

INTERNATIONAL JOURNAL OF LEGAL STUDIES AND SOCIAL SCIENCES [IJLSSS]

ISSN: 2584-1513 (Online)

Volume 3 | Issue 5 [2025] | Page 310 - 314

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CHILD ABUSE IN INDIA: CONSTITUTIONAL MANDATES, LEGISLATIVE FRAMEWORK, AND JUDICIAL APPROACHES

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ACKNOWLEDGEMENT

This paper acknowledges the invaluable contributions of legal scholars, child rights activists, and judicial authorities whose work has illuminated the path toward a more just and protective environment for children in India. Special thanks are due to the Indian Law Institute for fostering academic inquiry in this critical area.¹

ABSTRACT

Child abuse in India remains a pervasive issue, despite comprehensive legislative measures such as the Protection of Children from Sexual Offences (POCSO) Act, 2012², and the Juvenile Justice (Care and Protection of Children) Act, 2015³. This paper examines constitutional mandates for child protection¹, analyzes the legislative frameworks^{2,3} evaluates judicial interpretations⁶⁻⁸, and provides statistical insights⁵. It identifies gaps in enforcement and proposes reforms for a stronger legal and institutional response.

Keywords: Child Abuse, POCSO Act², Juvenile Justice Act³, Constitutional Law¹, Indian Penal Code⁴, NCRB Statistics⁵, Judicial Interpretation⁶⁻⁸, Child Protection, Legal Reform, India.

ABBREVIATIONS

- POCSO: Protection of Children from Sexual Offences²
- JJ Act: Juvenile Justice (Care and Protection of Children) Act³
- NCRB: National Crime Records Bureau⁵
- IPC: Indian Penal Code⁴
- SC: Supreme Court⁶⁻⁸
- HC: High Court⁶⁻⁸
- CWC: Child Welfare Committee^{3,1,9}
- JJB: Juvenile Justice Board^{3,1,9}

1. INTRODUCTION

Child abuse undermines the fundamental principles of justice and human dignity¹. Despite legislative advancements, its incidence remains high⁵. This paper examines constitutional provisions¹, legislative measures^{2,3,4} and judicial interpretations⁶⁻⁸, while providing statistical data⁵ and proposing legal reforms.

2. CONSTITUTIONAL MANDATES FOR CHILD PROTECTION

The Constitution of India enshrines several provisions aimed at safeguarding children¹:

- **Article 15(3)**: Empowers the State to make special provisions for children¹.
- **Article 21**: Guarantees the right to life and personal liberty, including protection from abuse¹.
- **Article 39(e) & (f)**: Directs the State to ensure children are not abused and are protected against exploitation¹.
- **Article 45**: Mandates early childhood care and education for all children up to six years¹.

These constitutional provisions provide the foundation for specific child protection laws^{2,3,4}.

3. LEGISLATIVE FRAMEWORK

3.1 POCSO ACT, 2012²

- Protects children from sexual offences, including penetrative and non-penetrative assault, harassment, and pornography.

- Mandates Special Courts for speedy trials and child-friendly procedures.
- Provides stringent punishments for offenders, with provisions for aggravated sexual offences.

3.2 JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015³

- Governs children in need of care and protection, and those in conflict with the law.
- Emphasizes a child-friendly approach ensuring the best interests of the child are paramount.
- Establishes Juvenile Justice Boards (JJBs) and Child Welfare Committees (CWCs) for monitoring and welfare^{3,1,9}.

3.3 INDIAN PENAL CODE, 1860⁴

- Sections 375, 376, 377, and 506 are applicable to child abuse cases.
- IPC provisions are complemented and strengthened by the POCSO Act² for child-specific offences.

4. JUDICIAL INTERPRETATIONS

- **Attorney General for India v. Satish (2021)⁶**: Defined “sexual intent” as the key element for establishing sexual assault under POCSO².
- **Just Rights for Children Alliance v. S. Harish (2024)⁷**: Held that possession of child pornography is punishable under POCSO².
- **State of Himachal Pradesh v. Ramesh Kumar (2025)⁸**: Upheld life imprisonment for incestuous sexual assault, emphasizing that the family must be a safe space⁸.

5. STATISTICAL INSIGHTS (NCRB 2023 DATA)^{5,13}

Type of Offence	Cases (2023)	% Increase from 2022
Sexual Assault	12,532	+8%
Cyber Exploitation	1,94,000	+15%
Child Labour & Neglect	9,845	+5%

Type of Offence	Cases (2023)	% Increase from 2022
Child Marriage Interventions	73,000	-

- Reports indicate increased cyber-related abuse, highlighting vulnerabilities in digital spaces.
- Child marriage and neglect remain significant challenges in rural and marginalized communities.

6. CHALLENGES IN ENFORCEMENT

1. **Underreporting**⁵: Societal stigma and familial pressure deter reporting.
2. **Delayed Trials**^{6,7}: Judicial backlog and procedural bottlenecks impede justice.
3. **Lack of Awareness**¹²: Families and communities often lack knowledge of child rights and laws.
4. **Inadequate Training**^{18,19}: Police, judiciary, and medical personnel require specialized training.

7. RECOMMENDATIONS FOR REFORM

- **Awareness Campaigns**¹²: Educate the public about child rights, abuse reporting, and protections.
- **Capacity Building**¹⁹: Train police, judiciary, and healthcare professionals to handle child abuse cases sensitively.
- **Fast-Track Courts**¹⁴: Establish dedicated courts for child abuse cases to reduce delays.
- **Support Systems**¹²: Implement counseling and rehabilitation for victims.
- **Technology Integration**: Use AI-enabled monitoring to detect online abuse early.
- **Grassroots Engagement**: Empower CWCs and NGOs to monitor child welfare locally.

8. CONCLUSION

India has enacted strong laws^{2,3,4} and the judiciary⁶⁻⁸ has reinforced them. Yet, underreporting, societal stigma, and enforcement gaps remain significant obstacles. A coordinated approach integrating legal reform, societal awareness, and institutional capacity building is essential to secure the rights and protection of children across India.

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