 361 of IPC, whoever takes or entices any minor under sixteen years of age if a male, or under eighteen years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship. Section 363 of IPC provides the punishment of this offence i.e. whoever kidnaps any person from India or from lawful guardianship, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. This ensures the safety of the children. Section 369 whoever kidnaps or abducts any child under the age of ten years with the intention of taking dishonestly any movable property from the person of such child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. To ensure that children are not kidnapped for the purpose for begging section 363A of IPC asserts that kidnapping or maiming a minor for purposes of begging is a criminal offence under IPC i.e. (1) Whoever kidnaps any minor or, not being the lawful guardian of a minor, obtains the custody of the minor, in order that such minor may be employed or used for the purpose of begging shall be punishable with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. (2) Whoever maims any minor in order that such minor may be employed or used for the purposes of begging shall be punishable with imprisonment for life, and shall also be liable to fine. (3) Where any person, not being the lawful guardian of a minor, employs or uses such minor for the

purposes of begging, it shall be presumed, unless the contrary is proved, that he kidnapped or otherwise obtained the custody of that minor in order that the minor might be employed or used for the purposes of begging. To protect the girl child from sexual offenses section 366 A. of IPC asserts that whoever, by any means whatsoever, induces any minor girl under the age of eighteen years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years, and shall also be liable to fine. Section 372 of IPC asserts that whoever sells, lets to hire, or otherwise disposes of any [person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be] employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall be liable to fine. Section 373 of the above legislation states that whoever buys, hires or otherwise obtains possession of any person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, of knowing it to be likely that such person will at any age be] employed or used for any purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. To ensure that trial of the juvenile delinquents is carried out in an amicable manner, Section 27 of The Code of Criminal Procedure (CrPC) asserts the jurisdiction in case of juveniles. It states that any offense not punishable with death or imprisonment for life, committed by any person who at the date when he appears or is brought before the court is under the age of sixteen years, may be tried by the court of a Chief- Judicial Magistrate, or by any court specially empowered under the Children Act, 1960 (60 of 1960), or any other law for the time being in force providing for the treatment, training and rehabilitation of youthful offenders. The Indian Constitution also has special provisions for the children of state. Article 21(a) of the constitution states that all children between the ages of six to fourteen should be provided with free and compulsory education. Article 45 of the same bare act states that the state should provide early childhood care and education to all children below the age of six. Thus we see that the Indian Legal System has indeed made separate provisions in the best interest of its young citizens.