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CHILDREN AND THE LAW: RIGHTS, REMEDIES, AND REALITIES IN INDIA

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Abstract

Children are not merely passive beneficiaries of welfare but bearers of inherent rights and entitlements. Their vulnerability necessitates special legal and institutional safeguards that can secure their survival, development, protection, and participation in society. In India, these safeguards are anchored in the Constitution, elaborated through statutory enactments, enriched by judicial pronouncements, and strengthened by international commitments. Yet, the stark contrast between legal ideals and lived realities remains troubling. Millions of children continue to toil in labour, fall prey to trafficking, suffer abuse, and are denied education, healthcare, and a dignified life.

The article underscores that the struggle for children's rights is not static but evolving, shaped by social change, judicial innovation, and international commitments. Therefore, it proceeds with three core objectives. First, to map the rights framework available to children under the Indian Constitution, statutory law, and judicial interpretation. Second, to analyse the remedies and enforcement mechanisms available to secure those rights. Third, to critically analyse the realities of implementation, highlighting gaps and proposing reforms. By weaving these strands together, the article seeks to illuminate not only the progress India has made but also the formidable challenges that remain.

The article examines the constitutional foundation of child rights, analyses key statutes such as the Juvenile Justice Act, the POCSO Act, and the RTE Act, and traces the role of the judiciary in expanding the horizons of child welfare. It also situates India's domestic framework within the global discourse by considering international obligations like the UN Convention on the Rights of the Child. Yet, law on paper does not always translate into law in action; therefore, a critical

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segment is devoted to ground realities such as poverty, trafficking, abuse, digital exploitation and systemic implementation deficits. The article argues that transforming rights into realities requires a child-centric paradigm of governance that integrates law, policy, community participation, and social transformation. Ultimately, it concludes that safeguarding children's rights is not merely a constitutional obligation but also a moral imperative essential to the sustenance of democracy itself.

Keywords: Welfare, Rights, Constitution, Remedies, Realities

Introduction

In the words of Nelson Mandela “There can be no keener revelation of a society's soul than the way in which it treats its children.” In India, where nearly one-third of the population is below the age of 18, the question of children's rights is not merely a policy concern but a matter central to the nation's destiny. Children occupy a singular position within the constitutional imagination of India, embodying both the promise of the future and the vulnerability of the present. They symbolise potential of growth, of innovation, of societal renewal. Yet, paradoxically, they also represent a category most susceptible to exploitation, neglect, and systemic failure. Ensuring their protection, education, health, and dignity is not merely an act of benevolence but a constitutional and ethical obligation. The legal system, therefore, must not only recognise their distinct needs but also provide robust mechanisms for the protection and promotion of their rights.

The framers of the Indian Constitution were acutely aware of this duality. While enshrining fundamental rights for all citizens, they specifically included provisions to secure the welfare and development of children. Education, nutrition, and protection from exploitation were not seen as privileges but as fundamental entitlements. The Constitution thus planted the seeds for a child-centric jurisprudence, though it was left to later generations to nurture these ideals through laws, policies, and judicial interpretation.

The idea of children as subjects of law has evolved significantly. Historically, they were viewed as dependents, with adults exercising control in the guise of protection. The colonial legal order in India carried this paternalistic view, addressing children largely through the lenses of labour regulation, education in limited forms, and penal law for juveniles. It was only in the post-

independence era, under the aegis of the Constitution, that children were reimagined as rights-holders entitled to equality, dignity, and development. The framers of the Constitution placed children's welfare at the heart of India's democratic aspirations, weaving protective and developmental mandates into both Fundamental Rights and Directive Principles of State Policy.

Over time, India has witnessed a steady expansion of child-related jurisprudence. The judiciary has infused substantive meaning into constitutional guarantees. Landmark rulings have read the right to education, health, nutrition, and protection from exploitation into the fabric of Article 21. This judicial creativity has ensured that children are not relegated to the margins of legal discourse but occupy the centre stage in the evolution of Indian constitutionalism. Legislative enactments too have progressively broadened the scope of child rights. Yet, rights are meaningful only when backed by effective remedies. Mechanisms such as the National Commission for Protection of Child Rights (NCPCR), child welfare committees, special courts under POCSO, and writ remedies under Articles 32 and 226 are intended to operationalise these rights.

The trajectory of child protection laws in India reveals both progress and persisting challenges. On one hand, statutes such as the Juvenile Justice Act and POCSO Act represent significant advances in recognising children's rights as distinct from those of adults, tailored to their evolving capacities. On the other hand, issues of accessibility, delay, lack of awareness, and systemic bias often dilute their effectiveness. Newer challenges have also emerged in the digital age including cyber exploitation, online pornography, and bullying which threaten children's safety in unprecedented ways.

The continued prevalence of child labour, trafficking, abuse, and malnutrition exposes the deep disjunction between constitutional promises and social realities. This gap underscores the limits of law as a transformative instrument when unaccompanied by effective enforcement, adequate resources, and societal change. Laws can prohibit child labour, but unless poverty is addressed and educational opportunities are strengthened, children will continue to work. Laws can penalize child marriage, but unless patriarchal norms and socio-economic compulsions are challenged, the practice will persist. Thus, a holistic approach - legal, social, economic, and cultural is indispensable for realizing children's rights in practice.

As Dr. B.R. Ambedkar reminded the Constituent Assembly, “Justice has always evoked ideas of equality, of proportion, of compensation. In short, justice is another name of liberty, equality and fraternity.” In the context of children, justice requires not only protecting them from harm but also equipping them with the means to live a dignified and fulfilling life. The law must therefore function as both shield and sword—shielding children from exploitation and violence, while opening pathways for education, health, and holistic development.

Constitutional Framework for Children’s Rights in India

The Constitution of India is the bedrock of all rights, and for children, it creates a mosaic of protections that are simultaneously fundamental, directive, and interpretative. Children, though not a “special class” in the constitutional text in the way that Scheduled Castes or Scheduled Tribes are, nonetheless receive explicit recognition through certain provisions. The vision of the framers was clear: the Republic could not flourish without securing justice, dignity, and welfare for its youngest citizens.

Fundamental Rights

At the heart of constitutional protections lie the Fundamental Rights enshrined in Part III. These are justiciable rights, enforceable through the courts, and extend equally to children as to adults. Yet, several provisions have direct relevance for children:

- Article 14 guarantees equality before law and equal protection of the laws. This principle forms the foundation for striking down discriminatory practices against children, whether in education or access to resources.
- Article 15(3) empowers the State to make special provisions for children. This clause is vital because it creates a constitutional justification for affirmative action measures such as free mid-day meals or protection in criminal law. Unlike Article 15(1), which prohibits discrimination, this provision is enabling in nature and legitimises child-centric policies.
- Article 21, the right to life and personal liberty, has been expansively interpreted to include the right to live with dignity, the right to health, and, through judicial interpretation, the right to education. For children, Article 21 becomes the gateway

through which a host of derivative rights, from nutrition to safety, are judicially recognised.

- Article 21A, inserted by the 86th Constitutional Amendment in 2002, mandates free and compulsory education for all children between the ages of six and fourteen. This is a milestone in constitutional history, for it transformed what was once a Directive Principle into a Fundamental Right.
- Article 23 prohibits trafficking in human beings and forced labour. Children are disproportionately vulnerable to trafficking, whether for bonded labour, prostitution, or other forms of exploitation. This Article provides a strong constitutional weapon against such practices.
- Article 24 specifically prohibits the employment of children below the age of 14 years in factories, mines, or other hazardous occupations. This was one of the earliest and clearest child-protection clauses inserted in the Constitution, reflecting the framers' concern with exploitation in industrialising India.

Thus, the Fundamental Rights framework builds a scaffold that recognises both the general equality of children with adults and their special needs as a vulnerable category requiring enhanced protection.

Directive Principles of State Policy

The Directive Principles, though non-justiciable, are crucial in shaping the State's obligation towards children. They provide the moral compass by which laws and policies are to be framed:

- Article 39(e) and (f): The State is directed to ensure that children are not abused, forced by economic necessity into unsuitable labour, and that childhood and youth are protected against exploitation and moral and material abandonment. These two sub-clauses have become guiding beacons for child welfare jurisprudence in India.
- Article 45: Originally directed the State to provide free and compulsory education for all children up to 14 years of age. After the 86th Amendment, Article 45 was reframed to focus on early childhood care and education for children below six

years, thereby recognising the critical importance of early years in child development.

- Article 47: Imposes a duty on the State to improve public health and nutrition, both directly tied to children's survival and development.

While unenforceable in courts, these provisions influence legislation and policy. For instance, the Integrated Child Development Services (ICDS) scheme, mid-day meals, and early childhood programmes all find legitimacy in the DPSPs.

Fundamental Duties

The Fundamental Duties in Article 51A, though addressed to citizens, also carry relevance for children. Article 51A(k) specifically places a duty on parents or guardians to provide opportunities for education to children between six and fourteen years. This reinforces Article 21A by placing an obligation not merely on the State but also on families, recognising that children's rights require a shared responsibility.

Legislative Framework

While the Constitution provides the foundation for children's rights in India, it is through statutory enactments that these rights acquire specificity, enforceability, and practical contours. Over the decades, India has developed an elaborate legislative regime addressing issues ranging from education and labour to trafficking, adoption, and sexual abuse. Yet, the multiplicity of laws also raises questions of coherence, implementation, and accessibility.

The Juvenile Justice (Care and Protection of Children) Act, 2015

The Juvenile Justice Act represents the cornerstone of child welfare legislation in India. It replaced earlier laws, most recently the Juvenile Justice (Care and Protection of Children) Act, 2000, aligning domestic law more closely with the UN Convention on the Rights of the Child. The 2015 Act contains two major pillars: children in conflict with law, and children in need of care and protection.

The Act provides for separate procedures, institutions, and rehabilitation measures for juveniles who commit offences. One of the most debated features of the 2015 Act is its provision permitting children aged 16–18 accused of heinous offences to be tried as adults, subject to a preliminary assessment by the Juvenile Justice Board.

Besides, the Act mandates the establishment of Child Welfare Committees (CWCs) in every district. These committees are empowered to take cognizance of children who are abandoned, trafficked, orphaned, or otherwise without family support. The Act also governs foster care, adoption, and sponsorship, thereby providing a comprehensive framework for alternative care.

The JJ Act reflects a blend of welfare orientation and penal concerns, attempting to balance child rights with societal demands for accountability.

The Protection of Children from Sexual Offences (POCSO) Act, 2012

Perhaps the most significant child protection statute of recent times, the POCSO Act criminalises a wide range of sexual offences against children. It provides a gender-neutral definition of the victim and recognises not only penetrative assault but also non-penetrative sexual assault, sexual harassment, and pornography. Key features include:

- Establishment of Special Courts for speedy trials.
- Mandatory reporting of sexual offences, failing which liability attaches even to those who withhold information.
- Child-friendly procedures such as recording statements at the child's residence, prohibition on aggressive cross-examination, and in-camera trials.
- Presumption of guilt in certain cases, reversing the burden of proof to protect vulnerable victims.

Despite its robust framework, challenges persist. Conviction rates remain low, partly due to poor investigation, victim hostility, and social stigma. Moreover, the 2019 amendment introduced mandatory minimum sentences, even death penalty for certain offences, sparking debates about deterrence versus retribution in child protection.

The Right of Children to Free and Compulsory Education (RTE) Act, 2009

Education is the bedrock of empowerment, and the RTE Act operationalises Article 21A of the Constitution. The Act guarantees free and compulsory education for children between 6–14 years and prescribes standards for schools. Highlights include:

- Reservation of 25% seats in private unaided schools for children from economically weaker sections and disadvantaged groups.
- Norms relating to pupil-teacher ratios, infrastructure, and quality of education.
- Prohibition of physical punishment, mental harassment and capitation fees.
- Mandate for neighbourhood schools to reduce distance barriers.

While revolutionary in intent, there's inadequate funding, teacher shortages, and poor enforcement of quality norms. The ambitious 25% reservation has encountered resistance from private institutions, and in many states, compliance remains patchy.

The Child Labour (Prohibition and Regulation) Amendment Act, 2016

Child labour has long been one of India's most pressing concerns. The 2016 Amendment sought to strengthen prohibitions by banning employment of children below 14 years in all occupations, with an exception for “family enterprises” and entertainment industry (subject to conditions). Adolescents (14–18 years) are prohibited from working in hazardous occupations.

Critics argue that the “family enterprise” exception legitimises hidden forms of exploitation, especially in sectors like beedi-making, embroidery, or agriculture, where children work in household-based units. Moreover, enforcement remains weak due to lack of inspectors, corruption, and social acceptance of child labour as an economic necessity.

The Prohibition of Child Marriage Act, 2006

Child marriage, though declining, continues to affect millions of girls in India. The 2006 Act makes marriages involving minors voidable at the option of the contracting party who was a minor at the time of marriage. It criminalises solemnisation of such marriages and empowers courts to grant maintenance and custody orders.

However, challenges abound. Enforcement is often undermined by social and cultural acceptance of early marriage, poverty, and gender norms. Courts have also struggled with questions of validity when child marriages are consummated or socially recognised, leading to inconsistent outcomes.

The Commission for Protection of Child Rights Act, 2005

This Act provides for the establishment of the National Commission for Protection of Child Rights (NCPCR) and corresponding State Commissions. These bodies monitor the implementation of child-related laws and policies, inquire into violations, and recommend reforms. While their role is advisory, they provide an important institutional mechanism for oversight.

Factories Act, 1948 and Mines Act, 1952: Prohibit employment of children in hazardous sectors.

1. Bonded Labour System (Abolition) Act, 1976: Provides for release and rehabilitation of bonded child labourers.
2. Hindu Adoption and Maintenance Act, 1956: Governs adoption among Hindus, ensuring legal recognition of children within families.
3. Guardians and Wards Act, 1890: Applies to non-Hindu communities, regulating guardianship and custody.
4. Information Technology Act, 2000: Penalises child pornography and online exploitation.

Judicial Interpretation

The Indian judiciary has played a transformative role in developing the jurisprudence of children's rights. While the Constitution and statutes provide the text, it is through judicial interpretation that these provisions acquire context, depth, and dynamism. Courts in India, particularly the Supreme Court, have repeatedly demonstrated a willingness to adopt expansive and purposive interpretations to safeguard the interests of children.

Right to Education

The judiciary was instrumental in recognising education as a fundamental right long before the insertion of Article 21A.

Mohini Jain v. State of Karnataka (1992): The Court held that the right to education is an integral part of the right to life under Article 21. It struck down the practice of capitation fees as unconstitutional, highlighting the principle that education cannot be commodified.

Unni Krishnan v. State of Andhra Pradesh (1993): This landmark judgment clarified that children up to the age of 14 have a fundamental right to free education, while higher education is subject to the economic capacity of the State. This case laid the groundwork for the 86th Amendment, which inserted Article 21A.

These cases underscore how judicial creativity bridged the gap between directive principles (Article 45) and enforceable rights (Article 21).

Protection Against Exploitation and Child Labour

Courts have interpreted Articles 23 and 24 with vigour, often expanding their scope to curb exploitation.

People's Union for Democratic Rights v. Union of India (1982) (*Asiad Workers' Case*): The Supreme Court held that employing children in construction work for the Asian Games violated Articles 23 and 24. The judgment clarified that “forced labour” includes situations where economic compulsion drives children into hazardous work.

M.C. Mehta v. State of Tamil Nadu (1991): The Court directed the government to identify, release, and rehabilitate children working in match and fireworks factories in Sivakasi. It laid down a scheme requiring alternative employment for parents and compulsory education for rescued children. This case established the principle that rehabilitation, not just prohibition, is central to tackling child labour.

Right to Nutrition and Health

The right to life under Article 21 has also been interpreted to include the right to food, health, and nutrition, particularly for children.

People's Union for Civil Liberties v. Union of India (2001) (Right to Food Case): Though not exclusively about children, the Supreme Court issued several interim orders mandating the provision of mid-day meals in schools, recognising that nutrition is a critical component of children's right to education and development.

Subsequent orders expanded schemes like the ICDS, ensuring supplementary nutrition for children below six years. These interventions highlight how courts can act as catalysts for social welfare measures.

Juvenile Justice and Rehabilitation

The judiciary has sought to balance the principles of protection and accountability in juvenile justice.

Sheela Barse v. Union of India (1986): The Court issued detailed directions for the care and protection of children in custodial institutions, emphasising that detention must always be a measure of last resort.

Salil Bali v. Union of India (2013): The Court upheld the constitutionality of the Juvenile Justice Act, 2000, rejecting demands to lower the age of juvenility following the Delhi gang rape of 2012. The judgment reiterated the rehabilitative philosophy underlying juvenile law.

Dr. Subramanian Swamy v. Raju (2014): The Court once again defended the juvenile age limit of 18, affirming India's international commitments under the UNCRC. However, public pressure later contributed to legislative change through the JJ Act, 2015, permitting trial of juveniles as adults in certain cases.

Protection Against Sexual Abuse

The judiciary has increasingly acknowledged the gravity of sexual offences against children.

Independent Thought v. Union of India (2017): The Supreme Court read down Exception 2 to Section 375 of the IPC, which permitted marital intercourse with a wife between 15 and 18 years. The Court held that sexual intercourse with a minor wife constitutes rape, thereby harmonising the IPC with the POCSO Act and reinforcing the principle that marriage cannot be a license for child sexual abuse.

Adoption and Family Law

Courts have also shaped the contours of adoption and guardianship law.

Lakshmi Kant Pandey v. Union of India (1984): The Court laid down guidelines for inter-country adoption to prevent trafficking and exploitation of children under the guise of adoption. These guidelines later influenced statutory provisions under the Juvenile Justice Act.

Subsequent judgments have sought to balance the best interests of the child with the rights of biological and adoptive parents, reinforcing that the child's welfare is paramount in custody and guardianship disputes.

Overall, the judiciary has adopted a philosophy that children's rights are not to be narrowly construed but interpreted in the broadest possible sense consistent with human dignity. It has ensured that the Constitution is not a static text but a living document responsive to the needs of children. This approach is evident in the Court's willingness to read international conventions into domestic law, even when not explicitly incorporated, so long as they do not conflict with statutory provisions.

International Commitments and Their Impact

Children's rights in India cannot be fully appreciated without understanding the influence of international law. Global conventions, declarations, and normative frameworks have significantly shaped India's legal and policy landscape. By ratifying international instruments, India has undertaken binding commitments to align its domestic laws with universal standards of child protection. Courts too have often relied on these instruments to interpret constitutional provisions expansively.

The UN Convention on the Rights of the Child (UNCRC), 1989

The UNCRC, adopted in 1989, is the most comprehensive international treaty on child rights, ratified by India in 1992. The UNCRC covers civil, political, economic, social, and cultural rights of children. It recognizes four clusters of rights—survival, protection, development, and participation, which together represent a holistic vision of childhood. Its holistic approach requires States to view children not as passive objects of charity but as autonomous rights-holders.

International Labour Organization (ILO) Conventions

Child labour has been a central focus of international concern, and the ILO has adopted key conventions:

- Convention No. 138 (1973) on Minimum Age for Admission to Employment.
- Convention No. 182 (1999) on Worst Forms of Child Labour.

India ratified both conventions in 2017, albeit after decades of hesitation. Ratification necessitated domestic reforms, such as the Child Labour (Prohibition and Regulation) Amendment Act, 2016, which banned all forms of child labour below 14 and restricted adolescent labour in hazardous occupations.

The Sustainable Development Goals (SDGs)

The 2030 Agenda for Sustainable Development places children at its core. Goals relating to education (SDG 4), health (SDG 3), gender equality (SDG 5), and ending child labour and trafficking (SDG 8.7) directly impact children. India's commitment to the SDGs has spurred initiatives like Samagra Shiksha Abhiyan, Poshan Abhiyan, and anti-trafficking programmes.

The incorporation of international standards has undoubtedly enriched India's child rights framework. Laws like the JJ Act and POCSO bear the unmistakable imprint of the CRC. Yet, critics caution against a mere “ratification without realisation” approach. India often adopts progressive standards in law but falters in ensuring institutional capacity, resource allocation, and social transformation necessary to translate them into lived realities for children.

Remedies for Protection and Enforcement of Children's Rights

A right without a remedy is but an empty promise. While India has an elaborate constitutional and statutory framework for children, its effectiveness depends on the availability of remedies that ensure enforcement. Remedies for children's rights exist at multiple levels—constitutional, statutory, quasi-judicial, and administrative.

Constitutional Remedies

The Constitution of India guarantees enforceable rights to children, and Article 32 empowers individuals to directly approach the Supreme Court for violation of fundamental rights. Similarly, Article 226 vests High Courts with the power to issue writs for the enforcement of rights. Key writ remedies include:

- Habeas Corpus – to secure release of children unlawfully detained, trafficked, or held in institutions against their will.
- Mandamus – to compel state authorities to discharge statutory duties, such as providing mid-day meals, education, or child care services.
- Certiorari and Prohibition – to quash or prevent unlawful orders affecting children's rights.
- Quo Warranto – rarely used, but relevant in cases questioning the authority of persons administering child welfare institutions.

Public Interest Litigations (PILs) have been an especially powerful tool in enforcing child rights. In *Sheela Barse v. Union of India*, the Supreme Court used PIL jurisdiction to lay down guidelines on the treatment of children in custody.

Statutory Remedies

Several statutes provide direct remedies for children's protection:

a) Juvenile Justice (Care and Protection of Children) Act, 2015

- Establishes Juvenile Justice Boards for children in conflict with law and Child Welfare Committees (CWCs) for children in need of care and protection.
- Provides remedies such as foster care, adoption, sponsorship, and institutional care.
- Children or their guardians can directly approach CWCs for rescue, rehabilitation, and protection.

b) Protection of Children from Sexual Offences (POCSO) Act, 2012

- Provides child-friendly procedures in investigation and trial.
- Mandates reporting of offences and creates special courts for speedy trial.
- Victims are entitled to legal aid, medical assistance, and compensation.

c) Right of Children to Free and Compulsory Education (RTE) Act, 2009

- Parents can lodge complaints regarding denial of admission, non-provision of facilities, or violation of no-detention policy.

d) Child Labour (Prohibition and Regulation) Act, 1986 (amended 2016)

- Provides rescue and rehabilitation mechanisms for child labourers.
- Allows complaints to be filed before labour inspectors and magistrates.

Quasi-Judicial and Administrative Remedies

National Commission for Protection of Child Rights (NCPCR)

The NCPCR and its state counterparts (SCPCR) act as watchdog bodies. They can inquire into violations of child rights, recommend remedial measures to governments, approach courts on behalf of children and monitor implementation of child-specific laws like RTE and JJ Act.

Childline (1098)

A toll-free helpline operational across India, enabling immediate rescue and relief for children in distress. It has emerged as a vital first-response mechanism for child abuse, abandonment, or trafficking cases.

Special Juvenile Police Units (SJPU)

Constituted under the JJ Act and POCSO Act, these units are mandated to handle children's cases with sensitivity and ensure coordination with CWCs.

Remedies Through Courts and Tribunals

Apart from High Courts and the Supreme Court, certain specialized forums address children's issues:

- Family Courts – decide custody, guardianship, and maintenance disputes.
- Labour Courts and Industrial Tribunals – deal with cases of child labour.
- Special POCSO Courts – ensure speedy disposal of child sexual abuse cases.

Compensation mechanisms under Section 33(8) of POCSO and Victim Compensation Schemes under the Code of Criminal Procedure (CrPC) also provide monetary relief to child victims.

Alternative Remedies and Community Mechanisms

Non-judicial remedies also play an important role. Lok Adalats and Mediation Centres settle custody and maintenance disputes. Panchayati Raj institutions and local bodies often mediate issues like denial of schooling or child marriage, though with mixed results. Civil society organisations provide parallel avenues of complaint, counselling, and advocacy.

Ground Realities of Children in India

The Indian legal framework for children is vast and progressive, but the distance between law in books and law in action is stark. Despite constitutional guarantees, legislative reforms, and international commitments, millions of Indian children face systemic deprivation. Understanding these ground realities is crucial to appreciate both the achievements and shortcomings of child rights protection in India.

Poverty and Malnutrition

According to the National Family Health Survey-5 (2019–21), 32% of children under five are underweight, 35% are stunted, and 19% are wasted. Malnutrition is not merely a health issue but a rights violation, denying children the right to survival and development under Article 21 and the UNCRC. Programmes like the Integrated Child Development Services (ICDS) and Poshan Abhiyaan exist, but irregular implementation, corruption in mid-day meal schemes, and lack of monitoring weaken their impact.

Child Labour

Despite constitutional prohibition (Article 24) and the Child Labour (Prohibition and Regulation) Act, millions of children continue to work in agriculture, domestic service, hotels, brick kilns, and hazardous industries. The Census 2011 reported over 10 million child labourers, though activists believe the real figure is higher due to underreporting. Legal loopholes allowing children to “help” in family enterprises perpetuate exploitation.

Education Deficit

The RTE Act, 2009 guarantees free and compulsory education for children aged 6–14, yet dropout rates remain high, particularly among girls and economically weaker sections. The pandemic exacerbated digital exclusion. Millions of children lacked devices or internet, leading to learning losses and increased child labour. Quality of education remains uneven, with poor infrastructure, teacher shortages, and rote-based learning persisting in government schools.

Child Marriage

Though prohibited under the Prohibition of Child Marriage Act, 2006, child marriage continues, especially in rural and poverty-stricken areas. The NFHS-5 survey shows that 23% of women aged 20–24 were married before 18. Factors like poverty, dowry, patriarchal norms, and lack of secondary schools for girls perpetuate this practice, undermining the legal promise of protection.

Sexual Abuse and Exploitation

NCRB data reveals a grim reality: in 2021 alone, over 1.49 lakh crimes against children were recorded, with over 50,000 cases under POCSO. Delays in investigation and trial, hostile witnesses, and victim intimidation reduce conviction rates. Children in institutional care remain particularly vulnerable, with multiple reports exposing widespread abuse in shelter homes.

Trafficking and Exploitation

India remains a source, transit, and destination country for child trafficking, whether for labour, sexual exploitation, or forced marriage. Though covered under the Immoral Traffic (Prevention) Act, JJ Act, and proposed Trafficking in Persons Bill, enforcement is fragmented.

Juvenile Justice System Challenges

The Juvenile Justice Act, 2015 modernised the system, but Child Welfare Committees (CWCs) and Juvenile Justice Boards (JJBs) often function with inadequate training and resources. Overcrowding in observation homes and lack of rehabilitation opportunities perpetuate cycles of marginalisation.

1. Street children, numbering in the millions, are exposed to abuse, addiction, and police harassment, falling through the cracks of welfare schemes. Moreover, thousands of children, instead of being in schools or safe homes, are forced onto the streets to beg for survival or, worse, as part of organized begging rackets. Many are kidnapped, trafficked, or deliberately maimed by exploiters to evoke sympathy and extract more money from the public.

Emerging Issues and Challenges in Child Rights Protection

While India's child rights regime has evolved significantly, new challenges are emerging in the 21st century, shaped by technology, globalisation, migration, climate change, and shifting family structures. These challenges often transcend traditional legal frameworks, demanding innovative responses and stronger enforcement.

Digital Vulnerabilities and Online Exploitation

With increased internet penetration, children are exposed to cyberbullying, grooming, pornography, and online trafficking. The NCRB reported a sharp rise in cybercrimes against children, particularly online sexual abuse material. The Information Technology Act, 2000, and POCSO (amendment 2019) attempt to address this, but regulation is fragmented and technological capabilities of law enforcement remain weak.

Climate Change and Environmental Degradation

Children are the most vulnerable demographic to climate-induced disasters such as floods, droughts, and cyclones. Loss of homes, schools, and livelihoods due to climate events pushes many children into labour, migration, and trafficking networks.

Assisted Reproduction, Surrogacy, and New Family Structures

Advances in reproductive technology raise complex legal and ethical questions. The Surrogacy (Regulation) Act, 2021 attempts to regulate surrogacy, but concerns remain over citizenship, parentage, and inheritance rights of surrogate-born children. Children of live-in couples, LGBTQ+ parents, and single parents continue to face social stigma and legal ambiguities, despite progressive judicial trends.

Mental Health Crisis

Mental health, particularly post-pandemic, remains an under-addressed concern. According to UNICEF (2021), nearly 1 in 7 adolescents in India suffer from mental health disorders. Academic pressure, social isolation, abuse, and digital exposure contribute to rising rates of depression, anxiety, and suicide. Despite the Mental Healthcare Act, 2017, child-specific mental health services remain scarce, and stigma discourages help-seeking.

The Implementation Deficit

India's challenge is not only to draft progressive laws, but to implement them meaningfully. Low budgetary allocation, bureaucratic silos, weak monitoring, and corruption remain entrenched. Without political will and community participation, legal reforms risk becoming symbolic rather than transformative.

Reform Proposals and the Way Forward

Strengthening Legal Frameworks

- Updating POCSO to include stronger measures against online sexual exploitation
- AI-driven detection of child sexual abuse material, are needed

Institutional Reforms

- Provide professional training, adequate funding, and infrastructure to Child Welfare Committees and Juvenile Justice Boards.
- Mandatory training on child-sensitive procedures under POCSO and JJ Act.
- Elevating the NCPCR into a fully empowered statutory authority with enforcement powers rather than merely recommendatory.

Policy Innovations

- Increase budgetary allocations for children beyond the current ~3–4% of the Union Budget. Dedicated "child impact assessments" should precede major policy decisions.
- Create a comprehensive policy for children's online protection, balancing rights to access with safeguards against exploitation.
- Strengthen enforcement mechanisms, incentivise education for girls, and empower community vigilance committees to eradicate child marriage

Improving Access to Justice

- Scale up child-friendly courtrooms across districts with video-link testimony, separate waiting rooms, and trained staff.
- Expand free legal aid cells specifically for children and integrate psychosocial counselling in judicial processes.
- Promote ADR mechanisms for custody, maintenance, and guardianship disputes, reducing adversarial litigation.

Community and Grassroots Engagement

- Institutionalise village-level child protection committees to monitor school attendance, prevent child marriage, and report abuse.
- Collaborate with NGOs for outreach, rehabilitation, and monitoring of government schemes.
- Nationwide campaigns addressing stigma around sexual abuse reporting, child marriage, and child labour.

Education and Empowerment

- Extend the scope of the RTE Act to cover children up to 18 years.
- Integrate skill-building programmes with formal education to prevent dropout and exploitation.

Health and Nutrition

- Revamp ICDS centres with trained staff, better infrastructure, and community monitoring.
- Integrate child and adolescent mental health services within schools and community health centres.
- Ensure full implementation of the Rights of Persons with Disabilities Act, with focus on inclusive education and healthcare access.

Judicial and Legislative Activism

- Encourage proactive use of Public Interest Litigations (PILs) to address systemic child rights violations.
- Establish fast-track constitutional benches for urgent child-related matters.
- Ensure parliamentary oversight through annual reporting on child rights implementation.

Fostering a Child Rights Culture

Ultimately, no law or institution can succeed without a cultural shift. Children must be seen as autonomous rights-holders, not passive beneficiaries of welfare. Embedding child rights education into curricula, media narratives, and community consciousness is key to building a society that truly prioritises its youngest citizens.

Conclusion

Children are at once the most delicate and the most decisive of a nation's resources. India's constitutional vision, an array of child-specific statutes, and an increasingly activist judiciary together create one of the world's more ambitious frameworks for protecting and promoting the rights of children. Yet the lived experience of millions: gaps in implementation, resource allocation, malnutrition, child labour, trafficking, abuse, exclusion from school, and digital vulnerability, reveals a painful dissonance between law and reality. This paradox underscores the implementation gap—where rights remain on paper but realities betray them.

Bridging this requires not just legal reform, but political will, social transformation, resource prioritization, institutional competence and community engagement. Legal reform should be coupled with robust implementation including well-trained CWCs and JJBs, child-sensitive policing and courts, better funded ICDS and education systems, and state and civil society collaboration to reach the most marginalised. In the digital age, safeguarding children also means thinking ahead by regulating online harms, building resilience to climate shocks, and protecting children on the move.

Moving forward, reforms must be multidimensional—legal, institutional, social, and cultural. Reforms must be anchored in the principle of the “best interests of the child”, a standard that goes beyond rhetoric to demand holistic and inclusive development. The challenge is not merely drafting more laws but ensuring that every child, irrespective of caste, gender, disability, or class, feels the law in action - safe, valued, and empowered.

At its core, the work of securing children's rights is iterative and intergenerational. Laws provide the map, but society must walk the road. Every policy decision, budget allotment, classroom, and home must be evaluated for its impact on children's dignity and development. If India is to realise the promise enshrined in its Constitution and international commitments, the measure of success

will not be the number of statutes passed, but the number of children who sleep full, learn well, play free, and grow into adults whose earliest years were protected and nourished.

Justice for children is not merely an item on a legislative checklist, it is the moral backbone of a just society. To protect them is to secure the future, for each child rescued from exploitation, nurtured with education, and honoured with dignity, is a stronger, fairer India in the making!

References

- https://nja.gov.in/Concluded_Programmes/2021-22/SE-07_2022_PPTs/3.CHILD%20CENTRIC%20JURISPRUDENCE%20IN%20INDIA.pdf
- <https://blog.ipleaders.in/a-critical-note-on-child-laws-in-india/>
- https://nja.gov.in/Concluded_Programmes/2021-22/SE-06_Feb_2022_PPTs/1.Child%20Centric%20Jurisprudence.pdf
- <https://www.scobserver.in/journal/supreme-court-review-2024-a-progressive-year-for-the-rights-of-children/>
- <https://lawbhoomi.com/child-laws-in-india/>
- <https://scan-goat.in/inner-post/landmark-judgements-on-children-issues/>
- <https://www.whiteblacklegal.co.in/details/the-evolution-of-juvenile-justice-jurisprudence-in-india-retribution-to-restoration-by---siri-adusumilli>
- <https://satyarthi.org.in/wp-content/uploads/BondedLabor/English/Summary%20of%20the%20Child%20Protection%20Laws%20in%20India.pdf>
- <https://journal.lawmantra.co.in/wp-content/uploads/2019/09/9-1.pdf>
- <https://www.unicef.org/child-rights-convention/convention-text-childrens-version>
- <https://leher.org/wp-content/themes/leher/images/new/child-protection-in-india-nicole-rangel-menezes.pdf>