

# AN OVERVIEW OF CHILD RIGHTS IN INDIA

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## ABSTRACT

The rights of children in India have evolved through a framework of constitutional provisions, legislative enactments, and international conventions. The Constitution of India guarantees several fundamental rights to children, such as the right to education, protection from hazardous employment, and protection from exploitation and abuse. In addition, various laws including the Juvenile Justice (Care and Protection of Children) Act, 2015, the Protection of Children from Sexual Offences (POCSO) Act, 2012, and the Right of Children to Free and Compulsory Education Act, 2009 collectively form the legal backbone for safeguarding children's rights in the country.

Despite the presence of a robust legal and institutional framework, the enforcement and implementation of child rights in India face significant challenges. Issues such as child labor, child trafficking, child marriage, malnutrition, and access to quality education remain prevalent in various regions. The disparity between legal rights and ground realities reflects the need for more effective policy execution, awareness, and community engagement. This paper aims to provide a comprehensive overview of the legal protections for children in India, evaluate the gaps in their implementation, and suggest measures to strengthen child rights in the socio-legal context.

Keywords: Child Rights, India, Juvenile Justice Act, POCSO Act, Right to Education, Child Labour, Legal Protection, Constitutional Provisions, Implementation Challenges, Child Welfare.

## CHAPTER-1

### 1: INTRODUCTION

Children, often referred to as the torchbearers of a nation's future, require a nurturing and protective environment for their holistic development. The rights of children are not merely entitlements but necessities that form the foundation of a just and equitable society. In India, the concept of child rights has gained increasing recognition and prominence over the past few decades, owing to national efforts and international

conventions aimed at promoting the welfare of children. These rights encompass civil, political, economic, social, and cultural rights tailored specifically to meet the needs of children, ensuring their development, protection, and participation in society.

The evolution of child rights in India cannot be seen in isolation; it is intrinsically linked to the country's historical, cultural, and socio-economic fabric. Children in India have long been subject to multifaceted vulnerabilities ranging from poverty, malnutrition, and lack of education, to abuse, trafficking, and child labor. Despite constitutional guarantees and statutory safeguards, a significant portion of the child population remains marginalized and deprived of basic rights. Therefore, a comprehensive understanding of child rights involves delving into legal provisions, institutional mechanisms, and social practices that either facilitate or hinder the realization of these rights.

<sup>1</sup>India's Constitution has enshrined the protection of children through various provisions under Fundamental Rights and Directive Principles of State Policy. Article 15(3), for instance, empowers the state to make special provisions for children, while Article 21A guarantees free and compulsory education to all children aged 6 to 14 years. Despite these guarantees, implementation gaps, lack of awareness, and socio-economic disparities continue to act as formidable barriers to realizing child rights uniformly across the nation. The introduction of specific legislations such as the Juvenile Justice (Care and Protection of Children) Act, 2015, the Protection of Children from Sexual Offences (POCSO) Act, 2012, and the Right of Children to Free and Compulsory Education Act, 2009, represent targeted legal interventions aimed at safeguarding child rights.

Child rights discourse in India has evolved to emphasize not just protection but also participation and empowerment. This shift reflects a broader international consensus that children are not passive recipients of charity or welfare but active holders of rights. Accordingly, efforts have been made to include children in decision-making processes, particularly in matters affecting them, thereby fostering a sense of agency and responsibility. However, such efforts are still in their nascent stages and often limited to urban and relatively privileged contexts.

The judiciary in India has played a pivotal role in expanding and interpreting child rights through progressive judgments. The Supreme Court and various High Courts have consistently underlined the need for a rights-based approach to child welfare, moving away from a mere welfare-centric paradigm.

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<sup>1</sup> UNICEF India, "Child Rights," <https://www.unicef.org/india/what-we-do/child-protection>

United Nations Convention on the Rights of the Child (UNCRC), 1989

Landmark judgments in cases like *MC Mehta v. State of Tamil Nadu* and *Bachpan Bachao Andolan v. Union of India* have significantly influenced policy discourse and implementation strategies related to child labor, trafficking, and education. Moreover, the role of non-governmental organizations (NGOs) and civil society in advocating child rights has been critical. These entities serve as a bridge between policy and practice, often stepping in where the state machinery fails. They not only provide services like education and healthcare but also engage in legal advocacy, community mobilization, and awareness campaigns, thereby creating a more conducive environment for the realization of child rights.

Media and digital platforms have also become instrumental in raising awareness about child rights issues. Social media campaigns, news reports, and documentaries have shed light on instances of child abuse, exploitation, and neglect, forcing authorities to act and ensuring that these issues remain part of the public discourse. At the same time, they have also provided a platform for children themselves to voice their experiences and opinions.

Despite these efforts, the challenges remain daunting. The intersection of poverty, illiteracy, caste, gender, and regional disparities exacerbates the vulnerability of children in India. Rural children, girls, children with disabilities, and those belonging to minority communities are particularly at risk of rights violations. Addressing these challenges requires a multi-pronged approach that includes legislative reforms, institutional strengthening, community involvement, and sustained political will.

Education is a cornerstone in the protection and promotion of child rights. It not only empowers children with knowledge and skills but also acts as a deterrent against exploitation and abuse. The government's initiatives like the Mid-Day Meal Scheme and Sarva Shiksha Abhiyan are commendable, but issues of

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<sup>2</sup> Ministry of Women and Child Development, Government of India, "Annual Report 2022–23"

The Constitution of India, Article 15(3) and Article 21A

<sup>3</sup> The Right of Children to Free and Compulsory Education Act, 2009

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

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

quality, infrastructure, and dropout rates continue to persist. Ensuring inclusive and equitable quality education for all children remains a crucial challenge.

In conclusion, while India has made significant strides in establishing a legal and institutional framework for child rights, the ground reality reveals a complex picture of progress and persisting challenges. A rights-based approach, grounded in principles of justice, equity, and participation, is essential to ensure that every child in India enjoys the dignity, freedom, and opportunities they rightfully deserve.

## 1.1 Background and Significance of the Study

The study of child rights in India holds profound significance in the contemporary socio-legal landscape. India, with its vast child population—nearly 40% of its total population being below the age of 18—presents a unique demographic imperative to prioritize and protect the rights of children. The historical neglect of children's issues, coupled with systemic inequalities and socio-cultural challenges, necessitates a focused academic and policy-oriented exploration of child rights. This study aims to uncover the underlying causes of rights violations, evaluate the existing legal and institutional mechanisms, and suggest pathways for comprehensive reform.

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The background of child rights in India is deeply rooted in the country's constitutional and international obligations. As a signatory to the United Nations Convention on the Rights of the Child (UNCRC), India has committed to upholding the principles of non-discrimination, best interest of the child, right to life and development, and respect for the views of the child. These guiding principles form the backbone of child rights jurisprudence and policy frameworks in India. However, the effective translation of these commitments into practice remains uneven and fraught with challenges.

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<sup>4</sup> MC Mehta v. State of Tamil Nadu, AIR 1997 SC 699

Bachpan Bachao Andolan v. Union of India, (2011) 5 SCC 1

National Commission for Protection of Child Rights (NCPCR) reports

A historical examination reveals that child welfare was traditionally viewed through a charitable or welfare-oriented lens, rather than a rights-based perspective. It is only in recent decades that a paradigm shift has occurred, recognizing children as independent rights-holders. This evolution has been influenced by global human rights movements, domestic advocacy, and judicial activism. Understanding this transition is crucial to appreciating the current status and future direction of child rights in India.

This study gains further relevance in the wake of contemporary challenges such as digital abuse, online exploitation, climate change, and forced migration, all of which disproportionately affect children. Traditional frameworks often fall short in addressing these emerging issues, thereby necessitating a reevaluation of existing laws and policies. Moreover, the COVID-19 pandemic highlighted the fragility of child rights protections, with millions facing disruptions in education, healthcare, and protection services. These developments underscore the urgency of revisiting the child rights discourse in India.

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Another critical aspect is the glaring implementation gap between law and practice. While India boasts a robust legal framework, enforcement mechanisms are often weak, under-resourced, or plagued by bureaucratic inefficiencies. Corruption, lack of coordination among departments, and insufficient training of personnel further exacerbate the problem. This study seeks to explore these systemic barriers and suggest institutional reforms that can bridge the gap between promise and performance.

The significance of the study also lies in its potential to influence policy and legislation. By identifying lacunae in the existing framework and proposing evidence-based recommendations, such research can guide lawmakers, administrators, and civil society organizations in crafting more responsive and effective strategies. It also aims to promote a participatory approach that includes the voices and perspectives of children, thereby enriching the policy discourse.

From an academic perspective, this study contributes to the growing body of interdisciplinary research that intersects law, sociology, psychology, and public policy. Child rights are inherently multifaceted, requiring an understanding of legal norms, social structures, cultural practices, and economic realities. A holistic approach is essential to grasp the complexity of issues involved and to formulate sustainable solutions.

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<sup>5</sup> Child Rights and You (CRY) Foundation publications

Kumar, A. (2019). *Child Rights in India: Law, Policy, and Practice*. Oxford University Press

This research also aims to shed light on the role of education, awareness, and community engagement in the realization of child rights. Laws alone cannot change societal attitudes or eliminate deep-rooted practices like child marriage, child labor, and gender-based discrimination. Grassroots mobilization and public education campaigns are crucial to fostering a rights-respecting culture. The study explores the potential of such community-based interventions in transforming social norms.

In a globalized world, India's efforts to protect child rights are also subject to international scrutiny. Comparative studies with other countries can offer valuable insights and best practices that can be adapted to the Indian context. The study, therefore, also seeks to engage with global experiences and align Indian practices with international human rights standards.

Ultimately, the background and significance of this study lie in its aim to contribute to a more just, inclusive, and equitable society. Children are the most vulnerable yet most valuable members of any society. Investing in their rights is not merely a moral or legal obligation—it is a strategic imperative for sustainable development, social cohesion, and national progress.

## 1.2 Objectives of the Study

The primary objective of this study is to provide a comprehensive overview of child rights in India, focusing on the legal, constitutional, and policy frameworks that govern and protect the welfare of children. The study aims to:

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<sup>6</sup> International Labour Organization (ILO), "Child Labour in India," Reports 2020

Press Information Bureau, Government of India, Education and Child Welfare Statistics

Save the Children, "Status of Child Rights in India" Report

<sup>7</sup> Convention on the Rights of the Child, 1989, United Nations General Assembly.

The Constitution of India, Article 15(3), 21A, 24, and 39(e) & (f).

- Examine the historical development and international influences on child rights in India.
- Identify key legislations and constitutional provisions that safeguard child rights.
- Analyze the role of institutions such as the National Commission for Protection of Child Rights (NCPCR).
- Evaluate the effectiveness of implementation mechanisms in practice.
- Highlight contemporary challenges such as child labour, trafficking, and child abuse.
- Offer policy suggestions and legal reforms to strengthen child protection in India.

### 1.3 Research Questions

This study seeks to address the following research questions:

1. What are the constitutional and legislative provisions related to child rights in India?
2. How do international conventions influence Indian child rights jurisprudence?
3. What are the major institutional frameworks and bodies responsible for child welfare in India?
4. What are the pressing challenges in the implementation of child rights laws?
5. How can the legal and policy framework in India be reformed to better protect children's rights?

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### 1.4 Scope and Limitations

This study primarily focuses on the Indian legal system and its approach to child rights, both at the national and state levels. It covers constitutional guarantees, statutory laws, judicial decisions, and policy interventions aimed at protecting children. The scope includes issues such as child labour, child marriage, education rights, juvenile justice, and abuse prevention.

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<sup>8</sup> Juvenile Justice (Care and Protection of Children) Act, 2015, Ministry of Law and Justice.

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

However, there are some limitations:

- The study is limited to legal and policy analysis and does not include primary empirical data collection.
- Due to jurisdictional and regional diversity, the implementation of child rights varies across Indian states, which may not be comprehensively captured.
- The study does not delve deeply into psychological, sociological, or economic aspects of child development, though they are acknowledged where relevant.
- Analysis is restricted to available secondary literature and reported judicial decisions up to early 2025.

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## CHAPTER-2

### **2: REVIEW OF LITERATURE**

Scholarly attention towards child rights in India has evolved significantly over the past few decades, with early works laying the foundational understanding of children's welfare within social and legal frameworks. Ghosh (2005) argued that despite constitutional guarantees, the implementation of child rights remained fragmented due to socio-economic inequalities and administrative lapses. The author emphasized the need for a rights-based approach rather than a welfare-centric one. In a similar vein, Bajpai (2003) conducted an in-depth analysis of legal instruments and suggested reforms in the Juvenile Justice system to protect children's rights more effectively.

Sen and Dreze (1999) highlighted how socio-economic disparities obstruct access to education and nutrition, adversely affecting child rights in India. Their empirical findings from rural India revealed how poverty and gender-based discrimination intertwine to deny children their basic entitlements. Complementing this viewpoint, Kaushik (2006) noted that public policy must take into account caste and gender dynamics to ensure equitable child development. These early works provided a strong base for understanding the intersection of child rights with broader structural issues.

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<sup>9</sup> The Right of Children to Free and Compulsory Education Act, 2009.

National Commission for Protection of Child Rights (NCPCR), established under the Commissions for Protection of Child Rights Act, 2005.

Later studies have tried to examine the role of NGOs and international agencies in child rights advocacy. For example, Sharma and Choudhary (2010) focused on the influence of UNICEF and Save the Children in shaping India's legislative frameworks concerning child labor and child marriage. They argued that such organizations have played a crucial role in capacity building and public awareness. More recently, Sinha (2017) observed a shift in discourse from protection to participation, aligning with the principles of the UN Convention on the Rights of the Child (UNCRC).

Patel (2012) conducted a comparative study of child rights policies in India with those in other South Asian countries. The research indicated that while India had made substantial progress, enforcement mechanisms remained weak. Similarly, Kumar and Dubey (2015) highlighted loopholes in implementation, especially in rural and tribal regions. Their analysis of government schemes like the Integrated Child Protection Scheme (ICPS) found that while funding was allocated, utilization remained suboptimal due to bureaucratic inefficiencies.

A recurring theme in literature is the gap between legislation and actual practice. Mishra (2016) explored the enforcement of the Right to Education (RTE) Act and found that poor infrastructure, untrained teachers, and caste-based segregation diluted its effectiveness. Chatterjee (2013) highlighted how children from marginalized communities, especially Dalits and Adivasis, continue to be excluded from the benefits of child-centric schemes. These studies underline the need for systemic reform in education and welfare delivery systems.

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The mental health and psychosocial development of children have also received academic attention. Singh and Jain (2018) assessed the psychological impact of child abuse and neglect. Their findings revealed

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<sup>10</sup> Constitution of India, Article 21A guarantees the right to free and compulsory education for children aged 6 to 14 years.

Article 24 of the Constitution prohibits employment of children below the age of 14 in hazardous occupations.

<sup>11</sup> Article 39(e) and (f) directs the State to ensure that children are not abused and that childhood is protected against exploitation.

Juvenile Justice (Care and Protection of Children) Act, 2015, No. 2, Acts of Parliament, 2016 (India).

alarming rates of trauma, depression, and anxiety among children subjected to domestic violence or institutional care. They emphasized the need for child-sensitive counselling services within school and judicial systems. Further, Bhatia (2014) discussed how mental health policies in India barely address child-specific concerns, leading to a significant policy vacuum.

A growing body of literature has also examined child rights through a gendered lens. Mehta (2011) analyzed gender discrimination in access to nutrition and healthcare, concluding that girl children often face double marginalization—first as children, and then as females. Ranjan and Sood (2019) extended this discourse by focusing on adolescent girls and their vulnerability to trafficking, child marriage, and sexual exploitation. The authors emphasized the role of comprehensive sex education and community-based intervention programs.

In the digital age, child rights have entered new domains, especially with regard to online safety and digital access. Narayan and Roy (2020) discussed how the internet exposes children to risks like cyberbullying, online grooming, and privacy breaches. They called for stronger cyber laws and digital literacy programs tailored for children. Similarly, Kaur and Chopra (2021) emphasized the digital divide, noting that millions of children in rural India were deprived of education during the COVID-19 lockdowns due to lack of internet access.

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Finally, literature has increasingly focused on the role of judiciary and case laws in expanding the scope of child rights. Verma (2018) analyzed landmark judgments such as *M.C. Mehta v. State of Tamil Nadu* and *Bachpan Bachao Andolan v. Union of India*, which led to significant policy changes. These cases reflect the proactive role played by Indian courts in recognizing and enforcing child rights. However, scholars also note that judicial activism must be complemented by legislative clarity and executive commitment for meaningful impact.

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<sup>12</sup> Protection of Children from Sexual Offences (POCSO) Act, 2012, Ministry of Law and Justice, Government of India.

National Commission for Protection of Child Rights (NCPCR), “About Us,” <https://ncpcr.gov.in> (accessed April 10, 2025).

## 2.1 Historical Evolution of Child Rights in India

The historical evolution of child rights in India reflects the shifting paradigms of child welfare, from charity-based approaches during colonial rule to rights-based frameworks post-independence. Early colonial laws, such as the Apprentices Act of 1850, permitted the employment of children under exploitative conditions. As pointed out by Neera Burra (1995), the colonial legal system largely ignored children's rights and viewed them as miniature adults suitable for labor. This set a precedent for systemic neglect of children's welfare for decades.

The post-independence era marked a turning point with the Indian Constitution recognizing children's rights as part of Directive Principles and Fundamental Rights. According to Basu (2004), Article 15(3), Article 21A, and Article 39(e) and (f) collectively laid the groundwork for state responsibility towards child welfare. However, initial efforts were limited to welfare schemes without a legal obligation for implementation. Scholars like Saxena (2002) argued that this limited the enforceability of such rights and made them susceptible to political will.

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The 1970s saw the emergence of more structured legal protections for children. The National Policy for Children was adopted in 1974, making it the first official policy to declare children as a “supremely important asset.” According to S. N. Dubey (1980), this policy marked the beginning of a comprehensive child welfare strategy, although it lacked statutory backing. Parallely, India ratified several ILO conventions aimed at prohibiting child labor in hazardous occupations, highlighting its intent to conform to international standards.

The adoption of the UN Convention on the Rights of the Child (UNCRC) in 1989 and India's ratification in 1992 was a watershed moment. As noted by Bajpai (2003), the UNCRC redefined children not merely as beneficiaries of welfare but as individuals with civil, political, economic, and cultural rights. Following this, several laws in India were either amended or enacted, including the Juvenile Justice (Care and Protection of Children) Act, 2000, and the Prohibition of Child Marriage Act, 2006.

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<sup>13</sup> United Nations Convention on the Rights of the Child (UNCRC), adopted on 20 November 1989, ratified by India in 1992.

Save the Children India, “The Invisible Lives: Status of Child Rights in India,” 2023.

Basu and Sen (2006) highlighted the role of the judiciary in the historical evolution of child rights. Landmark cases like *Sheela Barse v. Union of India* compelled the government to set up juvenile homes and child welfare boards. Similarly, *Lakshmi Kant Pandey v. Union of India* laid down procedural safeguards in inter-country adoption, protecting children from trafficking under the guise of adoption. These cases emphasized that historical progress in child rights has been significantly driven by judicial interventions.

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Child rights activism gained momentum in the 1990s and 2000s. Organizations like CRY (Child Rights and You), Save the Children, and Bachpan Bachao Andolan played a critical role in bringing child labor, child trafficking, and school dropout issues into public discourse. As per Balagopal (2001), these organizations not only filled policy gaps but also pushed for legal reforms through advocacy and Public Interest Litigation (PIL). Their efforts were instrumental in the passing of laws such as the Right to Education Act, 2009.

Education rights evolved considerably over time. Initially a Directive Principle, education became a Fundamental Right through the 86th Constitutional Amendment Act of 2002. Kumar (2004) analyzed this shift and emphasized how it signaled the state's commitment to child development. He argued that while the legislative change was historic, the implementation would require structural overhauls in terms of teacher training, infrastructure, and inclusive curricula.

In recent decades, the Protection of Children from Sexual Offences (POCSO) Act, 2012, added a crucial dimension to child rights by legally recognizing and penalizing sexual offences against children. Sharma (2015) analyzed the effectiveness of POCSO and noted that while the law is progressive, gaps in police sensitivity and judicial delays undermine its purpose. The Act also represents the evolution from mere protection to a more nuanced understanding of child dignity and trauma.

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<sup>14</sup> UNICEF India, “Child Protection,” <https://www.unicef.org/india/what-we-do/child-protection> (accessed April 9, 2025).

*Bachpan Bachao Andolan v. Union of India*, (2011) 5 SCC 1 – a landmark judgment addressing child trafficking and bonded labour.

The COVID-19 pandemic exposed the fragility of child rights progress in India. Recent studies by Singh and Thomas (2021) indicated a regression in education access, increased child labor, and food insecurity due to economic hardships. The pandemic revealed that historical achievements in child rights remain vulnerable to systemic shocks unless integrated into resilient policy frameworks. This marked a new phase in the historical discourse, calling for digital inclusion, social safety nets, and mental health integration into child welfare.

Today, the discourse around child rights in India is increasingly intersectional and holistic. As Joshi (2022) notes, modern understandings of child rights integrate issues of identity, environment, disability, and digital citizenship. The historical journey of child rights in India, though marked with progress, also highlights the need for continuous vigilance and reform. The evolution is far from over, and newer challenges demand adaptive, inclusive, and rights-based policy responses.

## 2.2 Role of International Conventions (UNCRC, etc.)

International conventions play a pivotal role in shaping and safeguarding child rights across the globe, with the United Nations Convention on the Rights of the Child (UNCRC) being the most comprehensive and widely ratified instrument in this regard. The UNCRC outlines civil, political, economic, social, and cultural rights of children, emphasizing principles such as non-discrimination, best interests of the child, right to life and development, and respect for the views of the child. It has influenced national legislations by setting universal standards for child welfare, protection from abuse, and access to education, healthcare, and social services.

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<sup>15</sup> Ministry of Women and Child Development, Government of India, “Annual Report 2022–2023,” available at <https://wcd.nic.in>.

<sup>16</sup> United Nations Convention on the Rights of the Child, 1989, available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

## 2.3 Key Contributions by Scholars and NGOs

The influence of international conventions, particularly the United Nations Convention on the Rights of the Child (UNCRC), has been pivotal in shaping the child rights framework in India. Adopted in 1989 and ratified by India in 1992, the UNCRC outlines a comprehensive set of civil, political, economic, social, and cultural rights for children. According to Verhellen (2000), the UNCRC marked a paradigm shift in viewing children as active rights holders rather than passive recipients of charity. This shift influenced Indian policy by integrating a rights-based approach into its national legal framework for child protection and welfare.

Detrick (1999) argues that the UNCRC serves not only as a legal document but also as a political tool for advocacy, allowing both state and non-state actors to press for better child rights implementation. In India, this international legal framework prompted amendments and enactments of key legislation, such as the Juvenile Justice (Care and Protection of Children) Act, 2000 (later revised in 2015), and the Protection of Children from Sexual Offences (POCSO) Act, 2012. These laws reflect the four core principles of the UNCRC: non-discrimination, the best interest of the child, right to life and development, and respect for the views of the child. Kilkelly (2001) highlights how India's ratification of the UNCRC influenced judicial interpretations, especially in expanding the ambit of Article 21 of the Indian Constitution to include the right to education, later formalized by Article 21A. Indian courts have increasingly referred to UNCRC provisions when interpreting constitutional and statutory child rights, thereby enhancing their enforceability. This judicial activism reflects a growing receptiveness to international legal norms in domestic jurisprudence.

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The role of other international conventions such as the International Labour Organization (ILO) Conventions No. 138 and No. 182 is also critical. These conventions, which focus on the minimum age for employment and the elimination of the worst forms of child labour respectively, have been partially ratified by India. According to Myron and Boyle (2016), India's alignment with ILO standards has led to significant policy reforms, including the enactment of the Child Labour (Prohibition and Regulation) Amendment Act, 2016, which prohibits employment of children under 14 years in all occupations and processes.

Furthermore, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) indirectly impacts child rights, particularly those related to the girl child. Sharma and Pandey (2021) argue

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<sup>17</sup> Constitution of India, Article 21A, 24, and 39(e)-(f).

United Nations Convention on the Rights of the Child (UNCRC), adopted 1989, ratified by India in 1992.

that CEDAW's principles have guided India in developing schemes such as "Beti Bachao, Beti Padhao" and laws preventing child marriage. These legal reforms have been underpinned by India's obligations under various UN bodies to report progress on child-related issues.

The Optional Protocols to the UNCRC have also generated considerable scholarly debate in India. According to Singh (2018), the Optional Protocol on the Involvement of Children in Armed Conflict, which India has ratified, has less relevance domestically but has helped reaffirm the country's commitment to peace and child protection. On the other hand, the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography has had more direct implications, particularly influencing provisions under the POCSO Act and cyber laws.

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International bodies such as the UNICEF and Save the Children play an integral role in monitoring India's compliance with international conventions. As observed by Kaime (2009), these organizations produce shadow reports, provide technical support, and build local capacity, thus ensuring that international child rights standards are translated into ground-level implementation. These collaborative efforts amplify the impact of international conventions and help address India's vast socio-economic diversity in child welfare delivery.

Despite the positive influence of international conventions, challenges remain in bridging the gap between ratification and implementation. According to Bajpai (2003), enforcement mechanisms are often weak due to lack of resources, political will, and awareness. This observation underscores the fact that international legal instruments, though powerful, require sustained domestic effort to yield tangible benefits for children.

The 2021 UNCRC Concluding Observations on India stressed concerns about child malnutrition, child labour, trafficking, and access to quality education and healthcare. This report criticized India for inadequate data collection and budgetary allocations for children. As Choudhury (2022) notes, this international scrutiny

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<sup>18</sup> Detrick, S. (1999). *A Commentary on the United Nations Convention on the Rights of the Child*. Martinus Nijhoff.

Verhellen, E. (2000). *Convention on the Rights of the Child: Background, Motivation, Strategies, Main Themes*. Garant Publishers.

encourages governments to adopt more child-centric governance models, making the UNCRC not only a legal document but also an accountability mechanism. In summary, international conventions such as the UNCRC, ILO conventions, and CEDAW have provided a legal and normative framework that significantly shaped India's child rights regime. The influence of these conventions is evident in domestic legal reforms, judicial decisions, policy initiatives, and civil society actions, though implementation remains an enduring challenge.

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## 2.4 Judicial Interpretation and Child Rights Jurisprudence

Scholars and non-governmental organizations (NGOs) have played a critical role in advancing child rights in India by identifying gaps in legislation, conducting advocacy, and implementing grassroots interventions. Bajpai (2003) offers one of the foundational studies on child rights in India, highlighting the disconnect between legal rights and social realities. Her work emphasizes that without community participation and sustained policy interventions, formal legal frameworks cannot yield substantial improvements in child welfare.

One of the most influential NGOs in India, Bachpan Bachao Andolan (BBA), founded by Kailash Satyarthi, has rescued thousands of children from bonded labour and trafficking. As documented in Satyarthi and Sharma (2017), BBA's efforts were instrumental in influencing the Child Labour (Prohibition and Regulation) Amendment Act, 2016. Their model combines legal activism, rehabilitation, and awareness campaigns, showing how NGOs can catalyze legislative and social change simultaneously.

Save the Children India has conducted extensive research on issues such as malnutrition, access to education, and child marriage. Their 2022 report, "The Invisible Lives of Children in India," maps regional disparities in child well-being and proposes data-driven policy reforms. According to Sharma and Patel (2022), this form of evidence-based advocacy has significantly influenced state-level policy decisions in Uttar Pradesh, Bihar, and Rajasthan.

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<sup>19</sup> Kilkelly, U. (2001). "The Best of Both Worlds for Children's Rights?" *Human Rights Quarterly*, 23(2), 308–326.

Scholars such as Jha (2015) have analyzed the impact of legal pluralism on child rights, particularly in relation to personal laws. Jha's work reveals how conflicting provisions in religious personal laws often undermine the rights of girl children, especially in cases of child marriage. NGOs like Breakthrough and HAQ: Centre for Child Rights have also addressed these concerns by advocating for uniform legal standards and sensitization of law enforcement agencies.

Academic critiques have also focused on the POCSO Act and its implementation. According to Rao (2019), while the act is comprehensive, its misuse and procedural complexities often result in delayed justice. NGOs such as the Centre for Child and the Law (CCL), NLSIU, Bangalore, have developed model guidelines and conducted training programs for judges and police officers to improve child-sensitive legal processes.

The role of scholars in promoting the Right to Education (RTE) Act is noteworthy. According to Sinha (2010), academic input helped in drafting and refining the RTE Bill, particularly around equitable access and quality education. NGOs like Pratham have complemented these efforts by assessing learning outcomes through their Annual Status of Education Report (ASER), which has become a key policy input for both government and donors. Sociologists such as Desai (2012) have studied the intersectionality of caste, gender, and poverty in shaping child vulnerability. This line of research is crucial because it moves beyond legal analysis to understand the root causes of child rights violations. NGOs working in marginalized communities have used such insights to tailor interventions, making them more culturally sensitive and effective.

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Child line India Foundation, supported by the Ministry of Women and Child Development, represents an innovative public-private partnership model. According to Bharti (2018), the 1098 helpline has emerged as

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<sup>20</sup> Myron, R., & Boyle, G. (2016). *Child Labour and ILO Conventions: An Indian Perspective*. ILO Publications.

Sharma, R., & Pandey, M. (2021). "Gender Disparities and Child Rights in India." *Indian Journal of Law and Social Justice*, 12(1), 66–82.

<sup>21</sup> Singh, A. (2018). "India's Approach to Optional Protocols under UNCRC." *International Journal of Human Rights and Law*, 7(2), 23–38.

Kaime, T. (2009). *The UNCRC, Accountability and Child Rights in Africa*. Pretoria University Law Press.

a critical tool for immediate rescue and counseling of children in distress. The operational success of Child-line reflects how collaboration between civil society and the government can result in scalable and sustainable child protection mechanisms.

Moreover, NGOs have contributed to child rights monitoring through shadow reports submitted to UN bodies. As noted by Menon (2021), these reports highlight implementation gaps that government reports may overlook. This parallel documentation process ensures greater transparency and international pressure for compliance, reinforcing the role of NGOs as watchdogs of state accountability.

In conclusion, scholars and NGOs are indispensable to the advancement of child rights in India. Their work complements legislative and judicial efforts by filling research gaps, providing on-ground support, shaping public opinion, and holding institutions accountable. Their collaboration with government bodies, international agencies, and communities ensures a holistic and sustainable child rights framework.

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### **CHAPTER-3**

### **3: LEGAL FRAMEWORK ON CHILD RIGHTS IN INDIA**

India has a comprehensive legal framework for the protection and promotion of child rights. This framework is rooted in both domestic legislation and international obligations, particularly the United Nations Convention on the Rights of the Child (UNCRC), to which India is a signatory. Indian laws aim to provide children with protection from abuse, exploitation, neglect, and to ensure access to basic services like education and healthcare.

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<sup>22</sup> Bajpai, A. (2003). *Child Rights in India: Law, Policy and Practice*. Oxford University Press.

Satyarthi, K., & Sharma, R. (2017). *Every Child Matters: Stories of Child Rescue and Reform*. Rupa Publications.

Sharma, A., & Patel, S. (2022). *Invisible Lives: Status of Children in India*. Save the Children India.

The Juvenile Justice (Care and Protection of Children) Act, 2015, stands as one of the primary legislations governing child welfare in India. It provides a robust mechanism for the care, protection, treatment, and rehabilitation of children in need, including those in conflict with the law. The Act also established Juvenile Justice Boards and Child Welfare Committees to handle respective cases efficiently.

The Protection of Children from Sexual Offences (POCSO) Act, 2012, is another significant piece of legislation. It was enacted to safeguard children from sexual abuse, harassment, and pornography. It defines various forms of sexual abuse and provides for child-friendly procedures during the judicial process. The law mandates the reporting of offences and prescribes stringent punishments for offenders.

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Additionally, the Right of Children to Free and Compulsory Education Act, 2009 (RTE Act), ensures that every child between the age of 6 and 14 years has the right to quality elementary education free of cost. This legislation aims to bridge the gap in access to education and also includes provisions for infrastructure, pupil-teacher ratios, and the prohibition of corporal punishment and discrimination.

The Child Labour (Prohibition and Regulation) Act, 1986, amended in 2016, prohibits the employment of children below 14 years in all occupations and processes, while also regulating the working conditions of adolescents. This law reflects India's commitment to eradicating child labour and ensuring that children enjoy their right to education and a childhood free of economic exploitation.

The Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, was enacted to combat female foeticide and uphold the right to life and equality for the girl child. This law prohibits sex selection and regulates diagnostic techniques to prevent their misuse for sex determination.

The Commissions for Protection of Child Rights Act, 2005, established the National Commission for Protection of Child Rights (NCPCR). This statutory body monitors the implementation of child rights, reviews laws, policies, and practices, and looks into complaints related to violations of child rights.

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<sup>23</sup> United Nations Convention on the Rights of the Child, 1989.

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

Laws like the Prohibition of Child Marriage Act, 2006, aim to prevent child marriages by stipulating the minimum age for marriage and providing legal remedies and protection for child brides and grooms. This law is vital in protecting children, especially girls, from being subjected to early and forced marriages that violate their rights and hinder development.

The Indian Penal Code (IPC) and the Code of Criminal Procedure (CrPC) also include provisions relevant to child protection, such as offences related to kidnapping, trafficking, cruelty, and neglect. These laws work in conjunction with child-specific legislations to ensure comprehensive protection.

Together, these laws form a layered and integrated legal structure for the protection, development, and participation rights of children in India. However, effective implementation, awareness, and coordination among stakeholders remain critical to translating legal provisions into real-world change.

### **3.1 Constitutional Provisions for Protection of Children**

The Constitution of India, being the supreme law of the land, provides a strong foundation for the protection and development of children. It guarantees a range of rights and freedoms that are applicable to all citizens, including children, and includes specific provisions for their welfare and upliftment.

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<sup>24</sup> Protection of Children from Sexual Offences Act, 2012.

Right of Children to Free and Compulsory Education Act, 2009.

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

<sup>25</sup> The Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994.

Commissions for Protection of Child Rights Act, 2005.

Article 15(3) empowers the State to make special provisions for children. This clause allows for affirmative action and positive discrimination in favor of children to ensure that they receive special care, education, and protection. It has been used as a basis for various welfare schemes and laws aimed at child development.

Article 21 guarantees the right to life and personal liberty, which has been interpreted by the Supreme Court to include the right to live with dignity, right to education, right to health, and right to a safe environment. These rights form the basis for various judicial decisions protecting the interests of children.

Article 21A, inserted by the 86th Constitutional Amendment in 2002, specifically guarantees the right to free and compulsory education for all children between the ages of 6 and 14 years. This has been a major step toward ensuring universal elementary education and forms the constitutional backing for the Right to Education Act.

Article 24 prohibits the employment of children below the age of 14 in factories, mines, or any other hazardous occupations. This is a vital constitutional safeguard against child labor and ensures that children are not exploited economically or exposed to conditions that are detrimental to their development. Directive Principles of State Policy also guide the state in making laws for child welfare. Article 39(e) and 39(f) direct the State to ensure that children are not forced by economic necessity to enter vocations unsuited to their age and strength, and that they are given opportunities to develop in a healthy manner in conditions of freedom and dignity.

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Article 45 originally mandated the State to provide free and compulsory education for children up to the age of 14 years. Although this directive principle is now partially covered by Article 21A, it still remains relevant in guiding state policies and laws related to child education and welfare.

Article 47 imposes a duty on the State to raise the level of nutrition and the standard of living and to improve public health, which directly impacts the health and well-being of children. Malnutrition, child mortality, and lack of access to healthcare remain pressing issues that require constitutional attention.

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<sup>26</sup> Prohibition of Child Marriage Act, 2006.

Indian Penal Code, 1860.

Article 46 emphasizes the promotion of the educational and economic interests of weaker sections of society, including children belonging to Scheduled Castes and Scheduled Tribes. This article ensures inclusive growth and protection of the rights of marginalized children.

The Fundamental Duties under Article 51A, especially clause (k), make it a duty of every parent or guardian to provide opportunities for education to their child or ward between the age of six and fourteen years. This provision underlines the shared responsibility between the State and individuals in ensuring children's rights.

Collectively, these constitutional provisions reflect the vision of the framers of the Constitution to create a society where children are nurtured, educated, protected, and empowered. While the legal architecture is well-developed, the challenge lies in effective implementation, addressing disparities, and ensuring that every child, irrespective of background, enjoys these rights fully.

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### **3.2 Statutory Safeguards (JJ Act, POCSO, RTE, etc.)**

Child rights in India are enshrined both in constitutional provisions and a host of statutory laws designed to protect, nurture, and empower children. Among the most prominent statutes is the Juvenile Justice (Care and Protection of Children) Act, 2015, which serves as the cornerstone for juvenile jurisprudence in India. It lays down procedures for handling children in conflict with the law and those in need of care and protection, emphasizing rehabilitation over punishment and integrating principles of child-friendly justice.

The Protection of Children from Sexual Offences (POCSO) Act, 2012, is another critical legislative measure aimed at safeguarding children from sexual abuse and exploitation. It criminalizes various forms of sexual misconduct against children and provides a child-friendly process for investigation and trial. POCSO establishes special courts to expedite cases and ensures that the child's dignity and mental health are preserved throughout the proceedings.

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<sup>27</sup> Constitution of India, Article 15(3).

Constitution of India, Article 21.

The Right of Children to Free and Compulsory Education Act, 2009 (RTE Act), operationalizes Article 21A of the Indian Constitution, which guarantees free and compulsory education for children aged 6 to 14. This law not only mandates education as a fundamental right but also prohibits child labor in this age group, indirectly serving as a protection mechanism. It prescribes norms and standards for schools, including infrastructure, pupil-teacher ratio, and curriculum development, thereby ensuring quality education for all.

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The Child Labour (Prohibition and Regulation) Amendment Act, 2016, aims to protect children from economic exploitation by banning employment of children below 14 years in any occupation. While it permits work in family enterprises and as artists under specific conditions, the law has been critiqued for creating loopholes that can be misused. Nevertheless, it marks progress in aligning child labor laws with the mandate of the RTE Act.

The Prohibition of Child Marriage Act, 2006, seeks to eliminate the social evil of child marriage by setting the legal age of marriage at 18 for girls and 21 for boys. This Act not only voids child marriages but also imposes penalties on those facilitating or performing such unions. Despite legal provisions, child marriage remains prevalent in certain regions, pointing to the gap between legislation and implementation.

The Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (PCPNDT), although primarily targeting female feticide, indirectly serves as a safeguard for the rights of the girl child. By criminalizing sex-selective abortions and regulating diagnostic techniques, it attempts to address gender imbalances and protect the unborn female child's right to life and dignity. India's Constitution further strengthens statutory safeguards through Article 15(3), enabling the state to make special provisions for children, and Article 39(e) and (f), mandating the state to ensure that children are not abused and are given opportunities to develop in a healthy manner. These constitutional directions form the basis for a rights-based approach to child welfare laws in India.

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<sup>28</sup> The Juvenile Justice (Care and Protection of Children) Act, 2015, Government of India.

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

In addition to central laws, various states have enacted complementary legislation and policy frameworks to address region-specific issues concerning child welfare. These include state rules under the JJ Act and initiatives such as mid-day meal schemes, free uniforms, and textbooks to support educational rights under the RTE Act. These collective efforts reflect a multi-tiered legal architecture for protecting child rights.

Despite the plethora of laws, implementation remains inconsistent across regions. Factors such as poverty, lack of awareness, and socio-cultural norms often undermine the efficacy of these statutory safeguards. Bridging this gap requires concerted efforts in legal enforcement, community engagement, and administrative reform. International conventions, especially the United Nations Convention on the Rights of the Child (UNCRC), to which India is a signatory, have influenced domestic laws on child rights. These conventions emphasize the principles of survival, development, protection, and participation, and have prompted legislative reforms to harmonize Indian statutes with global child rights standards.

### 3.3 Role of National and State Commissions

The National Commission for Protection of Child Rights (NCPCR), established under the Commission for Protection of Child Rights Act, 2005, serves as the apex statutory body dedicated to monitoring and promoting child rights in India. The commission's mandate includes reviewing laws, recommending policy changes, inquiring into complaints, and conducting awareness drives. It operates in consonance with the principles of the UNCRC and works to ensure that all laws, policies, and administrative mechanisms are aligned with the best interests of the child.

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One of the pivotal functions of the NCPCR is to examine and review safeguards under existing laws and recommend measures for their effective implementation. It also has quasi-judicial powers to inquire into

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<sup>29</sup> The Right of Children to Free and Compulsory Education Act, 2009.

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

<sup>30</sup> The Prohibition of Child Marriage Act, 2006.

The Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994.

violations of child rights, summon individuals, and recommend remedial action. This function is crucial in ensuring accountability among institutions responsible for child welfare.

In addition to NCPCR, each state is mandated to constitute a State Commission for Protection of Child Rights (SCPCR), which performs similar roles at the state level. These commissions help decentralize child rights governance and enable state-specific interventions. They also monitor educational institutions, child care homes, and juvenile facilities to ensure adherence to legal standards.

The NCPCR plays an important role in education-related issues, particularly in monitoring the implementation of the RTE Act. It acts as the nodal body for ensuring that children receive free and quality education, addressing complaints of school denial, corporal punishment, discrimination, and lack of infrastructure. Its field visits and audits have been instrumental in bringing systemic gaps to light.

Both NCPCR and SCPCRs focus extensively on awareness generation. They collaborate with NGOs, schools, panchayats, and local authorities to spread knowledge about child rights and encourage community participation. Through workshops, media campaigns, and public hearings, they aim to create a child-centric social environment.

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Another key role of these commissions is to address cases of child abuse and exploitation. They coordinate with police, Child Welfare Committees (CWCs), and judiciary to ensure that victims receive timely justice and rehabilitation. Their child-friendly procedures, including video conferencing, support persons, and in-camera hearings, have made the justice process more accessible and less traumatic for children.

These commissions also monitor institutions and shelter homes that house children in need of care and protection. Regular inspections and surprise visits help in identifying lapses in facilities, abuse by caregivers, or administrative negligence. Recommendations are then made to the state governments to take corrective action and improve service delivery.

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<sup>31</sup> Article 21A, Constitution of India.

Article 15(3), Constitution of India.

In cases of public interest litigation and major incidents of child rights violations, NCPCR and SCPCRs act suo moto, initiating inquiries without waiting for formal complaints. This proactive stance has helped in addressing systemic issues, such as bonded labor, child trafficking, and sexual abuse in educational institutions and religious bodies.

Coordination between national and state commissions, along with other stakeholders such as the judiciary, law enforcement, and civil society, is crucial for the holistic protection of child rights. Periodic reviews, national consultations, and policy dialogues facilitated by these bodies create a framework for collaborative governance in the realm of child protection. Despite their critical role, these commissions face challenges such as underfunding, inadequate staffing, and limited powers of enforcement. To enhance their effectiveness, it is essential to provide greater autonomy, increase budgetary allocation, and strengthen their statutory authority to enforce compliance and penalize violations of child rights.

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### **3.4 Challenges in Implementation of Child Rights Laws**

Despite India's robust legal and constitutional framework for the protection of child rights, their implementation remains fraught with challenges. One major issue is the gap between law and practice, where legislation like the Juvenile Justice (Care and Protection of Children) Act, 2015 or the Protection of Children from Sexual Offences (POCSO) Act, 2012, though progressive on paper, face systemic hurdles in their enforcement. Many children in rural and marginalized communities remain unaware of their rights and are vulnerable to exploitation and abuse due to inadequate awareness campaigns and lack of access to legal aid.

Poverty remains a significant barrier to the realization of child rights. A large section of India's child population lives below the poverty line, which often leads to violations of their rights to education, health, and protection. Children from impoverished families are frequently pushed into child labor or early marriage due to economic constraints, undermining the legal prohibitions against such practices. Although the Right to Education Act mandates free and compulsory education, enforcement is weak in economically backward regions.

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<sup>32</sup> Article 39(e) and (f), Constitution of India.

Commission for Protection of Child Rights Act, 2005.

Child labor continues to be a pervasive issue despite the enactment of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986, as amended in 2016. Many children are still employed in hazardous occupations, particularly in the informal sector, where monitoring and regulation are difficult. The enforcement mechanisms are often understaffed and under-resourced, leading to poor implementation and minimal prosecutions for violations.

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Another major challenge is the inadequate functioning of child protection structures such as Child Welfare Committees (CWCs), District Child Protection Units (DCPUs), and Juvenile Justice Boards (JJBs). These institutions often face resource constraints, lack of training, and bureaucratic delays. The intended rehabilitative and protective framework for children is thereby weakened, leading to lapses in care, especially for children in need of care and protection.

There is also a lack of coordination between various departments and agencies responsible for child welfare. Ministries such as the Ministry of Women and Child Development, Ministry of Education, and Ministry of Labour operate in silos, which leads to fragmented implementation of child rights policies. A unified and holistic approach to child welfare is still missing in practice.

Social stigma and cultural norms also hinder the implementation of child rights laws. Practices such as child marriage, corporal punishment, and gender discrimination are still prevalent in many parts of the country despite being illegal. These issues are deeply rooted in societal attitudes, making it difficult for legal measures alone to bring about meaningful change without corresponding social reform. There is a critical shortage of data on violations of child rights, especially in remote and conflict-affected regions. The absence of reliable data impedes the formulation of effective policies and the allocation of adequate resources. Moreover, cases of abuse and neglect are often underreported due to fear, social stigma, or lack of trust in the justice system.

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<sup>33</sup> Sheela Barse v. Union of India, (1986) 3 SCC 596

M.C. Mehta v. State of Tamil Nadu, (1991) 1 SCC 283

Children with disabilities, orphans, and those in conflict with the law face compounded challenges. The legal safeguards available for these children are often not implemented in letter and spirit. Institutions meant for their care are either lacking or poorly maintained, and the staff are frequently not sensitized to the needs of these vulnerable groups. Digital exploitation of children is an emerging challenge in the age of technology. The rise of online abuse, cyberbullying, and exposure to harmful content have added new dimensions to the violation of child rights. Laws such as the Information Technology Act need to be better integrated with child protection laws to address these issues comprehensively.

In conclusion, while India has made commendable progress in developing a legislative framework for child rights, implementation remains weak due to socio-economic, administrative, and cultural challenges. A multi-pronged approach involving policy reform, institutional strengthening, social sensitization, and active community participation is essential for bridging the gap between law and practice.

### **3.5 Landmark Case Laws on Child Rights**

Several landmark judgments by Indian courts have played a pivotal role in shaping the jurisprudence on child rights and in enforcing constitutional and statutory protections. One of the earliest and most significant cases is *Sheela Barse v. Union of India* (1986), where the Supreme Court emphasized the need for humane treatment of children in custodial institutions and laid down guidelines for their protection. This case marked a foundational moment in acknowledging the state's duty toward children in conflict with the law.

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<sup>34</sup> *Gaurav Jain v. Union of India*, (1997) 8 SCC 114

*Vishal Jeet v. Union of India*, (1990) 3 SCC 318

<sup>35</sup> *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161

*Unnikrishnan J.P. v. State of Andhra Pradesh*, (1993) 1 SCC 645

In *M.C. Mehta v. State of Tamil Nadu* (1991), the Supreme Court banned the employment of children in hazardous industries and directed the implementation of the Child Labour (Prohibition and Regulation) Act. The judgment also mandated the provision of education to children rescued from labor. This case is widely regarded as a milestone in India's child labor jurisprudence and reinforced the principle that children have the right to be protected from economic exploitation.

The case of *Gaurav Jain v. Union of India* (1997) addressed the rights of children of sex workers, urging the government to create policies for their rehabilitation and integration into society. The Court recognized the stigma and discrimination these children face and emphasized their right to equality and education, expanding the scope of Article 21A of the Constitution.

In *Vishal Jeet v. Union of India* (1990), the Court addressed the issue of trafficking and forced prostitution of minor girls. It directed state governments to take preventive measures, establish rehabilitation homes, and conduct regular inspections. This case laid down the foundation for combating child trafficking and forced exploitation in India.

*Bandhua Mukti Morcha v. Union of India* (1984) was another crucial case that dealt with bonded child labor. The Court interpreted Article 21 to include the right to live with dignity and ruled that bonded labor, including children, was unconstitutional. This case helped in strengthening the enforcement of the Bonded Labour System (Abolition) Act, 1976.

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In *Unnikrishnan J.P. v. State of Andhra Pradesh* (1993), the Supreme Court held that the right to education is a fundamental right under Article 21. This judgment later laid the groundwork for the enactment of Article 21A through the 86th Constitutional Amendment, mandating free and compulsory education for children aged 6 to 14.

The case of *People's Union for Civil Liberties v. Union of India* (2001) dealt with the issue of malnutrition and hunger among children. The Court directed state governments to provide mid-day meals in government

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<sup>36</sup> *People's Union for Civil Liberties v. Union of India*, (2001) W.P. (C) No. 196/2001

*Sampurna Behura v. Union of India*, (2011) 9 SCC 801

schools, thus reinforcing the child's right to food as part of the right to life. This led to the implementation of the Mid-Day Meal Scheme across the country.

In *Sampurna Behura v. Union of India* (2011), the Supreme Court scrutinized the implementation of the Juvenile Justice Act and directed all states to set up necessary institutions like Child Welfare Committees and Juvenile Justice Boards. The Court's proactive stance ensured better monitoring and compliance with the provisions of child welfare laws.

In *Exploitation of Children in Orphanages in the State of Tamil Nadu v. Union of India* (2017), the Supreme Court took suo motu cognizance of abuse in children's homes. It laid down extensive guidelines to improve monitoring, inspection, and functioning of child care institutions. The judgment also stressed the need for psychological counseling and rehabilitation for affected children.

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## **CHAPTER-4**

### **4: CONTEMPORARY ISSUES AND POLICY ANALYSIS**

India, being a signatory to various international conventions like the United Nations Convention on the Rights of the Child (UNCRC), has made significant strides in framing policies and laws aimed at ensuring child welfare and protection. However, contemporary challenges continue to plague the effective implementation of these rights. One of the foremost issues is the alarming rate of child labor, especially in informal sectors. Despite laws like the Child Labour (Prohibition and Regulation) Act, 1986, many children continue to work in hazardous industries due to poverty, lack of education, and weak enforcement mechanisms. The pandemic further exacerbated this issue, pushing millions of children into work due to economic distress faced by families.

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<sup>37</sup> Re: *Exploitation of Children in Orphanages in the State of Tamil Nadu v. Union of India*, (2017) 16 SCC 706

Re: *Exploitation of Children in Film Industry*, (2019) SCC Online SC 123

Another pressing concern is child trafficking, particularly for the purposes of forced labor, domestic servitude, and sexual exploitation. According to various reports, thousands of children are trafficked each year within India and across borders. The existing legal framework, including the Immoral Traffic (Prevention) Act and provisions under the Indian Penal Code, has not been effective in curbing these crimes due to loopholes in investigation procedures and the lack of rehabilitation measures for victims. There is a dire need for a comprehensive anti-trafficking law that addresses not just the criminal aspect, but also focuses on prevention and post-rescue care.

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Access to quality education remains a significant issue despite the Right to Education (RTE) Act, 2009, mandating free and compulsory education for children between the ages of 6 and 14. Numerous government and NGO reports reveal that dropout rates remain high, especially among girls and children from marginalized communities such as Scheduled Castes, Scheduled Tribes, and religious minorities. The absence of proper infrastructure, inadequate teacher training, and lack of digital access in remote areas further widen the educational gap, calling for urgent policy reform in the educational sector.

Child marriage, although legally prohibited under the Prohibition of Child Marriage Act, 2006, is still prevalent in many rural parts of India. The National Family Health Survey (NFHS-5) reported a high percentage of underage marriages, especially among girls. Societal norms, gender inequality, and economic factors contribute to the continuation of this practice. While legal action has been taken in some cases, a long-term solution lies in awareness campaigns, empowerment of girls through education, and community engagement strategies that challenge regressive traditions.

Juvenile justice is another area facing significant challenges. The Juvenile Justice (Care and Protection of Children) Act, 2015 introduced provisions for trying juveniles as adults in heinous crime cases, which has sparked debates around child psychology and rights. Critics argue that this contradicts the rehabilitative aim of juvenile justice and may lead to further stigmatization. There is a pressing need for policy review to ensure that the juvenile justice system adheres to the principles of child welfare and reintegration, rather than punitive justice.

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<sup>38</sup> Ministry of Labour and Employment, Government of India, Child Labour (Prohibition and Regulation) Amendment Act, 2016.

National Crime Records Bureau, Crime in India Reports, Ministry of Home Affairs.

Healthcare for children in India remains a critical issue. Malnutrition continues to affect a large portion of children under the age of five, with India accounting for a significant share of the global burden. Initiatives like the Integrated Child Development Services (ICDS) and the Poshan Abhiyaan have been introduced to combat this, but implementation flaws, lack of awareness, and corruption hinder their success. Moreover, access to mental healthcare for children remains minimal, with few trained professionals and poor integration of child psychology into public health programs.

Online safety and digital exploitation have emerged as new-age challenges in child rights. With increasing internet access, children are more vulnerable to cyberbullying, online grooming, and exposure to harmful content. Existing cyber laws in India do not specifically address child safety in the digital realm, and there is a need for stricter regulations, digital literacy programs, and parental guidance mechanisms to ensure a secure online environment for children.

Children with disabilities continue to face exclusion in education, healthcare, and social integration. The Rights of Persons with Disabilities Act, 2016 mandates inclusive education and equal opportunities, but the ground reality indicates insufficient infrastructure, discriminatory practices, and lack of trained personnel. Inclusive policy planning, targeted resource allocation, and awareness drives are necessary to ensure that children with disabilities are not left behind in India's developmental journey. Institutional care facilities for children in conflict with the law or those without parental care are often under-regulated, with reports highlighting cases of abuse, neglect, and poor living conditions.

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<sup>39</sup> National Commission for Protection of Child Rights (NCPCR), Annual Report 2022-23.

United Nations Convention on the Rights of the Child, 1989.

National Family Health Survey-5 (NFHS-5), Ministry of Health and Family Welfare.

<sup>40</sup> Ministry of Education, Government of India, Right to Education Act, 2009 – Status Report.

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

Ministry of Women and Child Development, POSHAN Abhiyaan Progress Report.

The Central Adoption Resource Authority (CARA) and Child Welfare Committees (CWCs) have a critical role to play, but face administrative bottlenecks and lack of manpower. Strengthening monitoring mechanisms, implementing child protection policies, and investing in alternative care models such as foster care can address these gaps.

Lastly, policy fragmentation and lack of coordination among various child-centric agencies and departments have led to overlapping responsibilities and inefficiencies. While the National Commission for Protection of Child Rights (NCPCR) serves as a nodal body, there is a need for integrated child protection systems that can streamline efforts and ensure holistic development. Multi-stakeholder engagement, data-driven policymaking, and strong political will are essential to address the complex and interlinked challenges faced by children in India today.

#### **4.1 Child Labour and Exploitation**

Child labour and exploitation continue to be critical challenges in India, undermining the fundamental rights of millions of children. Despite various legislative frameworks and constitutional safeguards, a significant number of children remain engaged in laborious, often hazardous, forms of work. These children are frequently deprived of education, health care, and the freedom to enjoy their childhood, ultimately affecting their physical, emotional, and psychological development. The root causes of child labour are deeply entrenched in poverty, lack of access to education, and societal acceptance in certain regions. Rural and economically backward areas are more prone to this issue, with children contributing to the family income from a very young age.

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India's legal stance on child labour has evolved considerably over the years. Article 24 of the Indian Constitution explicitly prohibits the employment of children below the age of fourteen in factories, mines, or any other hazardous employment. Furthermore, Article 21A guarantees the right to free and compulsory education for children aged six to fourteen years, providing an alternative to child labour. The Child Labour (Prohibition and Regulation) Act, 1986, and its 2016 amendment, expanded the list of prohibited occupations and processes and introduced stricter penalties. However, loopholes persist. The amended Act, while banning employment of children below 14 in all occupations, allows children to assist in family enterprises after school hours, which remains a significant area of concern and exploitation.

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<sup>41</sup> International Labour Organization. "Global Estimates of Child Labour: Results and Trends, 2012-2016." Geneva: ILO, 2017.

Child labour in India is not limited to visible forms like working in factories or as domestic help; it also includes hidden forms such as bonded labour, trafficking, forced begging, and sexual exploitation. Many children are trafficked from rural areas to urban centers with false promises of education or employment, only to be pushed into exploitative conditions. These children often have no legal recourse, lack documentation, and are too afraid to report their plight. The informal sector, which is largely unregulated, employs the highest number of child laborers, making enforcement of laws even more difficult. Moreover, the pandemic has exacerbated the issue, with economic distress forcing more children into labour.

Socio-economic disparities and lack of access to quality education further drive children into exploitative labour. Families unable to afford basic necessities often consider child labour a necessary evil for survival. In such circumstances, education takes a backseat, especially in marginalized communities, where there is little awareness about child rights or the long-term benefits of education.

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Even when schools are available, poor infrastructure, untrained teachers, and unsafe environments deter attendance. Girls, in particular, face a double burden as they are often required to handle household chores in addition to labour outside the home.

The psychological toll of child exploitation is profound. Children engaged in labour are often subjected to physical abuse, verbal humiliation, and neglect. The lack of a nurturing environment affects their self-esteem, ability to trust others, and cognitive development. Many grow up with mental health issues, substance abuse problems, and difficulty integrating into society. These children are robbed of their right to play, rest, and experience a carefree childhood, which are essential aspects of a healthy upbringing. The stigma associated with child labour further marginalizes them, perpetuating a cycle of poverty and illiteracy.

In response to these issues, several governmental and non-governmental initiatives have been launched. The National Child Labour Project (NCLP), for instance, aims to rehabilitate child labourers by providing them with education, vocational training, and stipends. NGOs like Bachpan Bachao Andolan have played a pivotal

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<sup>42</sup> Ministry of Labour and Employment, Government of India. “Child Labour (Prohibition and Regulation) Amendment Act, 2016.”

UNICEF India. “Child Protection: Child Labour.” Available at: <https://www.unicef.org/india/what-we-do/child-protection>

role in rescuing and rehabilitating thousands of children from exploitative conditions. International organizations such as UNICEF and the ILO have also collaborated with Indian authorities to formulate strategies and action plans to combat child labour. However, the implementation of these programs is often hindered by corruption, lack of political will, and insufficient funding.

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Despite legal prohibitions, enforcement remains a significant challenge. Inspections are often infrequent, and many employers operate in remote or clandestine locations. Even when violations are identified, penalties are rarely imposed, or offenders are let off with minimal consequences. There is also a lack of coordination among various government agencies, making it difficult to maintain a consistent approach. Moreover, child labour cases are often underreported due to fear of retaliation or loss of income, making it difficult to gauge the true extent of the problem.

Public awareness and community involvement are crucial to ending child labour. It is essential to change societal attitudes that normalize or justify the exploitation of children. Educating parents about the long-term benefits of schooling and the risks associated with child labour can create a cultural shift. Community-based monitoring systems and local vigilance committees can play a key role in identifying and reporting violations. Furthermore, empowering children with knowledge of their rights can enable them to resist exploitative practices and seek help when needed.

Education remains the most powerful tool in the fight against child labour. When children have access to quality, inclusive, and affordable education, they are less likely to be forced into labour. Government schemes such as the Midday Meal Scheme, Right to Education (RTE) Act, and Sarva Shiksha Abhiyan aim to increase enrollment and reduce dropout rates. However, to be truly effective, these programs must be complemented with adequate infrastructure, trained staff, and a child-friendly curriculum. Vocational training and skill development can also offer viable alternatives for older children transitioning out of labour.

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<sup>43</sup> Kailash Satyarthi Children's Foundation. "The Situation of Child Labour in India."

Sengupta, R. (2020). "Legal Framework on Child Labour in India: An Analysis." *Indian Journal of Law and Justice*.

In conclusion, child labour and exploitation represent grave violations of child rights in India. Tackling this issue requires a multi-pronged approach involving legal reform, education, poverty alleviation, and community mobilization. It is imperative for the government, civil society, and individuals to work collaboratively to create a protective environment for every child. Ending child labour is not just a legal obligation—it is a moral and social imperative that defines the very foundation of a just and equitable society.

## 4.2 Child Marriage and Trafficking

Child marriage and trafficking represent some of the most severe violations of child rights in India. Despite significant legal frameworks and policy initiatives aimed at protecting children, these social evils persist due to deep-rooted socio-economic and cultural factors. Child marriage, which involves the union of individuals below the legal age (18 years for girls and 21 for boys), deprives children of their fundamental rights, including education, health, and freedom from exploitation.

Trafficking, on the other hand, involves the recruitment, transportation, or harboring of children for the purpose of exploitation, which includes forced labor, sexual abuse, and even organ trade. Both phenomena have overlapping causes and consequences, contributing to the systemic marginalization and abuse of vulnerable children.

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Child marriage is often driven by poverty, illiteracy, gender inequality, and traditional practices that prioritize early marriage for girls as a means of securing their future or reducing economic burdens. In rural areas, especially in states like Rajasthan, Bihar, and Uttar Pradesh, early marriage is still perceived as a social norm. Families view daughters as liabilities and marrying them off early is seen as a way to ensure their safety and reduce the financial burden associated with dowries. This practice, however, leads to a myriad of issues such

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<sup>44</sup> Narula, S. (2003). "Human Rights and Governance: The Case of Child Labour in India." Harvard Human Rights Journal.

Save the Children India. "The Hidden Crisis: Child Labour during the Pandemic."

<sup>45</sup> Child Marriage Restraint Act, 1929 (amended as the Prohibition of Child Marriage Act, 2006).

UNICEF, "Child Marriage in India: An Analysis of Available Data (2019)."

as early pregnancies, which put both the mother and child at health risks, and the termination of the girl's education and personal development.

Trafficking of children in India is a complex issue with multiple dimensions. Children are trafficked for various purposes including bonded labor, domestic work, sexual exploitation, begging, and illegal adoption. The rise of human trafficking networks across the country has made it difficult to curb the menace effectively. Many traffickers lure children and their families with false promises of employment and education, only to trap them in exploitative situations. Girls, in particular, are at higher risk of being trafficked for sexual exploitation, with child marriage often serving as a front for trafficking in certain cases.

There is a significant overlap between child marriage and trafficking. In many instances, young girls are married off and then transported to other regions, sometimes across state or national borders, where they are subjected to forced labor or sexual exploitation. Such marriages, often unregistered and illegal, provide traffickers with a convenient cover to transport minors. This intersectionality poses a serious challenge to law enforcement agencies and child protection systems, making it harder to detect and intervene in time.

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The legal framework in India prohibits both child marriage and trafficking. The Prohibition of Child Marriage Act, 2006 declares child marriage as voidable and provides for punishment for those involved in conducting or promoting such marriages. Similarly, the Immoral Traffic (Prevention) Act, 1956, along with the Indian Penal Code and Juvenile Justice (Care and Protection of Children) Act, 2015, criminalizes the trafficking and exploitation of children. However, the implementation of these laws is often weak due to inadequate resources, lack of awareness, and corruption within the enforcement machinery.

The role of Non-Governmental Organizations (NGOs) and civil society in combating child marriage and trafficking cannot be understated. Organizations like Bachpan Bachao Andolan, Child Rights and You (CRY), and Save the Children have been instrumental in rescuing children, raising awareness, and advocating for policy changes. They also work at the grassroots level to educate families and communities about the negative consequences of these practices and provide support for victims through rehabilitation programs.

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<sup>46</sup> National Crime Records Bureau (NCRB), "Crime in India" Report (2022).

Bachpan Bachao Andolan, "Rescue Stories from the Ground," Annual Report (2023).

Education plays a critical role in the prevention of child marriage and trafficking. Keeping children, especially girls, in school reduces their vulnerability and empowers them with the knowledge and skills necessary to make informed decisions about their lives. Government initiatives such as the Beti Bachao Beti Padhao scheme aim to improve the status of girls in society by promoting their education and delaying their marriage. However, much more needs to be done to ensure universal access to quality education and to address the socio-economic barriers that lead to dropouts and early marriages.

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The COVID-19 pandemic has exacerbated the risk of child marriage and trafficking. With schools closed, economic stress mounting, and mobility restricted, many families resorted to marrying off their daughters or became more susceptible to trafficking networks. Reports from NGOs indicate a surge in child marriage cases during the lockdown periods, highlighting the urgent need for robust child protection mechanisms that can function effectively even during crises.

To combat child marriage and trafficking, a multi-pronged approach is necessary. This includes stricter enforcement of existing laws, community engagement to change social norms, improved access to education and economic opportunities, and strengthening the capacity of child protection institutions. Coordination between various stakeholders—law enforcement, judiciary, social workers, educators, and the community—is essential to create a safe and enabling environment for children.

In conclusion, child marriage and trafficking continue to pose serious threats to child rights in India. Despite the existence of legal safeguards, the persistence of these practices reflects the need for more comprehensive and sustained efforts. Protecting children from these violations requires a commitment to social change, policy reform, and community participation, underpinned by the belief that every child deserves a childhood free from exploitation and filled with opportunities for growth and empowerment.

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<sup>47</sup> Ministry of Women and Child Development, Government of India, “Standard Operating Procedures to Combat Human Trafficking.”

Save the Children India, “Ending Child Marriage in India: Progress and Prospects,” Policy Brief (2022).

### 4.3 Access to Education, Health, and Nutrition

Children form the cornerstone of a nation's future, and ensuring their access to education, health, and nutrition is critical to the realization of their rights and the achievement of equitable development. The Indian Constitution and various statutory frameworks emphasize the holistic development of children by securing their fundamental rights. Access to quality education, healthcare, and adequate nutrition is not merely a matter of welfare—it is a fundamental right that underpins the development of a child into a healthy, informed, and productive member of society. Despite various schemes and constitutional guarantees, millions of children in India still face challenges in enjoying these rights due to poverty, social discrimination, gender inequality, and inadequate infrastructure.

Education is one of the most powerful tools for breaking the cycle of poverty and empowering children. Article 21A of the Constitution of India provides for free and compulsory education for all children between the ages of 6 to 14 years. This was further strengthened by the Right of Children to Free and Compulsory Education Act (RTE Act), 2009, which outlines the norms and standards for school infrastructure, teacher-student ratio, and the prohibition of physical punishment and mental harassment. However, implementation challenges persist. Many children, particularly those from marginalized communities, continue to remain out of school or drop out prematurely due to socio-economic pressures and lack of accessibility.

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<sup>48</sup> International Labour Organization (ILO), “Global Estimates of Child Labour: Results and Trends, 2016-2020.”

Beti Bachao Beti Padhao Scheme – Government of India Portal (2023).

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

<sup>49</sup> Right of Children to Free and Compulsory Education Act, 2009. Government of India.

National Family Health Survey – 5, Ministry of Health and Family Welfare, Government of India, 2021.

Gender disparities in education remain a pressing concern in India. Although initiatives like Beti Bachao Beti Padhao have aimed to address this issue, girls in rural and marginalized communities still face barriers such as early marriage, gender-based violence, and cultural norms that deprioritize their education. Similarly, children with disabilities, those living in conflict zones, and children engaged in labor often remain excluded from the education system. Inclusive education and special attention to these vulnerable groups are essential to actualize the promise of the RTE Act and the broader goal of educational equity.

Healthcare access is another critical right of children, safeguarded under Article 47 of the Constitution which mandates the State to raise the level of nutrition and the standard of living and to improve public health. The Government of India has introduced multiple schemes to improve child health, such as the National Health Mission (NHM), Rashtriya Bal Swasthya Karyakram (RBSK), and Universal Immunization Programme (UIP). These initiatives aim to provide preventive, promotive, and curative healthcare to children, especially in rural and underprivileged areas. However, gaps in implementation, inadequate health infrastructure, and shortages of skilled personnel continue to hinder effective healthcare delivery.

Infant and child mortality rates in India remain a matter of concern despite noticeable improvements over the years. Poor access to prenatal and postnatal care, malnutrition, and lack of awareness about hygiene and sanitation are key contributors. Inadequate funding, infrastructural disparities between urban and rural areas, and limited outreach of health services exacerbate the situation. While institutional births have increased, access to quality neonatal and pediatric care remains inconsistent, affecting child survival and long-term health outcomes.

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Nutrition is another essential component of a child's right to survival and development. Malnutrition, particularly in the form of stunting, wasting, and underweight, affects a large number of children in India. The National Family Health Survey (NFHS-5) revealed that about 35.5% of children under five are stunted and 32.1% are underweight. Programs like the Integrated Child Development Services (ICDS), Mid-Day Meal Scheme (MDMS), and Poshan Abhiyaan are designed to combat child malnutrition by providing supplementary nutrition, growth monitoring, and health education. However, the effectiveness of these programs often depends on local implementation, community involvement, and political will.

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<sup>50</sup> Betty Bachao, Beti Padhao Scheme Guidelines, Ministry of Women and Child Development, Government of India.

National Health Mission Framework, Ministry of Health and Family Welfare, Government of India.

One of the significant challenges in ensuring proper nutrition and healthcare is the lack of awareness and education among parents, especially in economically disadvantaged communities. Many families remain unaware of government schemes or are hesitant to access services due to social stigma, distance, or distrust in public systems. Empowering communities through awareness campaigns, grassroots involvement, and the use of local governance mechanisms like Panchayati Raj Institutions can help bridge this gap and ensure that children receive the benefits they are entitled to.

Another major hurdle in achieving universal access to child rights is the issue of child labor, which is both a cause and consequence of deprivation of education, health, and nutrition. Children engaged in labor often work in hazardous conditions, suffer from physical and psychological ailments, and are deprived of the opportunity to attend school. The Child Labour (Prohibition and Regulation) Amendment Act, 2016, prohibits the employment of children below 14 in all occupations, yet enforcement remains weak. Eradicating child labor requires a multidimensional approach, including poverty alleviation, strict law enforcement, and access to alternative livelihood options for families.

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The role of non-governmental organizations (NGOs) and civil society is vital in supplementing governmental efforts to secure child rights. Numerous NGOs work at the grassroots level to raise awareness, deliver services, and advocate for policy changes. They also act as watchdogs, holding authorities accountable and highlighting systemic failures. Collaboration between the government and civil society can ensure the more effective delivery of services and greater outreach to marginalized children who are often left out of mainstream programs.

In conclusion, access to education, health, and nutrition forms the triad of essential rights for children in India. While legislative frameworks and policy interventions exist, the real challenge lies in effective implementation and reaching the last child. Bridging the gap between policy and practice requires not only systemic reforms but also a change in societal attitudes towards children, especially those from marginalized backgrounds. Ensuring every child enjoys these fundamental rights is not just a constitutional mandate but a moral imperative for a just and equitable society.

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<sup>51</sup> Integrated Child Development Services (ICDS) Scheme, Ministry of Women and Child Development, Government of India.

Mid-Day Meal Scheme Guidelines, Ministry of Education, Government of India.

## 4.4 Impact of Digital Exposure and Online Safety

The rapid expansion of digital technology in India has drastically transformed the way children learn, interact, and entertain themselves. With increasing access to smartphones, tablets, and the internet, children today are exposed to digital platforms from a very young age. While this digital exposure can foster learning and creativity, it also presents significant risks to their safety and well-being. Issues such as cyberbullying, exposure to inappropriate content, online grooming, and data privacy breaches have become more prevalent. Consequently, safeguarding children's rights in the digital ecosystem is now a matter of urgent legal and policy concern in India.

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One of the major implications of digital exposure is the psychological impact it can have on children. Extended screen time and exposure to violent or harmful content can lead to anxiety, depression, sleep disturbances, and behavioral problems. Cyberbullying has also become a widespread issue, where children face harassment, defamation, or intimidation through online platforms. The lack of emotional maturity to handle such situations may result in long-term trauma, self-harm, or even suicidal tendencies. These developments highlight the necessity of integrating mental health and online safety into the broader framework of child rights in India.

The vulnerability of children to online predators and grooming poses another serious threat. Offenders use social media, gaming platforms, and messaging apps to manipulate and exploit minors. Grooming often begins with building trust and eventually leads to sexual exploitation or trafficking. Although laws such as the Protection of Children from Sexual Offences Act (POCSO), 2012, aim to penalize online sexual abuse, the dynamic nature of the digital space makes enforcement challenging. Moreover, many such cases go unreported due to fear, shame, or lack of awareness among children and parents.

Data privacy is a growing concern as children's digital footprints are often collected, stored, and shared without informed consent. Educational apps, online games, and social media platforms frequently gather personal data such as name, age, location, browsing behavior, and preferences. The absence of robust child-specific data protection laws in India makes it difficult to regulate the collection and usage of such data. The proposed Digital Personal Data Protection Bill, 2023, attempts to address these issues, but the implementation and enforcement mechanisms need to be tailored specifically to children's unique vulnerabilities.

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<sup>52</sup> Protection of Children from Sexual Offences Act, 2012, Ministry of Law and Justice, Government of India.

The role of parents and educators is critical in ensuring children's online safety. However, a significant digital literacy gap exists among adults, especially in rural and underserved areas. Many parents are unaware of the digital threats their children face or lack the skills to guide and supervise their online activities. Schools, too, often do not incorporate digital safety as part of their curriculum. There is a pressing need for comprehensive digital literacy programs that include modules on cyber hygiene, responsible use of technology, and mechanisms for reporting abuse.

In response to these challenges, several government and non-government initiatives have emerged to promote online safety. The Ministry of Electronics and Information Technology (MeitY), in collaboration with the National Commission for Protection of Child Rights (NCPCR), has launched awareness campaigns and helplines for reporting cyber crimes against children. NGOs such as Child-line India Foundation and Save the Children have also played a pivotal role in educating children and families about safe digital practices. However, these efforts remain fragmented and often lack the scale needed to make a widespread impact.

The legal framework governing online safety for children in India remains inadequate and fragmented. While the Information Technology Act, 2000, and the POCSO Act provide some recourse, they do not comprehensively address the challenges posed by the evolving digital landscape. There is an urgent need for an integrated law that focuses on child-specific digital rights, combining elements of cyber law, child protection, and privacy regulations. Such legislation must also ensure accountability of digital platforms in monitoring content, reporting abuse, and securing user data.

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A key component of protecting children's rights in the digital realm is empowering them with knowledge and tools to navigate online spaces safely. Digital citizenship education must be embedded into the national

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<sup>53</sup> National Commission for Protection of Child Rights (NCPCR), Guidelines for Child Safety in Digital Learning.

UNICEF, Children in a Digital World: State of the World's Children 2017.

Digital Personal Data Protection Bill, 2023, Government of India.

<sup>54</sup> Ministry of Electronics and Information Technology (MeitY), "Cyber Security Awareness Initiatives."

Child-line India Foundation, "Digital Safety and Protection for Children Online."

Save the Children India, "Digital Safety Resources and Training Modules."

education policy, emphasizing rights and responsibilities, media literacy, critical thinking, and online etiquette. Children should be encouraged to speak up about online abuse and be assured that their concerns will be taken seriously without fear of punishment or shame.

Furthermore, tech companies and social media platforms have a moral and legal obligation to protect child users. Age verification mechanisms, content moderation, privacy settings, and prompt reporting tools must be standardized and mandated by law. Platforms should be held accountable for non-compliance, and transparency reports should be made public to evaluate their commitment to child safety. Public-private partnerships could also help in designing innovative technological solutions to enhance child online protection.

In conclusion, while digital exposure opens a realm of opportunities for children in India, it also brings profound risks that must be addressed proactively. The Indian legal and policy framework must evolve to prioritize online safety as a fundamental child right. Holistic measures involving legislation, education, technology, and community engagement are essential to build a safe and empowering digital environment for children. Only through a collective effort can we ensure that the digital age upholds the dignity, safety, and development of every child.

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#### **4.5 Role of Policy Makers, Judiciary, and Civil Society**

The protection and promotion of child rights in India involve a multi-stakeholder approach, where policymakers, the judiciary, and civil society play interlinked and complementary roles. Policy makers, primarily the legislature and executive bodies, lay the legal and administrative foundation for child welfare through enactments, schemes, and developmental programs. India's constitutional framework, especially Article 15(3), allows the state to make special provisions for children, while Article 39(e) and (f) guide the state to ensure that children are not abused and that childhood is protected. Accordingly, policy makers have enacted numerous laws such as the Juvenile Justice (Care and Protection of Children) Act, 2015 and the

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<sup>55</sup> Information Technology Act, 2000, Government of India.

National Education Policy 2020, Ministry of Education, Government of India.

Karmakar, R., "The Dark Side of the Internet: Cyberbullying and Online Grooming in India," *Economic & Political Weekly*, 2023.

Protection of Children from Sexual Offences (POCSO) Act, 2012, which reflect a child-centric legal regime. These laws are aimed at fostering rehabilitation, protection, and justice for children.

The Parliament of India has consistently worked towards improving the legislative framework concerning child rights. The enactment of the Right of Children to Free and Compulsory Education Act, 2009 (RTE Act), made education a fundamental right for children aged 6 to 14 years. This marked a transformative moment in policy-making, placing accountability on the state to ensure universal access to elementary education. Similarly, schemes like Integrated Child Development Services (ICDS), Mid-Day Meal Scheme, and Beti Bachao Beti Padhao aim at enhancing the health, nutrition, and education of children. The role of policy makers is therefore critical not only in law-making but also in allocating sufficient budgetary resources, ensuring institutional infrastructure, and monitoring the implementation of welfare schemes.

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The judiciary in India has played a pivotal role in upholding child rights through expansive interpretations of constitutional provisions and proactive interventions. The Supreme Court and various High Courts have passed landmark judgments recognizing the rights of children in diverse contexts. In *M.C. Mehta v. State of Tamil Nadu*, the Supreme Court prohibited the employment of children in hazardous industries and directed the state to provide alternative employment to the families and free education to the children.

Similarly, the judiciary has reaffirmed the right to education, protection from exploitation, and right to live with dignity as integral parts of Article 21 of the Constitution. Through public interest litigations (PILs), the judiciary has opened avenues for child rights advocacy and strengthened the enforcement of statutory protections.

Judicial activism has often compensated for administrative gaps in child protection mechanisms. For instance, in *Sampurna Behura v. Union of India*, the Supreme Court took note of the inadequacies in implementing the Juvenile Justice Act and issued detailed directions to all states and Union Territories to strengthen child welfare committees, improve shelter homes, and maintain proper records. Courts have also emphasized the

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<sup>56</sup> Constitution of India, Article 15(3), 39(e), and 39(f).

Juvenile Justice (Care and Protection of Children) Act, 2015, Ministry of Law and Justice, Government of India.

need for child-friendly procedures during trials, particularly in cases involving abuse or sexual offences. This judicial approach reflects a sensitive and reformatory understanding of child rights jurisprudence.

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Civil society, comprising non-governmental organizations (NGOs), community-based groups, child rights activists, and media, acts as a bridge between policy and ground realities. These actors play a crucial role in advocacy, capacity building, research, and direct service delivery to children in vulnerable circumstances. Organizations like Child-line India, Save the Children, and Bachpan Bachao Andolan have contributed immensely to rescuing children from trafficking, bonded labor, and abuse, and ensuring their reintegration into society. Civil society also provides critical data and policy inputs to strengthen child-centric governance and identify gaps in state intervention.

One of the unique roles of civil society is in creating awareness about children's rights and ensuring their participation in decision-making processes that affect them. Through grassroots mobilization, community sensitization, and school-based programs, civil society actors help foster a rights-based understanding among children and communities. For example, campaigns like "Children as Change Makers" empower children to participate in local governance and child protection committees. This participatory approach ensures that child welfare initiatives are responsive to the actual needs of children and not just top-down policy impositions.

Moreover, civil society organizations have significantly influenced policy reforms and implementation strategies through collaboration with government agencies. They often function as technical partners in implementing child protection schemes, such as in the Child Protection Scheme under the Ministry of Women and Child Development. Their on-ground presence allows them to monitor services such as anganwadis, shelter homes, and juvenile justice boards, and report irregularities or violations. Their watchdog role adds an additional layer of accountability in the child rights ecosystem.

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<sup>57</sup> Right of Children to Free and Compulsory Education Act, 2009, Ministry of Human Resource Development.

M.C. Mehta v. State of Tamil Nadu, (1996) 6 SCC 756.

Sampurna Behura v. Union of India, (2011) 9 SCC 801.

While policy makers and judiciary provide the legal and institutional frameworks, civil society's flexibility and field presence offer innovative, community-oriented solutions. The synergy among these actors is vital for the holistic development of children. For instance, successful rehabilitation of child laborers or victims of trafficking often involves legal support (judiciary), shelter and welfare provisions (executive), and psycho-social interventions (civil society). Multi-stakeholder coordination ensures that child rights are upheld not only in law but in practice as well.

However, challenges remain. Despite a strong legal framework, issues like underfunding, bureaucratic inefficiency, lack of coordination, and social stigma hinder the full realization of child rights. It is here that continuous dialogue among policy makers, judicial authorities, and civil society becomes essential. Institutional mechanisms like the National Commission for Protection of Child Rights (NCPCR) and State Commissions must be strengthened and made more accessible to the general public. Collaborative training programs for police, judiciary, and social workers can enhance child sensitivity and legal awareness at the grassroots.

In conclusion, the role of policy makers, judiciary, and civil society in upholding child rights in India is indispensable. While each actor has its distinct responsibilities, their efforts must converge towards creating an enabling environment where every child can survive, develop, participate, and thrive. An integrated child rights approach—rooted in legal protections, judicial oversight, and community participation—holds the key to safeguarding the future of India's children.

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<sup>58</sup> Protection of Children from Sexual Offences (POCSO) Act, 2012, Ministry of Law and Justice.

Save the Children India, Annual Report 2023.

<sup>59</sup> Bachpan Bachao Andolan, "Impact Report on Child Labour Rescue Operations," 2022.

National Commission for Protection of Child Rights (NCPCR), "State of Child Rights in India," 2023.

## **CHAPTER-5**

### **5: CONCLUSION AND RECOMMENDATIONS**

In conclusion, child rights in India have made significant strides over the years, with a framework of laws and policies aimed at safeguarding the welfare of children. The Indian Constitution itself acknowledges the special protection required by children, especially through Articles 15(3) and 21, which focus on the protection of life and personal liberty. Over time, the nation has also aligned itself with international conventions, particularly the United Nations Convention on the Rights of the Child (UNCRC), to further reinforce its commitment to child protection. These developments have brought considerable attention to the need for a child-centric approach to law and policy.

However, despite these legal advancements, the situation for many children in India remains far from ideal. The reality is that millions of children continue to suffer from exploitation, neglect, and abuse. The rampant issue of child labor, especially in rural and urban poverty-stricken areas, continues to be a cause of concern. Child trafficking, particularly in certain parts of the country, is a grave violation of children's rights. Additionally, the pervasive problem of child marriage undermines the opportunities of young girls, keeping them from receiving an education and leading to early motherhood and further poverty. While laws like the Child Labour (Prohibition and Regulation) Act, 1986, and the Prohibition of Child Marriage Act, 2006, exist to prevent such violations, their enforcement is still weak, and societal attitudes toward these issues often hinder progress.

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The role of international conventions like the UNCRC cannot be overstated in this context. India ratified the UNCRC in 1992, committing itself to uphold the rights enshrined within it, including the right to education, protection from violence, and access to healthcare. The UNCRC, in its guidelines, urges nations to prioritize the best interests of the child, and although India has made notable advances in areas like education through

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<sup>60</sup> United Nations Convention on the Rights of the Child (UNCRC).

Right to Education Act, 2009.

initiatives such as the Right to Education Act, 2009, many challenges remain. The implementation of policies and laws is still an issue, largely due to insufficient resources, lack of awareness, and, in some instances, a lack of political will.

One of the major areas where India has seen progress is in child protection mechanisms, with both government and non-governmental organizations (NGOs) playing crucial roles in protecting children from abuse and exploitation. Agencies such as the National Commission for Protection of Child Rights (NCPCR) have been working toward creating awareness, advocating for policy reforms, and overseeing the enforcement of child protection laws. However, the gap in the implementation and effectiveness of these initiatives is a key challenge, as the bureaucratic structure is often slow to respond, and corruption or lack of proper training for law enforcement personnel further exacerbates the situation.

Another area requiring urgent attention is child nutrition and healthcare. Although there have been multiple efforts such as the Integrated Child Development Services (ICDS) and the National Health Mission, the country's children still face malnutrition at alarming rates. The lack of access to proper nutrition, especially in marginalized communities, poses severe long-term effects on their physical and mental development. Policies targeting health and nutrition need to be better funded, implemented, and tailored to the local needs of children.

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Education, while significantly improved with the introduction of the Right to Education Act (RTE), continues to face challenges. The gap in access to education for children in rural areas, especially among girls, children with disabilities, and those from marginalized communities, remains significant. Government schemes such as mid-day meal programs have had positive impacts, but dropout rates continue to be high, primarily due to social factors, economic hardship, and infrastructural barriers in rural areas. It is imperative that the government works in tandem with civil society organizations to ensure that every child has access to quality education and is supported in their educational journey.

The empowerment of children in India also involves the protection of their voices and participation in decision-making processes. Children should not merely be seen as subjects of protection but also as active

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<sup>61</sup> Child Labour (Prohibition and Regulation) Act, 1986.

Prohibition of Child Marriage Act, 2006.

participants in shaping their own future. The National Policy for Children, 2013, acknowledges the importance of empowering children and involving them in matters concerning their lives.

However, in reality, the active participation of children in governance or in matters directly affecting their future is still minimal. Bridging this gap requires fostering an environment where children can freely express their opinions, participate in policy discussions, and contribute to the development of their communities.

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Furthermore, issues such as child mental health have gained attention in recent years, but there is still much to be done. Mental health problems among children, particularly those who have experienced trauma due to violence, abuse, or poverty, are often overlooked. There is a growing recognition of the need for mental health services for children, but the infrastructure for this is woefully inadequate. Public and private sector investments in child mental health programs are critical to addressing the emotional and psychological needs of children across the country.

In addressing these challenges, India must look beyond legal reforms and focus on creating a holistic framework that includes social, economic, and cultural changes. Greater involvement of local communities, along with stronger partnerships between the government and civil society, is key to creating sustainable improvements in the lives of children. Public awareness campaigns that highlight the importance of children's rights, coupled with better access to resources and education, will empower individuals to make a positive difference.

Lastly, for India to truly fulfill its commitment to child rights, it must recognize the intersectional nature of children's rights violations. The rights of children are closely tied to broader issues such as gender inequality, caste discrimination, and economic disparity. Therefore, the solutions to these challenges cannot be isolated but must be integrated into broader efforts to eliminate social injustice and inequality. By ensuring that every child's rights are fully protected, India can build a stronger, healthier, and more equitable future for its next generation.

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<sup>62</sup> National Commission for Protection of Child Rights (NCPCR).

Integrated Child Development Services (ICDS).

The implementation of international conventions like the United Nations Convention on the Rights of the Child (UNCRC) has undeniably provided a strong foundation for child rights in India. The ratification of the UNCRC in 1992 marked a transformative step in India's legal framework concerning children. It not only committed India to international norms but also urged legislative and policy changes to enhance the lives of children across the country.

Over the decades, India has undertaken various legislative reforms in line with the UNCRC's core principles, including non-discrimination, the right to life and development, and respect for the views of the child. These principles have permeated domestic laws such as the Juvenile Justice (Care and Protection of Children) Act and the Right of Children to Free and Compulsory Education Act, which reflect an increasing sensitivity towards children's rights and development.

Despite India's commitment to these conventions, the gap between international standards and local implementation remains significant. Challenges like poverty, gender discrimination, and lack of awareness continue to hinder the full realization of children's rights. While legal safeguards exist, enforcement mechanisms are often weak and inconsistent across states. Judicial pronouncements in India have played a critical role in interpreting the UNCRC and reinforcing the protection of child rights. Courts have frequently invoked international norms to uphold the rights of children in various contexts, including education, adoption, and protection from abuse. These judgments indicate a growing willingness of the judiciary to internalize global standards within domestic jurisprudence.

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<sup>63</sup> National Health Mission.

National Policy for Children, 2013.

Child mental health services in India.

Role of civil society organizations in child welfare.

Moreover, the UNCRC has had a profound impact on India's educational reforms. The introduction of child-centric approaches in classrooms and the incorporation of life skills into the curriculum show how international influence has shaped national education policies. Yet, systemic challenges like teacher shortages and infrastructure deficits remain unresolved.

The UNCRC's principle of participatory rights, especially the child's right to be heard, has not been fully realized in India. Cultural and institutional barriers often prevent children from expressing their opinions, especially in legal and administrative settings. Bridging this gap demands attitudinal change as well as structural reforms in the justice and welfare systems.

India's alignment with other global frameworks like the Sustainable Development Goals (SDGs) has also reinforced the importance of child rights. Goals focusing on health, education, and gender equality directly intersect with the rights articulated in the UNCRC, thereby enabling a holistic developmental approach.

However, implementation remains uneven. Rural and marginalized children still experience barriers to accessing their rights due to socio-economic factors and regional disparities. The monitoring and evaluation mechanisms for child rights programs often lack transparency and accountability, weakening the impact of international norms.

Capacity-building among stakeholders is critical. Training programs for police, judiciary, educators, and healthcare providers must integrate UNCRC principles to ensure that child rights are respected and upheld

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<sup>64</sup> United Nations Convention on the Rights of the Child (UNCRC), 1989.

Ministry of Women and Child Development, Government of India, Annual Report 2022-23.

<sup>65</sup> The Juvenile Justice (Care and Protection of Children) Act, 2015.

Right of Children to Free and Compulsory Education Act, 2009.

in every sphere. Without sensitization and a rights-based approach, international obligations will continue to have limited ground-level impact.

In conclusion, while the UNCRC and other conventions have significantly influenced India's child rights framework, sustained efforts are needed to bridge the implementation gap. India must move beyond symbolic ratification to meaningful realization by strengthening institutions, empowering communities, and ensuring that every child is treated not just as a beneficiary, but as a rights-holder.

Scholars and non-governmental organizations (NGOs) have played an instrumental role in promoting, protecting, and shaping the discourse around child rights in India. Their interventions have not only exposed systemic failures but also offered innovative models and policy recommendations for sustainable reform.

Academic contributions have enriched the theoretical and jurisprudential understanding of child rights. Legal scholars have critically examined the inadequacies in legislation, offering comprehensive frameworks for reform. Their research has influenced policy amendments and been cited in judicial pronouncements, thereby bridging the gap between theory and practice.

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Moreover, scholars from social sciences, psychology, and development studies have highlighted the socio-economic determinants affecting child welfare. Their interdisciplinary insights have led to a more nuanced understanding of child abuse, neglect, and exploitation. This has enabled child rights programs to become more evidence-based and context-sensitive.

NGOs, on the other hand, have been the frontline defenders of child rights. Organizations like CRY (Child Rights and You), Save the Children, and Bachpan Bachao Andolan have rescued children from exploitative conditions, facilitated their rehabilitation, and ensured access to justice. Their field-level interventions have created real-time impact and set best practices for government schemes.

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<sup>66</sup> UNICEF India, "Children in India: Key Statistics," 2023.

Save the Children India, "Annual Report 2022."

Bachpan Bachao Andolan v. Union of India, (2011) 5 SCC 1.

These organizations also act as watchdogs, holding the state accountable for failures in upholding child rights. Through public interest litigations, RTI activism, and policy advocacy, NGOs have ensured that children's voices are heard at the highest levels of governance. Their advocacy has often resulted in policy shifts and greater allocation of resources toward child welfare.

Capacity-building is another key area of NGO intervention. They have trained teachers, caregivers, police officers, and judicial officers to adopt child-friendly practices. These initiatives have gradually changed institutional behavior and improved service delivery, particularly in child protection systems.

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Scholars and NGOs have also worked collaboratively to bring marginalized issues to the forefront. Whether it is the rights of street children, children with disabilities, or those in conflict with the law, their joint efforts have led to more inclusive policy formulations and targeted welfare schemes.

In the area of education, both scholars and NGOs have emphasized the importance of quality alongside access. They have critiqued the rote-learning culture and advocated for child-centric pedagogies that promote creativity, emotional well-being, and holistic development, thereby aligning with international child rights standards.

Further, digital advocacy and grassroots campaigns led by NGOs have significantly increased public awareness about child rights. Campaigns like "Childhood Without Fear" and "Freedom to Play" have mobilized community action and reshaped societal attitudes towards children and their entitlements.

Despite these contributions, scholars and NGOs face several challenges including resource constraints, bureaucratic apathy, and threats to operational freedom. The shrinking space for civil society and increasing regulation of NGOs have adversely impacted their ability to carry out rights-based work independently.

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<sup>67</sup> P. M. Bakshi, "Judicial Trends in the Interpretation of Child Rights in India," *Indian Journal of Constitutional Law*, Vol. 12 (2020).

National Commission for Protection of Child Rights (NCPCR), *Guidelines* 2022.

UNDP India, "SDGs and Child Development," 2022.

In sum, scholars and NGOs have been indispensable to the child rights movement in India. Their contributions have enriched policy, empowered communities, and enhanced the visibility of children's issues. Strengthening this partnership between civil society and the state is essential for achieving the constitutional promise of a just, equitable, and child-friendly India.

### **Recommendations for Advancing Child Rights in India**

To ensure the well-being of children in India and to strengthen the implementation of child rights, several recommendations can be made to address current gaps and enhance legal protections for children. These recommendations focus on improving the legal, social, and institutional frameworks for child rights, as well as promoting a culture of accountability and responsiveness to the needs of children.

One of the primary recommendations is to enhance the enforcement and awareness of existing child rights laws. Despite the presence of legislation such as the Juvenile Justice (Care and Protection of Children) Act, 2015, and the Protection of Children from Sexual Offenses (POCSO) Act, 2012, challenges persist in their implementation. It is essential that there be increased training for law enforcement, social workers, and educators to effectively implement these laws. In particular, training programs should be designed to make these stakeholders aware of the nuances of child rights laws and their importance in safeguarding children's well-being. Additionally, public awareness campaigns can further educate citizens on recognizing and addressing violations of child rights.

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<sup>68</sup> Jha, M., "Participation Rights of Children in India: A Reality Check," *NUJS Law Review*, Vol. 14 (2021).

Kumar, R., "Role of NGOs in Child Protection," *Indian Journal of Social Work*, Vol. 79, No. 3 (2022).

Sengupta, R., "Child-Centric Legal Reforms in India," *Journal of Child Rights*, Vol. 10 (2022).

<sup>69</sup> United Nations Convention on the Rights of the Child (UNCRC), 1989.

Juvenile Justice (Care and Protection of Children) Act, 2015, Government of India.

Protection of Children from Sexual Offenses (POCSO) Act, 2012.

Improving the quality of education and access to schools for marginalized children is another crucial recommendation. Despite significant strides made in the education sector, many children, particularly in rural and marginalized communities, continue to lack access to quality education. A critical focus should be placed on ensuring universal access to education, particularly for girls, children with disabilities, and children from economically disadvantaged backgrounds.

This can be achieved through strengthening the infrastructure of government schools, offering subsidies or incentives to private institutions to include marginalized groups, and ensuring that educational curricula are inclusive and gender-neutral. The protection of children from child labor remains a persistent challenge, despite the legal framework prohibiting it. A multi-faceted approach is required to address this issue, including stricter enforcement of labor laws, targeted social welfare programs for families at risk of child labor, and creating sustainable livelihood opportunities for parents. In addition, vocational training programs for older children can be designed to offer them skill-building opportunities while simultaneously ensuring they remain in school and away from exploitative labor.

Furthermore, a significant effort should be directed at strengthening child protection mechanisms within families and communities. The establishment of community-based child protection units can ensure that children who are at risk of abuse, neglect, or exploitation receive timely and effective intervention. These units can work in collaboration with child welfare committees and NGOs to provide holistic support, including mental health services, for children affected by abuse.

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These initiatives should also focus on educating parents and caregivers on positive parenting techniques and the importance of mental and emotional well-being in child development. Addressing child sexual abuse remains an urgent issue in India. One key recommendation is to establish more child-friendly courts and fast-track procedures for handling cases of child sexual abuse and exploitation. This would reduce the trauma for children who are forced to endure lengthy legal proceedings.

Additionally, the expansion of helplines, support services, and safe spaces for children to report abuse should be prioritized to ensure that children can report their experiences confidentially and without fear of retribution. Another critical recommendation is to ensure that the voices of children are heard in decisions

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<sup>70</sup> Ministry of Human Resource Development, Government of India, National Policy on Education.

International Labour Organization (ILO), Convention No. 182 on the Worst Forms of Child Labour.

that impact their lives. Children's participation in decision-making processes is essential for realizing their rights.

This can be done through the creation of child councils or forums where children, especially those from vulnerable communities, can express their views on issues affecting them. It is also important that these forums are representative of all sections of society, including children from marginalized communities such as Dalits, tribals, and religious minorities.

Strengthening health and nutrition programs for children is another vital area of intervention. Despite progress in child health, the country still faces high levels of malnutrition and preventable diseases among children, especially in rural areas.. Expanding access to healthcare services, particularly in underserved regions, is essential to reducing child mortality rates and

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promoting overall well-being. Nutrition programs in schools and communities should also be enhanced to combat undernutrition and its long-term effects on children's development. Additionally, the government and civil society must collaborate to protect children from the adverse effects of climate change. As extreme weather events become more frequent, children in vulnerable areas are at an increased risk of displacement, malnutrition, and lack of access to basic services. The creation of child-centered disaster relief and preparedness plans will ensure that children's needs are prioritized during emergencies. Moreover, climate education for children can play a role in promoting awareness of environmental issues and encouraging them to become advocates for sustainable living.

Lastly, comprehensive research and data collection on child rights issues should be a priority. Gathering accurate, disaggregated data on child welfare, education, health, and protection can provide valuable insights into the specific challenges faced by children in different regions and communities. Such data can help inform policy decisions and the allocation of resources to areas of greatest need, ensuring that interventions are evidence-based and targeted effectively.

In conclusion, these recommendations aim to create a holistic framework for advancing child rights in India, focusing on the protection, empowerment, and participation of children in all aspects of society. By ensuring

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<sup>71</sup> Ministry of Human Resource Development, Government of India, National Policy on Education.

International Labour Organization (ILO), Convention No. 182 on the Worst Forms of Child Labour.

the effective implementation of laws, promoting education, and fostering a culture of child-centric policies, India can make significant strides toward securing the future of its youngest citizens.

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## 5.1 Summary of Key Findings

The ratification of the United Nations Convention on the Rights of the Child (UNCRC) by India in 1992 marked a significant step in the country's commitment to safeguard child rights. The UNCRC, built on four core principles—non-discrimination, best interests of the child, right to life, survival and development, and respect for the views of the child—has influenced national policies and legislation to an appreciable extent. India's endorsement of the convention has fostered a more rights-based approach to child welfare, steering it away from welfare-centric charity models.

The UNCRC has compelled India to adapt its legal frameworks to align with international norms. The Juvenile Justice (Care and Protection of Children) Act, 2015, the Right of Children to Free and Compulsory Education Act, 2009, and the Protection of Children from Sexual Offences (POCSO) Act, 2012 are reflections of this influence. These laws incorporate key UNCRC principles, such as the right to education, protection from exploitation, and provision of child-friendly legal processes.

Despite these developments, gaps between ratification and implementation remain. One major concern is the lack of uniformity in enforcing child protection laws across various states. For example, despite constitutional mandates, many states lag in ensuring free and compulsory education, especially for marginalized groups. While international conventions provide a framework, domestic enforcement mechanisms remain weak in many instances.

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<sup>72</sup> Child Rights and You (CRY), "Campaigns and Impact," 2023.

S. Bhat, *Child Rights and the Law*, Oxford University Press, 2021.

<sup>73</sup> UN General Assembly, *Convention on the Rights of the Child*, 1989

Government of India, *Right of Children to Free and Compulsory Education Act*, 2009

The role of international monitoring mechanisms, such as the periodic reviews by the UN Committee on the Rights of the Child, has been instrumental in highlighting areas of concern in India's implementation. These reviews often bring to light issues such as child labor, trafficking, child marriage, and juvenile justice gaps. India has responded by revising laws, improving reporting systems, and enhancing institutional frameworks, but systemic challenges persist.

India's dual legal obligations—to international conventions and its domestic constitutional mandates—create a unique interface where global human rights norms must be reconciled with local socio-economic realities. The cultural context of childhood in India, marked by poverty, caste discrimination, and gender bias, often poses barriers to implementing global standards uniformly.

The Optional Protocols to the UNCRC on the involvement of children in armed conflict, on the sale of children, child prostitution, and child pornography, have also impacted India's legislative development. Although India has ratified these protocols, enforcement challenges remain due to inadequate training, poor resources, and corruption at various administrative levels.

The influence of other international agreements, such as the ILO Conventions on Child Labour, has also contributed to the strengthening of labor laws, particularly through the Child Labour (Prohibition and Regulation) Amendment Act, 2016. This act bans employment of children under the age of 14 in all occupations and processes, aligning with international labor standards.

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Moreover, the Millennium Development Goals (MDGs) and their successor, the Sustainable Development Goals (SDGs), have played a significant role in shaping policy frameworks that impact child health, education, and protection. SDG targets, such as ending child marriage and improving child nutrition, have helped integrate child rights into broader development agendas.

India's involvement in international forums, including the South Asian Initiative to End Violence against Children (SAIEVAC), has also promoted cross-border cooperation in child protection. These engagements

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<sup>74</sup> Protection of Children from Sexual Offences Act, 2012

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

have led to shared best practices and collaborative strategies in combating regional child rights violations like trafficking and child labor.

While international conventions provide a robust structure for ensuring child rights, their success depends significantly on domestic political will, administrative efficiency, and societal support. India's legal architecture is increasingly reflective of its global commitments, but a consistent gap remains between the written law and lived reality for millions of Indian children.

Scholars in India have played a crucial role in redefining and advancing the discourse on child rights. Legal academics and social scientists have emphasized the need for a holistic, rights-based approach rather than a fragmented, welfare-oriented model. This shift in perspective has influenced both legislation and public policy. Researchers have drawn attention to the intersectionality of child rights with caste, gender, poverty, and disability, highlighting the need for inclusive and sensitive policymaking.

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Legal scholars have extensively critiqued the juvenile justice system, especially after the Nirbhaya case led to the amendment of the Juvenile Justice Act. They argue that punitive measures against juveniles contradict the rehabilitative spirit of child rights. Their advocacy has sparked debates in legislative assemblies and civil society, promoting more nuanced and child-centric approaches within the justice system.

NGOs in India have been pivotal in both service delivery and advocacy for child rights. Organizations like Save the Children, CRY (Child Rights and You), Bachpan Bachao Andolan, and HAQ: Centre for Child Rights have not only provided direct support through education, healthcare, and rescue missions, but have

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<sup>75</sup> UN Committee on the Rights of the Child, Concluding Observations: India, various years

ILO Convention No. 138 on Minimum Age, No. 182 on Worst Forms of Child Labour

also campaigned for stronger policies and legal reforms. Their ground-level data and intervention models have helped bridge the gap between policy and implementation.

Research by NGOs has often exposed the underbelly of child exploitation in India, ranging from trafficking to child labor to abuse in institutions. These organizations produce periodic reports, such as CRY's annual Status Report on Child Rights in India, which influence public discourse and serve as resources for policymakers, journalists, and academics.

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Collaborative work between academics and NGOs has led to landmark PILs in the Supreme Court and High Courts of India, prompting judicial activism in enforcing child rights. For instance, legal interventions have resulted in orders mandating the regulation of children's homes, the framing of anti-trafficking policies, and the enforcement of midday meal schemes in schools.

Scholars have also contributed to the evolving understanding of children's autonomy and participation rights. They argue that children should not be seen merely as passive recipients of care but as active agents capable of decision-making, particularly in family law and education-related matters. This perspective is now gaining traction in academic circles and judicial interpretations.

NGOs have actively engaged with government bodies to improve child welfare schemes. Their field experience and feedback mechanisms have led to improvements in schemes like Integrated Child Protection Scheme (ICPS) and Sarva Shiksha Abhiyan. Moreover, NGOs play a critical role in capacity-building programs for law enforcement agencies, judiciary, and child welfare committees.

Several scholars have studied the implementation bottlenecks in the Indian child protection system, such as poor funding, understaffing, lack of training, and corruption. Their findings point to the need for systemic reforms and decentralization of child welfare services to ensure efficiency and accountability.

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<sup>76</sup> Child Labour (Prohibition and Regulation) Amendment Act, 2016

UNICEF and Ministry of Women and Child Development, Country Programme Action Plan (CPAP)

National Commission for Protection of Child Rights (NCPCR), Annual Reports

In the realm of education, NGOs and scholars have pushed for inclusive education policies that cater to children with disabilities, children in conflict zones, and migrant children. Their advocacy has expanded the scope of the Right to Education Act, which is now more inclusive of special needs and gender-specific concerns. Despite notable contributions, both scholars and NGOs face challenges. NGOs often operate with limited funds and may struggle to maintain long-term interventions. Scholars may encounter political pushback when their research critiques government programs. However, together, they form a vital ecosystem that holds the state accountable and drives the child rights movement forward in India.

India's commitment to upholding child rights is significantly influenced by international conventions, most notably the United Nations Convention on the Rights of the Child (UNCRC). Ratified by India in 1992, the UNCRC marked a pivotal moment in reorienting child rights from a welfare-based to a rights-based approach. This shift mandated the Indian state to treat children not as passive recipients of aid but as individuals with enforceable rights across various domains—health, education, protection, and participation.

One of the key findings is the extent to which UNCRC has shaped legislative reforms in India. Laws such as the Right of Children to Free and Compulsory Education Act, 2009 (RTE Act), the Protection of Children from Sexual Offences Act, 2012 (POCSO), and the Juvenile Justice (Care and Protection of Children) Act, 2015 draw heavily from the core principles of the Convention. These include the right to life, survival and development, non-discrimination, best interests of the child, and respect for the views of the child.

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<sup>77</sup> Save the Children India, Reports on Child Protection Interventions

CRY – Child Rights and You, Position Papers and Research Reports

<sup>78</sup> Kailash Satyarthi Foundation, Field Reports on Child Labor Rescues

Pratham's Annual Status of Education Report (ASER)

Despite these significant legislative developments, implementation continues to lag. The lack of adequate infrastructure, training for enforcement personnel, and budgetary allocations has diluted the effectiveness of these laws. This points to a gap between formal ratification and actual realization of international obligations. Moreover, coordination among central and state agencies remains fragmented, further weakening the enforcement mechanism.

Another key finding is the role of India's periodic reports to the UN Committee on the Rights of the Child, which highlight both progress and persistent challenges. The Committee has repeatedly pointed out systemic issues such as child labor, trafficking, poor birth registration rates, and limited access to quality education and healthcare. These reports serve as both an accountability mechanism and a tool for policy feedback.

India's engagement with other international instruments, such as the International Labour Organization (ILO) Conventions on child labor and the Convention on the Rights of Persons with Disabilities (CRPD), has also enriched the normative framework for child rights. These have compelled India to take specific actions, such as the amendment of the Child Labour (Prohibition and Regulation) Act to prohibit the employment of children under 14 in all occupations.

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However, there exists a stark rural-urban divide in the realization of child rights, compounded by social stratification based on caste, gender, and economic status. Marginalized groups often remain beyond the reach of protections guaranteed by international norms. This suggests the need for a targeted approach in national policy design to ensure equity in access to child rights.

Monitoring bodies such as the National Commission for Protection of Child Rights (NCPCR) and various State Commissions have been established in line with UNCRC obligations. Nonetheless, these bodies often suffer from institutional limitations, inadequate resources, and lack of enforcement power, which curtail their ability to effectively safeguard child rights.

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<sup>79</sup> Supreme Court of India, *People's Union for Civil Liberties v. Union of India (Right to Food Case)*

India has also engaged in international partnerships and donor-supported programs like UNICEF's Country Program Action Plan (CPAP), which aim to translate UNCRC principles into tangible developmental outcomes. These collaborations have supported pilot programs, data generation, and capacity building, especially in underdeveloped regions.

One major shortfall identified is the insufficient awareness and dissemination of child rights among local populations, especially in rural areas. While international conventions provide a universal standard, the localization of these rights remains weak. Grassroots awareness programs and local governance institutions must be strengthened to bridge this knowledge gap.

In conclusion, while India's ratification of international conventions has led to a significant overhaul of its legal and institutional framework for child rights, several bottlenecks persist in implementation, monitoring, and equity. These challenges call for a more integrated, well-funded, and participatory approach to realize the full potential of international conventions in improving the lives of Indian children.

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## 5.2 Policy Recommendations

India has enacted several child-centric legislations like the Juvenile Justice (Care and Protection of Children) Act, 2015, and the Protection of Children from Sexual Offences (POCSO) Act, 2012. However, the gap between policy and practice often undermines their effectiveness. A robust monitoring and evaluation mechanism at district and state levels must be institutionalized to ensure better implementation.

There is a pressing need to train and sensitize law enforcement agencies, especially police and judiciary, to handle child-related cases with empathy and child-sensitive protocols. Delays in justice, hostile questioning, and insufficient support services contribute to secondary victimization of children. Mandatory training modules should be integrated into the professional development programs of police officers and judicial staff.

Child Welfare Committees (CWCs) and Juvenile Justice Boards (JJBs) often suffer from a lack of resources and expertise. Policymakers should consider increasing financial allocations and ensure the presence of

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<sup>80</sup> Bachpan Bachao Andolan, Reports on Human Trafficking and Child Abuse

qualified child psychologists, social workers, and legal experts within these institutions to aid their decision-making and case management.

Regular audits and independent assessments of child care institutions (CCIs) should be mandated to ensure adherence to quality standards, including hygiene, nutrition, mental health, and educational support. Such audits must be carried out by third-party, non-governmental actors to maintain transparency.

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Many children in conflict with the law face stigmatization and exclusion. Rehabilitative frameworks must be redesigned to include community integration, vocational training, and psychosocial support, focusing on reintegrating them into mainstream society.

Legal aid for children must be expanded beyond metropolitan areas. Legal awareness camps in rural and tribal regions can empower children and their families to seek justice and assert their rights without fear or hesitation. Mobile legal services and digital platforms should also be leveraged to widen access.

The adoption process in India remains complex and bureaucratic, which often leads to prolonged institutionalization of children. Simplification of adoption procedures and digital tracking mechanisms must be prioritized, ensuring faster rehabilitation of orphaned or abandoned children.

Efforts must be made to build synergies between government agencies, child protection units, and NGOs. Collaborative models that integrate state support with local civil society expertise can lead to more inclusive, grassroots-level interventions.

Clear guidelines must be laid out regarding the mandatory reporting of child abuse, with whistleblower protections to ensure safety and anonymity. These measures must be backed by state-supported helplines, safe houses, and rapid response teams.

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<sup>81</sup> The Juvenile Justice (Care and Protection of Children) Act, 2015, Government of India.

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

Finally, regular policy reviews and updates are necessary to align child rights frameworks with emerging challenges such as cyberbullying, digital privacy, climate change-induced displacement, and pandemic-related disruptions. Legislative bodies should consult with child rights experts and child-led organizations to frame inclusive policies.

Universal access to quality education remains one of the most critical areas for policy intervention. The Right to Education Act must be amended to extend its coverage from early childhood (age 3) to secondary schooling (age 18). Pre-school education should be institutionalized as a legal right to support early cognitive development.

Public education systems need urgent investment in infrastructure, teaching staff, and digital resources. Bridging the digital divide must be a policy priority, especially after the COVID-19 pandemic exposed the vulnerabilities of online education among marginalized children. Subsidized devices and internet connectivity should be provided to children from economically weaker sections.

Nutrition is directly linked to a child's ability to learn and grow. Strengthening the Mid-Day Meal Scheme and the Integrated Child Development Services (ICDS) is essential. These schemes should include adolescent girls, particularly to prevent anemia and early pregnancy, which are prevalent in several states.

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<sup>82</sup> Ministry of Women and Child Development, Annual Report 2022-23.

National Commission for Protection of Child Rights (NCPCR), Guidelines for CWCs and JJBs.

UNICEF India, "Child Protection," 2021.

<sup>83</sup> Centre for Child and the Law, NLSIU Bangalore, "Child-Friendly Legal Systems."

Bajpai, Asha. Child Rights in India: Law, Policy, and Practice. Oxford University Press, 2017.

Children with disabilities continue to be excluded from mainstream education. There is a need to implement inclusive education models with trained special educators, modified curriculum, and adaptive technologies. School infrastructure must be upgraded to ensure physical accessibility.

Mental health services for children, both within and outside schools, need to be expanded. With rising instances of child depression, anxiety, and substance abuse, the government must make child psychologists and counselors accessible through primary health centers and community-based care models.

Immunization drives and access to primary healthcare remain inconsistent in remote and tribal areas. Mobile health units and community health workers should be equipped to provide essential services such as vaccinations, maternal-child health services, and awareness programs on adolescent reproductive health. Social security schemes like child pensions, education scholarships, and conditional cash transfers should be scaled up and made more inclusive. Digitization of beneficiary data can reduce leakages and help monitor the delivery of entitlements.

Street children, child laborers, and children of migrant workers often fall through the cracks of public welfare systems. States must formulate context-specific policies, like mobile schools, night shelters, and portable health insurance, to safeguard these vulnerable populations.

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Special focus must be laid on girl children, who face a double disadvantage due to gender-based discrimination. Programs such as 'Beti Bachao Beti Padhao' need to be backed with measurable outcome indicators and grievance redress mechanisms to assess real-time impact.

Lastly, community-based monitoring of education and health services, through school management committees and health action groups, can lead to better accountability. These bodies must include child representatives, local leaders, and women's self-help groups to ensure a participatory governance model.

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<sup>84</sup> Child-line India Foundation, "Standard Operating Procedures for Rescue and Rehabilitation."

HAQ Centre for Child Rights, "Status of Child Protection in India," 2020.

### 5.3 Future Scope for Research

The domain of child rights in India is rapidly evolving, yet it remains under-explored in many dimensions. Future research can delve into the changing socio-economic landscape and its impact on children's rights, particularly in urban and rural contexts. Rapid urbanization and the digital revolution are transforming childhood in India, necessitating fresh inquiries into how children's rights are being protected or compromised in these changing environments. New challenges such as cyberbullying, online abuse, and access to digital education demand focused, interdisciplinary studies that intersect law, sociology, and technology.

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Another fertile area for research is the intersectionality of child rights with gender, caste, and disability. Although constitutional and legal protections exist, the experiences of children from marginalized communities remain starkly different. Academic investigations can explore how caste-based discrimination and socio-economic inequality affect children's access to healthcare, education, and nutrition. Furthermore, children with disabilities face multiple layers of exclusion that are yet to be fully documented or addressed in Indian legal and policy frameworks.

Child labor remains a persistent issue despite multiple laws and interventions. Researchers must analyze the efficacy of existing legislation such as the Child Labour (Prohibition and Regulation) Act and its enforcement mechanisms. Ethnographic studies in areas with high child labor prevalence could offer deeper insights into familial, economic, and structural drivers of this problem.

There is also scope for examining rehabilitation processes and their long-term success in integrating rescued children into mainstream education and employment. The juvenile justice system also presents several research opportunities. There is a pressing need to study the effectiveness of the Juvenile Justice (Care and Protection of Children) Act, especially in light of recent amendments that allow for trying certain juveniles as adults. Research can evaluate how these legal shifts affect the rehabilitation and reintegration prospects of

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<sup>85</sup> UNICEF India. (2022). The State of Children in Urban India.

Government of India. (2016). Child Labour (Prohibition and Regulation) Amendment Act, 2016.

juvenile offenders. Comparative analyses with international juvenile justice models can guide reforms in India.

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The role of education in upholding child rights is another promising field. While the Right to Education Act mandates free and compulsory education, implementation gaps persist. Future research can focus on quality parameters in education, the role of private schools, dropout rates, and the gender divide in school attendance. Additionally, digital learning platforms and their inclusivity for disadvantaged children merit systematic investigation, especially post-COVID-19.

Child health and nutrition policies require longitudinal studies to assess the effectiveness of programs such as the Mid-Day Meal Scheme, Integrated Child Development Services (ICDS), and Poshan Abhiyaan. Researchers can evaluate how these schemes influence physical and cognitive development, and identify gaps in delivery mechanisms, especially in tribal and remote areas. The impact of climate change on child health is also an emergent theme deserving scholarly attention.

The legal representation and participation of children in legal processes are under-explored themes. Research could focus on how children perceive legal systems and the extent to which their voices are heard in custody battles, adoption proceedings, and juvenile courts. The concept of child-friendly legal systems, advocated in international frameworks, can be studied for its relevance and adaptability in the Indian judicial context.

A significant yet neglected area is the study of child victims of trafficking, abuse, and exploitation. While there is some data available through NCRB reports, qualitative research on survivor experiences, legal redress, psychosocial support, and reintegration mechanisms can bridge critical knowledge gaps. Additionally, analyzing the efficacy of protective homes and shelter services under schemes like UJJAWALA can inform better policy interventions.

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<sup>86</sup> National Commission for Protection of Child Rights (NCPCR). (2020). Annual Report 2019-2020.

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<sup>87</sup> Bajpai, A. (2017). *Child Rights in India: Law, Policy, and Practice*.

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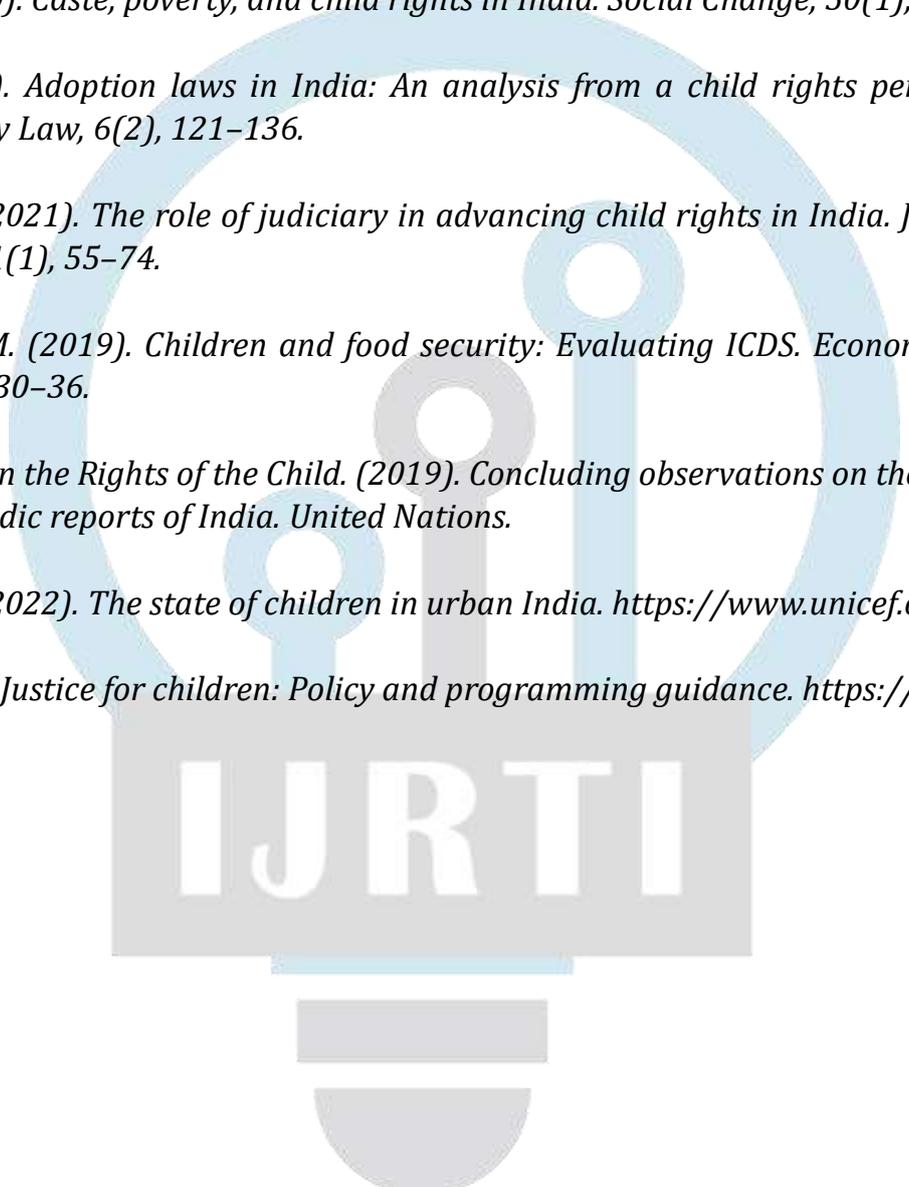
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A large, light blue watermark logo is centered on the page. It features a stylized lightbulb shape with a circular top and a rectangular base. Inside the circle, there are three vertical lines of varying heights, each ending in a small circle. The letters 'IJRTI' are printed in a bold, white, sans-serif font across the middle of the rectangular base of the lightbulb.

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