
CHILD PROTECTION IN INDIA: A CRITICAL EVALUATION OF LEGAL FRAMEWORKS ADDRESSING CRIMES AND VIOLENCE AGAINST CHILDREN

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ABSTRACT

The protection of children from crimes, exploitation, and violence constitutes one of the most pressing imperatives of contemporary Indian jurisprudence. This research paper undertakes a comprehensive and critical evaluation of the legal frameworks in India designed to address crimes and violence against children, tracing their development from pre-independence legislative antecedents to the sophisticated statutory architecture of the present day. The study examines the multi-layered legal structure comprising the Protection of Children from Sexual Offences Act, 2012, the Juvenile Justice (Care and Protection of Children) Act, 2015, the Prohibition of Child Marriage Act, 2006, the Child Labour (Prohibition and Regulation) Amendment Act, 2016, and the relevant provisions of the Bharatiya Nyaya Sanhita, 2023, within which questions of child protection and criminal accountability are adjudicated.

The paper devotes particular attention to landmark decisions of the Supreme Court of India, including *Bachpan Bachao Andolan v. Union of India* (2011), *Independent Thought v. Union of India* (2017), *Nipun Saxena v. Union of India* (2019), and *Alakh Alok Srivastava v. Union of India* (2018), which have collectively shaped the doctrinal landscape of child protection and institutional accountability. The study further investigates contemporary challenges including online child sexual exploitation, the inadequacy of rural child protection infrastructure, and institutional gaps. The research concludes with policy recommendations directed at strengthening the legal framework and ensuring that the best interests of the child remain the paramount consideration in all legislative and judicial interventions.

Keywords: Child Protection, POCSO Act, Juvenile Justice, Child Sexual Abuse, Child Labour, Child Marriage, Child Trafficking, Best Interests of the Child, Special Courts, Bharatiya Nyaya Sanhita, Supreme Court of India.

LIST OF ABBREVIATIONS

AIR	All India Reporter
Art.	Article
BNS	Bharatiya Nyaya Sanhita, 2023
CARA	Central Adoption Resource Authority
CCI	Child Care Institution
CLPRA	Child Labour (Prohibition and Regulation) Amendment Act, 2016
CRC	Convention on the Rights of the Child, 1989
CWC	Child Welfare Committee
DCPU	District Child Protection Unit
IPC	Indian Penal Code, 1860 (now BNS)
ITA	Information Technology Act, 2000
JJ Act	Juvenile Justice (Care and Protection of Children) Act, 2015
JJB	Juvenile Justice Board
NCPCR	National Commission for Protection of Child Rights
NCRB	National Crime Records Bureau
PCMA	Prohibition of Child Marriage Act, 2006
PIL	Public Interest Litigation
POCSO	Protection of Children from Sexual Offences Act, 2012
SC	Supreme Court
SCC	Supreme Court Cases (Law Reporter)
SJPU	Special Juvenile Police Unit
UNCRC	United Nations Convention on the Rights of the Child
UNICEF	United Nations Children's Fund

1. INTRODUCTION

1.1 Background and Context

Children constitute the most vulnerable segment of any society, and the adequacy of a legal system's response to crimes perpetrated against them is one of the most reliable measures of that system's commitment to human dignity and social justice. In India, where children below eighteen years of age comprise approximately forty per cent of the total population, the protection of children from sexual abuse, physical violence, labour exploitation, trafficking, and child marriage represents a matter of acute legislative, judicial, and administrative urgency. The challenges of designing and implementing an effective child protection framework are simultaneously legal, institutional, and socio-cultural, requiring coordinated action across branches of government and levels of the federal structure.

The Indian legal framework for child protection has undergone a transformation of remarkable scope over the past three decades. The enactment of the Protection of Children from Sexual Offences Act, 2012 (POCSO), the Juvenile Justice (Care and Protection of Children) Act, 2015, the Prohibition of Child Marriage Act, 2006, and the Child Labour Amendment Act, 2016, cumulatively represent a significant deepening of normative protections for children. Yet the persistence of high rates of crimes against children documented annually by the National Crime Records Bureau indicates that legislative sophistication has not been matched by equivalent efficacy in implementation.

1.2 Statement of the Problem

Despite the substantial body of protective legislation, judicial directives, and administrative mechanisms that constitute the Indian child protection framework, significant deficiencies persist at every level. The enforcement of POCSO is impeded by a shortage of Special Courts, inadequate forensic infrastructure, long trial delays, and the absence of adequate support services for survivors. The institutional framework under the Juvenile Justice Act comprising Child Welfare Committees, Juvenile Justice Boards, and Child Care Institutions is frequently characterised by understaffing, inadequate monitoring, and, in documented instances, has itself become a site of abuse rather than protection. Child marriage and child labour persist in several states, and the digital environment has generated new categories of exploitation for which legislative responses remain partial.

1.3 Research Questions

This paper is guided by the following primary research questions:

1. Does the current Indian legal framework adequately address the diverse range of crimes and forms of violence perpetrated against children?
2. To what extent do judicial pronouncements of the Supreme Court provide coherent and consistent standards for the adjudication of child protection claims?
3. What legislative, judicial, and administrative reforms are required to address the normative and institutional gaps in the existing framework?

1.4 Objectives of the Study

This research paper pursues the following primary objectives:

4. To trace the historical evolution of child protection law in India from colonial antecedents to the contemporary legislative architecture.
5. To undertake a systematic analysis of the constitutional, statutory, and common law frameworks applicable to crimes against children.
6. To critically examine landmark judicial pronouncements on child protection, child rights, and institutional accountability.
7. To identify doctrinal inconsistencies, enforcement gaps, and normative deficiencies within the existing framework.
8. To offer evidence-based recommendations directed at legislative reform and institutional strengthening.

1.5 Research Methodology

This paper employs a predominantly doctrinal research methodology, combining primary legal sources constitutional provisions, statutes, delegated legislation, and judicial decisions with secondary sources comprising peer-reviewed academic articles, law commission reports, NCRB data, and comparative scholarship. The analytical framework is supplemented by

comparative jurisprudence, drawing upon developments in the United Kingdom, the United States, and South Africa.

1.6 Scope and Limitations

The scope of this paper extends across the constitutional, statutory, and judicial dimensions of child protection law as applicable to children below eighteen years of age within India. While reference is made to international instruments where relevant, a detailed analysis of India's treaty obligations under the UNCRC lies beyond its primary scope. The paper does not undertake a detailed treatment of adoption law or inter-country adoption, though these intersect with child protection at several points.

2. HISTORICAL EVOLUTION OF CHILD PROTECTION LAW IN INDIA

2.1 Colonial-Era Antecedents

The formal legal regulation of child welfare in the Indian subcontinent began during British colonial administration. The Indian Penal Code, 1860, contained provisions on kidnapping and abduction of minors, sexual offences against children, and child marriage-related offences. The Age of Consent Act, 1891 which raised the age of consent to twelve years was one of the earliest legislative interventions specifically protecting children from sexual exploitation, and its enactment triggered a significant political controversy that illuminated the complex tension between colonial law reform and indigenous social practice. The Prevention of Cruelty to Children Act, 1920, marked an early acknowledgment of the State's responsibility to protect children from institutional and domestic harm.

2.2 Post-Independence Consolidation and the Rights-Based Turn

Post-independence legislative consolidation retained the Child Marriage Restraint Act, 1929, the Immoral Traffic (Prevention) Act, 1956, and enacted the Child Labour (Prohibition and Regulation) Act, 1986. India's ratification of the United Nations Convention on the Rights of the Child in 1992 imparted significant momentum to the child rights movement and reinforced the case for comprehensive domestic legislation. The most consequential transformation occurred between 2005 and 2015: the Right of Children to Free and Compulsory Education Act, 2009, established a justiciable right to elementary education; POCSO, 2012, created a comprehensive regime for prosecuting child sexual abuse; the Prohibition of Child Marriage

Act, 2006, replaced the 1929 Act with more robust provisions; and the JJ Act, 2015, overhauled the juvenile justice architecture. The establishment of the National Commission for Protection of Child Rights in 2007 created a dedicated statutory monitoring body for child rights for the first time.

3. CONSTITUTIONAL FRAMEWORK

3.1 Fundamental Rights and the Child

The Constitution of India provides a foundational framework of rights applicable to children. Article 15(3) empowers the State to make special provisions for children, providing the constitutional basis for protective legislation. Article 21, guaranteeing the right to life and personal liberty, has been interpreted by the Supreme Court to encompass the right to a dignified existence and protection from exploitation and abuse. Article 24 expressly prohibits the employment of children below fourteen years of age in factories, mines, or other hazardous employment one of the few fundamental rights provisions exclusively directed at child protection. Article 21-A, inserted by the Eighty-Sixth Amendment, 2002, guarantees the right to free and compulsory education for all children between six and fourteen years of age, operationalised through the Right to Education Act, 2009, creating a direct constitutional barrier to child labour in that age bracket.

3.2 Directive Principles and the Best Interests Principle

Articles 39(e) and 39(f) of the Constitution impose upon the State the obligation to ensure that children are not forced by economic necessity into occupations unsuited to their age, and that children are given opportunities to develop in conditions of freedom and dignity. Article 45 directs the State to provide early childhood care and education to all children up to the age of six years. These Directive Principles, while not independently enforceable as rights, have been consistently relied upon by the Supreme Court in expanding the content of the right to life under Article 21. In *Gaurav Jain v. Union of India* (1997) 8 SCC 114, the Court recognised that in all matters concerning children the paramount consideration must be the welfare and best interests of the child, progressively elevating the UNCRC principle of best interests to a constitutional imperative in domestic judicial reasoning.

4. STATUTORY FRAMEWORK: KEY LEGISLATIONS

4.1 Protection of Children from Sexual Offences Act, 2012

The POCSO Act is the most comprehensive legislative instrument for the protection of children from sexual abuse in India. It applies to all children below eighteen years and creates gender-neutral offences covering penetrative sexual assault, aggravated penetrative sexual assault, sexual assault, aggravated sexual assault, sexual harassment, and the use of children for pornographic purposes. The Act prescribes mandatory minimum sentences, graduated to reflect the gravity of the assault and the circumstances of vulnerability. Penetrative sexual assault carries a minimum of ten years imprisonment extendable to life. Aggravated penetrative sexual assault which includes assault by a person in a position of trust or authority, assault upon a child below twelve years, gang assault, or assault by a family member carries a minimum of twenty years, extendable to life imprisonment or death.

A defining feature of the POCSO framework is its recognition that standard criminal procedures are inadequate for child victims. The Act mandates the designation of Special Courts, requires trial completion within one year, prescribes child-friendly recording of statements at the child's residence or a place of the child's choice, and prohibits the child's exposure to the accused while testifying. Section 29 creates a presumption of culpability upon proof of certain facts, shifting the burden of proof to the accused in defined circumstances. The POCSO Amendment Act, 2019, introduced the death penalty for aggravated penetrative sexual assault on a child below twelve years and added specific offences relating to child pornography.

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

The JJ Act, 2015, replaced the 2000 Act and introduced significant structural changes. It distinguishes between children in conflict with the law and children in need of care and protection. For the former category, the Act retains the general principle that children below eighteen years should be dealt with through the rehabilitative framework of Juvenile Justice Boards. However, the Act's most controversial provision Section 15 permits children between sixteen and eighteen years who commit heinous offences to be tried as adults in the Sessions Court following a preliminary assessment of their mental and physical capacity, a provision that has attracted sustained criticism from child rights scholars as incompatible with the rehabilitative philosophy of juvenile justice. For children in need of care and protection, Child

Welfare Committees in each district receive, place, and pass rehabilitation orders. The Act requires registration of all Child Care Institutions and mandates regular inspection to prevent abuse within them.

4.3 Prohibition of Child Marriage Act, 2006

The PCMA, 2006, defines a child marriage as one involving a male below twenty-one or a female below eighteen years of age. It creates criminal offences for the solemnisation, abetment, or participation in child marriage and empowers Child Marriage Prohibition Officers to prevent and receive complaints. The Act establishes a mechanism for the voidability of child marriages at the option of the contracting child, exercisable within two years of attaining majority. A persistent legal controversy concerns the relationship between the PCMA's prohibition and the personal laws of various religious communities, generating conflicting judicial decisions as to whether child marriages solemnised under personal law are governed by the PCMA or fall outside its ambit. The Law Commission of India in its Report No. 205 (2008) recommended that all child marriages be made void ab initio, a recommendation not yet legislatively implemented.

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

The 2016 Amendment extended the prohibition on child employment to all occupations and processes for children below fourteen years, remedying the prior lacuna that had permitted child labour in non-hazardous industries. It further prohibited the employment of adolescents between fourteen and eighteen years in hazardous occupations. The Census of India 2011 estimated approximately ten million child workers between five and fourteen years of age, though child rights organisations consistently argue the actual figure is substantially higher due to underreporting in the unorganised sector. The exception under Section 3(2), permitting children to work in a family enterprise outside school hours, has been criticised as susceptible to abuse, particularly in domestic, agricultural, and craft-based settings.

4.5 Crimes Against Children Under the Bharatiya Nyaya Sanhita, 2023

The Bharatiya Nyaya Sanhita, 2023 (BNS), which replaced the Indian Penal Code with effect from 1 July 2024, retains and strengthens provisions relating to crimes against children. Sections 137 to 140 criminalise the kidnapping and abduction of minors. Section 65 prescribes

enhanced punishment for rape where the victim is below eighteen years, with further enhancement where the victim is below twelve years. Section 96 addresses the trafficking of persons, including children, with stringent penalties where the trafficked person is a child or where the trafficking involves multiple children. The relationship between BNS and POCSO is governed by the principle of special law prevailing over general law (*specialia generalibus derogant*), though prosecutorial practice has not been entirely consistent in applying this principle, particularly where both frameworks carry potentially applicable provisions.

5. CHILD SEXUAL ABUSE: POCSO FRAMEWORK IN PRACTICE

The mandatory minimum sentencing structure of the POCSO Act has generated judicial controversy. Courts have in certain cases imposed sentences below the mandatory minimum, citing mitigating circumstances such as the prior relationship between the accused and the victim or the young age of the accused. The Supreme Court in *Alakh Alok Srivastava v. Union of India* (2018) 2 SCC 706 firmly disapproved such departures, affirming that the mandatory minimum sentencing structure reflects a deliberate legislative determination in respect of child protection that courts are bound to respect. The Court took suo motu cognisance of cases involving crimes against children and directed expeditious trial of all pending POCSO cases.

Child-friendly procedural safeguards under the Act include the mandatory use of screens or separate rooms to prevent the child's exposure to the accused, examination through the Public Prosecutor, and prohibition on intimidating cross-examination. In *Nipun Saxena v. Union of India* (2019) 2 SCC 703, the Supreme Court issued comprehensive implementation guidelines: Special Courts must be established in every district; support persons must be provided to all survivors; and the identity of the child victim must be absolutely protected in all proceedings and publications. Despite these progressive provisions, conviction rates across several states remain relatively low, attributable to the non-examination of child victims, evidentiary inadequacies, forensic infrastructure gaps, and the compromising of cases through family pressure or out-of-court settlements.

6. CHILD TRAFFICKING AND EXPLOITATION

Child trafficking in India encompasses the recruitment, transportation, harbouring, or receipt of children for sexual exploitation, forced labour, domestic servitude, and organ trafficking. The legal framework addressing trafficking comprises BNS provisions, the Immoral Traffic

(Prevention) Act, 1956, the POCSO Act, and the JJ Act. India has not yet enacted a dedicated comprehensive anti-trafficking legislation: the Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2018, introduced in the Lok Sabha, lapsed upon dissolution of the Sixteenth Lok Sabha without enactment a significant legislative gap given the scale and severity of child trafficking in India.

In *Bachpan Bachao Andolan v. Union of India* (2011) 5 SCC 1, the Supreme Court directed the Government to develop a comprehensive anti-trafficking programme, strengthen Anti-Human Trafficking Units in every district, and ensure that all missing children cases are linked to trafficking investigations where warranted. The institutional anti-trafficking framework comprising district Anti-Human Trafficking Units, Child Welfare Committees, Special Juvenile Police Units, and the CHILDLINE helpline (1098) remains under-resourced and inadequately coordinated, particularly with respect to cross-border trafficking from Bangladesh, Nepal, and Myanmar and internal trafficking from source states to metropolitan consumption centres.

7. JUDICIAL TRENDS: LANDMARK DECISIONS OF THE SUPREME COURT

7.1 Foundational Period: 1984–2000

The foundational period of Supreme Court jurisprudence on child rights was characterised by the judicial development of a constitutional framework through expansive reading of Article 21. In *M.C. Mehta v. State of Tamil Nadu* (1996) 6 SCC 756, the Court addressed child labour in hazardous industries, directing the rescue of child workers, the payment of compensation by errant employers, and the establishment of a Child Labour Rehabilitation-cum-Welfare Fund. The Court held that the right to childhood understood as the right to grow up in conditions of dignity, safety, and freedom from exploitation is an essential component of the right to life under Article 21. In *Lakshmi Kant Pandey v. Union of India* (1984) 2 SCC 244, the Court laid down detailed guidelines for inter-country adoption emphasising the primacy of the best interests of the child, constituting the first major Supreme Court pronouncement on child welfare as a constitutional priority.

7.2 Consolidation Period: 2000–2015

In *Bachpan Bachao Andolan v. Union of India* (2011) 5 SCC 1, the Supreme Court delivered

a comprehensive decision addressing child labour, child trafficking, and the failure of the State to maintain accurate records of missing children. The Court directed Central and State Governments to ensure reporting of all missing children to police, maintain consolidated databases, regularly inspect all child care institutions, and strengthen anti-trafficking units. In *Re: Exploitation of Children in Orphanages in the State of Tamil Nadu v. Union of India* (2017) 7 SCC 1, following reports of abuse from several states, the Court directed registration and inspection of all child care institutions, constitution of oversight committees at district and state levels, and formulation of model management guidelines exemplifying the Supreme Court's role as constitutional supervisor of the child protection infrastructure.

7.3 Contemporary Period: 2015–Present

In *Independent Thought v. Union of India* (2017) 10 SCC 800, the Court held that sexual intercourse by a husband with his wife between fifteen and eighteen years of age constitutes rape, striking down the relevant marital rape exception under the IPC as incompatible with Articles 14, 15, and 21, and significantly advancing the protection of minor wives from sexual violence. In *Alakh Alok Srivastava v. Union of India* (2018) 2 SCC 706, the Court took suo motu cognisance of crimes against children, directing expeditious trial of pending POCSO cases, establishment of Fast Track Special Courts in every district, and appointment of Special Public Prosecutors. In *Nipun Saxena v. Union of India* (2019) 2 SCC 703, the Court issued comprehensive guidelines protecting child victim identity in POCSO proceedings and directed the constitution of a Child Witness Protection Programme in each state, coordinated with District Legal Services Authorities.

8. INSTITUTIONAL MECHANISMS: CHILD WELFARE COMMITTEES AND SPECIAL COURTS

Child Welfare Committees (CWCs), constituted under Section 27 of the JJ Act in each district, are the primary administrative bodies for children in need of care and protection. Each CWC consists of a Chairperson and four members, at least one of whom must be a woman and one a child or mental health expert. CWCs have the power to receive children, conduct inquiries, and pass placement and rehabilitation orders. Despite this mandate, studies and judicial reports consistently document that many CWCs across India are non-functional or insufficiently staffed, that members lack adequate training in child psychology and legal procedure, and that the time limits prescribed by the Act for case disposal are routinely exceeded. In *Sampurna*

Behura v. Union of India (2018) 4 SCC 433, the Supreme Court directed the Central and State Governments to ensure the constitution and operationalisation of functional CWCs in every district without exception.

Special Courts under POCSO are mandated in each district for the exclusive trial of child sexual offences. The actual establishment of these courts has been uneven: significant numbers of districts continue to lack dedicated Special Courts, and the average disposal time substantially exceeds the one-year statutory target in many jurisdictions. The Muzaffarpur shelter home scandal of 2018 in which systematic sexual abuse of girls in a State-funded Child Care Institution was documented revealed that monitoring and inspection obligations under the JJ Act had been systematically neglected, complaints had been suppressed, and institutional oversight had failed at multiple governmental levels. This case catalysed comprehensive judicial intervention and demonstrated that legislative provisions for oversight are ineffective in the absence of genuine administrative will to implement them.

9. CONTEMPORARY CHALLENGES: ONLINE EXPLOITATION AND RURAL GAPS

9.1 Online Child Sexual Exploitation

The exponential growth of internet access and smartphone penetration in India has created a vast new domain of risk for children. Online child sexual exploitation encompasses child sexual abuse material (CSAM), online grooming, sextortion, cyber-bullying, and live-streaming of child sexual abuse. The POCSO Amendment Act, 2019, strengthened CSAM provisions by defining child pornography, creating offences for the failure to report and destroy CSAM, and enhancing penalties. Section 67B of the Information Technology Act, 2000, criminalises the publication, transmission, downloading, and advertising of child sexually abusive material in electronic form. In *Prajwala v. Union of India* (2015), the Supreme Court directed the Government and internet service providers to develop a joint mechanism to prevent the hosting and sharing of CSAM an early recognition of the need for platform accountability.

Enforcement remains severely challenged by the transnational character of online offending, the anonymisation technologies available to offenders, and the inadequacy of cyber investigation capacity in most State police forces. The Information Technology (Intermediary Guidelines) Rules, 2021, impose take-down obligations on social media intermediaries but do

not comprehensively mandate proactive detection and removal of CSAM. The absence of a dedicated National Cyber Child Protection Unit with advanced technical capacity represents a critical gap that no legislative instrument has yet addressed.

9.2 Rural Child Protection Gaps

The legal framework for child protection operates predominantly within a metropolitan and urban institutional context. The provision of protective services in rural India operates with far fewer resources, trained personnel, and monitoring capacity than is available in urban settings. Child marriage, child labour, and trafficking are disproportionately concentrated in rural and tribal areas, precisely where institutional capacity is most limited. District Child Protection Units (DCPUs), established under the Integrated Child Protection Scheme, often operate without adequate staff, office space, or connectivity in rural districts. The extension of effective legal accountability and service delivery to this dimension of India's child protection challenge affecting tens of millions of children remains an under-addressed problem of considerable social importance.

10. COMPARATIVE PERSPECTIVES

10.1 United Kingdom

The United Kingdom's child protection framework is among the most comprehensive in the common law world. The Sexual Offences Act, 2003, contains exhaustive provisions on sexual offences against children, including specific offences of grooming, child sex tourism, and abuse of positions of trust. The Children Act, 1989, provides the civil law framework for child protection, including Care Orders and Emergency Protection Orders. The multi-agency Child Protection Investigation model which brings together police, social services, health professionals, and educators in a structured collaborative framework, coordinated through Local Safeguarding Children Boards offers a potential model for addressing India's persistent inter-agency coordination failures. The National Crime Agency's dedicated Child Exploitation and Online Protection Command (CEOP) provides specialist investigative capabilities for online exploitation and trafficking.

10.2 United States and South Africa

The United States addresses child protection through federal and state law. The Adam Walsh

Child Protection and Safety Act, 2006, established a national sex offender registration system, while the PROTECT Act, 2003, expanded federal jurisdiction over child sexual abuse, child pornography, and child sex tourism. Mandatory reporting laws in all fifty states impose legally enforceable obligations on designated professionals to report suspected child abuse to child protective services a model that finds a partial but underdeveloped echo in Section 19 of the POCSO Act. South Africa's Children's Act, 2005, grounded in Section 28 of the Constitution, provides a comprehensive rights-based framework for child protection, while the Sexual Offences and Related Matters Amendment Act, 2007, imposes criminal liability for failure to report child sexual offences a provision whose adoption in India could significantly strengthen the POCSO reporting regime.

10.3 Lessons for India

The comparative analysis reveals several significant lessons. The UK multi-agency model offers a framework for improving the inter-agency coordination failures that continue to undermine the Indian child protection response. The comprehensive mandatory reporting frameworks of the United States and South Africa suggest the need for broader and more systematically enforced reporting obligations in India. The South African constitutional model, in which children's rights are expressly and exhaustively enumerated as fundamental rights, offers a normative benchmark for further constitutional development. The movement toward proactive digital platform accountability evident in legislative developments in the European Union, Australia, and Canada points toward the need for India to move beyond reactive take-down obligations toward mandatory proactive detection and reporting of CSAM.

11. CRITICAL ANALYSIS AND GAPS IN THE LEGAL FRAMEWORK

11.1 Multiplicity of Legislation and Institutional Fragmentation

The most fundamental structural deficiency of the Indian child protection framework is its fragmentation across multiple legislative instruments administered by different governmental departments. The absence of a single consolidated Child Protection Act comparable to the Children Acts of England and Wales impedes the coherent development and implementation of a rights-based child protection system. A single episode of abuse may trigger simultaneous proceedings before a Special POCSO Court, a Child Welfare Committee, a Juvenile Justice Board, and a State Human Rights Commission, each applying different standards and reaching

potentially inconsistent outcomes on substantially identical facts.

11.2 Impunity and Enforcement Failures

Notwithstanding the progressive strengthening of POCSO, conviction rates for child sexual abuse offences remain relatively low across several states. Studies of POCSO cases document high acquittal rates attributable to the non-examination of child victims, inadequate forensic evidence, inconsistencies in testimony arising from failure to use child-friendly investigation techniques, and the compromising of cases through out-of-court settlements or family pressure on the child survivor. The absence of adequate psychosocial support, legal aid, and rehabilitation services for child survivors is a primary contributing factor to the withdrawal of complaints and the breakdown of prosecutions.

11.3 Child Marriage, Personal Law, and Legislative Ambiguity

The prohibition on child marriage under the PCMA exists in tension with the personal laws of several communities. The ambiguity regarding the PCMA's application to personal law marriages whether such marriages are void or merely voidable has generated conflicting judicial decisions and legislative uncertainty. The Law Commission's recommendation that all child marriages be declared void ab initio has been accepted in principle but not legislatively implemented, reflecting a persistent reluctance to engage directly with the intersection of child rights and religious personal law.

11.4 Systemic Failures in Child Care Institutions

The phenomenon of child care institutions functioning as sites of abuse, exploitation, and trafficking most dramatically illustrated by the Muzaffarpur shelter home scandal of 2018 reveals a systemic failure of the institutional oversight architecture established under the JJ Act. Investigations revealed that monitoring obligations had been systematically neglected, complaints had been suppressed, and governmental oversight had failed at every level. This case, and the subsequent Supreme Court intervention, demonstrated that the legislative framework for institutional accountability, however well designed, is meaningless in the absence of genuine administrative commitment to its implementation.

12. RECOMMENDATIONS AND CONCLUSION

12.1 Legislative Recommendations

On the basis of the foregoing analysis, the following legislative reforms are recommended:

- Enact a comprehensive Child Protection Act consolidating the POCSO, JJ Act, PCMA, and CLPRA frameworks into a single, coherent, rights-based instrument, reducing jurisdictional fragmentation and providing a unified procedural framework for child protection proceedings.
- Amend the Prohibition of Child Marriage Act, 2006, to render all child marriages void ab initio, irrespective of the personal law of the parties, as recommended by the Law Commission of India.
- Enact a dedicated Trafficking in Persons (Prevention, Protection and Rehabilitation) Act, incorporating the Palermo Protocol's victim-centred approach, with specific and comprehensive provisions for child victims of trafficking.
- Expand the mandatory reporting obligations under Section 19 of POCSO to include teachers, healthcare workers, social workers, and persons responsible for Child Care Institutions, with explicit civil and criminal consequences for non-compliance.
- Enact specific legislative provisions for online child sexual exploitation, imposing proactive obligations on social media intermediaries to detect and remove CSAM, mandating cooperation with law enforcement, and establishing a dedicated National Cyber Child Protection Unit within the CBI.
- Amend the Child Labour Amendment Act, 2016, to substantially restrict the family enterprise exception, which is susceptible to abuse and inconsistent with the right to education.

12.2 Judicial and Institutional Recommendations

- Expedite the establishment of dedicated Fast Track Special Courts under POCSO in all districts, with adequate staffing of Special Public Prosecutors, support persons, and trained child psychologists.

- Strengthen NCPCR and State Commissions for Protection of Child Rights with adequate financial and human resources, and mandate systematic quarterly monitoring of all registered Child Care Institutions.
- The Supreme Court should articulate a comprehensive doctrine of institutional liability for systemic failures of child care institutions, providing justiciable remedies for children harmed as a result of governmental failures of oversight.
- Mandate comprehensive and regularly updated training programmes in child-sensitive investigation, forensic interviewing, and examination techniques for all police officers, Special Public Prosecutors, and judicial officers handling POCSO and related cases.
- Establish a National Child Protection Authority at the Union level, with representation from the Ministries of Women and Child Development, Home Affairs, Law and Justice, and Education, to coordinate cross-sectoral and cross-jurisdictional implementation of child protection legislation.

12.3 Conclusion

This paper has undertaken a comprehensive critical evaluation of the legal frameworks in India addressing crimes and violence against children. The analysis reveals a legal landscape of considerable legislative ambition and doctrinal development, shaped by landmark judicial decisions and India's commitment to international child rights standards, but also characterised by significant implementation gaps, institutional fragmentation, and the persistence of forms of violence and exploitation that the law has thus far been unable to effectively address.

The protection of children from violence, exploitation, and abuse is not merely a legal obligation; it is the clearest measure of a society's capacity to honour the dignity and potential of every member of the next generation. The POCSO Act, the Juvenile Justice Act, and the other instruments examined in this paper represent genuine legislative achievements reflecting decades of advocacy, scholarship, and judicial engagement with child rights. Yet the distance between legal provision and the lived reality of millions of vulnerable Indian children remains considerable.

The emergence of digital technologies as a new domain of child exploitation, the persistence of structural drivers of vulnerability including poverty and gender discrimination, and the

documented failures of the institutional framework all point to the need for a sustained, multi-dimensional response extending well beyond legislative reform alone. The legal framework is necessary but not sufficient. Its ultimate effectiveness depends upon the adequacy of investigative and prosecutorial capacity, the quality and consistency of judicial decision-making, the genuine functioning of institutional mechanisms at every level, and the social and educational conditions that determine whether children who suffer abuse are able to come forward, be believed, and receive the support and justice they deserve. India's child protection law has made substantial progress; the imperative, however, is not to measure what has been achieved, but to focus with unrelenting clarity on the children who remain unprotected.

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