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# CONSTITUTIONAL SAFEGUARDS FOR CHILDREN IN INDIA: AN ANALYTICAL STUDY OF RIGHTS, PROTECTION AND SOCIAL JUSTICE

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## ABSTRACT

The constitutional safeguards for children in India recognise childhood as a stage requiring special protection, care, development and participation. Children are entitled to equality, dignity, education and protection from exploitation, abuse and neglect. The Constitution provides direct protection through Fundamental Rights and Directive Principles of State Policy, while Article 15(3) permits special provisions for children. Article 21 protects life and personal liberty and supports the constitutional guarantee of dignity. Article 21A guarantees free and compulsory education to children between six and fourteen years. Article 24 prohibits employment of children below fourteen years in factories, mines or hazardous employment, while Articles 39(e) and 39(f) direct the State to protect children against abuse and exploitation and to secure opportunities for healthy development in conditions of freedom and dignity.

The statutory framework supplements these guarantees through laws dealing with education, sexual offences, child labour, child marriage, juvenile justice and child rights institutions. Judicial decisions have developed principles of dignity, rehabilitation and the best interests of the child. The article examines these safeguards, their role in social justice, and challenges such as poverty, discrimination, exploitation, trafficking and weak implementation. It concludes that meaningful child protection requires effective enforcement, accessible remedies and institutional accountability.

**Keywords:** Child Rights, Constitutional Safeguards, Child Protection, Social Justice, Child Development.

## Introduction

The Constitution of India recognises children as persons entitled to protection of law and to conditions that permit dignity and development. Childhood is a formative period in which deprivation of education, nutrition, safety or family care can have long-term consequences. Indian constitutional law therefore combines general rights available to every person with special provisions addressing the vulnerability of children. Article 15(3) permits the State to make special provisions for children, allowing protective and welfare measures within the equality framework.<sup>1</sup>

Articles 14 and 15 are important in addressing discrimination among children on grounds such as sex, caste, religion and disability. Article 21 protects life and personal liberty and supports human dignity and meaningful development. Article 39(e) directs protection of the tender age of children from abuse, while Article 39(f) requires healthy development and protection against exploitation and abandonment.<sup>2</sup>

Education occupies a central place in child rights. Article 21A makes free and compulsory education a Fundamental Right for children between six and fourteen years.<sup>3</sup> The Right of Children to Free and Compulsory Education Act, 2009 gives legislative effect to this guarantee and places duties upon governments, local authorities and schools.<sup>4</sup> Education is closely connected with dignity, equality, participation and future opportunities.

The constitutional approach extends beyond survival. It seeks to protect childhood from labour, violence, sexual exploitation, trafficking and child marriage while supporting education, health, care and rehabilitation.

## Constitutional Foundation of Child Protection

The Constitution provides enforceable rights and policy directions for child welfare. Article 14 guarantees equality, Article 15 prohibits discrimination and permits special provisions for children, and Article 21 provides a broader foundation for dignity and personal security.

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<sup>1</sup> INDIAN CONST. art. 15(3).

<sup>2</sup> INDIAN CONST. art. 39(e)-(f).

<sup>3</sup> INDIAN CONST. art. 21A.

<sup>4</sup> The Right of Children to Free and Compulsory Education Act, No. 35 of 2009, India Code (2009).

Articles 39(e) and 39(f) add directions concerning protection and development.

Article 45 directs the State to endeavour to provide early childhood care and education for children below six years, while Article 47 concerns nutrition and public health. These provisions complement Fundamental Rights and support a constitutional understanding of child welfare that includes physical, mental, educational and social development. In *Unni Krishnan, J.P. v. State of Andhra Pradesh*, the Supreme Court recognised the right to free education for children up to fourteen years within the constitutional framework then existing, contributing to the later insertion of Article 21A.<sup>5</sup>

### **Education and Equal Development**

The RTE Act gives statutory effect to Article 21A and provides free and compulsory elementary education for children between six and fourteen years.<sup>6</sup> It places duties on governments, local authorities and schools and seeks to reduce barriers to admission and completion.

Equal development requires that children are not excluded because of poverty, caste, gender, disability, migration or social circumstances. Constitutional equality therefore has a substantive dimension and requires accessible legal and educational protection.

### **Protection from Exploitation and Child Labour**

Article 24 prohibits employment of children below fourteen years in factories, mines and hazardous employment.<sup>7</sup> Article 39(e) further directs protection of the tender age of children from abuse and occupations unsuited to their age or strength. These provisions recognise that economic exploitation can interfere with education, health and development.

The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986, as amended, prohibits employment of children and restricts adolescent labour in hazardous occupations and processes.<sup>8</sup> The framework also provides for enforcement and rehabilitation. In *M.C. Mehta v. State of Tamil Nadu*, the Supreme Court addressed hazardous child labour and

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<sup>5</sup> *Unni Krishnan, J.P. v. State of Andhra Pradesh*, (1993) 1 SCC 645.

<sup>6</sup> The Right of Children to Free and Compulsory Education Act, 2009, India Code.

<sup>7</sup> INDIAN CONST. art. 24.

<sup>8</sup> The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986, as amended by Act 35 of 2016.

directed measures concerning compensation, education and rehabilitation.<sup>9</sup>

### **Protection from Abuse and Sexual Offences**

Children require enhanced protection from sexual abuse because of age and vulnerability. The Protection of Children from Sexual Offences Act, 2012 provides a special framework for sexual assault, sexual harassment and pornography involving children and establishes Special Courts.<sup>10</sup> It also adopts child-sensitive procedures.

Article 21's guarantee of dignity supports a protective interpretation of laws concerning violence against children. In *Independent Thought v. Union of India*, the Supreme Court held that sexual intercourse with a wife below eighteen years could not receive protection from the marital exception to rape.<sup>11</sup>

### **Child Marriage, Care and Juvenile Justice**

Child marriage can affect education, health, autonomy and development. The Prohibition of Child Marriage Act, 2006 seeks to prevent child marriages and provides penal consequences, remedies and preventive officers.<sup>12</sup> Constitutional principles of equality and dignity provide the wider setting for this law.

The Juvenile Justice (Care and Protection of Children) Act, 2015 provides a framework for children in conflict with law and children in need of care and protection. It is based on the best interests of the child, rehabilitation, restoration and a child-friendly approach.<sup>13</sup> Its objective includes care, development and social reintegration.

Children without adequate family support may require institutional care, foster care, sponsorship, adoption or rehabilitation. Juvenile Justice Boards and Child Welfare Committees are important because rights become meaningful only when children can reach competent and child-sensitive institutions.

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<sup>9</sup> *M.C. Mehta v. State of Tamil Nadu*, (1996) 6 SCC 756.

<sup>10</sup> The Protection of Children from Sexual Offences Act, No. 32 of 2012, India Code (2012).

<sup>11</sup> *Independent Thought v. Union of India*, (2017) 10 SCC 800.

<sup>12</sup> The Prohibition of Child Marriage Act, No. 6 of 2007, India Code (2007).

<sup>13</sup> The Juvenile Justice (Care and Protection of Children) Act, No. 2 of 2016, India Code (2016).

## Political and Institutional Safeguards

Child rights depend upon institutions capable of receiving complaints, monitoring implementation and enforcing duties. The Commissions for Protection of Child Rights Act, 2005 provides for the National Commission, State Commissions and Children's Courts.<sup>14</sup> These institutions connect legal standards with administrative action.

In *Sampurna Behura v. Union of India*, the Supreme Court considered shortcomings in implementation of juvenile justice legislation and issued directions aimed at strengthening Child Welfare Committees, Juvenile Justice Boards and related mechanisms.<sup>15</sup> The decision demonstrates that legislation requires functioning institutions, trained personnel and facilities.

A rights-based system should recognise the child's participation according to age and maturity. Children may have relevant views in matters concerning education, care, custody and rehabilitation, subject to the best interests of the child and lawful procedure.

## Constitutional Protection and Social Justice

The constitutional safeguards reflect movement from formal towards substantive equality. Article 15(3) permits special measures; Article 21 protects dignity; Article 21A secures elementary education; Article 24 restricts child labour; and Articles 39(e) and 39(f) address exploitation and abandonment.

Social justice requires attention to children facing multiple disadvantages because of gender, disability, poverty, migration or lack of family care. Protection must be accessible in local languages and sensitive to social realities. Legislation cannot ensure equality unless police, schools, courts and welfare authorities respond effectively.

The best interests of the child provide a unifying principle. Decision-makers should consider safety, development, education, family relationships, rehabilitation and dignity rather than administrative convenience alone.

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<sup>14</sup> The Commissions for Protection of Child Rights Act, No. 4 of 2006, India Code (2006).

<sup>15</sup> *Sampurna Behura v. Union of India*, (2018) 2 SCC 208.

## **Contemporary Challenges**

Despite extensive safeguards, children continue to face barriers to education, nutrition, safety and care. Poverty may contribute to school dropout and child labour. Digital access creates educational opportunities but also risks of online abuse and exploitation. Effective responses require coordination between families, schools, police, courts and welfare authorities.

Another challenge is the gap between law and implementation. Delays, inadequate childfriendly facilities and shortages of trained personnel can reduce protection. Rural, migrant and homeless children may face barriers to schooling, healthcare and legal remedies, while children with disabilities may face additional barriers.

The constitutional framework must respond to changing social conditions. Protection from physical punishment, sexual abuse, exploitation and discrimination should extend across home, school, workplace, community and digital environments. Nutrition, public health and social security also affect the enjoyment of child rights.

## **Suggestions**

Implementation requires coordination between Central and State Governments. Child protection institutions should receive adequate resources, trained personnel and clear accountability. National and State Child Rights Commissions should be supported in monitoring violations.

Legal awareness is important. Information on education rights, child marriage, child labour, sexual offences, rehabilitation and complaint mechanisms should be available in accessible regional languages. Schools can help children and parents understand rights and report violations.

Child Welfare Committees, Juvenile Justice Boards, Special Courts and child protection units should be strengthened. Child-friendly procedures, privacy, counselling and timely rehabilitation are needed to prevent secondary harm. Authorities should maintain reliable records to identify children who are out of school, engaged in labour, missing, trafficked or in need of protection.

Family and community participation also have a central role. Parents, teachers and local

institutions should recognise signs of abuse, exploitation and school exclusion. Rehabilitation should focus on education, health, family restoration where appropriate and safe reintegration.

Effective enforcement remains essential. Protection measures should be accessible irrespective of economic or social status, and grievance mechanisms should be simple, confidential and child-sensitive. Development programmes should consider effects on children, especially where displacement or migration increases vulnerability.

## **Conclusion**

The Constitution provides a comprehensive framework for safeguarding children. Equality, dignity, education and protection from exploitation, together with special provisions and Directive Principles, create a constitutional foundation for child welfare. Article 15(3) permits special measures, Article 21A secures free and compulsory education for six-to-fourteen year olds, and Articles 24 and 39 strengthen protection against labour and harmful conditions.

The statutory framework expands these guarantees through laws on education, sexual offences, child labour, child marriage, juvenile justice and child rights institutions. Judicial decisions have reinforced dignity, education, rehabilitation and the best interests of the child. Safeguards achieve their purpose only when institutions implement them effectively and children can access remedies.

The constitutional approach requires movement from formal protection towards substantive social justice. Protecting childhood means securing education, nutrition, safety, family care, participation, rehabilitation and freedom from exploitation. Special attention is needed for children facing poverty, disability, migration, homelessness and trafficking. Meaningful implementation is essential so that every child can grow with dignity, equality, security and opportunity. The constitutional vision becomes effective only when protection is translated into accessible services, responsive institutions and timely remedies for children. Continuous monitoring, legal awareness and accountable public administration are therefore necessary to sustain the constitutional promise of childhood as a protected stage of life.