

## Women And Child Protection Rights:A New Shield For Preventing And Combating Violence Against Them

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### Abstract

This study investigates the state of women's and children's rights in India, focusing on existing legal frameworks, constitutional safeguards, and socioeconomic hurdles to full realization of these rights. Despite advancements in women's empowerment and child safety, long-standing obstacles such as socioeconomic inequality, patriarchal institutions, and cultural norms continue to impede women and children's access to justice, healthcare, and education. The study delves at significant legislation such as the Protection of Children from Sexual Offences (POCSO) Act and the Right to Education Act (RTE), as well as constitutional provisions such as the Equal Remuneration Act and the Protection of Women from Domestic Violence Act. These laws are intended to protect vulnerable people, but law enforcement still faces problems like as gender-based violence, child labor, and long-standing social stigmas. The report also looks at the involvement of non-governmental organizations (NGOs) like Save the Children and Breakthrough India, as well as government initiatives like the Integrated Child Protection Scheme and Beti Bachao Beti Padhao, which seek to help marginalized populations. However, it should be noted that legislative measures alone are insufficient. The report indicates that significant development in women's and children's rights in India requires multi-stakeholder partnerships, such as community participation and collaboration among government agencies, non-governmental organizations, and civil society. Only through collaborative efforts will legislative protections be transformed into practical benefits in the lives of women and children across the country.

**Key words:** Child labor, government initiatives, gender-based violence, women's rights, India, constitutional protections, socioeconomic issues, and non-governmental organizations POCSO Act, Beti Bachao Beti Padhao.

### Introduction

In India, a huge gap exists between the theoretical foundation of women's human rights and their practical application. While several international agreements and domestic legislation have been enacted to protect women, they frequently fail to result in meaningful change due to deeply ingrained societal norms and behaviors. Historically, Indian society was patriarchal, with males holding positions of power and women relegated to lower duties. This power imbalance has resulted in widespread discrimination, injustice, and shame for women, who continue to experience a variety of abuses despite legislative

safeguards. Child marriage, child labor, prostitution, rape, pornography, domestic violence, and sexual abuse are some of the most common forms of mistreatment that women face, underlining their continued vulnerability in Indian society.

In contrast to these terrible realities, women in ancient India, particularly during the Vedic period, were revered and venerated, with many being regarded divine figures. However, this veneration has not persisted until modern times. Despite substantial progress in healthcare, education, and economic engagement, contemporary Indian women continue to face formidable hurdles.

Sociocultural impediments, such as deeply rooted gender biases and patriarchal structures, frequently eclipse these accomplishments, impeding full realization of women's rights. Nonetheless, developments in democratic governance, technical advancements, and a growing embrace of egalitarian ideas in certain areas have created new opportunities for women. These advances have led to the progressive, although unequal, growth of women in Indian society.

The history of children's rights in India dates back to the British colonial era in the 1880s, when the first child protection legislation were enacted. These early initiatives created the framework for child protection, and after independence, the Indian government continued to adopt and alter these laws to ensure that they met both regional and international standards. Despite these steps, India still has the world's highest population of working children, and serious breaches of children's rights remain. Child labor, exploitation, and denial of basic education are common issues, and efforts to alleviate them have been continuing since independence.

In recent years, the Indian government has established a number of laws and policies aimed at protecting children, including stronger legislation prohibiting child labor and protecting young workers. These laws, including the Child Labour (Prohibition and Regulation) Act, have been revised and reviewed to improve enforcement and handle the complexity of child labor in both urban and rural areas. However, the difficulty remains considerable, as millions of youngsters continue to be driven into labor as a result of economic hardship, a lack of education, and social inequity. Children's rights, as defined by international agreements and state legislation, include a number of guarantees, including the right to an education, protection against sexual exploitation, and the right to a safe environment in which to grow and develop. Despite these legal safeguards, children frequently have little agency in their lives. Parents and guardians have significant control on their children's decisions, influencing important parts of their upbringing such as education and personal choices. This emphasizes the need for stronger enforcement of children's rights, as well as increased awareness among families and communities about the necessity of allowing children to exercise their rights and make educated decisions about their future.<sup>1, 2</sup>

### **Protection of women's human rights by the constitution of India.**

Women are granted specific rights under the Indian Constitution, which was drafted with their past subordination and marginalization in mind. Comprehending the structural obstacles encountered by women, the Constitution was crafted as a revolutionary instrument with the objective of advancing gender parity and enabling women. Recognizing the particular demands of women in the working, Article 42 requires the state to give maternity aid to them. Furthermore, Article 51-A emphasizes that it is the essential responsibility of all Indian citizens to abstain from actions that denigrate women's dignity, hence strengthening society's commitment to gender equality and respect. The Indian Parliament passed the Protection of Human Rights Act in 1993 with the intention of ensuring that Article 51-A is implemented effectively and safeguarding the rights of women, in accordance with these constitutional requirements.

The Indian Parliament has passed numerous laws targeted at empowering women over the years, marking tremendous progress in this area. Among these are the Equal Remuneration Act, which aims to end wage inequality; the Dowry Prohibition Act, which tackles the social evil of dowries; the Prevention of Immoral Traffic Act, which aims to stop exploitation; and the Sati Prevention Act, which outlaws the practice of burning widows. Furthermore, by allowing for a 33% reservation for women in Panchayat and Nagarpalika institutions as well as in the roles of these bodies' chairs, the 73rd and 74th Constitutional Amendment Acts have been significant. Women are now more represented in governance as a result of this legislative change, which has been crucial in reducing local obstacles to women's empowerment. Karnataka, Kerala, and Manipur are the states that send the most women to the Panchayati Raj Institutions, setting an example for other states to follow.

The Indian Parliament has also tabled a bill proposing a 33% reservation of seats for women in national and state legislatures, thus encouraging gender parity in political representation and facilitating women's participation at the national and state levels. A crucial step in addressing women's issues in India, in addition to these legislative measures, has been the foundation of the National Commission for Women (NCW) in 1990. The NCW aggressively takes up cases

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<sup>1</sup> Monika Rathore, "Human Rights of Women and Children: an Indian Perspective" *Journal of Civil & Legal Sciences* (2023).

<sup>2</sup> Legalaid, "RIGHTS OF WOMEN AND CHILDREN IN INDIA" (2020).

involving violations of women's rights and pushes for tougher legislation to stop gender-based violence, including domestic abuse and rape. By pressing the government to create a special criminal code for women, the NCW has demonstrated its continued commitment to defending women's rights and securing justice. While there are still obstacles in the way of their successful execution, taken as a whole, these institutional structures, legislative initiatives, and constitutional provisions represent a comprehensive approach to the upliftment and empowerment of women in India.<sup>3</sup>

#### **Laws for women**

- Right to Equal Pay:
  - Increasing discriminatory pay scales contribute to the gender pay gap.
  - Article 39(d) and Article 41 of the Constitution ensure equal pay for equal work.
  - The Equal Remuneration Act of 1976 reinforces these principles, prohibiting pay discrimination.
  - Landmark cases such as *Kishori Mohanlal Bakshi v. Union of India* and *Mackinnon Mackenzie v. A.K. Saha* established legal recognition for equal pay.
- Right to Live in Dignity:
  - Every woman has the right to live free from coercion, violence, and discrimination.
  - Crimes against women's dignity are punishable under the Indian Penal Code (IPC), including sexual harassment and voyeurism.
- Right Against Workplace Harassment:
  - Women can file complaints of sexual harassment under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.
  - The *Vishakha v. State of Rajasthan* case highlighted the need for effective legislation against workplace harassment.
- Right Against Domestic Violence:
  - Section 498A of the IPC protects women from domestic abuse by husbands and relatives, with penalties including imprisonment.
- Right Against Dowry:
  - Despite the Dowry Prohibition Act of 1961, dowry practices persist.
  - Violations can result in imprisonment for up to five years and fines.
- Right to Identity Protection:

- Disclosing the identity of victims of sexual assault is a criminal offense under IPC Section 228A.
- The POCSO Act, 2012, further safeguards the identities of child victims.
- Right to Legal Aid:
  - Article 39A guarantees free legal assistance for the poor and marginalized.
  - The Legal Services Authorities Act, 1987, establishes a framework for legal aid across India.
- Right Not to Be Arrested at Night:
  - Section 46 of the Code of Criminal Procedure mandates permission from a Magistrate for arresting women after sunset, conducted by a female officer.
- Right to Register Virtual Complaints:
  - Women can file complaints via email or registered mail to senior police officers if unable to visit a station.
- Right to Privacy While Recording Statements:
  - Rape victims can record statements in privacy, ensuring comfort and confidentiality as per Section 164 of the Criminal Procedure Code, 1973.<sup>4</sup>

#### **Laws to protect the rights of children in India**

India has a vast legal system designed to safeguard the welfare and rights of children. The following are some important laws:

**Right to Education Act of 2009 (RTE Act):** The Right to Education Act, 2009 (RTE Act) is a landmark legislation passed by the Indian Parliament on August 4, 2009, and went into effect on April 1, 2010. This act provides that every kid aged 6 to 14 has the right to free and compulsory education in a local school. The RTE Act imposes a legal obligation on the government to provide appropriate facilities, educated teachers, and learning tools to ensure excellent education for all children. It also outlaws the practice of charging fees, guaranteeing that students from all backgrounds can receive an education without financial constraints. Furthermore, it requires schools to follow specified norms and standards while simultaneously encouraging the inclusion of excluded groups, such as economically disadvantaged children and those from underserved neighborhoods. By making education a fundamental right, the RTE Act contributes significantly to tackling educational inequality and

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<sup>3</sup> Dr. Pushpa Mehdoo, "Rights for Women in India: Challenges and Opportunities," 8 *Journal of Emerging Technologies and Innovative Research* (2021).

<sup>4</sup> Nikunj Arora, "All about women's rights" *ipleaders* (2022).

bridging the gap between diverse groups of society.

**National Health Policy, 2002:** The National Health Policy of 2002 was designed as a follow-up to India's original health plan, which was announced in 1983 and sought to attain universal health coverage by the year 2000. The 2002 strategy focuses on tackling the country's expanding health concerns, with an emphasis on school health programs. One of the primary goals of this strategy is to prioritize health education and conduct frequent health check-ups in schools, ensuring that children's health is checked and maintained from an early age. This policy emphasizes the importance of combating infectious diseases, particularly HIV/AIDS, and the necessity for mass immunization to protect children from preventable infections. By encouraging school health activities, the strategy aims to lay the groundwork for children's general development and academic performance. The National Health Policy of 2002 is an important step toward strengthening the healthcare system for children and ensuring that they receive the medical attention and preventive care they require during their formative years.<sup>5</sup>

**Act of 2015 for Juvenile Justice (Care and Protection of Children):** India has enacted numerous essential laws to protect the rights and well-being of children, establishing a strong legal foundation for their protection and development. The Juvenile Justice (Care and Protection of Children) Act of 2015 is an example of a comprehensive law that focuses on the care, protection, and rehabilitation of children who have violated the law or require care and protection. This act prioritizes the welfare of children, ensuring that their rights are protected, and supports rehabilitation over punishment, with special provisions for several kinds of vulnerable children, including as orphans, street children, and those who have experienced neglect or abuse.

**The 2012 Protection of Children from Sexual Offenses Act (POCSO):** The Protection of Children from Sexual Offenses Act (POCSO) of 2012 is another important law that protects children from sexual abuse, harassment, and exploitation. This statute imposes harsh penalties on criminals and establishes child-friendly processes for reporting, recording evidence, and the trial process to ensure that victims are treated with compassion and respect. The POCSO Act tackles the legal and social obstacles that sexually abused children encounter, with the goal of ensuring justice while minimizing the anguish they feel during judicial proceedings.

**Act of 2006 Prohibiting Child Marriage:** The Prohibition of Child Marriage Act of 2006 was enacted to combat the widespread practice of child marriage in India. This legislation outlaws weddings between people who are under the age of 18 (girls) or 21 (boys), and also protects youngsters who are coerced into marriages. It also seeks to protect minors' rights and prevent the physical, emotional, and psychological harm caused by child marriage, while empowering law enforcement and community leaders to intervene when such occurrences occur.

**The 2016 amendment to the Child Labour (Prohibition and Regulation) Act of 1986:** The Child Labour (Prohibition and Regulation) Act of 1986, as amended in 2016, oversees children's employment by prohibiting hazardous jobs and regulating their working conditions in non-hazardous areas. The amendment reinforces child labor regulations by making employment of children under 14 unlawful in all occupations, while adolescents aged 14 to 18 can only work in non-hazardous occupations. These legal laws strive to eradicate child labor while protecting children's rights to education, health, and safety.<sup>6</sup>

**The socio-economic challenges faced by women and children in accessing their fundamental rights in India**

The socio-economic obstacles that women and children in India must overcome greatly impede their ability to exercise their fundamental rights, especially when it comes to health care and financial autonomy. It is still quite difficult for certain people to have access to high-quality healthcare, particularly for women and children living in rural areas where there is often little infrastructure.

The basic medical facilities are often under-resourced and in overcrowding in places that do have them. Furthermore, when it comes to medical care, gender bias can lead to women obtaining poor care and having their health problems reduced or disregarded in comparison to those of men. Because many families place a higher priority on meeting their fundamental requirements than on medical costs, a high percentage of illnesses go untreated, financial limitations make it even more difficult for them to seek healthcare. India continues to struggle with shocking rates of maternal and infant mortality, making the situation in this area especially grave for mothers and children. Pregnancy safety and healthy delivery are greatly compromised when women do

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<sup>5</sup> Ishaan Tandon and Khushi Sharma, "A critical note on child laws in India" (2021).

<sup>6</sup> Unicef, "Protecting India's children from violence, abuse and exploitation" (2021).

not have access to basic prenatal and postnatal care.

Moreover, a major obstacle that exacerbates these socioeconomic problems is economic dependency. The lack of access to financial resources and services often causes women to struggle in their pursuit of financial independence.

A cycle of poverty and reliance is maintained because of their inability to invest in their own education and skill development as well as the futures of their children. Further exacerbating women's economic vulnerability are laws and cultural customs that discriminate against inheritance and property rights. Numerous women lack equal inheritance rights, which restricts their capacity to hold and acquire property and makes them financially dependent on male family members.<sup>7</sup>

Social and cultural hurdles, which show up as different types of abuse and exploitation, seriously impede the advancement of women's and children's rights in India. The incidence of gender-based violence, including sexual harassment and domestic abuse, is one of the most urgent problems since it negatively affects women's physical and emotional health.

There is a culture of secrecy and stigma surrounding these concerns since these forms of violence are typically rooted in deeply ingrained patriarchal beliefs that see women as submissive. Victims often experience social pressure to keep quiet or put up with abuse out of fear of reprisals or social rejection. This violence perpetuates cycles of trauma and insecurity not only for the individual women but also for families, communities, and other groups.

In a similar vein, child labor and exploitation pose a serious threat, especially to kids from underprivileged backgrounds. Many of these kids are denied their right to an education and a secure, caring home, and are made to work in dangerous situations. These kids lose their childhood due to the hard realities of child labor, which also puts them at risk for emotional and physical injury and reduces their possibilities moving forward.

In order to create an atmosphere where women and children may flourish, exercise their rights, and realize their full potential, it is imperative that these social and cultural impediments be addressed.<sup>8, 9, 10</sup>

### **The effectiveness of government programs and non-governmental initiatives aimed at safeguarding women and child rights in India.**

Notwithstanding ongoing obstacles, government and non-governmental programs in India have achieved great progress in defending the rights of women and children. The Nirbhaya Fund, which was formed in reaction to the 2012 Delhi gang rape case, is one of the noteworthy government initiatives. Projects with the goal of improving women's safety and security nationwide are the focus of this grant.

Beti Bachao Beti Padhao (BBBP), which tackles the crucial problem of gender-biased sex-selective eradication, is another noteworthy program. This program, which was introduced in 2015, uses community awareness initiatives to guarantee the survival and protection of female children while simultaneously working to stop the decreasing child sex ratio. BBBP works to empower girls and challenge deeply ingrained cultural conventions that devalue female children by advocating for their education. In order to create a more equal society where females have the same possibilities as boys for education and personal growth, this initiative is essential.

Furthermore, creating a safe environment for children is greatly aided by the Integrated Child Protection Scheme (ICPS). Ensuring that vulnerable children receive the help they require, this comprehensive plan offers both institutional and non-institutional care alternatives, emergency outreach services, and family-based care. By providing a variety of protective services and rehabilitative programs, ICPS seeks to address problems like child exploitation, abuse, and abandonment.<sup>11, 12</sup>

The protection of women's and children's rights in India is greatly aided by non-governmental initiatives, which frequently help official efforts by

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<sup>7</sup> Sumanjeet Singh et al., "Differential access of healthcare services and its impact on women in India: a systematic literature review," *3 SN Social Sciences* 16 (2023).

<sup>8</sup> Un Women, "CHALLENGES AND OPPORTUNITIES IN ACHIEVING GENDER EQUALITY AND THE EMPOWERMENT OF RURAL WOMEN AND GIRLS" (2024).

<sup>9</sup> World bank, "Laws Still Restrict Women's Economic Opportunities Despite Progress, Study Finds" (2021).

<sup>10</sup> Un Women, "What does gender equality look like today?" (2021).

<sup>11</sup> Forbes India, "Government initiatives for women's safety: best practices" (2022).

<sup>12</sup> Sakshi Punir, "Role of Government Schemes in Social Development and Welfare: An Expert's Survey," *12* (2021).

filling in gaps and offering focused assistance. One such group that collaborates with several stakeholders, such as local organizations, government agencies, and community groups, is Save the Children. Its mission is to strengthen the environment that protects children. Save the Children works to prevent children from harm and to guarantee that their rights are protected by concentrating on education, health, and child protection. The group carries out a number of initiatives aimed at stopping child labor, exploitation, and abuse. It also promotes a comprehensive strategy for child welfare that involves communities in the defense of children's rights.

The Childline India Foundation, which runs a round-the-clock hotline for kids in need, is another important project. This service offers children experiencing crises—whether as a result of abuse, neglect, or exploitation—immediate emergency assistance. Childline connects kids with resources and programs that support their well-being and reintegration into society, providing long-term rehabilitative help in addition to emergency needs. This program has shown to be crucial in promoting children's rights and guaranteeing that at-risk kids may get vital support services when they need them most.

Another well-known NGO that is committed to promoting gender equality and altering cultural norms is Breakthrough India. Breakthrough challenges cultural attitudes and beliefs that support gender-based violence in order to reduce violence against women through creative campaigns and educational initiatives. Their projects include media campaigns that emphasize the value of consent, wholesome relationships, and decency, provoking discussions about gender norms among youth and the community.<sup>13, 14</sup>

There has been a notable increase in awareness and reporting of crimes against women and children in India as a result of numerous government and non-governmental programs protecting these vulnerable populations. The creation of emergency response systems and women's cells devoted to resolving issues of assault and harassment has been made possible in large part by initiatives such as the Nirbhaya Fund. By providing channels for reporting instances of domestic abuse and online harassment, these policies have encouraged victims to come forward and ask for assistance, which has aided in changing public attitudes of

these problems. Women's and children's rights are becoming more widely understood, which gives people more power to speak up for others as well as for themselves.

Still, there are a number of issues that need to be resolved in order to effectively protect women and children, even with these developments. The persistent problem of underreporting crimes is frequently caused by societal shame that prevents victims from coming forward. Startling data from the National Family Health Survey (NFHS-5) shows that almost 30% of women between the ages of 15 and 49 had been victims of abuse. This suggests that there is a widespread culture in which these experiences are not talked about. Inadequate enforcement of current laws, which could be weakened by structural obstacles, a lack of funding, and inadequate case management training for law enforcement officers, exacerbates the underreporting.

Collaboration between NGOs and government agencies is essential to successfully addressing these issues. The significance of community engagement and multi-stakeholder partnerships in tackling the intricate issues related to women's and children's rights is demonstrated by initiatives such as Save the Children and the Childline India Foundation. Together, these organizations can make the most of their unique strengths to provide complete solutions that serve victims immediately while also fostering long-term social change. Together, stronger advocacy campaigns, more funding, and the creation of more potent anti-violence and anti-discrimination policies can result from greater cooperation, which will eventually protect women and children in India.<sup>15, 16</sup>

## Discussion

India's fight for women's and children's rights is a complicated one with deep socioeconomic, cultural, and historical roots. Even though India has made great progress toward protecting children and advancing gender equality, ingrained social conventions still stand in the way of advancement. Women's rights are safeguarded by the Indian Constitution and a number of laws, including the Dowry Prohibition Act, the Protection of Women from Domestic Violence Act, and the Equal Remuneration Act. Unfortunately, patriarchal attitudes and a lack of enforcement frequently mean that these rules are not fully implemented in practice. Moreover, access to

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<sup>13</sup> *Ibid.*

<sup>14</sup> Save the Children, "Child's Rights and Protection" (2024).

<sup>15</sup> Forbes India, "Government initiatives for women's safety: best practices" (2022).

<sup>16</sup> Save the Children, "Child's Rights and Protection" (2024).

justice, healthcare, and education is more difficult for women living in rural and economically underprivileged areas.

Similar to this, child labor, child marriage, and exploitation are commonplace in India, despite laws like the Right to Education Act and the preservation of Children from Sexual Offences (POCSO) Act supporting the preservation of children's rights. The socioeconomic environment is also important in this since poverty forces many families to put survival over education, which violates the rights of the children. The government has attempted to address these concerns through measures like the Juvenile Justice Act and the Child Labor Prohibition Act, but enforcement has been difficult, especially in rural and impoverished areas.

The socioeconomic obstacles that impede the achievement of these rights include gender biases, healthcare infrastructural deficiencies, and poverty. It is more common for women and children from underprivileged areas to face abuse, exploitation, and discrimination, and their fundamental rights are frequently ignored. The government has taken steps to empower women and protect children's rights through programs like the Integrated Child Protection Scheme and the Beti Bachao Beti Padhao program, but there are still major challenges due to cultural and economic differences.

With their focused lobbying and assistance, non-governmental organizations (NGOs) have been essential in bridging the gaps left by government policy. In addition to providing vital services to shield vulnerable women and children from exploitation and abuse, organizations like Save the Children and Breakthrough India frequently serve as intermediaries between the impacted communities and the authorities.

### Conclusion

India's effort to ensure the rights of women and children is multifaceted and continuing, affected by profound social, cultural, and historical elements. Despite significant legislative progress, such as the Protection of Women from Domestic Violence Act, Dowry Prohibition Act, Equal Remuneration Act, Right to Education Act, and POCSO Act, their implementation is frequently hampered by patriarchal attitudes, ineffective enforcement mechanisms, and systemic inequalities. Women, particularly those from rural and economically deprived areas, continue to confront significant barriers to accessing justice, education, and healthcare, with patriarchal traditions and gender biases impeding progress. Similarly, child labor, underage marriage, and exploitation jeopardize children's rights protections in India. While laws like the Juvenile

Justice Act and the Child Labor Prohibition Act exist to protect children's rights, poverty and economic pressures lead many families to put survival ahead of education, continuing cycles of deprivation and child exploitation. These difficulties are exacerbated in rural areas where law enforcement is frequently ineffective and cultural norms support traditional behaviors that can be damaging to both mothers and children. The government's initiatives, like as the Integrated Child Protection Scheme and Beti Bachao Beti Padhao, have made great progress in raising awareness and giving assistance, but significant challenges remain. Cultural resistance, along with significant economic inequities across the country, particularly in rural and marginalized areas, continues to stymie progress toward gender equality and child protection. Non-governmental organizations (NGOs) play an important role in bridging the gap between government policies and affected communities by providing necessary services and advocating for change. Organizations such as Save the Children and Breakthrough India have become critical allies, providing on-the-ground assistance, raising awareness, and serving as liaisons between vulnerable populations and authorities. Moving forward, it is clear that a multifaceted approach, including stronger law enforcement, cultural shifts, economic empowerment, and ongoing collaboration between government, civil society, and non-governmental organizations (NGOs), will be critical in ensuring that women's and children's rights are not only protected but fully realized throughout India.

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