

Judicial Intervention in Child Protection: Safeguarding the Rights of Vulnerable Children in India

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Abstract:

Children are among the most vulnerable members of society and require special protection within constitutional and legal frameworks. In India, despite formal recognition as rights-bearing individuals, poverty, inequality, abuse, and exploitation continue to hinder the realization of their rights. This paper examines judicial intervention in child protection through a rights-based lens, focusing on the judiciary's role in safeguarding vulnerable children's rights. It analyses the interpretation and expansion of constitutional provisions, particularly Articles 14, 15(3), 21, 21A, 23, and 24, as well as the Directive Principles of State Policy, to address child-specific vulnerabilities. The study also evaluates the use of Public Interest Litigation as an effective mechanism to enhance access to justice and enforce children's rights. By examining key judicial interventions, the paper identifies implementation gaps, institutional challenges, and concerns about judicial accountability. It argues that proactive, rights-oriented judicial intervention, grounded in constitutional morality and aligned with international child rights standards, is essential to ensuring the protection, dignity, and development of vulnerable children in India.

Keywords: Vulnerable Child, Child Rights, Judicial Intervention, Public Interest Litigation, Child Protection

Introduction

In every society, certain groups of the population require special attention and protection to prevent exploitation and discrimination. These sections are commonly referred to as *vulnerable groups*. The term "*vulnerability*" derives from the Latin word "*vulnerare*," which means "*to wound*." Vulnerability denotes the heightened risk of harm, marginalization, or deprivation these groups face due to social, economic, legal, or structural disadvantages. The Social Risk Management Framework of the World Bank defined

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vulnerability as "the likelihood of being harmed by unforeseen events or as susceptibility to exogenous shock." (Holzmann, -Benz, & Tesliuc, 2003) Children are considered to be the most vulnerable group, as they are physically and mentally immature, economically dependent, and lack the capacity to protect their own interests, making them particularly susceptible to neglect, abuse, exploitation, and discrimination. Article 1 of the United Nations Convention on the Rights of the Child defines a child as "every human being below the age of eighteen years, unless under the law applicable to the child, majority is attained earlier."ⁱ According to the World Bank's "Orphan and Vulnerable Children (OVE)" toolkit: "Vulnerable are the group of children who experience negative outcomes, such as the loss of their education, morbidity, and malnutrition at higher rates than their peers." (Region, The World Bank's Africa; Institute, The World Bank,; 2005). By reason of physical and mental immaturity, a child requires special safeguards and care, including appropriate legal protection, both before and after birth. In modern society, a child is recognized as an individual with full and inherent human rights. In the early period, children were not recognized as individuals possessing distinct rights. They were viewed primarily as passive recipients of welfare, with parents regarded as the sole authority over their lives. However, in the aftermath of the First World War, there was a gradual shift in perception, and children came to be acknowledged as individuals with distinctive rights (Freeman, 2020). This transformation in understanding was reflected in key international instruments, including the *Geneva Declaration of the Rights of the Child (1924)*ⁱⁱ, the *Universal Declaration of Human Rights (1948)*ⁱⁱⁱ, the *United Nations Declaration of the Rights of the Child (1959)*^{iv}, and ultimately the *United Nations Convention on the Rights of the Child (1989)*, which firmly established children as independent holders of rights under international law. India has the largest child population in the world, rendering the protection and promotion of children's rights a matter of paramount national importance. Owing to this demographic reality, Indian society faces significant challenges relating to child vulnerability, with many children being exposed to poverty, labour, trafficking, abuse, neglect, disability, displacement, and limited access to education and healthcare, which hinder their overall development. This vulnerability is largely structural, arising from socio-economic inequality, caste and gender discrimination, and regional disparities (Dyson James Billiat & M, 2024). Despite constitutional and statutory safeguards, a significant gap persists between legal protections and their effective realization. To address these concerns, the Indian legal framework seeks to protect all children without discrimination on the grounds of sex, gender, religion, caste, race, or place of birth. It recognizes children as individuals with inherent dignity and rights; a principle clearly reflected in the Constitution of India. The Constitution incorporates several provisions aimed at safeguarding the welfare, development, and protection of children, both as bearers of fundamental rights and as beneficiaries of special protections.

Although the Constitution of India does not clearly provide a separate chapter on child rights, the constitutional guarantees under Articles 14, 15(3), 21, 21A, 23, 24, 39(e), and 39(f) collectively form a strong foundation for child protection. These provisions not only guarantee fundamental rights for children but also impose an obligation on the State to take special measures to ensure their care and protection. Through these constitutional safeguards, India aims to create a secure environment in which every child can grow, learn, and develop to their full potential.' (Chakraborty & Mali, 2023). Furthermore, India is a signatory to several international conventions concerning the rights of the child, most notably the United Nations Convention on the Rights of the Child. In fulfilment of its international obligations, India has enacted numerous child-centric laws to align with international child rights standards. These laws collectively reflect India's commitment to adopting a rights-based approach to child protection and to harmonizing domestic legal frameworks with the principles enshrined in the UNCRC.' (Parvathi.S.L, 2020). However, the persistence of structural inequalities and implementation gaps necessitates a more proactive role for the judiciary. In this context, judicial intervention is a crucial mechanism for interpreting, enforcing, and expanding these constitutional guarantees to ensure the effective protection of vulnerable children's rights and dignity in India. This paper examines landmark Supreme Court interventions across key areas of child protection, including child labor and trafficking, juvenile justice, protection from sexual offenses, adoption and guardianship, orphans and migrant children, and access to education and welfare. It also assesses the challenges in implementing judicial directions and the continuing gaps in child protection mechanisms.

Judicial Intervention in Child Protection: Expanding the Scope of Rights

The Supreme Court of India plays a transitional role in interpreting these provisions expansively and intervening through public Interest Litigation (PIL) and *Suo motu* proceedings to protect children from exploitation, neglect, abuse, and institutional failures. To address systemic weaknesses and administrative delays that harm children, the judiciary has taken a proactive stance to ensure that legal protections are effectively implemented (Bajaj, 2024). Child protection in India has moved beyond the legislative domain; it is increasingly being shaped by judicial interpretation, particularly through the constitutional principles of dignity, the right to life, and equality. Judicial intervention redefined child protection from a state welfare responsibility into an enforceable constitutional right grounded in dignity, development, and equality. (Bhosale, 2011) The judiciary acknowledges the children as rights-bearing individuals entitled to constitutional protection, rather than as passive recipients of welfare. The judiciary plays a crucial role in safeguarding the rights of vulnerable children in India, primarily through the Supreme Court's broad

interpretation of Article 21 of the Constitution. The Court has consistently held that the right to life is not limited to mere survival but also encompasses the right to live with dignity, safety, and opportunities for overall development. This interpretation has special relevance for children in institutional care, who are vulnerable and depend entirely on the State for protection and welfare. This commitment of the judiciary is reflected in a consistent line of Public Interest Litigations and *Suo Moto* interventions through which the Supreme Court has examined and addressed multiple dimensions of child rights protection, including institutional care, juvenile justice, child labour, trafficking, adoption, and access to education (Sarraf, 2021). Major cases are detailed below.

The Supreme Court of India has played a transformative role in interpreting constitutional provisions in a purposive and child-centric manner. Through mechanisms such as Public Interest Litigation (PIL) and *Suo-motu* proceedings, the Court has actively intervened to address issues of exploitation, neglect, abuse, and systemic deficiencies affecting children (Bajaj, 2024). Through Public Interest Litigation, courts address not only individual grievances but also issue policy directions and monitor their implementation. Judicial intervention is guided by doctrines such as the best interests of the child, constitutional morality, and continuing mandamus, enabling courts to ensure sustained enforcement, accountability, and effective protection of child rights. (Ahmed & Gauhar, 2024). This judicial commitment is reflected in a consistent body of Public Interest Litigation and *Suo-motu* interventions through which the Court has addressed diverse aspects of child protection, including institutional care, juvenile justice, child labour, trafficking, adoption, and access to education. (Sarraf, 2021). Major judicial pronouncements in these areas are discussed in the following sections.

- 1. Child Labor, Trafficking, and Exploitation:** *Judicial intervention in issues relating to child labour, trafficking, and exploitation in India has primarily developed through Public Interest Litigation (PIL), showing the Supreme Court's dynamic role in protecting vulnerable children. A landmark case in this regard is M.C. Mehta v. State of Tamil Nadu (1996)^v, which arose from a Public Interest Litigation exposing the large-scale employment of children in hazardous match and fireworks industries in Sivakasi. Relying on reports highlighting the dangerous working conditions faced by children, the Court found a constitutional violation under Article 24 rather than merely a labour welfare concern. The Supreme Court held that the employment of children in hazardous occupations directly violated Article 24 of the Constitution and ordered their speedy withdrawal from such work. Significantly, the Court emphasized rehabilitation alongside prohibition, directing the establishment of a Child Labor Rehabilitation and Welfare Fund and requiring employers to compensate for each child they employ.*

The State was also required to provide alternative education, vocational training, and financial support to affected families, thereby linking the eradication of child labour with education and social security. However, the Court later noted that poor implementation, inadequate educational infrastructure, and poverty often resulted in rescued children returning to exploitative labour, exposing the limitations of judicial directions without sustained administrative support' (Pandey, 2016). Judicial attention to child trafficking was further strengthened in *Bachpan Bachao Andolan v. Union of India*, 2006—a PIL filed by a child rights organization highlighting the alarming number of missing children in the country. The Supreme Court recognized that many missing children were victims of trafficking for forced labour, sexual exploitation, begging, and illegal adoption. Treating trafficking as an organized and systemic crime, the Court held that the failure to find missing children violated their fundamental rights under Articles 21 and 23. To address this, the Court issued thorough directions, including the compulsory registration of FIRs in all cases of missing children, improvements to Special Juvenile Police Units, and the involvement of Child Welfare Committees and State Commissions for the Protection of Child Rights in rescue and rehabilitation efforts. The Court also prohibited the employment of children in circuses and mandated their rescue and long-term rehabilitation. However, ongoing judicial monitoring, coordination gaps among police, welfare institutions, and rehabilitation mechanisms, and unreliable data have limited the effectiveness of enforcement (Marwah & Narain, 2023). Earlier, in *Vishal Jeet v. Union of India* (1990),^{vi} a PIL on child prostitution and trafficking, the Supreme Court recognized these practices as products of deep socio-economic inequality. 'The Court urged a holistic response combining strict law enforcement with welfare and rehabilitation measures, laying an important foundation for later child protection jurisprudence despite limited immediate impact' (Tiwari & Singh, 2024)

- 2. Sexual abuse:** A landmark development in the Protection of Children from Sexual Offences Act, 2012 (POCSO Act)^{vii} was passed in *Attorney General for India v. Satish* (2021). The case arose from a judgment of the Bombay High Court, which held that "sexual assault" under Section 7 of the POCSO Act required direct "skin-to-skin" contact. On this basis, the High Court reduced the accused's conviction to a lesser offense under the IPC. The Supreme Court firmly ignored this interpretation, holding that the fundamental aspect of sexual assault is sexual intent and not the manner of physical contact. It clarified that requiring skin-to-skin contact would undermine the Act's protective purpose and allow offenders to avoid legal punishment. The Court emphasized that POCSO must be interpreted purposively, keeping in mind the dignity, integrity, and psychological well-being of the child. The Court observed that child sexual abuse often happens in subtle forms and that the trauma experienced by a

child does not depend on whether direct physical contact occurs. By redefining the POCSO conviction, the Court strictly upheld the Act's child-protective nature. It aligned Indian law with international child rights standards, including the UN Convention on the Rights of the Child. (Nagvanshi, 2022)

This approach is consistent with earlier judicial trends favouring sensitivity in cases involving child victims. In *State of Punjab v. Gurmit Singh* (1996)^{viii}, the Supreme Court stressed the importance of in-camera trials to protect victims' dignity, a principle later reflected in POCSO procedures. Further, in *Alakh Alok Srivastava v. Union of India* (2018)^{ix}, the Court addressed delays in POCSO trials and directed the establishment of exclusive POCSO courts to ensure speedy justice. In *Independent Thought v. Union of India* (2017)^x, the Court strengthened child protection by holding that sexual intercourse with a minor wife constitutes rape, thereby harmonizing the IPC with POCSO and rejecting marital justifications for child sexual abuse. However, some judicial decisions, such as revoking the POCSO trial following marriage between the victim and the perpetrator, have raised criticism for undermining the purpose of the Act. (Joshi, 2025).

3. Children in Conflict with Law: Important judicial intervention on abandoned or destitute children held in *Sheela Barse v. Union of India* (1986)^{xi}. The case originated from a letter written by a journalist calling attention to the critical conditions in which children were detained in police lock-ups and adult prisons. Treating the letter as a writ petition under Article 32 of the Constitution, the Supreme Court held that such detention violated the children's fundamental right to life and dignity guaranteed under Article 21. The Court clearly judged that children should not be kept in adult prisons and required all states to establish observation homes and remand homes for juveniles. It also directed that children be brought before juvenile courts rather than regular criminal courts, provided free legal aid to children in custody, and ensured regular inspections of custodial institutions. The judgment emphasized a rehabilitative approach rather than a punitive one and laid the foundation for a child-focused juvenile justice system. These guidelines later influenced the enactment of the Juvenile Justice Act of 1986. (Singh & Sharma, 2025)

The confusion regarding the determination of juvenility was resolved in *Pratap Singh v. State of Jharkhand*, 2005, where the Supreme Court clarified the relevant date for assessing a person's age. The Court held that juvenility must be determined with reference to the date of commission of the offense, rather than the date of trial or conviction, to ensure that children are not tried as adults due to procedural delays (Kumari, 2024). This position was further reinforced in *Hari Ram v. State of Rajasthan* 2009^{xii}, where the Supreme Court ruled that a claim of juvenility may be raised at any stage of the legal process, even after conviction,

provided the accused was a minor at the time of the offense. The Court stressed that procedural rules should not defeat the substantive protections guaranteed to children under juvenile justice laws (Thesneema, 2024)

4. **Juvenile Justice:** A comprehensive judicial review of the juvenile justice system was undertaken in *Sampurna Behura v. Union of India* (2018)^{xiii}, a Public Interest Litigation, which examined the implementation of the Juvenile Justice Act, 2015, across the country. The Court identified widespread non-compliance, including the absence or ineffective functioning of Child Welfare Committees and Juvenile Justice Boards. The court issued detailed guidelines to strengthen institutions, ensure proper registration and monitoring of child care institutions, provide officials with proper training, and improve coordination among institutions. However, ongoing administrative shortcomings have limited the effectiveness of these measures. (Dev & Kumar, 2025)
5. **Right to Education and Welfare:** The constitutional foundation of the right to education was established in *Mohini Jain v. State of Karnataka* (1992)^{xiv} where the Supreme Court held that the right to education is a fundamental right under Article 21 of the Constitution, as it directly flows from the right to life. This position was further underscored in *Unnikrishnan, J.P. v. State of Andhra Pradesh* (1993)^{xv}, in which the Court forced an obligation on the State to provide free education to all children up to the age of fourteen years. These landmark judgments led to the introduction of Article 21A through the Eighty-Sixth Constitutional Amendment and later to the enactment of the Right of Children to Free and Compulsory Education Act, 2009.

In *Society for Unaided Private Schools of Rajasthan v. Union of India* (2012), the Supreme Court upheld the constitutional validity of the RTE Act, stating that education is a shared social responsibility and that private institutions cannot evade their constitutional duties to ensure inclusive and equitable education. The Court also directed authorities to enrol orphaned and abandoned children without demanding formal documents, emphasizing flexible and child-friendly admission procedures.

6. **Adoption:** A seminal involvement was made in *Lakshmi Kant Pandey v. Union of India* (1984)^{xvi}, a Public Interest Litigation regarding widespread irregularities in inter-country adoption. At a time when no comprehensive legislative framework existed, the Court took jurisdiction to prevent the exploitation and trafficking of children under the guise of adoption. Emphasizing that the welfare of the child is paramount, the Court issued detailed, binding guidelines governing inter-country adoption. These included scrutiny by recognized agencies, verification of adoptive parents, preference for in-country adoption, and post-adoption monitoring. The Court categorically rejected the commodification of children and treated trafficking through adoption as a violation of constitutional values. These

directions functioned as enforceable law and later informed legislative reforms under the juvenile justice framework.

7. **Orphan Children:** A significant illustration of the Supreme Court's child-centric judicial approach on orphan children is found in *Exploitation of Children in Orphanages in the State of Tamil Nadu v. Union of India* (2017). Originating from reports of abuse in orphanages in Tamil Nadu, the case expanded into a nationwide review of child care institutions. The Court revealed serious systemic failures, noting that many institutions operated without registration, oversight, or accountability, exposing children to abuse and neglect. The Court upheld that protecting children's rights is a constitutional responsibility of the judiciary and the State. Recognizing the heightened vulnerability of children in institutional care, the Supreme Court underscored that the right to live with dignity, security, and opportunities for holistic development flows directly from Articles 14, 15, 21, and 24 of the Constitution. The Court directed all States and Union Territories to register every child care institution, form Statutory Inspection Committees, and ensure regular inspection. It mandated active supervision by the High Courts through Juvenile Justice Committees. It directed the National and State Commissions for the Protection of Child Rights to monitor institutions and report on compliance. The judgment affirmed that safeguarding children's dignity, safety, and rehabilitation is central to constitutional governance and social justice. (Doshi, 2022)
8. **Migrant Children:** Judicial intervention in protecting migrant children's rights gained prominence during the COVID-19 pandemic through *W.P.(C) No. 737 of 2020, Child Rights Trust v. Union of India*, a PIL under Article 32. The Supreme Court recognized migrant children as a vulnerable group entitled to improved protection under Articles 14, 21, 21A, and 39(f). It examined the enforcement of the Juvenile Justice Act, the RTE Act, and welfare schemes, emphasizing that the crisis of identity or domicile cannot deny basic needs. The case remains pending as it reflects the Court's use of continuing mandamus to ensure ongoing State accountability in addressing migrant children's welfare. (Shaikh & Hanganahally, 2020)

Judicial intervention has been crucial in ensuring child protection in India by interpreting the Constitution, filling legislative gaps, and strengthening State accountability. However, continuous implementation challenges reveal systemic weaknesses in the child protection framework. Administrative inefficiency remains a significant obstacle despite detailed judicial directions, inadequate staffing, insufficient training, and scarce resources, thereby delaying effective execution. As a result, many children's care institutions function with poor infrastructure and minimal supervision. Uncoordinated governance further complicates the issue, as overlapping responsibilities among welfare departments, police, and education authorities lead

to weak coordination and delayed responses for vulnerable children. Monitoring mechanisms are largely procedural, relying on reports that fail to reflect ground realities. Structural socio-economic factors such as poverty, migration, and social exclusion are also widening child vulnerability and limiting the impact of judicial reforms. Ultimately, while judicial oversight sets vital norms, lasting protection requires sustained administrative commitment, integrated governance, and community-based intervention beyond the courtroom. The development of child-centered legislation in India has been strongly influenced by the Supreme Court's ongoing interventions, particularly in cases where legal provisions were absent or ineffective. Much of this judicial intervention has occurred through Public Interest Litigation and through letters addressed directly to the Court, indicating a flexible, child-sensitive approach.

Conclusion

The Indian judiciary has emerged as a central actor in advancing child protection by developing a child-centric, rights-based framework grounded in dignity, welfare, and the best interests of the child. Through proactive judicial intervention, particularly through constitutional interpretation and Public Interest Litigation, courts have expanded the scope of fundamental rights, strengthened legal safeguards, and maintained ongoing oversight in areas where children remain most vulnerable. In doing so, the judiciary has transformed child protection from a welfare concern into an enforceable constitutional commitment. However, judicial intervention, while significant, cannot, by itself, ensure lasting change. Persistent administrative inefficiencies, fragmented institutional mechanisms, and deep-rooted socioeconomic inequalities continue to impede the effective implementation of child protection laws and policies. Meaningful and sustainable progress requires a coordinated approach in which judicial vigilance is complemented by accountable governance, institutional coherence, and active community participation. Ultimately, the realization of children's rights in India depends on effectively translating judicial mandates into administrative action and social practice. As reflected in the National Policy for Children (1974), children constitute a vital national asset whose development must be prioritized within broader frameworks of social justice and human development. This vision underscores the need for equal opportunities, holistic development, and sustained commitment at all levels. The true spirit of children's rights can be achieved only through a collaborative effort that integrates judicial intervention with responsive governance and collective societal responsibility.

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