
THE PROTECTION OF CHILD RIGHTS THROUGH THE PILLARS OF FUNDAMENTAL RIGHTS OF THE INDIAN CONSTITUTION

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ABSTRACT

Society has a base of children who help to determine the progress and the development of any nation. Every society, in its goal, is working towards the development of the country. We cannot forget the key role of children in the development of the nation. As children play a crucial role in the formation of a nation's future, the nation also must play a crucial role in safeguarding its children and their rights. In safeguarding the children's rights, the Constitution of India plays a crucial role. The various provisions of the constitution, like fundamental rights and directive principles of state policies, ensure the protection of children and ensure all the essential rights for their overall development and growth. This research focuses on the crucial aspects of the fundamental rights of the Constitution of India, which states the protection of child rights in the country. This research also highlights the challenges and vital suggestions for the policy makers of the country.

Keywords: The Constitution of India, fundamental rights, child rights, children, and development.

I. Introduction

India is part of various international conventions and treaties, like the UN Convention on the Rights of the Child 1989.¹ These conventions and treaties² highlight the interest of India in safeguarding the child and protecting their rights. The participation of India in this convention also highlights India's aim towards the growth and development of this society and especially focuses on the children. Before participating in these treaties, India had shown interest in the development of children through the essence of the articles of the Indian Constitution. The makers of the Indian Constitution have beautifully incorporated all the essential elements, ensuring equality and justice for everyone living in India. This equal justice extends not only to the Indian citizens but also to the foreigners on non-citizens. The makers of the Indian Constitution have crucially provided various provisions for the holistic development of the child, from mental health to physical health. This development aims to develop ethical and moral values among society towards the safeguarding of children's rights. This research highlighted the crucial part of the Fundamental Rights of the Indian Constitution, which is working towards the development and safeguarding of children's rights.

II. Constitution of India and Preamble

The vision of the Constitution of India is clear from the first page of the Constitution, which is the preamble to the Constitution. This preamble³ has clearly talked about all the forms of equality and justice. The Constitution of India is the apex law of India. Everything is governed as per the Constitution of India. This document plays a crucial role in shaping India's future and clearly defining the aims and objectives of the Indian government towards its citizens. The constitution of India, which was adopted on 26 November 1949 and came into force on 26th January 1950, is an essential document that has clearly defined the objective of India through words like sovereign, socialist, secular, democratic, and Republic. This government is also a socialist government that works for the welfare of the people, and these people include all citizens and non-citizens, irrespective of age. This longest constitution in the world is a document that not only talks about the protection of the citizens but also of the non-citizens. This document has clearly defined the essential elements for the protection of children. The

¹ United Nations Convention on the Rights of the Child, Adopted 20 November 1989, By General Assembly resolution 44/25 <<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>> accessed 20 Oct 2025.

² Universal Declaration of Human Rights 1948, United Nations Convention on the Rights of the Child, 1989.

³ Preamble, Constitution of India, 1950, <https://ddashboard.legislative.gov.in/sites/default/files/coi/COI_2024.pdf> accessed 20 October 2025

preamble of the Indian Constitution talks about the equality of all and maintaining of equality of status and opportunity to all citizens, including children. Only through the tools of fundamental rights and directive principles of state policy, the Indian government tried to achieve the aim of the protection and guarantee of the legal rights of children.

III. Fundamental Rights for the Protection of Children

There are fundamental rights for the protection of children's rights. Some of the crucial fundamental rights towards the protection of the rights of children are-

1. **Articles 14 to 18- Right to Equality⁴**- These articles talk about the right to equality which means equality before the law and equal protection under the law. These articles mandate that this state provide equal and fair treatment to everyone, irrespective of their class, race, sex, or place of birth. In this path, only to achieve the protection of the child rights, some special laws have also been made, especially focusing on the protection of the child, like the Juvenile Justice Act or the provision for the differently abled children on the basis of Article 14, as per the reasonable classification. This reasonable classification was made to treat equality among equals. This also extends to achieving the promotion of the welfare of the children and the safeguarding of their fundamental rights by making special provisions. Making any special provision for women and children is not contrary to equality, but it is an essential element to achieve justice and equity by making special provision for women and children. This reasonable classification helps to allow for treating equals in an equal way by also ensuring justice and safety through the different acts like the Right to Education Act, the Juvenile Justice Act.
2. **Article 19-22- Right to Freedom⁵**- These Articles talk about the different forms of freedom for every citizen of India. Article 21 plays a crucial role in the development of children as it talks about the right to life, and through Article 21, only the right to education has evolved. This right to education has not only helped with the development of the children, but it provided the base for ensuring a basic requirement in the country for the development of the child. Through different cases, these rights are enforced. These articles extend Article 21 to protect children against any form of

⁴ Article 14-18, Constitution of India, 1950,

<https://ddashboard.legislative.gov.in/sites/default/files/coi/COI_2024.pdf> accessed 20 October 2025

⁵ Article- 19-22, Constitution of India, 1950

<https://ddashboard.legislative.gov.in/sites/default/files/coi/COI_2024.pdf> accessed 21 October 2025

exploitation. This Article 21 also ensures that everyone has the right to live with dignity and ensures all basic health facilities. This article 21 is the origin of the various other rights that help to evolve anyone to their full extent. Right to education, which came as a fundamental right through the 86th constitutional amendment of 2002, and Article 21 have created a special new Article 21A, which is making education a fundamental right for all children aged 6 to 14 years. It is obligating the state to provide free and compulsory education to all children, without any kind of discrimination. The Right to Education Act 2009 has come into effect as the soul of Article 21-A. This right has been a boon for the Indian society by empowering and nurturing the children under the age of 14 years. This is right-to-education, which expressly gives everyone the empowerment of their mental health through the tools of education.

3. **Article 23 to 24- the Right against Exploitation**⁶- This article has focused on the prohibition of human trafficking and forced labor, and this article clearly empowers the state to punish and to make any legal provision for any such act which is creating or hampers the human rights of the child or any form of forced labor. This article focuses on forbidding children below the age of 14 years from working in any kind of hazardous occupation. These articles, through various acts, came into force, like the Prohibition of Child Labor Act. These acts prohibit any form of work that is a threat to the life and safety of a child. These articles also prohibit child labor in any form, as it would not only deprive the child of a childhood but also take away the dignity of the child in this kind of hazardous work. The child must be treated with care, and the development of the physical and mental well-being of the child must be done by the state authorities.
4. **Article 29-30 - Cultural and educational rights**⁷- These rights talk about the protection of the child while preserving their cultures and the access to education in their institutions. The framework of education and cultural rights helps to create cultural diversity and enhances the opportunity of educational opportunities. To evolve the development of the child through all means, it is important to ensure that the institutions are developed for the well-being of everyone, including the child.
5. **Article 32- Constitutional Remedies**⁸- This article is also known as the heart and soul

⁶ Article 23-24, Constitution of India, 1950

<https://ddashboard.legislative.gov.in/sites/default/files/coi/COI_2024.pdf> accessed 21 October 2025

⁷ Article 29-30, Constitution of India, 1950.

<https://ddashboard.legislative.gov.in/sites/default/files/coi/COI_2024.pdf> accessed 21 October 2025

⁸ Article- 32, Constitution of India, 1950.

<https://ddashboard.legislative.gov.in/sites/default/files/coi/COI_2024.pdf> accessed 21 October 2025

of the constitution. Dr. BR Ambedkar has crucially created Article 32, which helps anyone to approach the Supreme Court for the protection of their fundamental rights. This article has opened the horizon of public interest litigation and helps in bringing such grievous matters in front of the Supreme Court and to have speedy and fast redressal. These kinds of public issues, through the PIL or public interest litigation, have been filed by various organizations like Bachman Bachao Andolan and have created various landmark judgments in the path of the protection of the child's rights.

Some of the crucial cases that came because of the help of the judiciary, like the M C Mehta 1996⁹ case, which clearly prohibited the working of children in hazardous industries and directed the rehabilitation of the children, and provided a safe environment for children. The Unni Krishnan Case,¹⁰ which marked the first time of the recognition of the right to education under the right to life was recognized, has the essence of the right to education. This only case has created the path for the creation of Article 21A¹¹ as the right to education. Sheela Barse Case¹² has been created for the establishment of legal aid for the children in custody of custodial institutions and to treat these children with basic human rights.

IV. Challenges and the part of protection of child rights

There are various challenges, but some of the crucial modern challenges that need to be worked upon, and proper and strict legislation is the need of the hour. Still the child labor can be seen across the street, where a child is working in a chai shop (Tea Shop) instead of going to school. On the other hand, the right to health issues have also not been solved. child has various malnutrition and inadequate healthcare facilities have created a serious concern for the implementation strategies of the institution towards the protection of the child and providing a healthy lifestyle. The rise of cybercrimes is a critical concern in modern times because of the digital modern structure, which calls for a proper new structural equation in the rules and regulations, and to create awareness for dealing with such issues.

V. Suggestions and Conclusion

The constitution of India provides a holistic approach towards the safeguarding of the children, but we cannot forget that the making of law is not the only solution, but the implementation of

⁹ M.C. Mehta v. State of Tamil Nadu (1996) 6 SCC 756

¹⁰ Unni Krishnan v. State of Andhra Pradesh ((1993) 1 SCC 645

¹¹ Article 21A- Constitution of India, 1950.

¹² https://ddashboard.legislative.gov.in/sites/default/files/coi/COI_2024.pdf accessed 21 October 2025

¹² Sheela Barse v. Union of India (1986)

law also plays a crucial part. The Constitution of India has beautifully ensured all the essential fundamental rights for the development and the safeguarding of the children, and through the tools of the judiciary enforcement of these constitutional rights. Children are the future of this society, and thus, these rights must be protected in all aspects. The evolution of the reasonability classification and the formation of the special laws for children are the achievements of the Constitution of India. This research is limited only to the fundamental rights part and opens the work for other researchers to work on judicial cases and directive principles of state policy provisions. The constitution has played a vital role and creating all the essential elements, but now it is the duty of the other institutions to enforce this right and ensure that justice is reached to every person who lives in society. These basic rights must reach everyone. Proper awareness must be done through modern digital tools.