

Right of the Girl Child in India : A Critical Study in Socio Legal Perspective



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***Submitted by*
Sushma Agarwal
Registration No.: RS/2132/22**

***Under the Supervision of*
Dr. Mahendra Singh Meena
Assistant Professor
Government Law College, Kota**

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शोध निदेशालय कोटा विश्वविद्यालय

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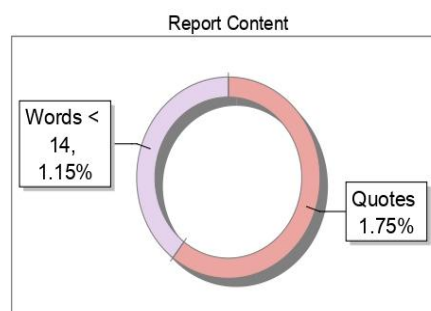
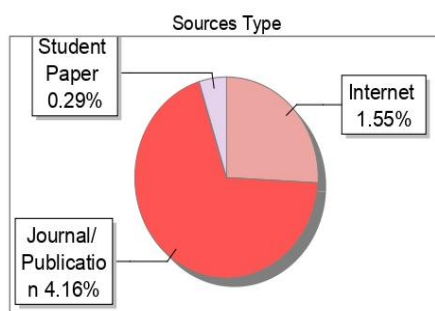
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Sushma Agarwal
Research Scholar

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Sushma Agarwal
(Research Scholar)

ABSTRACT

The status of the girl child in India has been a subject of deep social, legal, and academic concern for several decades. Despite constitutional guarantees of equality and numerous legislative initiatives, the girl child in India continues to face multiple forms of discrimination, exploitation, and deprivation. The present study titled **“Right of the Girl Child in India: A Critical Study in Socio-Legal Perspective”** attempts to examine the legal framework, social realities, and institutional mechanisms concerning the protection and promotion of the rights of the girl child in India. The study adopts a socio-legal approach to analyse the extent to which legal provisions have been effective in safeguarding the rights and dignity of the girl child in contemporary Indian society.

The research begins by exploring the historical and contemporary status of the girl child in India. Historically, the position of girls has been shaped by patriarchal norms, socio-cultural practices, economic factors, and gender biases deeply embedded in the social structure. Practices such as female foeticide, child marriage, neglect in education and health, trafficking, sexual exploitation, and gender-based violence have significantly affected the well-being and development of the girl child. Although significant progress has been made in terms of awareness, education, and policy interventions, many challenges persist, particularly in rural and economically disadvantaged sections of society.

The study critically examines the constitutional provisions that guarantee fundamental rights and protections to children and women in India. Articles relating to equality, non-discrimination, protection of life and liberty, and special provisions for women and children form the foundation of the legal protection for the girl child. In addition to constitutional safeguards, several legislative measures have been enacted to address specific issues affecting girls. These include laws related to child protection, prevention of child marriage, prohibition of sex selection, protection from sexual offences, trafficking, and access to education. The study evaluates the effectiveness of these laws and the role played by governmental and non-governmental institutions in ensuring their implementation.

Another important dimension of the research involves analysing the role of international conventions and global commitments in shaping India's approach to child rights. International instruments relating to the rights of children and women have significantly influenced national policies and legislative reforms aimed at improving the condition of the girl child. The study assesses how these international norms have been incorporated into domestic legal frameworks and policy initiatives.

The research further undertakes a comparative analysis of legal and policy frameworks relating to girl child protection in selected countries. By examining the practices and policy approaches adopted in countries such as the United States of America, Japan, China, Syria, Finland, Switzerland, and South Africa, the study seeks to identify effective models and best practices that could contribute to strengthening the protection of girl child rights in India. This comparative perspective helps in understanding the gaps in the Indian legal and institutional system and provides insights for policy improvement.

In addition, the study includes an examination of case studies relating to crimes against the girl child. These case studies highlight the nature, causes, and consequences of violations of girl child rights and demonstrate the challenges faced by the justice delivery system in addressing such issues. Through these analyses, the study attempts to reveal the socio-cultural and structural factors that continue to hinder the effective protection of girls.

The research also explores the role of education, social awareness, community participation, and government initiatives in promoting the rights and empowerment of the girl child. Various government schemes and welfare programmes aimed at improving health, education, nutrition, and security of girls have been analysed to understand their impact and limitations. The study emphasizes that legal provisions alone cannot ensure the protection of girl child rights unless supported by social transformation, effective enforcement mechanisms, and institutional accountability.

The findings of the study indicate that although India has developed a comprehensive legal framework to protect the rights of the girl child, significant

gaps remain in terms of implementation, awareness, and accessibility of justice. Socio-cultural prejudices, economic inequalities, lack of education, and weak enforcement mechanisms continue to undermine the effectiveness of legal protections. The research therefore highlights the need for a more integrated approach involving legal reforms, administrative efficiency, community engagement, and educational interventions to ensure the holistic development and protection of the girl child.

The study concludes by suggesting policy measures and recommendations aimed at strengthening the socio-legal framework for the protection of girl child rights in India. These include enhancing legal awareness, strengthening institutional mechanisms, improving access to education and healthcare, promoting gender-sensitive social attitudes, and ensuring strict enforcement of existing laws. The research underscores that safeguarding the rights of the girl child is not merely a legal obligation but also a fundamental requirement for achieving social justice, gender equality, and sustainable development.

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LIST OF ABBREVIATIONS

AHTU	Anti-Human Trafficking Units
ASHA	Accredited Social Health Activist
BBBP	Beti Bachao Beti Padhao
BC	Before Christ
BCE	Before Common Era
BNS	Bharatiya Nyaya Sanhita
CARA	Central Adoption Resource Authority
CARIGS	Central Adoption Resource Information Guidance System
CC	Civil Code
CCTV	Closed-Circuit Television
CE	Common Era
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEO	Chief Executive Officer
CHEAT	Centre for Enquiry into Health & Allied Themes
CMPO	Child Marriage Prohibition Officers
CRIA	Children's Rights Impact Assessment
CrPC	Criminal Procedure Code
CSEAM	Child Sexual Exploitative and Abuse Material
CSR	Child Sex Ratio
CSR	Corporate Social Responsibility
CVCF	Central Victim Compensation Fund
CWC	Child Welfare Committees
DLSA	District Legal Services Authority
DNA	Deoxyribonucleic Acid
DPSP	Directive Principles of State Policy
FGM	Female Genital Mutilation
FIR	First Investigation Report
FOGSI	Federation of Obstetric and Gynaecological Societies of India
GER	Gross Enrolment Ratio

ICDS	Integrated Child Development Services
IPC	Indian Penal Code
IT	Information Technology
JJ	Juvenile Justice
KGBV	Kasturba Gandhi Balika Vidyalaya
LFPR	Female Labour Force Participation Rate
MASUM	Mahila Sarvangeen Utkarsh Mandal
MTP	Medical Termination of Pregnancy
NCLP	National Child Labour Project
NCPCR	National Commission for Protection of Child Rights
NCRB	National Crime Records Bureau
NFHS	National Family Health Survey
NGO	Non-Governmental Organization
NHRC	National Human Rights Commission
NIOS	National Institute of Open Schooling
NLSA	National Legal Services Authority
NSO	National Statistical Office
PCMA	Prohibition of Child Marriage Act
PCPNDT	Pre-Conception and Pre-Natal Diagnostic Techniques
PIL	Public Interest Litigation
PNDT	Pre Natal Diagnostic Techniques
POCSO	Protection of Children from Sexual Offences
PS	Police Station
RI	Rigorous Imprisonment
RKSK	Rashtriya Kishor Swasthya Karyakram
RPwD	Rights of Persons with Disabilities
RTE	Right to Education
SC	Supreme Court
SC	Scheduled Castes
SCC	Supreme Court Cases
SCPCR	State Commission for Protection of Child Rights
SDG	Sustainable Development Goal
SE	Sexual Misuse

SITA	Suppression of Immoral Traffic in Women and Girls Act
SJPU	Special Juvenile Police Units
SLP	Special Leave Petition
ST	Scheduled Tribes
STEM	Science, Technology, Engineering and Mathematics
TISS	Tata Institute of Social Sciences
UDISE	Unified District Information System for Education
UK	United Kingdom
UN	United Nations
UNCRC	United Nations Convention on the Rights of the Child
UNICEF	United Nations International Children's Emergency Fund
USA	United States of America
UT	Union Territory
VAPP	Violence Against Persons (Prohibition)
WPS	Witness Protection Scheme

CHAPTER-1
HISTORICAL AND CURRENT
PERSPECTIVE OF GIRL
CHILD IN INDIA

CHAPTER 1

HISTORICAL AND CURRENT PERSPECTIVE OF GIRL CHILD IN INDIA

1.1 Meaning of Child

According to its etymology, the word "child" is taken from the Latin infants, which means "the one who does not speak." According to the Romans, this term refers to the infant from the time of birth until they are seven years old. The idea that a human being is a person from birth till adulthood underwent significant change over centuries and civilizations. However, this idea of the child was broad, and the majority's age differed depending on the culture.

The term "child" is more precisely defined under the 1989 Convention on the Rights of the Child as “anybody under the age of eighteen is considered as a child, unless their legal majority is reached earlier.” This definition and every other material pertaining to child welfare convey the idea that children are human lives with rights and dignity. The Declaration of **Geneva**, which was adopted in 1924 following World War I, acknowledged the rights of children. With the UN's approval of the Declaration of the Rights of the Child in 1959, the process of acknowledging children's rights proceeded. The International Children's rights and interests were recognized when the Convention on the Rights of the Child, the first legally binding international accord recognizing all of the fundamental rights of children, was approved on November 20, 1989.

Depending on the context in which it is used and the laws of a certain nation or state, the definition, conceptualization, and idea of the term "child" are not constant and differ from one country to another. Thus, in *Re Carton* (1945) 1Ch. 372, **Cohen, J.** stated that, the word “child” must, depend on the context in which it appears. As defined by Article 1 of the **United Nations Convention on the Rights of the Child (UNCRC)** a child is “every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier,” and article 2 clarifies that Convention rights are to be enjoyed by children “without discrimination of any kind,” including on grounds of sex.

1.2 Meaning of Child in the Context of India

With nearly 36.68 per cent of its population under the age of 18, India is home to the world's largest number of children.¹ Anyone under the age of eighteen years is considered a child under the bulk of Indian legislation. However, the exact term may vary based on the legal context. Any anyone under the age of eighteen years is considered a "child" under the Juvenile Justice (Care and Protection of Children) Act, 2015².

Section 2 of **Bharatiya Nyaya Sanhita (BNS)**, defines a 'child' as any person less than the age of eighteen years. Although a human is legally a "child" until the age of 18, their criminal culpability is further defined by their ability to understand their actions.

- **Doli Incapax (Immunity from Criminal Liability):** A child below the age of seven years is considered incapable of committing an offense.
- **Immature Understanding:** A child between the ages of seven and twelve may also be exempt from criminal liability if they are found to lack the mental capacity to understand the nature and consequences of their conduct.

A person under the age of 14 is considered as a child under the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 (Amended in 2016), which forbids them from engaging in any kind of employment. People between the ages of 14 and 18 are referred to as adolescents and are permitted to work in non-hazardous jobs.

The Prohibition of Child Marriage Act, 2006, prohibits child marriages, with the current minimum age for marriage being 18 years for women and 21 years for men.

Any individual between the ages of six and fourteen is considered a child under the Right of Children to Free and Compulsory Education (RTE) Act, 2009. A child is defined by the Prohibition of Child Marriage Act of 2006 as a male below the age of 21 and a girl below the age of 18.

¹ Child Rights in India. Joint Stakeholder's Report on the Universal Periodic Review IV of India, Submitted by HAQ: Centre for Child Rights, New Delhi, India.

² The Gazette of India, January 1, 2016, Page 5.

Apart from this, the juvenile justice laws were modified in India in 1992 after the ratification of the UNCRC to guarantee that any individual under the age of 18 who need care and protection is entitled to receive it from the State." On the other hand, some laws define a child in other ways and have not yet been updated to comply with the UNCRC. Yet, as was already said, the legal definition of maturity is 18 for girls and 21 for boys.

1.3 Importance of Girl Child in Social and Economic Context

The girl child is not just the future mother or homemaker but a critical agent of social change and economic progress. In India, ensuring her survival, protection, education, and empowerment is vital for achieving inclusive growth, gender equality, and sustainable development. A nation that invests in its girls invests in its future.

Ensuring the rights and capabilities of every girl child in India is not only a moral and constitutional imperative; it is also a proven strategy for accelerating social progress and economic growth. Evidence from national surveys and international research consistently shows that investments in girls' survival, education, health, protection, and agency yield large intergenerational returns—fewer child marriages and early births, lower infant and maternal mortality, higher productivity and incomes, and a stronger macroeconomy.

A girl child is both a development benefit and a force for change. She breaks down outdated customs and discriminatory practices as a leader, entrepreneur, and champion, opening the door for social justice and gender equality. Her voice elevates the demand for equal rights, emphasizing the value of girls and encouraging others to work toward a society in which all children, regardless of gender, can reach their full potential without worrying about prejudice or restrictions.

The importance of girl child can be viewed from both Social as well as Economic context in India.

1.3.1 Social Importance of Girl Child

a. Foundation of Family and Society

A girl child is must for the formation of future families and the development of social, moral, and cultural values. Households with educated girls are healthier and more forward-thinking.

b. Promoting Gender Equality

Empowering girls is essential to challenge gender stereotypes, achieving gender equality, and creating a more fair and just society for everybody.

c. Improved Health Outcomes

Educated and aware girls have higher expectations to ensure good healthcare and nutrition not only for themselves but also to their families, breaking intergenerational cycles of malnutrition and poor health. This will also lead to reduced maternal and child mortality rates. Female literacy rate in India was just 8% in 1947 with an infant mortality rate of 218. In 2023 female literacy rate has increased to 77% with youth girl (age 15-24 years) literacy reaching 95.54%. With this the infant mortality rate has declined to a record low of 25.

d. Reduction in Social Evils

The deep-rooted practices like child marriage, dowry, gender-based violence in Indian society can be reduced by empowering girl child. Child marriage is still prevalent in Indian society, especially in the rural part of the country but has shown decline in the past. Child marriage, when computed for the younger cohort of women (18–19 years), showed a decline from 37.7% in 2005 06 to 16.3% in 2019-21 (NFHS-5), indicating a growing trend for decline in the overall occurrence of child marriage in the years to come.

e. Agents of Social Change

Girls and women are usually at the forefront of social reforms, community development, and awareness campaigns, making them catalysts for progressive change. An educated women will be converted into an educated family instead, leading to a more socially responsible family.

1.3.2 Economic Importance of Girl Child

a. Increase in Human Capital Development

By investing in a girl's education and skills, a family increases the human capital of the country. This in turn increases the productive workforce of the country resulting in a higher economic growth and per capita income.

b. Increase in Workforce Participation

Educated and skilled girl has higher chances to participate in workforce of the country. This increases the family income and country's economic growth. The Female Labour Force Participation Rate (FLFPR) in India has shown a significant increase in the past. For women aged 15 years and above, it rose from 23.3% in 2017-18 to 41.7% in 2023-24. The most significant driver of this increase has been rural areas. The rural FLFPR increased from 24.6% in 2017-18 to 47.6% in 2023-24, a near doubling of participation.

c. Breaking the Poverty Cycle

An educated girl helps a family in coming out of the state of chronic poverty. An educated girl has higher chances to get employment, delay her marriage, have healthier and fewer children. All these factors help in reducing poverty.

d. Boost Economic Growth

Girls who get an education and nurture their skills become more self-sufficient financially and boost the country's economy by earning more money and joining the workforce.

e. Fosters Change-Maker

When girls become educated and empowered, they emerge as leader, entrepreneurs and change-maker. They contribute to innovation and develop opportunities for others. Examples of female participation includes current finance minister Smt. Nirmala Sitharaman, business women like Kiran Mazumdar-Shaw (founder of Biocon), Falguni Nayar (founder and CEO of Nykaa), Upasana Taku (Chairperson of MobiKwik). In sports Mary Kom, P.V. Sindhu, Manu Bhaker, Mirabai Chanu and many others have won Olympic medal.

1.4 Problems Faced by Girl Child in India

The status and experiences of the girl child in India represent a critical concern across social, economic, health, and psychological domains. Despite concerted

efforts by governmental and non-governmental stakeholders, girls continue to face structural and cultural disadvantages. There are various problems faced by girl child in India, few of which are explained below:

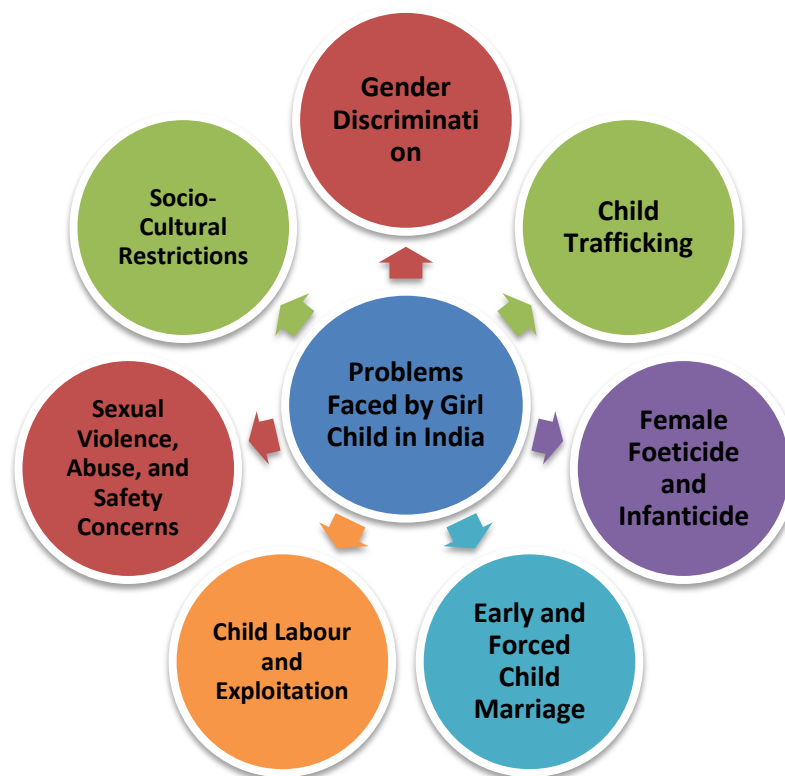


Figure 1.1: Problems Faced by Girl Child in India Source: Self-Made

i. Gender Discrimination

Not from today, but from generations, gender inequality has been a crucial socioeconomic problem in India. Gender discrimination exists not only in the society but it starts within the family itself. A family prefer birth of a boy over girl. When it comes to providing education, a boy is given preference over a girl child. Family decisions are mostly male oriented. A male can go out of the home to earn money but a female is born to handle only household responsibilities.

The sex ratio serves as a mirror to gender equity, social progress, and health conditions. Census report of India of 2011 showed that the number of girls per 1000 boys is 918 in 0–6 age group. Sex ratio at birth was at miserably low level of 919 girls child per thousand boys in 2015-16 (**NFHS-4 Report**) and marginally improved to 929 in 2019-21 (**NFHS-5 Report**).³ Gender discrimination affects

³ NFHS-4 and NFHS-5 Report.

many facets of life, such as employment opportunities, healthcare, and education. Compared to their male counterparts, girls frequently experience discrimination and less chances, which feeds cycles of inequality and restricts their ability to advance both personally and professionally.

Table 1.1
Sex Ratio in India

Year	Sex Ratio
1901	972
1991	927
2001	933
2011	943
2019-21	1020

Source: Census Reports and NFHS-5

Table 1.1 shows that India's sex ratio (females per 1000 males) has shown a decline from 972 in 1901 to a low of 927 in 1991. However, it has shown improvement thereafter due to government initiatives like Beti Bacho Beti Pado Scheme and legislative measures like PCPNDT Act (1994) etc.

As of 2025, India's population is approximately 1.44 billion. This includes 743.39 million males and 698.29 million females. This gives a sex ration of about 106 males per 100 females⁴. While men make up 51.56% of the population, women account for 48.44%. The difference in men and women population of more than 45 million puts India at 214th position out of 236 countries in female-to-male ratio. This shows a huge gender discrimination and needs a greater attention from both government and society.

Patriarchal values remain deeply entrenched in many Indian communities, where a pronounced preference for male children persists due to beliefs about lineage continuation, economic responsibility, and dowry burdens. This leads to differential access to nutrition, healthcare, and educational resources. Numerous household-level studies reveal that girl children frequently receive fewer calories,

⁴ www.studyiq.com

less attention during illness, and lower priority for schooling. This inequitable treatment exacerbates gender disparities from infancy through adolescence.

Some of the factors that prevent girls from attending school include severe taboos, a shortage of affordable sanitary napkins, a lack of good, functional washrooms, and poor school infrastructure. There are frequently no separate washrooms for boys and girls in many of the rural Indian schools. Girls may quit school as a result of the embarrassment they experience when using the washrooms. Additionally, many girls fall into the trap of social superstitions and decide to drop out of school simply because they have begun menstruating because menstruation knowledge is frequently lacking.

While Gross Enrolment Ratios (GER) for girl child have shown improvement at primary levels, it has shown serious concern at secondary and higher secondary level. As per UDISE 2021-22, GER stood at 79.4% at secondary level while at higher secondary level it stood at miserable low level of 58.2% for the girl child⁵. The effective access to quality education remains limited by obsolete infrastructure, inadequate sanitation (especially menstruation-friendly facilities), and long distances to school. Economic pressures, sibling care, and domestic chores force many girls—especially in rural contexts—to drop out early. Transition to secondary education continues to be a critical juncture where dropout rates spike.

Table 1.2
Gross Enrolment Ratio (GER) in India as of 2021-22

Group	Category		
	Boys	Girls	Total
Primary (I to V)	102.1	104.8	103.4
Upper Primary (VI to VIII)	94.5	94.9	94.7
Secondary (IX to X)	79.7	79.4	79.6
Higher Secondary (XI to XII)	57	58.2	57.6

Source: UDISE+ 2021-22

⁵ Report on Unified District Information System for Education Plus (UDISE+), 201-22.

Data consistently shows that girl children, especially in malnourished households, bear a disproportionate burden of undernutrition and iron-deficiency anaemia. Dietary biases and caretaking practices often exacerbate this trend.

ii. Child Trafficking

Children make up one in three victims of human trafficking worldwide, but in low-income nations, half of the victims are children, the majority of whom are trafficked for forced labor. Boys and girls are equally susceptible to human trafficking. However, girls are disproportionately targeted and forced to cope with the long-term consequences of gender-based violence and injustice.

Girl child trafficking is a major problem in India, where the National Crime Records Bureau (NCRB) receives thousands of cases annually. However, because of the crime's covert nature, lack of awareness, and fear of traffickers, official statistics are often thought to be underrepresented.

Underprivileged populations in India are particularly susceptible to human trafficking. Due to their low socioeconomic status, parents of children from these communities are either misled or lured, ultimately forcing them to "sell" or "send" their kids in search of "better livelihood options." Parents are promised daily wages by traffickers, who then take them to large cities where they are frequently treated like commodities. Female trafficking for sexual misuse (SE) is among the serious problems in India.⁶ Young females are particularly vulnerable to this crime. Girls are often traded for commercial sexual misuse or for labour – such as domestic servitude. Trafficking for commercial sexual exploitation occurs particularly in poverty-stricken regions and vulnerable populations. Tribal people have mainly been pushed into such activities. In India, children make up an estimated 40% of prostitutes, and most victims of child sex trafficking are girls. Women and girls made up 76% of all trafficked individuals in India in 2014.

As per **National Crime Records Bureau (NCRB)** number of victims rescued (below 18 years) during the last five years are as shown in table 1.3 below:

⁶ Rai, R. and Rai, A.K. (2021). Nature of Sex Trafficking in India: A Geographical Perspective. *Children and Youth Services Review*, Volume 120, January 2021, <https://doi.org/10.1016/j.childyouth.2020.105739>.

Table 1.3
Victims Rescued in India (Below 18 Years)

Year	Victims rescued (below 18 years)
2018	2484
2019	2746
2020	2151
2021	2691
2022	2878

Source: www.pib.gov.in

Above table shows an increasing trend in the number of children rescued who were a victim of ‘**child trafficking**’. In 2022, India registered 2,250 cases of human trafficking, which identified 6,036 victims. Of those victims, 2,878 were children, including **1,059 girls**.

iii. Female Foeticide and Infanticide

Even in the presence of legislative measures like Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT) Act, 1994 in India, sex-selective abortions remain a grim reality in many regions, especially in northern and western states. Skewed child sex ratios—where values fall below the natural range (approximately 933 females per 1000 males)—stand as stark evidence.

The implementation of the law and its effectiveness always remain a challenge in India. Since the introduction of PCPNDT Act in 1994, only 713 convictions have happened till July 2023. Till March 2023, 3521 ultrasound machines have been sealed and seized so far for offences committed under PCPNDT Act. Over 3,500 cases were reported by July 2023 under the act Cases of post-natal neglect and infanticide continue to surface, particularly among marginalized rural communities where tracing mechanisms may be weak. Anti-dowry and awareness initiatives have made limited inroads due to cultural inertia and weak law enforcement.

iv. Early and Forced Child Marriage

Indian society is still beset by child marriages, which deprive females of their youth, education, and chances for personal growth. Girls who are forced into

marriages at a young age frequently lack agency and autonomy, making it difficult for them to stand up for their rights and follow their dreams. Early marriage of girls means they miss important literacy times that are essential to development and opportunities. Child marriage impedes the advancement and development of both girls and communities by sustaining cycles of poverty and gender inequity.

Millions of young girls from marginalized areas are deprived of their potential and dreams due to the widespread issue of child marriage and early births. These two social ills are still prevalent in both urban and rural parts of the country. The issue is only becoming worse as more young girls are being married off at a young age in order to relieve the family's financial burden.

As per the Census 2011, there exist 12 million children who are married in India of which a whopping 8.9 million are girls. One in three child brides globally are from India, according to UNICEF (2023). One of the most common types of exploitation and abuse in India is child marriage, especially for females under the age of 18. While this practice is more common in Rajasthan, Madhya Pradesh, Bihar, Uttar Pradesh, Jharkhand, Haryana, Karnataka, Andhra Pradesh, and Tamil Nadu, its prevalence varies throughout all Indian states.

Nearly one in four young women in India (23 per cent) were married or in union before their 18th birthday. The majority of young women who married in childhood gave birth as adolescents. Child brides face challenges in continuing their education. Fewer than 2 in 10 married girls remain in school.

In India, the number of registered cases of girl child marriage has usually climbed in recent years, reaching 6,038 incidents in 2023. This increase is probably due to more awareness and reporting rather than an actual increase in prevalence. Table 1.4 below shows official information from the National Crime Records Bureau (NCRB) on cases that have been logged under the Prohibition of Child Marriage Act (PCMA):

Table 1.4
Year Wise Number of Cases Registered in India Under Prohibition
of Child Marriage Act

Year	Cases Registered under PCMA
2017	395
2018	501
2019	523
2020	785
2021	1050
2022	1002
2023	6038

Source: www.pib.gov.in

Although the above number of registered cases represents only a small fraction of the total number of child marriages that occur in the country.

Following are the reasons behind girl child marriage in India:



Figure 1.2: Reasons Behind Girl Child Marriage in India

Source: Self-Made

Child marriage increases the vulnerability of girls and is closely linked to poverty. Young girls who get married are frequently socially isolated and cut off from their

friends, family, and other networks of support. They might be more vulnerable to having fewer options for quality education and employment. Child marriage is nevertheless common practice in India, even with the presence of Prohibition of Child Marriage Act (2006) due to a variety of socio-ecological variables, such as regressive societal norms and structural inequality. The data released by NFHS-5 shows variations in child marriage by the household wealth index. Analysis of the NFHS-5 shows that an astounding 40% of the girls from the lowest quintile were married before they achieved 18 years of age. In a clear-cut contrast to this, only 8% of girls from the highest quintile got married before 18. Regression analysis suggests that the poorest, poor and even middle categories have around 1.6 years' lower age at marriage compared to the richest category.

Girl child marriage cases are higher for girls who have completed primary school or less. According to NFHS-5 data, the percentage of girls with higher education who were married before the age of 18 years was only 4% as compared to 48% of girls with no education. Multiple regression analysis of age at marriage indicates that a one-year increase in the education of girls will lead to higher age at marriage by 0.36 years, after controlling for the wealth index and the place of residence.

Although the data as per NFHS-5 shows that the variation in child marriage by religion and caste have narrowed down over the period of the survey. Child marriage has been relatively lower among Christians and other religious groups. The differences by caste category indicate a higher frequency among Scheduled Castes and Tribes (SC/STs), with 26% marrying below the stipulated legal age. However, the variations among caste categories have also been narrowing over the years.

v. Child Labour and Exploitation

Many girls are inducted into labour—formal and informal sectors—out of necessity. Whether as domestic workers, agricultural labourers, or sold into hazardous jobs, they confront exploitative conditions, low wages, and limited legal protection. Girls displaced by poverty, migration, or conflict are particularly vulnerable to trafficking for sexual exploitation. Rescue and rehabilitation mechanisms remain insufficiently funded or poorly distributed.

Table 1.5 below shows number of child labour in India in the age group 5-14 years during the period 1971-2011. The data shows a fluctuating trend in the counting of child labour in the country. Despite various government efforts, child labour is still a problem in India, with over 10 million child labour as per census survey 2011.

Table 1.5
Number of Child Labour in India in Age Group 5-14 Years

Census Survey	No. of Child Labour
1971	10,753,985
1981	13,640,870
1991	11,285,349
2001	12,666,377
2011	10,126,629

Source: labour.gov.in

As per 2011 Census, workers in the age band of 5-14 years in the country stood at 43.53 lakh which shows a decline from 57.79 lakh as per 2001 Census. Table 1.6 shows number of children rescued/withdrawn from work, rehabilitated and mainstreamed under National Child Labour Project (NCLP) Scheme.

Table 1.6
Number of children rescued/withdrawn from work, rehabilitated and mainstreamed under National Child Labour Project (NCLP) Scheme

Year	Number of children
2016-17	30979
2017-18	47635
2018-19	50284
2019-20	54894
2020-21	58,289
2021-22	18137
2022-23	13761

Source: www.pib.gov.in

vi. Sexual Violence, Abuse, and Safety Concerns

A girl child is particularly vulnerable and frequently experiences abuse and domestic violence, which frequently goes unreported. Parents in remote areas are reluctant to send their daughters to school because they are concerned about their safety. Kidnapping, abduction, and sexual assaults against children were the top two crimes against children, as per the National Crime Records Bureau's most recent data. Girls under the age of 18 made up 28% of all rape victims, while they accounted for 70% of all missing children in 2018.

In India, girls are more susceptible to emotional, sexual, and physical abuse. Girls are exposed to serious hazards to their physical and mental health, from sexual exploitation to domestic abuse, which frequently has disastrous long-term effects. The prevalence of abuse makes it more difficult for girls to flourish and realize their full potential by sustaining cycles of trauma and violence.

The frequency of crimes against children has significantly increased despite the presence of a strong legal framework. As per the report of National Crime Records Bureau (NCRB), crimes against children increased by 4.5% in 2019 as compared to 2018. The number increased from 1,29,032 cases in 2017 to 1,41,764 in 2018 which further increased to 1,48,185 in 2019. Out of this 31.2% cases of crimes against children were registered under the POCSO Act, 2012.

It is essential to consider that the increase in number of cases filed under the POCSO Act is higher than the increase in total number of crimes against children. In 2018 and 2019, POCSO instances rose by 22% and 19%, respectively. In 2019, 47,335 incidents were reported under POCSO, accounting for 32% of all crimes against children. Table 1.7 below shows cases of POSCO Act as a percentage of total cases of crime against children for different years.

Table 1.7
Cases of POCSO as a % of Total Cases of Crime Against
Children During 2017-2019

Year	Total Cases	Cases Under POSCO Act	% of Cases Under POSCO Act
2017	1,29,032	32,608	25.27
2018	1,41,764	39,827	28.09
2019	1,48,185	47,335	31.94
2020	1,28,531	47,221	36.73
2021	1,49,404	53,874	36.05
2022	1,62,449	62,104	38.22
2023	1,77,335	67,694	38.17

Source: www.satyarthi.org.in

Above table shows not only an increase in total cases under POSCO Act but also an increase in the cases under POSCO Act as a percent of total cases of crime against children in India. Out of the total cases registered under POCSO, 55% of cases were registered under **Child Rape** (Sec 4 & 6 of POCSO Act/ Section 376 of IPC) in 2019, among these cases **99% of the victims were females**. These percentages have not changed since 2017.

vii. Socio-Cultural Restrictions

Girls are often socialized to internalize caregiving and household responsibilities, significantly restricting their pursuit of personal development, leisure, and leadership opportunities.

At both home and community levels, girl children seldom participate in decisions concerning their education, health, or social interactions—reinforcing a dependency and subordinate status.

The cumulative disadvantages that the girl child in India faces are profoundly interlinked—stemming from entrenched patriarchy, socio-economic marginalization, and systemic neglect. For India's future to be equitable and vibrant, the rights and potentials of her girl children must be safeguarded and nurtured. Addressing these multifaceted challenges requires:

- Integrated policy frameworks combining health, education, nutrition, and protection.
- Robust monitoring, timely evaluation, and community-level sensitization.
- Investment in girl-cantered infrastructure—particularly sanitation, digital access, and safe spaces.
- Legal reinforcement and stronger mechanisms to deter abuse, child marriage, and trafficking.
- Promotion of agency, through mentorship, leadership programs, and psychosocial support.

1.5 Historical Perspective on Gender Discrimination in India

Over the years, Indian women's position and role have seen significant transformation. In India, gender discrimination has a long history that was influenced by colonial rule, social norms, and religion. Although women's standing was comparatively higher in the early Vedic era, it declined in later historical periods, especially in medieval India. In the modern era, efforts were made to address these disparities through reform movements, colonial legislations, and constitutional protections. Nonetheless, patriarchal legacies endure and necessitate ongoing social, legal, educational, and financial interventions.

1.5.1 Ancient India

The Vedic civilization can largely be divided into early Vedic or Rig Vedic (1500BC to 1000BC) and the later Vedic age (1000BC-600BC). Even though Indian society shifted from a matriarchal to a patriarchal structure throughout the Vedic era, women were still treated decently in the early Rig Vedic period. Male births were desired and accepted, but daughter births were neither looked upon nor condemned. The delivery of a girl child was not considered a liability. No incidences of infanticide were reported. Women were given respectable roles in the Vedas because they were allowed to participate in religious ceremonies and offer sacrifices **(NIOS Module-1,**

Understanding Gender Studies: An Overview).

Book named 'A History of Civilization in Ancient India', written by renowned economic historian **R.C. Dutt**, was published in 1889. He described the

accomplishments of antiquity, starting with the "Vedic Age." He said that the higher status of women was a distinctive aspect of ancient Indian civilization.

a. Early Vedic Period (1500–1000 BCE): During this period women were given fairly higher status; they had access to education (as mention in Upanishads about female scholars like Gargi and Maitreyi), were allowed to participate in religious rituals, and occasionally chose partners through **swayamvara**, indicating a degree of social autonomy. Child marriage was absent during this period. Women were respected for their wisdom and contributions and held significant roles in society. Women were also engaged in economic activities like home-based spinning and weaving and also assist their family in agricultural tasks.

b. Later Vedic Period (1000–500 BCE): Women's status was steadily deteriorated in this period. Their rights, especially regarding education and participation in public life, started declining. The freedoms of women were reduced. The birth of sons over females took on a far greater significance since the male line was used to trace the family's ancestry. Women's duties were restricted to the home, patriarchal standards were reinforced, and customs such as **kanyadaan** (giving away of the daughter) became widespread. This was the period when the practice of **Sati** was originated.

c. Manusmriti (200 BCE–200 CE): This era is known for codified patriarchal rules that limit women's property rights, prescribing their reliance on fathers, spouses, and sons, and depict them as inferior. This influenced social attitudes for a long time.

Female Role Models During Ancient India

i. Gargi Vachaknavi (circa 700 BCE): Among the notable ladies in ancient Indian literature was the philosopher Gargi Vachaknavi. She took part in the scholarly discussions held at the court of King Janaka and is well-known for her conversation with the sage Yajnavalkya in the Brihadaranyaka Upanishad. Gargi's insightful inquiries into the nature of the universe and reality reveal her extensive knowledge and critical thinking, underscoring the intellectual contributions of women during the Vedic era.

ii. Maitreyi (circa 8th century BCE): The sage Yajnavalkya's wife, Maitreyi, was a philosopher. She is well-known from the Brihadaranyaka Upanishad, in

which she and her husband have a deep conversation about the nature of Atman, or the self, and the quest for knowledge-based immortality. Maitreyi's inquiries reveal the significant role women played in ancient Indian intellectual traditions and represent her quest for spiritual and philosophical enlightenment.

iii. Gautami (circa 5th-6th century BCE): Gautami, also called Maha Pajapati Gotami, was the first female Buddhist nun to apply for ordination. She was the foster mother and aunt of the Buddha. The Bhikkhuni Sangha, a community of Buddhist nuns, was founded as a result of her resolve to enter the monastic order. The early difficulties and eventual acceptance of women in Buddhist monastic life are highlighted in Gautami's tale.

1.5.2 Medieval India (8th–18th Century)

During Medieval period status of women began to decline. This period brought about changes in the lives of women to a major extent. Due to invasions by Turkish, Arab, and Mughal rulers of Central Asia externally in India, this period witnessed significant socio-economic and cultural changes (**NIOS Module-1, Understanding Gender Studies: An Overview**). There was a beginning of Muslim era during this period. Women were regarded inferior in comparison to their male counterparts. The birth of the girl children was not appreciated. During this period, the women were required to experience number of problems (**Kapur, 2021**). The Muslim and Rajput communities only instituted the "Purdah" and "Jauhar" systems of female subjugation during the Middle Ages (**Mukkerla, 2024**). Jauhar was the practice of Rajput women setting themselves on fire to prevent being taken prisoner by the enemy. For example, when Rana Ratan Singh, the Rajput ruler of Chittor, was defeated by Ala-Ud –Din Khilji, his wife Padmini performed Jauhar along with other Rajput women. Women's freedom was severely restricted in both communities, preventing them from living or dying without fear or oppression. By actively engaging in society, politics, education, and religion, women of the era disobeyed religious prohibitions, like Chand Bibi, who defeated Akbar, Raziya Sultan, the first lady queen of Delhi, and others. "Guru Nanak" was the perfect figure to advocate for gender equality during this time. He is a vocal advocate for women's equality in the fields of politics, religion, education, and culture.

Social Status of Women in Medieval Period

- a. Patriarchal Civilization:** Men dominated both the household and the public arena in medieval India, which was primarily a patriarchal civilization.
- b. Marriage and Family:** Marriage at young age was common among women. Women's main responsibilities were limited to taking care of the home and raising the children, and customs like child marriage were widespread.
- c. Sati and Purdah:** Sati (the self-immolation of a widow on her husband's funeral pyre) and Purdah (the practice of separating women from the public eye by veiling and segregation) were observed in some areas.

Education and Work Status of Women in Medieval Period

- a. Limited Education:** Women were largely restricted from gaining education, with few exceptions among certain communities and royal families.
- b. Work and Economy:** Handling domestic job was the prime responsibility of women. However, they also participated in agriculture work in rural areas of the country. Artisan and craft activities were common among lower castes and tribal women.

Legal Status of Women in Medieval Period

- a. Property Rights:** Women were given very limited property rights and inheritance was typically through male lineage.
- b. Legal Rights:** The legal status of women was largely governed by the Dharmashastras and customary laws which placed women under the guardianship of their fathers, husbands, or sons.

Female Role Models During Medieval India

- i. Razia Sultana (1205-1240):** The Delhi Sultanate's first and only female ruler was Razia Sultana. She ruled from 1236 to 1240 and was renowned for her military and administrative abilities. She commanded multiple successful military expeditions and was able to establish her authority in spite of resistance from the nobles because of her gender.
- ii. Rani Rudrama Devi (1262-1289):** Known by her regnal name Rudra-deva Maharaja, Rani Rudrama Devi was a Kakatiya Queen regnant who ruled significant parts of present-day Telangana and Andhra Pradesh in southern India. She was among the few successful female rulers in Indian history. The reign of

Rudrama was remarkable for the rise of several non-aristocratic warriors in the Kakatiya service.

iii. Meerabai (1498-1547): Being a Hindu mystic poet, Lord Krishna was the object of devotion for Meerabai. Belonging to a royal Rajput family, she gave up her affluent life to focus on her spiritual interests and write devotional music after leaving her family. She was a significant character in Bhakti movement literature and spirituality because of her devotion to her faith and disobedience of social standards.

iv. Rani Durgavati (1524-1564): The Gondwana kingdom's queen, Rani Durgavati, is renowned for her courageous defiance of Emperor Akbar's Mughal army. She fought valiantly till her death in combat in 1564 and administered the country with remarkable skill after her husband's death. Her leadership is praised as an example of bravery and defiance.

v. Rani Padmini (13th-14th Century): Also known as Padmavati, Rani Padmini was the queen of Mewar kingdom. She is renowned for both her terrible tale of self-immolation, or Jauhar, to save her dignity against the invading Sultan Alauddin Khalji and her stunning beauty. Her story illustrates the harsh limitations and importance placed on female honor during the Middle Ages, even though its historical veracity is up for discussion.

vi. Akka Mahadevi (1130-1160): One of the leading figures in Karnataka's Veerashaiva Bhakti movement was Akka Mahadevi. She is renowned for her philosophical and poetic works that revealed a strong devotion to Lord Shiva and questioned social conventions. She became a powerful spiritual figure because of her decision to live a life of austerity and her criticism of patriarchal systems.

vii. Jijabai (1598-1674): Jijabai was the mother of Shivaji, the founder of the great Maratha Empire. She was instrumental in Shivaji's upbringing, teaching him the virtues of bravery, independence, and patriotism. She is regarded as a representation of maternal strength and wisdom, and her influence played a vital role in the founding of the Maratha Empire.

1.5.3 Colonial Period (18th–20th Century)

Significant social, political, and economic changes occurred during India's colonial era (18th–20th century). Due in large part to colonial political economy

and customary practices, gender discrimination against women persisted. This period was marked by a contradiction, though, in that deeply ingrained patriarchal practices and discriminatory norms persisted in governing women's daily lives even as the colonial administration and Indian social reformers implemented legal and educational changes to elevate women.

Throughout India's colonial era, gender discrimination was both persistent and complex. New reformist and nationalist movements raised awareness of women's rights and education, even while detrimental societal norms like sati, child marriage, and purdah persisted. Despite their limitations and political motivations, the colonial state's actions did pave the way for some legal reform.

Traditional means of subsistence were altered by British colonial economic policy. Women from lower castes and lower-income households were recruited into exploitative jobs in the textile, domestic, and tea, indigo, and coffee plantations. Gender-based economic discrimination was reinforced by these occupations, which were frequently exploitative, insecure, and underpaid. Women's traditional artisanal and rural roles were further marginalized by colonial economic restructuring, which increased their reliance on men.

Social Practices Proving Gender Inequality During Colonial Era

Some of the common social practices which strengthened the orthodox thinking of gender inequality in India during the colonial era of British rule are as follows:

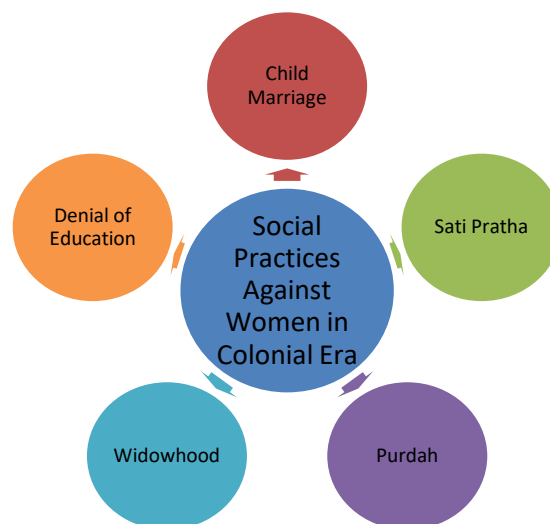


Figure 1.3: Social Practices Against Women During Colonial Era in India

Source: Self-Made

i. Child Marriage

Child marriage restricted women's liberty, health, and education and was prevalent across castes and tribes. It was common for girls as young as 8 to 10 years to get married. High maternal mortality, limited educational possibilities, and early widowhood were all largely caused by this practice.

ii. Sati Pratha (Widow Immolation)

While not being performed everywhere, sati became a public representation of women's oppression during the colonial era in India. Extreme patriarchal control over women's life was demonstrated by the expectation that widows would burn themselves alive on their husbands' funeral pyres. The pressure exerted by activists like Raja Ram Mohan Roy forced the British Government to abolish the Sati in 1829 through the Bengal Sati Regulation.

iii. Purdah (Female Seclusion)

In both Muslim and Hindu groups, women were often sequestered and veiled. It limited women's freedom of movement, educational opportunities, and civic engagement.

iv. Widowhood and Social Ostracism

Widows, especially among upper castes, were condemned to lives of austerity, denied remarriage, and excluded socially. They faced economic marginalization and exclusion from community activities.

v. Denial of Education

Formal education for women was rare until the mid-19th century. Ongoing beliefs held that education for girls would corrupt their morals or reduce their marital prospects.

Reform Movements for Women's Rights

The colonial era in India also witnessed a vibrant wave of number of social and religious reform movements. These reforms were led by Indian intellectuals and activists, often in dialogue with the colonial state.

i. Campaigns against Sati and Child Marriage

Reformers like Raja Ram Mohan Roy promoted widow remarriage and was strongly against sati. In 1829, Sati was outlawed as a result of his efforts and

British backing. The Hindu Widow Remarriage Act, 1856, which made widow remarriage lawful, was the outcome of Ishwar Chandra Vidyasagar's advocacy.

ii. Women's Education

Girls' education was pioneered by reformers like Jyotiba Phule and Savitribai Phule, particularly for women from lower castes. missionary schools also created opportunities for female education, although access was initially restricted to urban, upper-caste individuals.

iii. Legal Interventions

The Age of Consent Act of 1891, increases the age of consent for girls from 10 to 12, although was opposed by groups with conservative thinking. The marriageable age for girls was raised to 14 by the Child Marriage Restriction Act, 1929 (Sarda Act).

Female Role Models During Colonial Era in India

During the colonial era in India a number of women emerged as role models who challenged both colonial authority and patriarchal norms. Their contribution can be seen as warriors, reformers, educationists, and nationalists, paving the way for women's empowerment in independent India. Some of these role models are as follows:

i. Rani Lakshmibai of Jhansi (1828–1858)

As a symbol of courage and resistance, Rani Lakshmibai of Jhansi played a front role in the Revolt of 1857 against British rule. Known as the “**Jhansi Ki Rani**”, she not only challenged colonial power but also the patriarchal expectations by leading troops into battle.

ii. Pandita Ramabai (1858–1922)

A social reformer, scholar, and educationist, Pandita Ramabai was known for her revolutionary work in the emancipation and education of women in India. She was a prominent Sanskrit scholar, which earned her the title "Pandita". Institutions like the Arya Mahila Samaj and the Pandita Ramabai Mukti Mission were founded by Pandita Ramabai. These institutions not only provided education but were also a safe haven for child widows and other underprivileged women.

iii. Savitribai Phule (1831–1897)

Savitribai Phule and her husband, Jyotiba Phule, were revolutionary social reformers in 19th-century India. Their contributions were dedicated to women's education and social equality. India's first girls' school was opened by them in 1848. They also established the Satya Shodhak Samaj (Society of Truth Seekers) to fight caste-based discrimination.

iv. Annie Besant (1847–1933)

Annie Besant was a prominent British social activist, theosophist, women's rights advocate, who became an Indian nationalist leader. She founded the Central Hindu College in Benares (Varanasi) in 1898, which later developed into the Hindu University of Benares, and advocated for the education of Indian women. In 1914, she helped launch the Home Rule League in India to campaign for self-government. Her efforts concluded in her election as the first female president of the Indian National Congress in 1917.

v. Sarojini Naidu (1879–1949)

Earning the nickname "the Nightingale of India" for her poetry, Sarojini Naidu was an Indian political activist, poet, and a pivotal figure in the Indian independence movement. She actively participated in the Non-Cooperation Movement and Civil Disobedience Movement. An advocate of women's rights and civil rights, she was also the first Indian woman to be the president of the Indian National Congress in 1925.

1.5.4 Post-Independence Era (1947–Present)

Significant sociopolitical changes have taken place in India since its independence in 1947 with the goal of promoting social justice, democracy, and equality. In the Indian Constitution, Articles 14, 15, and 16 provide equal opportunities in public life and forbid sex-based discrimination, thereby enshrining gender equality. Gender discrimination has continued in the political, social, cultural, and economic spheres in spite of these constitutional protections. The post-independence period shows a contradictory trend in which structural injustices and patriarchal behaviors continue to erode women's status in society while legal and legislative frameworks promote equality.

Despite the adoption of progressive legal measures, gender relations in India have been shaped by old patriarchal attitudes. Women's roles have remained strongly linked to household duties, which frequently restricts their ability to participate in decision-making, work, and education. Social norms that give preference to male authority and lineage have strengthened gender inequalities, precisely in rural and semi-urban areas.

Socio-Economic Dimensions of Gender Discrimination

i. Education

Women literacy rate has consistently improved after independence in India. From 8.9% in 1951 it has increased to 65.5% in 2011 as per the Census of India. More recent estimates from the National Statistical Office (NSO) for 2021-2022 show the female literacy rate at 70.30%, indicating further progress. But there exists a huge disparity among different regions in education level of women, with Kerala having one of the highest rates and states like Bihar and Arunachal Pradesh having some of the lowest.

Participation of women in Indian higher education has also shown a trend of increasing female enrolment, with share of women in total enrolment growing to nearly 49% in 2020-21. But significant disparities persist in specific fields, with fewer women in STEM (Science, Technology, Engineering and Mathematics) and Professional courses, but a higher proportion of women in Arts and Teacher Education.

ii. Employment

Participation of Female in the labour force and access to decent work is very much essential for an inclusive and sustainable development of the country. At the macro level, greater participation of female in the workforce is good for the overall economy.

Despite constitutional guarantees of equal pay and opportunities, women's labor force participation has remained disproportionately low compared to men in India. Women are often concentrated in informal, low-paying, and insecure jobs. The gender wage gap persists, and occupational segregation reinforces inequality. As per the report on 'Female Labour Utilization in India-2023' Female labour force participation of working age 15 years and above stood around 32.8% as compared

to 77.2% of men, showing a substantial lower female participation. Despite an increasing female enrolment in education, women face barriers to quality employment, including occupational discrimination into "low-value" jobs, a heavy burden of unpaid care work, and discrimination.

Although female labour force participation rate has shown an increase of 9.5% since 2017-18, the major push came from the rural sector than the urban sector, where it increased by 12.0 and 3.4 percentage points, respectively. In rural areas, female LFPR has increased to 36.6% during 2021-22 as compared to 24.6% in 2017-18, showed an increase of 12.0% points. But the rural sector accounts for more unskilled job resulting in low wage rates. Women in the rural areas are compelled to do job due to low family income. Due to low wage rates the quality of life remains miserable and the family is unable to come out of the trap of poverty. Low-income results in low level of education of children especially that of girl child and the vicious cycle of low income and low education level continue generation by generation.

On the other side, female participation in urban areas was significantly lower than the rural areas. Female LFPR was 23.8% in 2021-22 as compared to 20.4% in 2017-18 in urban areas, showed an increase of just 3.4% points. Although women in urban areas have better education level as compared to that of women in rural areas, their participation in family decision and in building their own career is low. In large part of the society family decisions are still taken by the male members and the voice of female members is still ignored. Decisions about marriage and career are still out of the hands of female and they are bound to follow their family decisions.

Table 1.8
LFPR for Persons of Age 15 years & Above (in %)

Year	Rural			Urban			Rural+Urban		
	Male	Female	Overall	Male	Female	Overall	Male	Female	Overall
2017-18	76.4	24.6	50.7	74.5	20.4	47.6	75.8	23.3	49.8
2021-22	78.2	36.6	57.5	74.7	23.8	49.7	77.2	32.8	55.2
Change (% points)	1.8	12.0	6.8	0.2	3.4	2.1	1.4	9.5	5.4

Source: "Female Labour Utilization in India" Report-2023

iii. Health and Nutrition

Due to deep-rooted household practices such as providing boys with preferred access to food and medical care, gender inequality in India has a substantial negative influence on health and nutrition, increasing the prevalence of anaemia, low birth weight, and malnutrition in females. One of the main causes of poor maternal health is systematic neglect, which also has an impact on the children of the mother. This cycle of poor health and undernourishment leads to notable gender disparities in health outcomes and indices.

Risk of mortality is higher for daughters with at least one sister, and the main pathway to excess mortality for second and third daughters was the inadequate parental allocation of key resources (such as nutrition and medical care) to those daughters (**Das Gupta, 1987**). On the other hand, generalized discrimination stems from the patriarchal societal system and impacts all girls. Schemas in the “brain and in the world” (**Johnson-Hanks et al. 2011**) that dictate that parents should give boys more care than all daughters serve as the foundation for this kind of discrimination. All daughters are therefore subjected to a type of “naturalized deprivation,” in which family members embrace the gendered logic that regards daughters as “lesser beings” (**Croll 2000**).

Cultural norms and practices in Indian households shows that women and girls eat last and receive a smaller share of the family’s food, contributing to their undernourishment. As per the National Family Health Survey 5 (NFHS-5, 2019-21), 57% of total women aged in the group 15-49 in India are suffering from anaemia. This figure represents a 4% increase from the previous survey (NFHS-4). Within this group, non-pregnant women had a 57.2% prevalence, while pregnant women had a 52.2% prevalence.

1.6 Evolution of Legal Framework for Girl Child in India

Since independence, India’s constitution, laws, and society have all addressed the protection and empowerment of girls. The Indian government has gradually created a legal framework to protect girls’ rights after realizing the historical difficulties they have experienced as a result of patriarchal norms, child marriage, dowries, gender-based violence, and neglect in their education. The trajectory of

laws can be broadly divided into constitutional provisions, child-protection legislations, education and health-related laws, and gender justice reforms.

While the foundation is laid by constitutional provisions, subsequent laws focused on important concerns of empowerment, education, protection, and survival. But enduring issues like child marriage, trafficking, sexual assault, and son preference draw attention to enforcement weaknesses.

The evolution of legal framework for girl child in India can be divided into following three phases:

1.6.1 Early Phase (1950s–1970s)

The legal and social structure of the country was significantly altered in the decades after Indian independence. The realization that women and children were unique groups in need of both constitutional protections and legal protections was essential to this change. Due to entrenched sociocultural practices including child marriage, limited educational prospects, gender-based violence, and discriminatory inheritance norms, the girl kid emerged as a vulnerable category within this framework. To improve the protection and well-being of girls, India progressively developed a legal framework between the 1950s and 1970s that integrated judicial interventions, legislative reforms, and constitutional rights. A more progressive and rights-oriented strategy ingrained in the post-independence constitutional vision replaced the largely protective measures of colonial legislation during this transitional time.

During this time, important changes were made to family law, prohibitions against child marriage were strengthened, educational possibilities were encouraged, and welfare programs were first institutionalized. These decades prepared the way for more progressive regulations in the post-1980s era, such as those prohibiting dowries, child labor, and female foeticide, even though enforcement was still lax and gender inequalities maintained. As a result, the legal changes made for girl child between the 1950s and 1970s marked a shift from protective to developmental measures. Various constitutional and legislative measures enacted for girl child during this ear were as follows:

i. Constitutional Foundations

An important turning point in the development of women's and children's rights and welfare in India was the 1950 ratification of the Indian Constitution. Despite the fact that the Constitution does not specifically mention the "girl child," its provisions taken together established a legislative framework for the protection and empowerment of female children.

Building constitutional protections, developing policies based on Directive Principles of State Policy (DPSPs), and progressively bringing social practices into line with the values of equality, dignity, and justice were the main priorities between 1950 and 1970. The Constitution of India (1950) provided the normative framework for subsequent laws affecting the girl child. Following provisions were made which directly addressed the issues of gender and childhood:

Fundamental Rights

a. Article 14 – Equality Before Law

This article codified equality before the law and equal protection under the law. This clause represented a constitutional protection against discrimination for the girl child, opening the door for changes in personal law, inheritance, and education that would eventually raise her standing.

Case Reference: The Supreme Court upheld the equality before the law premise in **State of West Bengal v. Anwar Ali Sarkar (1952)**, which subsequently served as the basis for claims of gender-based equality.

b. Article 15(1) – Prohibition of Discrimination

This article prohibited discrimination on the grounds of religion, race, caste, sex, or place of birth. It meant that females, especially those from underprivileged backgrounds, had their constitutionally guaranteed right to impartial access to social services, healthcare, and education.

c. Article 15(3) – Protective Discrimination

The State was able to form precise provisions for women and children under this article. This played a crucial role in establishing the legitimacy of protective laws and welfare programs, including those that opposed child marriage and supported female education. In essence, it set the stage for positive discrimination that favours girls.

Case Reference: In *State of Madras v. Champakam Dorairajan (1951)*, although dealing with caste-based reservations, the Court clarified the limits of Articles 15 and 29. This case highlighted the importance of Article 15(3) as a constitutional tool for positive discrimination, later invoked in support of measures for women and children.

d. Article 21 – Right to Life and Personal Liberty

Over time, the definition of Article 21 has evolved to encompass dignity, health, and education. It shielded the girl child from dangerous activities including forced labor, human trafficking, and physical assault.

Case Reference: The Supreme Court broadened the definition of personal liberty under Article 21 in *Kharak Singh v. State of Uttar Pradesh (1963)*, setting the stage for later, more expansive interpretations that would eventually encompass the right to education and dignity, which are essential for girls.

Directive Principles of State Policy (DPSPs)

The DPSPs, though non-justiciable, provided guidance for State policies during 1950–1970 and beyond. Several provisions directly addressed children’s welfare, thereby extending protection to the girl child.

a. Article 39(e)

This article directed the State to protect children and young persons from being abused or forced into vocations unsuited to their age or strength. This lessened child labor and other exploitative practices that disproportionately impacted young females employed in domestic and agricultural labor.

b. Article 39(f)

According to this article, children must be shielded from exploitation and abandonment and must grow up in an environment of freedom and dignity. This was particularly crucial for the girl child because of her susceptibility to early marriage, neglect, and limited access to schooling.

c. Article 41

This article urged the government to protect people's rights to employment, education, and support in the event of illness, disability, or unemployment. Despite being broad in scope, its tenets had an impact on social welfare initiatives, which indirectly benefited girls.

d. Article 42

This article required maternity leave and fair and compassionate working conditions. This provision acknowledged the connection between women's welfare and children's well-being and indirectly improved the girl child's upbringing by guaranteeing maternal safety.

e. Article 45

This article directed that children till the age of 14 years get free, mandatory schooling from the state. Although it took decades for this provision to be implemented effectively, it was essential in increasing educational options for girls. Thereafter, laws like Right to Education Act (2009) were made possible by it.

Case Reference: According to the Supreme Court's interpretation in **Mohini Jain v. State of Karnataka (1992)** and **Unni Krishnan v. State of Andhra Pradesh (1993)**, the right to education is a component of Article 21 and is connected to Article 45. These cases highlighted the constitutional intent expressed as early as 1950.

Other Relevant Constitutional Provisions

a. Article 23 – Prohibition of Human Trafficking and Forced Labor

This article prohibited exploitation and trafficking. For girls, who were most at risk of being trafficked for child labor, domestic slavery, or sexual exploitation, this was especially important.

b. Article 24 – Prohibition of Child Labor

This article banned the hiring of minors under the age of 14 years in dangerous jobs, mines, and factories. This served as a clear defense against the exploitation of young girls in hazardous jobs.

Impact of Constitutional Measures

These constitutional articles served as the cornerstone for legislation and policy-making throughout the 20 years after independence. Despite the fact that social resistance and lax enforcement caused the tangible effects on the girl child to be slow, the time was critical in:

- Establishing equality as a legal norm.

- Identifying the State's responsibility to intrude in favour of children and women.
- Promoting education as a national goal, indirectly empowering the girl child.
- Creating protective mechanisms against exploitation and harmful practices.

Thus, it can be said that the period of 1950–1970 was marked by the constitutional commitment to uplift the status of the girl child, even if the results materialized slowly in practice.

ii. Legislative Measures

India implemented significant legislative reforms in the two decades after independence with the goal of creating a contemporary welfare state that adhered to the constitutional values of equality, justice, and dignity. Although the phrase "girl child" was not used specifically in many statutes, a number of laws passed between 1950 and 1970 had a significant impact on the welfare of girls, addressing fundamental issues such as marriage, family rights, inheritance, education, labor, and protection from exploitation. Taken as a whole, these laws represented the State's efforts to overthrow long-standing patriarchal systems and guarantee the holistic development of children, especially girls.

a. Family Law Reforms and the Hindu Code Bills (1955–1956)

The Hindu Code Bills, a historic piece of legislation that revolutionized Hindu personal law, were passed in the middle of the 1950s. The situation of girl children was affected by these reforms both directly and indirectly.

- **Hindu Marriage Act, 1955**

This Act established grounds for annulment of marriages, including those consummated without consent, and outlawed polygamy. It provided protection for girls from early and forced marriages.

- **Hindu Succession Act, 1956**

According to this legislation, females were granted the same inheritance rights as sons in several types of property. Even though the Act's rights were less comprehensive than those of subsequent amendments (the 2005 Amendment), it was a break from strict patriarchal inheritance laws that disadvantaged girls.

- **Hindu Adoption and Maintenance Act, 1956**

This law acknowledged the right to adopt females and gave them the same legal standing as sons in adoptive families. The acceptance of girl children inside family structures was directly aided by this innovation.

- **Hindu Minority and Guardianship Act, 1956**

Mothers' natural guardianship was reinforced by this statute, while fathers still had priority. As a result, girl children under maternal care received better welfare and legal recognition.

Importance of Hindu Code Bill

Together, the Hindu Code Bills addressed gender inequality in the family and made sure that daughters were not legally invisible, constituting the most progressive set of changes in early independent India.

b. Child Marriage Restraint (Amendment) Act, 1955

The original Child Marriage Restriction Act, 1929 (Sarda Act) established the minimum marriage age for females at 14 years. This was increased to 15 years by the 1955 amendment, which demonstrated the State's determination to stop the damaging custom of child marriage.

- Adult males who married underage girls faced fines under the amendment, which also made child marriages illegal.
- The law showed a strong legislative change towards delaying girls' marriageable age, even though enforcement was still weak because of sociocultural impediments.

c. Immoral Traffic (Prevention) Act, 1956

This law, once called the Suppression of Immoral Traffic in Women and Girls Act (SITA), was India's first all-encompassing effort to stop prostitute trafficking. This Act was a crucial step in positioning India with its international obligations under the UN Convention on the Suppression of Traffic in Persons (1949).

- It made the keeping of brothels, the obtaining of prostitutes, and the trafficking of minor girls.
- Recognized the increased vulnerability of youngsters and gave them specific protections.

Case Reference: State of Uttar Pradesh v. Kaushalya (1964) upheld certain provisions of the Act, highlighting the State's responsibility to protect vulnerable women and girls from exploitation.

d. Dowry Prohibition Act, 1961

To give or accept dowries in marriage was banned by the Dowry Prohibition Act of 1961. The Act represented the first official statutory recognition of the economic exploitation and violence experienced by girl children in marriage arrangements, despite the fact that it was frequently evaded in practice. Families of young brides now have a legal tool to contest coercive dowry demands. By making dowries a crime, the Act changed the legal discourse and raised awareness of the systemic exploitation of girls.

e. Education and Labor-Related Legislation

Although family and social welfare reforms were crucial, labor and education-based measures also contributed to the wellbeing of the girl child during the period 1950-70. Various legislative measures are as follows:

- **Factories Act, 1948 (amended in 1950s):** This law limited child labor for those below 14 years of age and set work schedules for teenagers. This protected young girls from dangerous industrial exploitation.
- **Mines Act, 1952:** Banned hiring of children below 18 years in mines.
- **State Education Initiatives (1950s–1960s):** Despite ongoing gender inequities, states started experimenting with mandatory elementary education programs in accordance with Article 45 of the Constitution, which indirectly benefited girls.

1.6.2 Middle Phase (1980s–1990s)

India experienced a new phase of child rights consciousness at this time, which was influenced in part by international discussions (the UN Convention on the Rights of the Child 1989 and the UN Decade for Women 1975–1985). India's legal framework for girls changed from welfare to rights-based approaches in the 1980s. While new laws—such as the Child Labour Act (1986), Juvenile Justice Act (1986), and Immoral Traffic (Prevention) Act amendments—directly targeted the vulnerabilities of girls, constitutional safeguards were judicially upheld. Laws against indecent portrayal and dowries attempted to combat gender discrimination

on a social and cultural level at the same time. India's ratification of the UN Convention on the Rights of the Child (1989) was made possible by the country's strengthened foundation for child rights by the end of this decade.

Legislative Measures

a. Child Labour (Prohibition and Regulation) Act, 1986

The employment of children under the age of 14 years in hazardous jobs and processes was prohibited by this law. It governed rest periods, working hours, and health requirements for non-hazardous jobs. The law protected girl child from industries where young girls were frequently exploited, such as bidi-making and exploitative domestic work.

b. Immoral Traffic (Prevention) Amendment Act, 1986

This law amended the 1956 Act (SITA). It increased penalties for trafficking and sexual exploitation of minor girls. It also recognized the specific vulnerability of underage girls in prostitution networks.

c. Dowry Prohibition (Amendment) Act, 1984 & 1986

This law strengthened provisions of the original 1961 law. It extended the definition of dowry, increased penalties, and announced provisions to punish those demanding or giving dowry. This had a direct impact on young brides, many of whom were girl children coerced into early marriages.

d. Juvenile Justice Act, 1986

For children who required care and protection as well as those in dispute with the law, this was India's first uniform law. It offered special courts, juvenile homes, and rehabilitation programs. Girls who were orphaned, abandoned, or exploited received particular attention.

e. Indecent Representation of Women (Prohibition) Act, 1986

This regulation forbade the disparaging or offensive portrayal of women and girls in media, publications, and advertisements. It helped control derogatory depictions that led to the objectification of young girls.

1.6.3 Recent Phase (2000s–2020s)

Following 1990, India made a significant transition from a welfare-oriented to a rights-based paradigm in its approach to the girl child. Education was guaranteed as a fundamental right by constitutional amendments such as Article 21A and the

RTE Act. Early marriage, foeticide, and exploitation were immediately addressed by legislative developments such as the Child Marriage Prohibition Act, PCPNDT Act, and POCSO Act. At the same time, judicial activism broadened the scope of Article 21 rights. In accordance with India's international obligations under the UN Convention on the Rights of the Child (UNCRC) in 1992, the global women's rights movement (Beijing Conference, 1995) and India's adoption of several gender-sensitive policies, these actions taken together not only protected the girl child from abuse and discrimination but also encouraged her survival, growth, and empowerment.

Constitutional Measures

a. 86th Constitutional Amendment Act, 2002

This provision was focused at the educational empowerment of the girl child, addressing gender disparities in school enrolment.

- **Inserted Article 21A** –Free and compulsory education was made a **Fundamental Right** for children under age group 6–14 years.
- **Recast Article 45** – Directed the State to provide early childhood care and education for children below six years.
- **Inserted Article 51A(k)** – To provide education to children between 6–14 years is a fundamental Duty of parents/guardians.

b. Judicial Expansions of Article 21

- **Unni Krishnan v. State of Andhra Pradesh (1993)**⁷: Declared the right to education a part of the right to life.
- **MC Mehta v. State of Tamil Nadu (1996)**⁸: Directed ban of child labor in hazardous industries and promoted education for working children.
- **Vishaka v. State of Rajasthan (1997)**⁹: Established rules against sexual harassment in the workplace, providing young women and adolescent girls with indirect protection.

⁷ www.indiankanoon.org

⁸ www.nayalegal.com

⁹ www.lawctopus.com

Legislative Measures

a. Protection of Children from Sexual Offences (POCSO) Act, 2012

It is a comprehensive statute that guards against sexual exploitation and abuse of children (boys and girls under the age of 18). The law made the reporting, investigation, and trial procedures child-friendly. It acknowledged aggravated offenses in when a girl child is the victim.

b. Juvenile Justice (Care and Protection of Children) Acts

The Juvenile Justice Act of 2000, which was amended in 2006, 2015, and 2021, took the place of the 1986 act. It gave children in need of protection a structure for adoption, care, and rehabilitation. The statute specifically addressed the exploitation, trafficking, and abandonment of girls. In order to strike a balance between public safety and child protection, the 2015 Amendment permitted minors (16–18 years old) implicated in serious offenses to face adult trials.

c. Child Marriage Restraint → Prohibition of Child Marriage Act, 2006

The 1929 Act was superseded by this law, which had more stringent requirements. According to the law, child marriages can be dissolved at any time by the child signing the agreement. Along with the legitimacy of children born out of child marriages, it also covered the housing and care of young females.

d. Right of Children to Free and Compulsory Education (RTE) Act, 2009

Children between the ages of 6 and 14 were required to receive free and compulsory education under this rule. It outlawed harassment, physical punishment, and gender discrimination in schools. Reserved 25% of seats in private schools for underprivileged students, favouring girls from underprivileged backgrounds.

e. Prohibition of Sex Selection and Female Foeticide

It focused at curbing female foeticide and improve the child sex ratio.

- **Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (PNDT Act)** – Regulated the use of prenatal diagnostic techniques.
- **Amended as the PCPNDT Act, 2003** – Prohibited sex selection before and after conception and banned advertisements relating to pre-natal sex determination.

1.7 Literature Review

The rights of the girl child in India have long been situated at the intersection of social norms, cultural traditions, and evolving legal frameworks. Despite a robust legal architecture that includes both constitutional guarantees and international commitments like Convention on the Rights of the Child (CRC), systemic challenges continue to hinder the realization of these rights in practice. This review of literature critically examines national and international studies that address the multifaceted dimensions of girl child rights—ranging from education, health, and protection from exploitation to broader issues of gender equality. This foundation helps frame the ongoing need for a deeper, more nuanced understanding of how socio-legal mechanisms impact the lives of girls in India.

1.7.1 Indian Perspective

Bibliometric analysis by **Chinchu (2025)**¹⁰ examined global and Indian research trends in Child Rights from 2015 to 2024, analysing 20,670 peer-reviewed articles and 589 Indian publications. The study identified disparities in thematic focus, collaboration dynamics, and research impact. Globally, Child Rights research has grown steadily, peaking at 2,400 annual publications, driven by institutions in high-income countries (e.g., USA, UK) with robust international collaborations (60% Multi-Country Publications). In contrast, India's output, though rising to 100 articles in 2024, remains fragmented, dominated by Single Country Publications and underrepresented in global discourse. The study underscored the need for multidisciplinary frameworks, South-South partnerships, and policy alignment with Sustainable Development Goals to bridge regional and thematic divides. Limitations include reliance on a single database and exclusion of grey literature. This work provides a foundational roadmap for equitable, inclusive child rights research.

Study conducted by **Iqbal (2024)**¹¹ provides an overview of the present status and challenges facing girl child education in India. Although enrolment rates for girls in primary education have achieved near parity with boys, with a Gross

10 Chinchu, C. (2025). The Global and Indian Research Landscape of Child Rights. Available at SSRN: <https://ssrn.com/abstract=5200628> or <http://dx.doi.org/10.2139/ssrn.5200628>.

11 Iqbal, J. (2024). Education of girl child in India: Present Status and Challenges. *The Academia International Journal of Multidisciplinary Research*, Volume 2, Issue 7, July 2024, pp. 554-569.

Enrolment Ratio (GER) of 96.3%, substantial challenges persist at the secondary level, where the GER drops to 79.5%. Socio-economic barriers, including poverty and the need for girls to contribute to household labor, significantly impede their educational progress. Cultural factors such as early marriage further exacerbate these challenges, with 27% of girls married before the age of 18. While governmental initiatives like the Beti Bachao Beti Padhao (BBBP) scheme and the Kasturba Gandhi Balika Vidyalaya (KGBV) program have made strides in addressing these issues, regional disparities and inadequate infrastructure in rural areas continue to undermine these efforts. This underscores the need for a multifaceted approach that includes community engagement, infrastructure development, and strict enforcement of laws against child marriage to ensure the holistic education and empowerment of the girl child in India.

A study by **Sarvaani et al. (2024)**¹² explores the finer points of the Indian legal system's framework for protecting children's rights with the goal of clarifying the vital interaction between national legislation and international standards. The Juvenile Justice (Care and Protection of Children) Act, 2015, is the cornerstone of the several laws that establish children's fundamental rights in India. The United Nations Convention on the Rights of the Child (UNCRC) and other international treaties and conventions that India has ratified are, nonetheless, closely related to its domestic legal framework. For children's rights to be fully and uniformly protected, it will be difficult to close the differences between these national laws and international norms. This study aims to add to the body of knowledge on child rights by offering a thorough analysis of India's legal system. This study sought to educate academics, legal professionals, and policymakers about the gaps and possible areas for improvement in India's legal framework protecting children's rights by probing the resemblances and differences among domestic legislation and international norms. The study came to the conclusion that even while laws and policies protecting children's rights have advanced significantly, ongoing attention and coordinated effort are still desperately needed to close enduring gaps and overcome enduring obstacles.

12 Sarvaani, V.V., Pratima, J., Satyanarayana, P., Charan, J.L., Krishna, M.M. and Charan, J.K. (2024). Legal Architecture Of Child Rights In India: Bridging National Legislation with International Standards. Educational Administration: Theory and Practice, 30(6), 170-179 Doi: 10.53555/kuey.v30i6.5137

From the standpoint of child mental health, **Srinivasan and Shruthi (2024)**¹³ compared Indian law with the UNCRC. The Indian national site for legislation found laws passed after 1992 that used the search phrase "child." These were contrasted with particular UNCRC articles that were shown to directly or indirectly affect children's mental health. Only 11 of the 32 laws passed after 1992, according to the analysis, address various facets of children's mental health. In their preamble or text, just three make reference to the UNCRC. Article 24 was covered by six of the eleven pieces of legislation, whereas Articles 32 and 34 were each only covered by one piece of legislation. Notably, very few laws address the participation element of the guiding principles, whereas the majority of laws concentrate on child safety. The assessment emphasized the necessity of incorporating the concepts into future Indian legislation and treating children's mental health as a basic right.

Research on Child rights in India by **Johnson (2023)**¹⁴ provides a complete examination of rights of child in India, with a focus on the legal frameworks and policies established to safeguard and encourage the welfare of minors. It examined the main aspects of child rights as defined by the Convention on the Rights of the Child (CRC) and India's efforts to comply with its obligations under the CRC. The paper also addressed the obstacles to implementing child rights, particularly in vulnerable and disadvantaged communities. The research aimed to cast light on the growth made and fields requiring further attention to promise the effective safeguard and fulfilment of rights of child in India by analysing existing literature and legal documents. The paper recommended that the Indian government must ensure that all births, fatalities, and migrations are recorded and monitored. The registrar general should include all registered births, funerals, migrations, and marriages in the monitoring of children's well-being and school enrolment. 6% of the gross domestic product or 20% of government expenditures should be allocated to education, with 50% of these funds allocated to elementary

13 Srinivasan, S.P. and Shruthi, S. (2024). A Comparative Review of UNCRC and Indian Legislation from the Child Mental Health Perspective. *Indian Journal of Psychological Medicine*, Volume 46, Issue 4, July 2024, Pages 289-297, <https://doi.org/10.1177/02537176241226714>.

14 Johnson, C. (2023). Child Rights in India Comprehensive Analysis of Legal Frameworks and Implementation Challenges. *International Journal of Law Management & Humanities*, Volume 6, Issue 4, pp. 2414-2425, DOI: <https://doi.org/10.1000/IJLMH.115669>.

education. Teachers who are qualified and regularly employed should be recruited to assure a quality education, and child rights laws should be enforced to eliminate child labour, servitude, and trafficking. A quality education system with measurable indicators for parental and community monitoring should be established. Privatizations, such as Public Private Partnerships and franchising to corporate bodies, should be eliminated to prevent profiteering, commoditization, and a deterioration of the public education system. The RTE Act should be amended to cover the educational costs of 25% of students from disadvantaged communities.

Kathuria (2023)¹⁵ highlighted that the major issues affecting women in India must be addressed in order to reduce the growing injustice toward them. To that end, many programmes and schemes have been put in place. But Gender bias always plays a negative role in terms of women and children. India has proper enacted laws for the protection of women and children, constitutional laws, legislations. Still the society i.e. women and children face those situations which leads to the problems like- girls become exposed to the possibility of child marriage, pregnancy at teenage level, child labor, poor education and health, sexual harassment, exploitation and violence against women. The research paper tried to bring out the constitutional amendments, legislations which were enacted by Government to ensure their safety and security and equal progress in attainment of equal rights for the welfare of the being which facilitate the women empowerment and welfare of the children.

Meena and Hazarika (2023)¹⁶ in their research aimed to comprehend the value of girls' education in India for their empowerment. The study was purely based on qualitative research and secondary data was collected from authentic government reports, websites, books, and journals. In this study, an attempt was made to point out gender discrimination, female education, and the reason dropout of girls from

15 Kathuria, J. (2023). Rights and Protection of Women and Children in India: A Public Issue. *International Journal of Law Management & Humanities*, Volume 6, Issue 1, pp. 650-661, DOI: <https://doi.org/10.1000/IJLMH.114096>.

16 Meena, K. and Hazarika, S. (2023). The Importance of Empowering and Educating Girl Child in India. *Integrated Journal for Research in Arts and Humanities*. Volume-4 Issue-1, January 2024, PP. 29-35. <https://doi.org/10.55544/ijrah.4.1.4>.

school. In light of this, it was determined that education may catalysed awareness, equity, and equality for women and girls in their revolutionary process of empowerment and the long-term sustainable development of a nation. The findings of the study were that as we compared all the states, not a single state witnessed a higher or equal literacy rate concerning girls, it is always lower than boys. The highest rate of girl dropout in India is in class range I-IV. Meghalaya has the highest rate of female dropouts with 60.6 followed by Jharkhand and Bihar with rates of 43.2 and 30.7 respectively. The study further suggested a few measures to ensure holistic female education to empower them including both the economic and societal development of women.

Modi (2023)¹⁷ in her study attempted to deal with the questions such as what is judicial activism? How does the Indian Constitution deal with Judicial Activism? The extent and protection of child right in world and global scenario. The study demonstrated how the prevalent cultural norms in India impact and guide many important aspects of child protection. Families, including extended family, are viewed as the major caregivers for children, whether it be for disciplining them or caring for them when their parents are away. “There is indeed a real chance that the government's engagement will deteriorate as a result of the judges' militancy. Unwelcome decisions are now left to the judiciary by the administration. The judicial powers themselves may eventually become less effective if they are used frequently in the administrative field.”

Study conducted by **Rupeshharathi (2023)**¹⁸ intended to know not only about the problems faced by the girl children in the Indian society but also the punishment that are available for the offender who are committing the offences against the girl children in India. The research also focused on the reform measures for the girl children who are affected due to an offence and the present stage of the offences which are committed by the offenders against the girl children. The primary and secondary data was collected through online

17 Modi, R. (2023). Legal Framework for Protection of Child Rights: Constitutional Perspective. *Law Essentials Journal*, Volume 3, Issue 3, 2023.

18 Rupeshbharathi, P (2023). A Study on Types of Problems Faced by a Girl Child in Indian Society and an Overview of Legislative Solutions, *Indian Journal of Law and Legal Research*, Volume V Issue V.

questionnaire, online surveys, magazine, journal, books and articles. The research was based on around 200 samples collected by the way of the survey. The study showed that more crimes are conducted with girl child in the night time and to tackle this there is a need to appoint more female police officers to tackle this situation. Research showed that there even in the school itself there are several offenses taking place against the girl child.

Chauhan and Kumar (2022)¹⁹ aimed to study importance and need of higher education for the girls students; to identify factors affecting girls higher education; to examine the view of parents of students and society about higher education for girls; to analyse educational development programme of women through Government initiatives and schemes; to analyze the effect of challenges on the academic & personal front and to provide suggestions how to minimize and overcome from the problems. In results sex biases was reported as major problem in maximum girls at home and society level followed by early age marriage and financial problem. The household chores at home were also considered the factors affecting education of girls. The girl students were highly motivated to avoid higher education. At college level, financial problem was found as major factor affecting girls' education followed by transportation, co-educational problem; gender discrimination and physical harassment at college level were reported as factors affecting girl's higher education.

Dadhich (2022)²⁰ demonstrated the Indian Supreme Court's action to protect children from various forms of exploitation via a number of case studies. Even while the Supreme Court has frequently issued admirable guidelines and suggestions to safeguard the fundamental rights of underprivileged children, the government machinery regrettably fails to adequately adopt and execute these guidelines and recommendations. When it comes to the execution of human rights in general and child rights in particular, the Indian judiciary's performance stands out as a significant contribution. By establishing regulations regarding their health and medical facilities, regularizing their working hours, and setting their

19 Chauhan , A. and Kumar, S. (2022). A Study on Problems and Challenges Faced by Girl Students in Higher Education. *Philosophical Readings*, Volume XIII, Issue 4 (2022), pp. 130-135.

20 Dadhich, V. (2022). Child Rights and Child Protection: Issues, Challenges and Strategies Role of Judiciary in Protecting Child Right *International Journal of Advances in Engineering and Management (IJAEM)*, Volume 4, Issue 2 Feb 2022, pp: 1538-1542.

compensation, the judiciary has consistently taken proactive steps to protect them from the exploitative practices of their employers. In accordance with our constitution's mandate, the judiciary has even instructed the states that it is their responsibility to establish an atmosphere in which child laborers may grow and develop in a healthy way and with complete dignity.

Kad (2022)²¹ in her study tried to examine the condition faced by female child in India in the presence of numerous issues that girls face, such as female foeticide, forced marriage, girl trafficking, unequal treatment in the fields of education, legal rights, medical care, and even her right to life, as well as the strategies that promote the realization of their human rights. India alone accounts for 20 per cent of the world's children and thus has a significant influence in the achievement or non-performance of global child rights and gender equality targets as outlined in the Sustainable Development Goals (SDGs) and the United Nations Convention on the Rights of the Child (UNCRC). Simply put, if India fails to meet its goals, the entire world will fail. The study concluded that the marginalization of girls is a worldwide phenomenon. In Indian society, the female child has been the target of numerous types of discrimination at all stages, impacting her physical, sociocultural, and mental well-being. Despite the fact that various schemes, summits, conferences, and events have been held to promote girl child rights, male children are preferred over girls, and female children are discarded. It is fair to say that the century-old prejudice against girls can only be overcome by changing society's attitude as a whole.

Panda and Singh (2022)²² attempted to investigate the extent of child prostitution and assessed the risks that those young children face as well as the reasons behind it. The study then turned its attention to India's regulations regarding child prostitution. The essay concluded by attempting to assess the issue's trajectory in India and offering some suggestions and remedies to stop child prostitution. The investigation came to the conclusion that the worst kind of child labor is child prostitution. They are subjected to some form of coercion or

21 Kad, S. (2022). Girl Child in India: A Situational Analysis. *International Journal of Research Culture Society*, Volume - 06, Issue - 03, March – 2022, pp. 160-162.

22 Panda, S. and Singh, A. (2022). Child Prostitution: How We Have Failed as a Society. *Indian Journal of Integrated Research in Law*, Volume II Issue I, pp. 221-233, DOI: IJIRL/V2-I1/A19.

intimidation in order to keep them in their confines. Children are unable to look for assistance on their own. It occurs when children are sexually exploited for financial gain. It has many different aspects, such as child trafficking, prostitution, mental and physical abuse, and pornography. For the profit of the traffickers, young children are abducted, coerced into slavery, subjected to hazardous labor conditions, or involved in any other illegal activity. The study suggested addressing child prostitution from a variety of perspectives. State authorities should take measures to ensure that no new incumbents enter this sector, but they should also set up rehabilitation centers for children and even young individuals involved in this commerce. The state ought to investigate the issue of giving these kids a foundational education so they may live honorable lives. Guidance and counseling should be offered to them both within and outside of the school. People should be made aware of the negative impacts of child prostitution.

Rights of children and the issues they confront in India were discussed by **Prakash (2022)**²³ in his study. Children in India are eligible to a number of rights, including the rights to health, education, life, protection, identity, and so on. However, not every youngster is receiving their rights. Half of Indian youngsters between the ages of 6 and 18 do not attend school. Instead, they are engaging in unlawful activity. Health, education, poverty, child labor, and Articles 14, 15, 16, and 21A of the Indian Constitution were all covered in the paper.

In her paper, **Priyanka (2022)**²⁴ tried to give a brief overview of the constitutional provisions and legal mechanisms that are available to protect children's rights in India, including the rights to equality, education, and protection of juveniles, as well as the provisions that protect children from exploitation, such as the bans on child labor, female infanticide, child marriage, child trafficking, and child sexual abuse. The study's scope was restricted to India's legislative framework for child protection and the issues facing children. The study concluded that the objectives of all these provisions will be satisfied only when these provisions are effectively, promptly and strictly implemented. On

23 Prakash, A. (2022). Child Rights and Their Problems. *Journal of Legal Research and Juridical Sciences*, Volume 2, Issue 1, 2022.

24 Priyanka (2022). Legal Mechanism for Protection of Child Rights in India. *Indian Journal of Integrated Research in Law*, Volume II Issue I, January 2022 – February 2022, pp. 895-903, DOI: IJIRL/V2-I1/A79.

the other hand it is the duty of the parents and the general public to be aware of these provisions and the programmes of Government of India to provide a good environment for the development of children such as Mid-Day Meal Scheme, Shishu Greh Scheme, Integrated Child Development Services, Sarva Shiksha Abhiyana, Community Based Production of Nutrition Food, Pilot Project to Combat the Trafficking of Women and Children for Commercial Sexual Exploitation, CHILDLINE 1098 and so on.

Hareket and Kartal (2021)²⁵ focused on qualitative study on children's rights in primary schools. The study aimed to reconceptualize and interpret research findings to develop new insights rather than simply summarizing articles. The study adopted meta-synthesis, which is a qualitative research design. The sample consisted of 21 qualitative studies: 14 scientific articles from the International Scientific Indexing (n = 9) or the Social Sciences Citation Index (n = 5), and seven national theses (one Ph.D. thesis and six master's theses). Data were analyzed using inductive content analysis. The results showed that most research on students' rights in primary schools addresses the right to participation but that some studies also focused on raising students' awareness of the right to education and children's rights. However, there is no research on other rights. Studies also made three recommendations: School staff should have a certain degree of literacy concerning children's rights; schools should adopt approaches based on children's rights; all segments of society should participate in training on children's rights.

Joshi and Sharma (2021)²⁶ conducted their research to understand the importance of girl child education in India. The research pointed that it is very important to educate girls because education can mould the life of a woman in a considerable way. She can make correct decisions regarding her career, marriage and family on her own. She would recognize her rights in society and act upon them as per her conscience. The research concluded that there has been the formulation of several policies and plans to improve the literacy rate in India. RTE has brought some positive changes in gender disparity in schooling. But it focuses more on primary level of schooling that is the major reasons for dropping out drastically after ending their basic education. NEP is considered to play an important role to tackle this problem. Gender inequality is among the biggest challenges

25 Hareket, E. and Kartal, A. (2021). An Overview of Research on Children's Rights in Primary School: A Meta Synthesis. *Children and Youth Services Review*, Volume 131, December 2021, <https://doi.org/10.1016/j.childyouth.2021.106286>.

26 Joshi, K. and Sharma, N.B. (2021). Importance of Girl Child Education in India. *Journal of Acharaya Narendra Dev Research Institute*. Vol-29 (Jan 2020 - Jun 2021, , pp. 98-101.

today in India. This can be tackled by eradicating poverty, providing free and compulsory education to girls, proper counselling, parenting enlightenment, and enhancing their safety. To ensure the enrolment of girls in schools, government should take proper measures to implement the policies on the ground level. The task of undisputable girl-child education should be given priority.

In order to address the pervasive gender preconceptions and conventions as well as the gender-specific crime rates, **Agarwal (2020)**²⁷ has included case studies, facts, and data in her study. In order to emphasize these facts, the article used India as its subject of study and discovered figures that were all based on the present 21st century chronology. It sought to demonstrate that acceptance of equality in the face of adversity and obvious discrimination undermines centuries of women's fight and that, under the boundaries outlined, the expanding norm is untrue. The study found that even among the educated members of society, there is a significant intellectual divide that makes India the most dangerous country for women on the planet, causing half of its population to suffer, even though the country has achieved the pinnacles of space exploration and international renown. Discrimination is common in rural areas where it is visible in its most basic form, but it is also present in more developed and educated societies in a number of behaviors and rituals. In India, having a female child is still considered a misfortune, and patriarchy is firmly ingrained in basic duties and traditions across castes, religions, and socioeconomic strata. To successfully protect one's interests, the research recommended raising knowledge of the different rights and legal assistance available to women. To achieve this imposed equality, people's mindsets and ways of thinking must shift at the very foundational level. For the court to guarantee justice, more laws must be created and the current ones must be properly enforced.

Study conducted by **Gupta (2020)**²⁸ aimed to critically evaluate how the laws, policies for rights of child in India are protecting children and to deliver the needed direction to the government for the safeguard of children and better and effective implementation of child laws in India. It is believed that a human less than 18 years of age is more susceptible than an adult in a condition under which they survive, so they are more affected than other age groups by the actions of society at large. Children are different from adults, who possess the ability to take their own decision and are able to differentiate between what is right and wrong for them. The study concluded that child

27 Agarwal, E. (2020). Discrimination Faced by a Girl Child in the 21st Century in India. *International Journal of Advance Research, Ideas and Innovations in Technology*, Volume 6, Issue 5, pp. 22-26.

28 Gupta, S. (2020). Law, Policies, and Practice of Child Rights in India. *Journal for Law Students and Researchers*, Volume 1, Issue 4.

health and nutrition in early childhood, i.e. children below 6 years of age requires individual attention. This issue is an international issue but has never been taken into consideration by the national governments. Therefore, the society plays an important role to downfall the issue raised.

The focus of **Parmar's (2020)**²⁹ study was international law and families. It aims to comprehend the significance of the 1989-signed United Nations Convention on the Rights of the Child. This study builds around the benchmark set by the convention and its relevance in India. The researcher builds a comparison between the Convention and the legal framework in India. India, being a culturally rich country, has various personal laws governing it, the article also addresses if the personal laws become an encumbrance in securing the rights of a child. Mainly, it shall enrich the reader on the domain of the provisions of UNCRC, and their replication in Indian law. Even though, UNCRC came into being 40 years after India's independence, India's laws find mention of the rights of a child. The reason for the same remains that India's constitution influences the Universal Declaration of Human Rights which seeks to shield the rights of a child. With this article, the researcher hoped to increase the existing research on Child rights laws and enrich the reader on new facets of the safeguard of child rights in India. The study concluded that India as a country has ensured that is fully committed to the Convention's resolution and it is seen in the government policies as well.

Choudhuri (2019)³⁰ in her study seeks to transcend mainstream protectionist rhetoric framing conceptualizations of children's rights in digital spaces, and to proffer more empowering, holistic and inclusive approaches towards effectuating their virtual citizenship. By undertaking inter disciplinary analyses, the paper seeks to delineate a sound normative and epistemological framework that conceptualizes digital spaces as actuating children's rights. Further, the study seeks to examined the key issues and challenges in realizing, broadly, the 3 P's of "Participation", "Provision", "Protection" and allied rights, along with guiding principles enshrined in the UNCRC, particularly with reference to digital spaces; and by employing these insights, it proposes to proffer pragmatic legal and policy recommendations that effectuate children's rights in such spaces, especially in the Indian context. The study settled with a note that the foregoing discussion demonstrates the requirement for re-imaginings of virtual spaces. These spaces have the potential for forging transnational interest-driven collectives, augmenting

29 Parmar, A.S. (2020). Rights of a Child: Through United Nations Convention on Rights of a Child and Indian Laws. *Journal of Legal Research and Juridical Sciences*, Volume-3 Issue-2, pp. 624-640.

30 Choudhari, A. (2019). Conceptualising Children's Rights in Digital Spaces: Emerging Issues and Challenges. *Socio-Legal Review*, Volume 15, Issue 2, pp. 151-179, <https://doi.org/10.55496/NTPF6562>.

children's right to be heard, as well as positing new frontiers of harm and exploitation of children. In macro-contexts, children's political participation and citizenship-praxis must be mandatorily fostered, so as to ensure that such digital-governance paradigms do not undermine the spectrum of their freedoms and rights. Regardless of how well-meaning a cyber-security legislation or policy measure may be, or that it may be intended for children's own protection, the full promise of such a measure cannot be achieved without fructifying children's participative stake. This is because adult-centred governance paradigms have often ignored children's agency, autonomy, creative potential and capabilities in constituting and reconstituting digital spaces for themselves.

Choudhury (2019)³¹ talked on how children's rights are violated in India. All socioeconomic levels, all ethnic and cultural groups, all religions, and all educational levels violate children's rights, according to the author. Abuse may take many different forms, including sexual, emotional, physical, and social violations. It is widely acknowledged that children have suffered the most under the current sociolegal culture, despite the fact that India has several normative laws safeguarding children's rights and advancing their welfare. Children's suffering has been essentially the same across all nations. Children of all backgrounds, whether from wealthy or impoverished families, are nonetheless actively or passively exposed to a variety of abuses and cruelties despite the existence of such child welfare legislation. As a result, since the establishment of the so-called civilized society, different sleights have gradually evolved into violations of children's rights in India. According to the study's findings, children are humanity's most beautiful gift. Their rights must be upheld, and they must have access to all of humanity's resources. Depriving a kid of their childhood in any way—economically, socially, physically, or mentally—will inevitably rob the country of its potential human resources. Children are the great promise of tomorrow, the dawn of humanity and buds of social development. **Chowdhury and Hossain (2019)**³² conducted their study with the motive to analyze the awareness on the part of teachers regarding child rights in school and to explore suitable and protective environment in the school. The researchers used quantitative method of research. The results of the study displayed that many of the school teachers are well aware about child right. Male teachers were found to have

31 Choudhury, A. (2019). Violation of Child Rights: in Indian Perspective. *International Journal of Current Research*, Volume 11, Issue, 08, pp. 6684-6687, August, 2019, DOI: <https://doi.org/10.24941/ijcr.36456.08.2019>.

32 Chowdhury, S.S. and Hossain, K.M (2019). A Study on Child Rights Awareness Among the Secondary School Teachers of West Bengal. *Journal of Emerging Technologies and Innovative Research (JETIR)*, Volume 6, Issue 6, pp. 1129-1134.

slightly high awareness than female teachers. In the conclusion the study pointed that all children have the right to live in safe and dignity in a protective environment. But the sufferings and problems of children are enormous and widespread. It's evident that children around the world are economically exploited, socially discriminated, educationally deprived and physically mistreated. Without an environment that supports their physical and social well-being and safety, children cannot grow up to be responsible and productive members of our society. In order to ensure that all of our children live in a secure, dignified, and nurturing environment, teachers are crucial. Therefore, it is essential that all educators are aware of the numerous societal ills that are still prevalent and have a detrimental effect on children's development, as well as the laws that are still in place and may be used to protect children's interests.

Dalal (2019)³³ in her research attempted to analysed the current educational status and condition of girl/women in India in the light of data and their historical background. The author pointed that the girl child continued to be discriminated and denied education due to various reasons despite being various plans and policies of the Government of India. The research tried to find various problems faced by girl child in India and has suggested viable solutions so that at least educationally they can come at par with men in the society. The research concluded that Girl child education is affected by many issues such as poverty, social values, inadequate school facilities, shortage of female teachers, and gender bias in curriculum which became their challenges in getting the Right to Education. They have to face challenges and hindrances from familial to societal levels to administration level also.

Kathuria (2019)³⁴ in her study examined the problems of access to education by women in India. Drawing on existing literature and various statistics concerning women's education, the paper provides an overview of the situation of education in connection to women and highlights some of the issues and barriers to women's education. The study also tried to cover the schemes those have been introduced by the government to increase the access, expand coverage and improve the education quality among women in different parts and segments of the country. Based on the study of emergent issues the research has given recommendations like Incentivisation for education of the girl child, Reservation for women in education. Considering that women make up about half of the population, the article came to the conclusion that ignoring their education is bad for a

33 Dalal, S. (2019). Right to Education and Girl Child in India. *Journal of Emerging Technologies and Innovative Research (JETIR)*, Volume 6, Issue 7, July 2019, pp. 20-25.

34 Kathuria, T. (2019). Girl Child Education in India – A Situational Analysis. *Anusandhan - NDIM's Journal of Business and Management Research*, Vol. I, Issue II, pp. 52-56.

country's progress. Beyond the apparent disparity in the labor pool, women's education plays a significant role in determining their increased self-confidence and self-esteem. It helps them project a positive image, improves their critical thinking skills, and promotes better decision-making by enabling them to make more informed decisions regarding their health, careers, and even their children's education.

By examining many Supreme Court decisions, **Khirale (2019)**³⁵ study investigated how the Apex Court of India interpreted the Constitution's provisions and international obligations relevant to children's rights, including the right to free and compulsory education. The fundamental obligations, governmental policy directives, and basic rights all define how children's rights should be preserved. The study's scope was limited to the Constitution's provisions and the judiciary's response to children's rights and the right to education. According to the survey, central government initiatives like operation Blackboard, midday meals, and Sarv Shiksha Abhiyaan have been put into place to reduce the school dropout rate. However, since a child's education is closely tied to a nation's development, it must be guaranteed that these policies and programs are ongoing rather than temporary. According to the study, despite the fact that several state and federal laws pertaining to children have been created, these laws are not being effectively implemented. Actually, as of right now, our nation lacks a single piece of law that addresses all forms of child abuse and exploitation. Because of our nation's unique socioeconomic structure, the majority of the legal requirements in current legislation are essentially idealized postulates and remote from reality. The issues of child abuse and child rights have not received enough attention in India. Aside from this, concerns pertaining to children's health, education, and general well-being have recently drawn the attention of several public figures; nonetheless, much work has to be done in practice.

Naik (2019)³⁶ made an effort to identify or evaluate children's status on the Indian economy's development ladder at the regional level and demonstrates how the difference in development indicators really speeds up exclusive development. One of the main factors impeding a child's growth is child abuse. "The Protection of Children from Sexual Offenses Bill 2011" was adopted by the Indian Parliament. Despite the numerous laws safeguarding children's rights, millions of Indian youngsters face complex issues in various areas of their life. Although the pace of growth has accelerated due to globalization and liberalization, this segment is still mostly excluded. Not only were the

35 Khirale, N.M. (2019). Child Rights In India: Issues And Challenges. Aayushi International Interdisciplinary Research Journal (AIIRJ), Volume-VI, Issue-VII, July 2019, pp.18-22.

36 Naik, K. (2019). Child Rights & Child Development in India. GAP INTERDISCIPLINARITIES – VOLUME III-ISSUE I, pp. 296-306.

children of marginalized or oppressed groups denied the benefits of achievement, but middle-class and upper-class people also frequently violated their children's rights. Three areas of a child's development have clearly shown violations of their rights, which have a significant impact on their adult destiny. Child Abuse, Child Labor & Childhood Education, and Child Health are these three important areas. Depending on each other, these three aspects work together to create a unique child development index. In India, regional differences in several child development metrics are clearly apparent, and occasionally the subpar performance of two or three states lowers the average circumstances of the entire country. Despite having few legal provisions, the researcher has observed appalling conditions of children in several states, such as the high rate of child mortality, undernutrition, non-attendance at school, involvement in child labor, sexual abuse or other forms of abuse, and neglect of girls.

According to study by **Samiksha and Grover (2019)**³⁷, human rights are not only fundamental rights but also a duty that the state must uphold in order to enable its citizens to enjoy and be protected by them. The study concentrated on women and children, the most marginalized members of society who have been denied human rights since the beginning of humanity. Vulnerable groups are those that are weak and poorly protected by nature or due to long-standing norms, and whose rights have repeatedly been infringed by the dominant segment of society. The United Nations Convention on the Rights of the Child is an internationally approved treaty legislation that outlines the civil, political, economic, social, health, and cultural rights of children. According to the study's findings, a gender-equal society is one in which everyone is free to be who they are and the term "gender" does not exist. Human Rights are rights for all. They are intended equally for all people, including women and children.

Nath (2018)³⁸ in his paper study issues concerning the protection of special children in the school premises along with other allied and incidental disquiets based on an analysis of the RPwD, 2016. To understand the problem and to get the views of parents, caretakers, care-givers regarding the environment and situations revolving around the problem, the author adopted the survey method and empirical study in various special schools and institutions of the state of Assam. The paper concluded that there are changes which need to be made in routine regarding the dealing with a special child. Whether the case of disability is mental retardation, cerebral palsy, traumatic brain injury, down-

37 Samiksha and Grover, K. (2019). Human Rights: Rights of Women and Children. GAP Interdisciplinarity – Volume III, Issue I, pp. 321-333.

38 Nath, H.R. (2018). The Saga of Right to Education of a Special Child: The RPWD, 2016 Perspective. Child Rights Law and Policy Review, National Law University and Judicial Academy, Assam, pp. 33-43.

syndrome, amputation or learning disabilities; dealing and adjusting to the problems that come with children with special needs is always the task of great patience and endurance. For those who care for them daily i.e., parents, care givers and care takers most certainly build up over time, but sometimes letting a person learn over the special child and then take care of that special child becomes like an experiment. This can be stated as one of the foremost reasons for the inclusion of provisions requiring specially trained teachers and care takers to teach a special child in schools under the RPwD Act, 2016.

Ansari (2016)³⁹ identified few of the problems faced by children in India and further suggested some innovative measures through a close understanding of the socio-cultural Identities of the Indian Society, which helps to eradicate the ‘extreme roots of poverty’, charging means (Economic & Social) towards child labour and child trafficking, with the strong support of Constitutional Norms and Innovative socio-educational nuances in the Indian society. These measures are succeeded to a large extent in the ‘Urban’ areas of India. The identified problems are child labour, Child Trafficking, Health Hazards Faced by Children in Indian Society like infant mortality. Some of these measures are (i) Awareness among children and parents about the importance of healthy life preaching in small or big crusades, (ii) Education policies and programs should implement in unique way, according to culture, tradition, values and more over ensuring needs for the basic society, (iii) Creating a sensitization among the society and offering some fellowship to the poor children on the meritorious and needy basis.

Chakraborty (2016)⁴⁰ conducted a study on “children of the families living on the streets of Kolkata with special reference to child right to protection.” The objective of the research was to elicit the socioeconomic profile of respondents and to identify types of abuses being perpetrated against child both by family member and outsider and to know the perception of parents towards abuse by family members and outsiders. The researcher was conducted on a sample of 200 children in the age band of 12-16 years. The sample was divided in male and female. Data collected tools was interview. Key outcomes of the study revealed that the migrant families had lack of livelihood option in their native village and the violence against the children occurred in different ways within family, at school. There were 81% children who felt uncomfortable to live on the streets.

39 Ansari, P.A. (2016). Rights of Children in India: Problem and Prospects. *International Journal of Innovative Research & Development*, Volume 5, Issue 6, pp. 48-52.

40 Chakrabort, S. (2016). A Study of Children of the Families Living on the Streets of Kolkata with Special Reference to Child Right to Protection, Department of Social Work, University of Visva-Bharati, Retrieved October 23, 2018, from <http://hdl.handle.net/10606/103437>.

Understanding the opinion and acquaintance of 584 Indian community members on child rights, as well as their perceptions of whether certain child rights were actually achieved, was the aim of the research "Child Rights as Perceived by the Community Members in India" by **Deb et al. (2016)**⁴¹. A vast majority of participants (96–98%) had generally good sentiments regarding child rights, meaning that children should have rights in all areas save the right to meet others (Article 15 of the CRC). While participants were unified regarding the poor lived experiences of child rights in actuality, the majority of participants had moderate and varying knowledge of child rights-related laws throughout the cities. There was a notable variation in the distribution of attitudes and perceptions on child rights throughout the cities. Overall, the highest knowledge was of the Rights of Children to Free and Compulsory Education Act, 2009 (91.3%), followed by the Prohibition of Child Marriage Act, 2006 (89.6%) and the Child Labour (Prohibition and Regulation) Act, 1986 (89.7%). The study's conclusions supported raising community knowledge of children's rights and the consequences of violating them.

Marimuthu (2016)⁴² talked on the importance of girls and the significant laws that affect children in India. According to early Western historians who wrote about children and their early years, the social history, economy, and family patterns of the Middle Ages included harsh punishment, desertion, and the use of terror and other life-inhibiting tactics. The National Human Rights Commission (NHRC) has consistently worked to focus on children's rights since its establishment in October 1993. Though the first few years of the commission were spent making an overall assessment about the range of issues that affected children, after this task was finished, the commission focused on preventing and eradicating the problems of child rights, child marriage, prostitution, child violence, child rap, and child trafficking. In spite of the fact that the Constitution of India contains significant requirements for the survival, development, and protection of children as well as laws to protect their interests, including the fact that our government of India had corrected the Children's Rights Commission (CRC). Some of the important laws for children discussed in the paper consist of Article 14, Article 15(3), Article 19 (1), Article 21, 22, 23 and 24, Article 41, 44, 45 and 47. The special needs of children are recognized by our constitution in articles 15(3), 24, 39(f) and 45.

41 Deb, Sun, J., Gireesan, A., Kumar, A. and Majumdar, A. (2016). Child Rights as Perceived by the Community Members in India. *International Law Research*; Volume 5, No. 1; 2016,

42 Marimuthu, R. (2016). Importance of Girl Child and the Law Throughout India-A Study. *Historical Research Letter*, Vol.35, 2016, pp. 28-31.

A research to gain awareness of child rights among the parents, school and the children in Chandigarh district was conducted by **Bhargava and Ahamad (2015)**⁴³ with special reference to national commission for protection of child rights. The National Commission for Protection of Child Rights makes sure that all laws, policies, programs, and administrative procedures adhere to the principles of child rights as stated in the Indian Constitution and the 1992 United Nations Convention on the Rights of the Child, which India ratified. The study discovered that many schools were unaware of the standards pertaining to the protection of the children that are established by the National Commission of India. No seminar was held at any of the schools to educate children on their rights. The 1098 child line number and no child protection policy were posted in the main lobby or reception area of any of the schools. To ensure that the fundamental principles of the Convention are effectively prioritized and meaningfully implemented with respect to migration policy and other considerations, the study recommended that States evaluate the impact of migration and any other policies, programs, practices, and decisions on the rights, well-being, and development of all children affected by international migration, whether directly or indirectly. The results of this evaluation should be reflected in future developments of both child protection and migration policy.

Study by **Sadual (2015)**⁴⁴ attempted to highlight briefly the relevant provisions of the Constitution and notable legislative measures adopted to safeguard the child rights in India and also to assess and evaluate the contribution of the judiciary in this field. The research begins with a brief review of the international concerns about child rights. The study came to the conclusion that, despite significant advancements, more work remains to be done in India to fully realize children's rights. The truth is that our nation's children are exploited despite numerous constitutional and legal protections, judicial activism, and government programs and initiatives. Many factors make it impossible for the laws to be implemented effectively. The condition of impoverished children and teens is severe and requires immediate attention due to India's very poor performance in achieving tangible child development outcomes. Violation of the rights of children seems to have reached epidemic proportion in our country. There is a requirement to intensify efforts for children welfare at all levels to implement the policies and programmes of the government and contribute to create a world suitable for children.

43 Bhargava, M. and Ahamad, T. (2015). Awareness of Child Rights Among the Parents, School and the Children in Chandigarh District with Special Reference to National Commission for Protection of Child Rights. *International Journal of Applied Research* 2015; Volume 1, Issue 6, pp. 74-78.

44 Sadual, M.K. (2015). Protection of Child Rights in India: Issues and Approaches. *International Journal of Advanced Research* (2015), Volume 3, Issue 2, pp. 820-826.

Bhat (2014)⁴⁵ in his study attempted to study the gender disparity and socio-economic issues of women in India. Besides this, his study also examined various issues which the women are facing in India. The study concluded that in India women and girls have restricted mobility, access to education, access to health facilities and lower decision-making power, and moreover they experience higher rates of domestic violence. Despite existing reservations for women, their political participation is also hindered even at the panchayat (local governing bodies) level and also at the level of state and nation. Policies on women's welfare and empowerment exist at the national, state, and local (panchayat) levels in many sectors, including health, education, economic opportunities, and political participation etc. However, there are significant gaps between policy advancements and actual practice at the ground level.

Roy (2013)⁴⁶ made an effort to pinpoint the status of children on the Indian economy's development ladder at the regional level and demonstrates how the difference in development metrics really speeds up exclusive development. One of the main factors impeding a child's growth is child abuse. "The Protection of Children from Sexual Offences Bill 2011" was finally adopted by the Parliament of India. The paper concluded that the level of child mortality, child under nutrition, non-attendance of school, involvement as child labour, being sexually or other ways of abused, girl child neglect are gross violations of child rights. Despite having few legal provisions, researcher has observed appalling conditions of children in several states. In few cases non-provisions of suitable rights itself become a stumbling block for the safe guard of the children. However, the provisions of rights are in paper only, proper implementations of rights are rather more important. 'Right protecting agencies' are equally required like 'rights implementing agency', so that implementation and maintenance of rights are both possible. The paper recommended to come out from the shackles of orthodox pattern of ethics and thought and restructure the policies for a better tomorrow.

A study by **Grewal and Singh (2011)**⁴⁷ in India on rights of child inspected the state of child rights in the country, paying particular emphasis to the cultural norms that have influenced and perpetuated gender inequality. The study looked at the potential and constraints of the recently enacted Right of Children to Free and Compulsory Education Act of 2009 in terms of its ability to act as an equalizing force. It also looked at the

45 Bhat, Z.A. (2014). Gender Bias and Socio-Economic Problems of Women in India. *Abhinav National Monthly Refereed Journal of Research in Arts & Education*. Volume 3, Issue 4 (April, 2014), pp. 8-13.

46 Roy, Chandan. (2013). Child rights & child development in India: a regional analysis. *Indian Journal of Regional Studies* 0046-9017. 45, pp. 103-118.

47 Grewal, I.K. and Singh, N.S. (2011). *Understanding Child Rights in India*. Taylor & Francis, October 2011, pp. 863-882, <https://doi.org/10.1080/10409289.2011.596461>.

necessity of challenging damaging conventional ideas that support discriminatory actions against children, going beyond laws pertaining to rights. In order for children in India to enjoy the rights that are currently granted to them, the article's conclusion recommended that meaningful and ethical kid engagement be combined with increased public knowledge and participation.

A study was conducted by **Mohapatra and Dash (2011)**⁴⁸ on 'Child Labour' in Bhubaneswar district in India. The study observed that the trend of 'child labour' is a socio- economic issue in countries like India. The horrible practice of child labor is the result of a number of dreadful realities, including poverty, illiteracy, unemployment, low pay, ignorance, societal biases, regressive traditions, a low standard of life, backwardness, superstition, and the low position of women. Child labor is frequently primarily required by the parents' financial demands. Extensive unemployment and underemployment among the adult impoverished strata of the population, among other things because of the rapid population expansion, are the primary causes of child labor. Some of the reasons that add on to the growth of child labor include large families with poor incomes and frequently inadequate educational facilities, parental illiteracy and misinformation regarding the value of education and the effects of labor on their children's health, and more. The results showed that the socioeconomic status of street children in Bhubaneswar is extremely low, forcing them to engage in rag picking as a means of subsistence. This, in turn, causes children to drop out of school and begin engaging in rag picking activities from an early age.

On an average a child work for 6 hours.

Rights as well as development of child have been the subject of much research. According to Indian rights, a study by **Sathyamurthi (2011)**⁴⁹ found that male and female children receive preferential treatment. The four fundamental child rights—the right to life, protection, participation, and the right to development—were measured in the study according to the gender of the school-age children. The majority of Indian families would rather their sons receive an education alongside their younger or older siblings. The study's conclusions showed that (i) There is a correlation between gender and the degree of treatment on the right to life.

48 Mohapatra, S. and Dash, M. (2011). "Child Labour"- A Product of Socio-Economic Problem for India, Findings and Preventives- A Case of Bhubaneswar (A State Capital of India). Educational Research, Volume 2, Issue 6, pp. 1199-1209 June 2011.

49 Sathyamurthi, K. (2011). Child Rights: A Gender Perspective. Transcience (2011) Vol. 2, Issue 2.

A lot of research has been conducted in the area of development of child as well about child rights. Study conducted by accessed preferential treatment among male and female children based on rights in India. The study tried to measure the four basic child rights, viz., right to life, right to protection, right to participation and right to development corresponding to gender of the children attending school. Most Indian families prefer the boys to be educated to their sibling sisters, whether younger or elder. The findings of the study showed that (i) There is an existence of relationship between the levels of treatment on right to life with the gender. Although the majority of male respondents believed that their parents were pleased with their birth, all female respondents (100%) believed that their parents were not pleased with their birth. (ii) There is a discrepancy between the actual and expected levels of protection for children's rights. The majority of female respondents believed that their mothers physically abuse them; (iii) a greater proportion of female respondents reported being neglected when making decisions than male respondents; (iv) girls were more likely than boys to be able to freely express their opinions to their parents regarding school and teachers; and (iv) girls were more likely than boys to be able to express their needs and interests. About concern to studies, boys are higher in numbers than girls.

1.7.2 Global Perspective

Gavou and Elizabeth (2024)⁵⁰ discussed the female-child and rights, the home environment of the girl-child, investment in the girl-child, and the need for synergy between the school and the home. A lot of attention is being paid to the girl-child in national and global discourse. This has become so because the female-child is vulnerable. Sexual abuse, discrimination, and labour exploitation are some of the ills that befall the girl-child. The fundamental right of the girl-child must be guaranteed at all times, especially right to education. Hunger and poverty have led many girls to drop out of school, some for-street hawking while others for early marriage. Government, school heads and religious leaders must do more to address these issues so the girl-child can attend school and acquire functional education. In view of the myriad of challenges confronting the girl-child, the paper recommended, among others, that Government and all stakeholders in education need to discourage cultural practices such as child marriage; school heads must work hard to ensure parents do not withdraw their children from schools in their localities; and parents need to get the awareness and understanding that

⁵⁰ Gavou, P.T. and Elizabeth, L.K. (2024). Girl-Child Rights, Development and The Home Environment. IOSR Journal of Research & Method in Education, Volume 14, Issue 3, Ser. 1 (May. – June. 2024), pp. 39-43.

allowing their children to attend school so as to acquire useful education is the best legacy they can give their children.

Bourke (2023)⁵¹ argued that understanding and enabling rights of children as per the United Nations Convention on the Rights of the Child (United Nations, 1989) is fundamental for effective educational inclusion, and that in a post-COVID-19 era, children's voices and rights need to be more visible than ever. Understanding 'student voice(s)' is based on understanding children's own aspirations, motivations and experiences of education and the context within which they learn. Although education is a basic child's right, and in many countries is protected through legislation, children with disabilities or support needs are not always afforded their right to experience an education at their local school alongside their peers. There is even less evidence that their 'voices' are sought or heard when decisions are made for them. This silencing of children in education results in their views being invisible in practice. When making decisions about children's education and opportunities, an evidence-based model could feasibly address this, if the right of a child to express his/her views was afforded equal importance as that of the input from practitioners, and research findings. The study summarized that children's right to participate and have their views influence their learning pathways is an important part of evidence-based and rights-based practice for educational inclusion. In periods of uncertainty and change, such as the global pandemic showed, an evidence-based practice model ensures that although there is a degree of evidence through practice-based understandings, and of research findings, individual children in their own context, have an integral role in shaping both the reactions to new events, and the responses to new approaches in learning and inclusion.

In the rush to protect the human right of survival and development, new policies and their implementation magnified the challenges of taking a children's rights approach in adult oriented systems and institutions. **Tisdall and Morrison (2023)**⁵² in their study explored these challenges, drawing on learning from the

51 Bourke, R. (2023). Children's Right and Their Evidence As a Force for Inclusion in Uncertain Times. *Frontiers in Education*, November 2023, DOI 10.3389/feduc.2023.1027493.

52 Tisdall, E.K.M and Morrison, F. (2023). Children's Human Rights Under COVID-19: Learning from Children's Rights Impact Assessments. *The International Journal of Human Rights* 2023, Volume 27, No. 9–10, pp. 1475–1491, <https://doi.org/10.1080/13642987.2022.2036135>.

independent Children's Rights Impact Assessment (CRIA) on policies affecting children in Scotland during 'Covid-19 lockdown' in spring 2020. The article used concepts from childhood studies and legal philosophy to highlight issues for children's human rights, in such areas as children in conflict with the law, domestic abuse, poverty and digital exclusion. The analysis uncovered how persistent constructions of children as vulnerable and best protected in their families led to systematic disadvantages for certain groups of children and failed to address all of children's human rights to protection, provision and participation. The independent CRIA illuminated gaps in rights' accountability, such as the lack of children's rights indicators and disaggregated data, children's inadequate access to complaints and justice, and the need for improved information to and participation of children.

Bhattacharya (2022)⁵³ provides an overview of the origin and evolution of the role of orphanages in the United States. Throughout its history, America's debate about welfare reform has grappled with the question of poor women and their children. One concern seems to be how to remove women from welfare in ways that do not harm innocent children. Periodically, the subject of orphanages becomes part of this larger national discussion. The study reviewed how orphanages began in the United States and traces their history and evolution. It followed the shift in policy from the institutionalization of destitute children without parents to the provision of financial assistance to poor families so that they could care for their children. The paper also detailed how the development of child welfare policy led to a gradual abandonment of traditional orphanages and the reliance on a wider continuum of services; i.e., foster care, group homes, and residential treatment. Finally, the contemporary notions of "orphanages" were discussed, and an analysis was provided on what role they might have in the continuum of child welfare services.

Collins and Wright (2022)⁵⁴ contend that the issues lie in traditional child protection systems and frameworks, and the way in which rights of a child are (or

53 Bhattacharya, N. (2022). Historical Background and Evaluation of Rights of Children. *Indian Journal of Integrated Research in Law*, Volume II Issue I, pp. 1011-1026, DOI: IJIRL/V2-I1/A91.

54 Collins, T.N. and Wright, L.H.V (2022). The challenges for children's rights in international child protection: Opportunities for transformation. *Elsevier, World Development*, Volume 159, November 2022, <https://doi.org/10.1016/j.worlddev.2022.106032>.

are not) understood and operationalised by child protection actors. Relying on a narrative literature review, this conceptual paper presented several examples in support of this view, and argued that more work needs to be done to contextualize and safeguard the rights of children in need of protection. Authors explored the complex interplay between local and global interpretations of rights and recommend that dialogue among actors with different perspectives and socio-cultural experiences of children's rights will produce richer understandings and practices of them. The present worldwide child protection system can be changed as a result of this discussion to help children, their families, and caregivers realize their rights and promote their well-being.

Kukurtcu and Erkan (2022)⁵⁵ aimed to investigate the effects of early childhood Children's Rights and Democracy Education on children's democratic behaviors. The study group consisted of a total of 53 children (28 experimental, 25 control) aged between 60-72 months, who were attending two kindergartens affiliated with the Directorate of National Education in Kayseri. The study used the quantitative research method of pretest/post-test and control group quasi-experimental design. Data were collected by using the Democratic Behavior Scale developed by the researcher. The findings showed that while no significant difference existed between the pretest scores of the experimental and control groups prior to Children's Rights and Democracy Education, the post-test mean scores of the experimental group increased significantly after the training as compared to the control group. In addition, learning was shown to be permanent by the results of a retention test given to the experimental group one month after the program ended. The results showed that the children who participated in the Children's Rights and Democracy Education program displayed higher and more permanent development than the control children in the democratic behavior, autonomous behavior, and knowing one's rights subdimensions of the Democratic Behavior Scale.

⁵⁵ Kukurtcu, S.K. and Erkan, N.S. (2022). The Effects of Children's Rights and Democracy Education on Children's Democratic Behaviors. *International Journal of Progressive Education*, Volume 18, Number 1, pp. 174-193, 2022, DOI: 10.29329/ijpe.2022.426.10.

A paper by **Ugbe et al. (2022)**⁵⁶ documents lessons learned from other countries as well as a practical strategy for protecting the rights and welfare of Nigerian girls. The paper posits that girl children are vulnerable to poor education, domestic violence, child/‘money marriages’, rape by men/women who often go unpunished. To give global protection to them, the UN set specified standards on which member states are to model their national policies. Nigerian government adopted the UNCRC 1989, the ACHPR 1986, CEDAW 1979, also enacted the Child’s Right Act, 2003 and VAPP Act 2015 in response. Despite these, there is a prevalence of such cases in Nigeria. Further, the recent lockdown occasioned by the COVID 19 pandemic has further exposed the underlying ineffectiveness that characterizes Nigeria’s legal, institutional and administrative architecture for the protection of girl children in the country. Accordingly, UNICEF reports that, during the lockdown, a lot of children particularly, females were subjected to sexual molestation, rape, lesbianism, physical assault amongst other damaging acts as a result of the closure of schools and the implementation of other social distancing measures in cities such as Lagos, Abuja, etc. Ineffective enforcement mechanisms, the indifference of government inter alia constitute banes to effective protection in Nigeria. Girl child protection policies in some jurisdictions namely, Finland, Norway, Austria, and Australia were examined. For realistic protection of the Nigerian girl child, the paper recommended that legal and institutional reforms, demonstration of a political will should be adopted.

Fairhall and Woods (2021)⁵⁷ systematic literature study sought to explore children's perceptions of children's rights on a broad scale. There were nine papers from various nations and situations. All of them had access to the opinions of children and youngsters (up to the age of eighteen). Using a recursive hybrid aggregative-configurative synthesis approach, a content analysis was conducted to identify themes in children's perspectives and variables that could influence them. "Awareness of rights," "value placed on (importance of) rights," "impact of having/not having rights fulfilled," "realization and respect of rights," "equality of rights," "identifying and categorizing of rights," and "factors that may affect children's views" were among them. These evolved into a rights realization process, with practice-related and future research implications taken into account. The results showed that youngsters, both those who have had direct rights

56 Ugbe, R.O., Akpanke, S.A., Aloamaka, P.C., & Aboh, P.B. (2022). Pragmatic approach to upholding the rights and protection of the girl child in Nigeria: Lessons from other jurisdictions. *Journal of Legal, Ethical and Regulatory Issues*, Volume 25, Issue 4, pp. 1-15.

57 Fairhall, N. and Woods, K. (2021). Children’s Views on Children’s Rights: A Systematic Literature Review. *The International Journal of Children’s Rights*, Volume 29 (2021), pp. 835–871.

experience and education and those who have not, seem to appreciate, desire to know and learn about, and feel good about their rights. Additionally, after seeing an environment that respects their rights, children want to continue advocating for the rights of all children. When children in residential care do not fully exercise their rights, it has a detrimental effect on their psychological development. This is a focus of the UNCRC (Articles 20 and 21 UN, 1989). Some rights, themes, and principles are more frequently recognized by children than others; they include ideas that go beyond the UNCRC's precise provisions and legal privileges. Although children's rights and feelings are not the same thing, children may experience a decline in wellbeing if they believe their rights are not being upheld. According to the review, children's perceptions of their rights may be influenced by national and cultural variables, social context, age, gender, relationships, and school atmosphere. Although not all of the studies identified substantial gender differences, there were conflicting results on gender, with some identifying women as typically more supportive of children's rights.

The paradox in the United Nations Convention on the Rights of the Child (UNCRC) was discussed by **Quennerstedt et al. (2018)**⁵⁸. Despite this knowledge, attention to conflicting aspects within the convention is limited, and instead, the assumption that the convention represents an international consensus on the meaning of children's human rights seems to be widespread in policy and academic work. Furthermore, the available literature within the field of children's rights is largely silent regarding precise and elaborated knowledge about the inherent contradictions within the UNCRC. The paper expanded upon and specified the knowledge about consensus and inconsistencies within the convention. Through an in-depth study of the drafting process of the UNCRC, the paper identified and displayed both contradictions within the convention, and ways in which the text of the convention can be seen to express consensus. The analysis showed how a certain consensus was produced for respectively civil and political rights, and socio-economic rights, but that different and inconsistent children's rights logics underlay the formation of these respective consensus-formations. The authors particularly argued that the (putative) consensus on different kinds of human rights expressed in the text of the UNCRC draws on inconsistent perceptions of human rights for children. According to the research, ongoing focus on the differing views of children as right holders—which are mentioned in the Convention but are hard to identify—is especially crucial for the ongoing discussion and alteration of the meanings attached to children's human rights.

⁵⁸ Quennerstedt, A., Robinson C. and Anson, J.I. (2018). The UNCRC: The Voice of Global Consensus on Children's Rights? *Nordic Journal of Human Rights*, Volume 36, Issue 1, pp. 38-54, DOI: 10.1080/18918131.2018.1453589.

Taking the UN Convention on the Rights of the Child (CRC) as a starting point for evidence-based policy regarding children's rights in the digital age, **Livingstone and Bulger (2014)**⁵⁹ offered a global research agenda designed to produce evidence of value for policy makers working to promote children's rights. Informed by research reviews and interviews with international stakeholders, four priorities for theory and evidence were identified as: (i) the provision of opportunities that confer benefit, recognising that this may be defined diversely according to the cultural context, (ii) the protection of children from risk of harm, including understanding the relation between vulnerability and resilience, (iii) the balance between risk and opportunities, especially to allow for children's participation even in risky opportunities, (iv) the framing of the research agenda (in terms of concepts, design, measures, and priorities) and the evaluation of policies and initiatives in collaboration with researchers and practitioners from the global South. The research concluded that while admittedly unevenly and often insufficiently implemented around the world, UN Convention on the Rights of the Child remains a consensual guide to the principles and ideals of meeting children's rights offline and, if appropriately developed, online also.

1.8 Research Gap

Although a large quantum of research has been done on women's rights, gender justice, and child rights in India, a critical examination of the body of literature shows that targeted and comprehensive socio-legal study of the rights of girls is still lacking. Most studies examine legal provisions such as the POCSO Act, Child Marriage Prohibition Act, PCPNDT Act, and Juvenile Justice Act in isolation, without assessing their collective impact on the lived realities of the girl child.

Further, existing research predominantly adopts a doctrinal or policy-oriented approach, emphasizing legislative intent and judicial interpretation, but offers limited empirical or ground-level insight into implementation failures, enforcement gaps, and institutional constraints. There is a noticeable lack of studies that critically link legal safeguards with socio-cultural practices such as patriarchy, son preference, poverty, caste dynamics, and educational disparities that continue to undermine the rights and dignity of the girl child.

⁵⁹ Livingstone, S. and Bulger, M.E. (2014). A Global Research Agenda for Children's Rights in the Digital Age. *Journal of Children and Media*, Volume 8, Issue 4, pp. 317-335. ISSN 1748-2801 DOI: 10.1080/17482798.2014.961496.

The literature review identified a lack of comparison between India and other countries in the domain of ‘constitutional and legal provisions’ for girl child. Also, the response of judicial system to crime against ‘girl child’ was found unaddressed.

Thus, there exists a clear research gap for a **holistic, critical, and interdisciplinary socio-legal study** that evaluates the adequacy of legal frameworks, identifies systemic enforcement deficiencies, and situates the rights of the girl child within broader social realities. The present study seeks to bridge this gap by critically examining the law in action, rather than law in books, with specific reference to the Indian context.

1.9 Research Methodology

1.9.1 Introduction

Research methodology acts as the backbone of any scholarly analysis as it frames the systematic approach followed to achieve the objectives of the study. The word research is obtained from the Latin word which means “**to know**”. It is a systematic and replicable method, within defined boundaries, that identify and define a problem. To collect the data and interpret the findings, it follows a well-designed process. The results are disseminated to lead to the generalization of information.

According to **Waltz and Bausell (1981)**⁶⁰. “Research is a systematic, formal, rigorous and precise process employed to gain solutions to problems or to discover and interpret new facts and relationships”.

According to **Kothari (2006)**⁶¹. Research is a pursuit of truth with the help of study, observation, comparison and experiment, the search for knowledge through an objective and systematic method of finding solutions to a problem.

The research entitled “**Right of the Girl Child in India: A Critical Study in Socio-Legal Perspective**” is descriptive research by nature. To achieve the objectives of the research empirical study is conducted with various cases has been studied. The research adopts a **doctrinal and comparative legal research**

⁶⁰ Waltz, C. F., & Bausell, R. B. (1981). Nursing research: Design, statistics, and computer analysis. Philadelphia: F.A. Davis Co. Pg1.

⁶¹ Kothari, C.R. (2004) Research Methodology: Methods and Techniques. 2nd Edition, New Age International Publishers, New Delhi.

framework to examine the judicial response to crimes against the girl child, analyze existing legal provisions, and compare girl-child-centric laws in India with selected foreign jurisdictions.

The methodology has been designed to critically evaluate the effectiveness of laws and judicial interpretations in protecting the rights of the girl child, while also identifying gaps between legal intent and actual enforcement. Despite various constitutional guarantees and a robust legislative framework, the girl child continues to face systemic discrimination, exploitation, and violence. This research methodology chapter outlines the systematic approach adopted to critically examine the socio-legal dimensions of the rights of the girl child in India. It integrates doctrinal and empirical methods to provide a comprehensive understanding of the legal provisions, judicial trends, and societal practices that impact the lived realities of girl children.

1.9.2 Research Background

India has witnessed a paradoxical evolution in the status of women and girls. While ancient texts and traditions often revered women, historical invasions and patriarchal customs gradually eroded their status. From female foeticide and child marriage to sexual assault and educational rejection, gender-based discrimination against girls is common in modern-day India. In response, the legal system has issued a number of laws and court rulings that are intended to protect the rights of girls. Nonetheless, there is still a significant gap between the law and its actual application.

The uploaded synopsis highlights the multifaceted nature of this issue, emphasizing the need for a critical socio-legal study that not only examines statutory provisions but also evaluates their practical efficacy. The research seeks to bridge this gap by analyzing legislative intent, judicial activism, and ground-level realities through a combination of doctrinal analysis and field-based inquiry.

1.9.3 Literature Survey

“Right of the Girl Child in India: A Critical Study in Socio-Legal Perspective.”

This topic encapsulates the dual focus of the study - legal scrutiny and social analysis. It aims to explore how constitutional guarantees, statutory protections,

and judicial interpretations interact with societal norms, cultural practices, and administrative mechanisms to shape the experiences of the girl child in India.

1.9.4 Objectives of Proposed Research:

1. To analyse the magnitude of the problem of girl child in India.
2. To analyse the effectiveness of the girl child centric laws and its implementation in India.
3. To analyse how the fundamental right protects the right of girl child in India.
4. To analyse the role, play by the judiciary of India for protection of the rights of girl child.
5. To compare the rights of girl child in India with other countries.

1.9.5 Detailed Research Methodology

The study adopts a hybrid methodology combining doctrinal and descriptive approaches. The doctrinal component involves a detailed examination of constitutional provisions, statutory laws, case law, and legal commentaries.

1.9.6 Research Design

The collection of techniques and steps used to gather and examine measurements of the variables listed in the research topic is known as the research design. The present research is based on secondary data and the research design adopted for this study is **descriptive, analytical, and comparative** in nature. It is **Descriptive**, as it explains existing legal provisions, constitutional safeguards, and judicial trends concerning the girl child centric rights. It is **Analytical**, as it critically examines the adequacy, effectiveness, and implementation of laws and judicial responses to crime against girl child in India. And finally, it is **Comparative**, as it compares Indian laws with girl-child-centric laws of selected foreign countries to draw meaningful conclusions and recommendations.

1.9.7 Sources of data collection

Primary Sources

The sources that contain original information and observation are known as primary sources of information. Such data can be obtained directly from the individuals who possess it, or it can be acquired in research articles published in legal journals and magazines, theses, and conference proceedings.

Such data can be obtained directly from the individuals who possess it, or it can be acquired in research articles published in legal journals and magazines, theses, and conference proceedings.

Doctoral dissertations (theses leading to PhD Degree), which offer very systematic and in-depth analysis of the subject-matter/ aspect delved therein and the conclusions/ opinions/ suggestions based on the analysis, constitute another primary source of information. Similar is the case of conference papers.

Therefore, the primary sources used in legal research are the Indian Constitution, the National Gazette, which publishes public arts and proclamations passed by Parliament (and State Legislatures), the Rules, Regulations, Statutory Orders, and Directives of Administrative Agencies, statutes such as the Protection of Children from Sexual Offences Act, 2012, the Prohibition of Child Marriage Act, 2006, the Juvenile Justice (Care and Protection of Children) Act, 2015, the Indian Penal Code, 1860 / Bharatiya Nyaya Sanhita, 2023 (where applicable), the UN Convention on the Rights of the Child (UNCRC), CEDAW, and other pertinent conventions.

Secondary Sources

Secondary information used for the research will be gathered using internet from the libraries, reports of commissions and committees, research articles and journals (national and international), reports of Law Commission of India, NCRB reports and government publications, NGO and UN agency reports and Online legal databases such as SCC Online, Manupatra, HeinOnline, JSTOR, etc. Working papers, case laws, law journals, project reports of legal and other relevant institutions and organizations, magazines, newspapers, websites, social networking sites, seminars and conference proceedings, and other published and unpublished works such as dissertations and doctoral theses will all be specifically included in the study material

1.9.8 Limitations of the Research

1. Due to limitation of time only some of the criminal cases against girl child are considered. Hence, the conclusion is made based on such cases only.

2. This study did not address identifying victims to learn about their true situation or the challenges they encountered in obtaining justice. There is no interaction with the victims in the course of the research.
3. Research About Legal Provision and Statues of Girl Child Protection is restricted to India only.
4. The comparative study is limited to 5 selected countries due to constraints of time and data availability.
5. The research does not include primary fieldwork or empirical surveys.

1.9.9 Scope of the Research

The research's focus comprises both the social and legal aspects of girls' rights. It includes:

1. Legal Analysis: Examination of constitutional provisions, statutory laws, and judicial decisions.
2. Social Inquiry: Assessment of cultural practices, societal attitudes, and institutional mechanisms.
3. Policy Evaluation: Review of government schemes and administrative frameworks.
4. Stakeholder Perspectives: Inclusion of voices from legal professionals, educators, activists, and affected individuals.

The research does not extend to comparative international analysis but remains focused on the Indian context. Primary and secondary data have been gathered and examined based on several sources. The description was created by taking into account the actual circumstances of a married lady in Indian society as well as a number of significant rulings.

1.10 CHAPTER SCHEME

Chapter 1	-	Historical and Current Perspective of Girl Child in India
Chapter 2	-	Girl Child Socio Status and Legislative Development in India
Chapter 3	-	Case Studies on Crimes Against Girl Child in India and Judicial Response
Chapter 4	-	Comparison of Girl Child Laws in India and Other Selected Countries

Chapter 5	-	Suggestions and Recommendations to Improve Socio-Legal Status of Girl Child in India
Chapter 6	-	Conclusion

CHAPTER 2

GIRL CHILD SOCIO STATUS

AND LEGISLATIVE

DEVELOPMENT IN INDIA

CHAPTER 2

GIRL CHILD SOCIO STATUS AND LEGISLATIVE DEVELOPMENT IN INDIA

The story of the girl child in India is both inspiring and troubling. Inspiring, because across centuries Indian culture has celebrated feminine divinity—worshipping goddesses as embodiments of wisdom, prosperity, and strength. Troubling, because the lived reality of millions of girls has often been marked by neglect, discrimination, and denial of basic rights. This paradox lies at the heart of India's socio-legal discourse on the girl child. The chapter begins by situating the girl child within India's social fabric, examining her socio-status, and then tracing the legislative developments that have attempted to safeguard and uplift her position.

The introduction to this chapter is not merely a prelude; it is a critical lens through which the reader can appreciate the complexity of the subject. The socio-status of the girl child cannot be understood in isolation from the historical, cultural, and economic contexts that shape her life. Similarly, legislative measures cannot be evaluated without considering the social realities they seek to transform. This section therefore sets the stage for a nuanced exploration of the intersection between law and society, highlighting both progress and persistent challenges.

2.1 The Girl Child in Indian Society: A Paradoxical Position

India's cultural imagination has long revered the feminine principle. Festivals such as *Navratri* celebrate the power of the goddess, and proverbs often equate daughters with blessings. Yet, beneath these symbolic gestures lies a deeply entrenched patriarchal order that has historically privileged sons over daughters. The girl child has often been perceived as an economic burden, primarily because of dowry practices, limited inheritance rights and the expectation that she will eventually leave her natal family after marriage.

This paradox reverence in the abstract, neglect in reality has created a socio-status for the girl child that is precarious. She is valued emotionally but devalued materially. This contradiction manifests in skewed sex ratios, higher female infant mortality, lower educational attainment, and restricted mobility. Understanding

this paradox is essential to appreciating why legislative interventions have been necessary and why their implementation has been fraught with difficulty.

2.2 Historical Context of Legislative Concern

The plight of the girl child is not a new concern. Colonial administrators were alarmed by practices such as female infanticide and child marriage, leading to early legal interventions like the *Child Marriage Restraint Act of 1929*. Post-independence, the framers of the Indian Constitution sought to enshrine equality and non-discrimination, laying the foundation for a rights-based approach to child welfare.

Over time, legislative attention expanded from prohibiting harmful practices to promoting positive rights. Laws began to address education, health, protection from exploitation, and gender-specific vulnerabilities. Yet, the effectiveness of these laws has depended on their ability to penetrate deeply rooted social norms. The introduction to this chapter therefore emphasises that legislation is not merely a technical instrument but a social tool whose success depends on cultural acceptance and institutional enforcement.

2.3 The Socio-Legal Perspective: Why It Matters

A socio-legal perspective is crucial for studying the rights enacted for girl child because law and society are interdependent. Laws may declare equality, but social practices often perpetuate inequality. For example, the *Prohibition of Child Marriage Act, 2006* criminalises child marriage, yet the practice continues in many regions due to poverty, tradition, and lack of enforcement. In the same way, the *Right to Education Act (RTE), 2009* guarantees free and compulsory education, but dropout rates among girls remain high because of household responsibilities, early marriage, and inadequate school infrastructure.

By adopting a socio-legal lens, this chapter does not treat legislation as an isolated phenomenon. Instead, it examines how laws interact with social realities, how they are resisted or embraced, and how they shape the everyday lives of girls. This perspective allows for a critical evaluation of both the achievements and limitations of India's legislative framework.

2.4 Contemporary Challenges in Girl Child Status

The socio-status of the girl child in contemporary India is shaped by multiple factors:

- **Demographic Realities:** The skewed sex ratio, particularly in states like Haryana and Punjab, reflects persistent son preference and misuse of technology for sex-selective abortions.
- **Education:** While enrolment rates have improved, retention remains a challenge. Girls often drop out due to poverty, household responsibilities, or lack of sanitation facilities in schools.
- **Health and Nutrition:** Girls are more likely to suffer from malnutrition and receive less medical attention compared to boys.
- **Violence and Exploitation:** Child marriage, sexual abuse, trafficking, and domestic labour continue to undermine the dignity and safety of girls.

These challenges highlight the difference among legislative intent and social reality. They also underscore the necessity for an overall approach that combines legal safeguards with social transformation.

2.5 Legislative Developments: A Brief Overview

India has enacted a wide range of laws aimed at protecting and empowering the girl child. These include:

- **Constitutional Safeguards:** Articles 14, 15(3), and 21A provide the foundation for equality and education.
- **Child-Centric Laws:** Child welfare is directly addressed by The *Juvenile Justice Act*, the *Right to Education Act*, and the *Prohibition of Child Marriage Act*.
- **Gender-Specific Laws:** The *PCPNDT Act* seeks to prevent sex-selective abortions, while the *POCSO Act* provides comprehensive protection against sexual offences.
- **Labour and Trafficking Laws:** The *Child Labour Act* and the *Immoral Traffic (Prevention) Act* aim to protect children from economic and sexual exploitation.

These legislative measures represent a significant commitment to girl child rights. However, their success depends on effective implementation, public awareness, and cultural change.

2.6 The Gap Between Law and Practice

One of the central themes covered the chapter is the gap between law and practice. Laws may be progressive on paper, but their enforcement is often weak. Corruption, lack of resources, and social acceptance of discriminatory practices undermine their effectiveness. For example, despite strict penalties under the *PCPNDT Act*, sex-selective abortions continue because of collusion between families and medical practitioners. Similarly, many sexual abuse incidents remain unreported because of shame and fear of retaliation, even in the face of the *POCSO Act*.

This gap highlights the importance of viewing legislation not as an end in itself but as part of a broader socio-legal process. Effective change requires not only laws but also social movements, awareness campaigns, and institutional reforms.

2.7 Towards a Rights-Based Framework

The introduction concludes by emphasising the need for a rights-based framework that goes beyond survival to ensure dignity, empowerment, and holistic development. Such a framework must:

- Prioritise **education** as the most sustainable path to empowerment.
- Encourage **community participation** to challenge patriarchal norms.
- Focus on **holistic development**, including health, self-expression, and leadership opportunities.
- Strengthen **institutional mechanisms** for enforcement and accountability.

By situating the girl child within this rights-based framework, the chapter seeks to move beyond a narrative of victimhood to one of empowerment and agency.

The paradoxical socio-status of the girl child in India, traced the historical and legislative developments that have sought to protect her, and highlighted the importance of a socio-legal perspective. It has also identified contemporary challenges and emphasised the need for a rights-based on the following framework.

- **Section I:** Historical and Cultural Context of the Girl Child in India.
- **Section II:** Socio-Status of the Girl Child in Contemporary India
- **Section III:** Legislative Developments Protecting the Girl Child
- **Section IV:** Critical Analysis of Legislative Implementation
- **Section V:** Socio-Legal Challenges

2.8 Section I: Historical and Cultural Context of the Girl Child in India

The socio-legal status of the female child in India cannot be understood without situating her within the historical and cultural frameworks that have shaped perceptions of gender. Across centuries, Indian society has oscillated between reverence and neglect of the girl child. While ancient traditions glorified feminine divinity, patriarchal structures relegated girls to subordinate roles. Colonial interventions brought early legal reforms, and post-independence aspirations enshrined equality in the Constitution. This section critically explores these trajectories under three sub-sections.

i. Traditional Perceptions

- **Reverence and Neglect:** Indian civilisation has long celebrated the feminine principle. Goddesses such as Saraswati, Lakshmi, and Durga embody wisdom, prosperity, and strength. Festivals like *Navratri* elevate the girl child symbolically, with rituals such as *kanya puja* where young girls are worshipped as embodiments of divinity. Yet, this reverence coexisted with neglect in everyday life. Sons were preferred for lineage continuity and economic security, while daughters were often seen as liabilities due to dowry and patrilocal marriage systems.
- **Patriarchal Structures:** Patriarchy shaped the girl child's socio-status through practices such as restricted mobility, denial of education, and early marriage. Ancient texts like *Manusmriti* reinforced gender hierarchies, prescribing obedience of women to fathers, husbands, and sons. Girls were socialised into roles of domesticity, with limited opportunities for self-expression.
- **Case Study: Missing Women:** Amartya Sen's seminal work highlighted the phenomenon of "missing women," estimating that millions of girls were absent from India's population due to neglect, infanticide, and sex-selective

practices. This underscores how cultural perceptions translated into demographic realities.

ii. Colonial Influence

- **Female Infanticide and Child Marriage:** Colonial administrators were alarmed by practices such as female infanticide and child marriage. Reports from the 19th century documented widespread killing of infant girls in certain communities, often linked to dowry burdens and lineage concerns. Child marriage was prevalent, with girls married off as early as 8–10 years.
- **Early Legal Interventions:** Commonly known as The Sarda Act, The *Child Marriage Restraint Act, 1929* was a landmark colonial-era legislation. It set the minimum age of marriage for girls at 14 years, later amended to 18. Though enforcement was weak, it signalled recognition of the girl child's rights.
- **Colonial Narratives:** Colonial discourse often portrayed Indian society as “savage” due to practices like infanticide and sati, justifying intervention. While reforms were paternalistic, they laid the groundwork for later legislative developments.

iii. Post-Independence Aspirations

- **Constitutional Provisions:** The Constitution of India enshrined equality and non-discrimination:
 - **Article 14:** Equality before law.
 - **Article 15(3):** Permits special provisions for women and children.
 - **Article 21:** Right to life and dignity.
 - **Article 21A:** Right to free and compulsory education.
 - **Directive Principles:** Mandate protection of childhood and youth.

These provisions created a robust framework for legislative reforms aimed at protecting girl children.

- **Judicial Pronouncements:** Indian courts have played a proactive role:
 - **Unni Krishnan v. State of Andhra Pradesh (1993):** Expanded Article 21 to include the right to education.
 - **Laxmi Kant Pandey v. Union of India (1984):** Laid guidelines for adoption, safeguarding the interests of girl children.

- **Gaurav Jain v. Union of India (1997):** Directed rehabilitation of children of sex workers, many of whom were girls.
- **Government Schemes:** The government launched flagship programmes:
 - **Beti Bachao Beti Padhao (BBBP):** Launched in 2015 to cover declining child sex ratio and encourage education. CSR improved from 918 girls per 1000 boys in 2011 to 931 in 2023.
 - **Sukanya Samriddhi Yojana:** A savings scheme for girl children.
 - **Kasturba Gandhi Balika Vidyalaya:** Residential schools for girls from disadvantaged groups.
- **Statistical Data:**
 - **Child Sex Ratio (CSR):** Declined from 945 in 1999 to 918 in 2011, but recent interventions show modest improvement.
 - **Education:** BBBP increased girls' secondary school enrolment from 75.5% in 2014–15 to 78% in 2023–24.
 - **Health:** NFHS-5 data reveals persistent malnutrition among girls, with 35% underweight compared to 33% boys.
- **Comparative Perspectives:** India's child rights framework aligns with global standards but faces implementation challenges:
 - **UNCRC (1989):** India ratified the Convention on the Rights of the Child, committing to survival, protection, and development rights.
 - **CEDAW (1993):** Ratification reinforced gender equality commitments.
 - **Comparative Analysis:** Studies show India's *POCSO Act (2012)* is comprehensive but suffers from underreporting and low conviction rates, unlike stronger enforcement in the USA and UK.
 - **Case Study Analysis:** Indian frameworks often bridge national legislation with international standards but struggle with socio-economic barriers.

The historical and cultural context of the girl child in India reveals a trajectory from symbolic reverence to systemic neglect, colonial interventions, and constitutional aspirations. Traditional perceptions entrenched patriarchy, colonial rule initiated early reforms, and post-independence India enshrined equality in law. Yet, the lived reality of girls continues to reflect gaps between legislative

intent and social practice. Case studies, judicial pronouncements, government schemes, and comparative perspectives highlight both progress and challenges.

A socio-legal perspective underscores that protecting the rights of the girl child requires not only laws but also cultural transformation, institutional enforcement, and community participation. The transition from respect to rights is a continuous process that requires unwavering dedication to guarantee that every Indian female child may live with equality, opportunity, and dignity.

2.9 Section II: Socio-Status of the Girl Child in Contemporary India

The socio-status of the girl child in contemporary India is a mirror reflecting both progress and persistent inequalities. While legislative frameworks and government schemes have sought to uplift her position, the lived realities of millions of girls continue to be shaped by patriarchal norms, economic constraints, and systemic neglect. This section critically examines the socio-status of the girl child under four broad sub-sections: demographic realities, education, health and nutrition, and violence and exploitation. Each sub-section integrates case studies, judicial pronouncements, government schemes, statistical data, and comparative perspectives to provide a holistic understanding.

i. Demographic Realities

- **Sex Ratio:** India's sex ratio remains skewed due to deep-rooted son preference. The 2011 Census stated a child sex ratio of a miserable 918 girls per 1000 boys. It clearly reflects extensive misuse of prenatal diagnostic techniques even when the Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT) Act, 1994 exist. Recent government interventions, particularly the Beti Bachao Beti Padhao (BBBP) scheme, have shown modest improvements, with the sex ratio at birth rising to 931 in 2023.
- **Case Study:** In Haryana, one of the states with the lowest sex ratios, intensive campaigns under BBBP—such as community mobilization, strict monitoring of ultrasound clinics, and awareness drives—led to an increase in the sex ratio at birth from 830 in 2011 to 914 in 2020. This demonstrates the potential of targeted interventions when combined with strong enforcement.
- **Infant Mortality:** Female infants often face higher mortality rates due to neglect in nutrition and healthcare. According to National Family Health

Survey (NFHS-5), infant mortality among girls remains higher than boys in several states, reflecting discriminatory caregiving practices. Girls are often last in line for medical attention, and cultural biases contribute to delayed treatment.

- **Judicial Pronouncement:** The Supreme Court stressed the right to food as part of Article 21 in **People's Union for Civil Liberties v. Union of India (2001)**, ordering the government to improve nutrition programs. This indirectly addressed gender disparities, as malnutrition disproportionately affects girl children.

ii. Education

- **Access and Retention:** Education is the most powerful tool for empowerment, yet girls continue to face barriers in access and retention. Enrolment rates have improved significantly due to schemes like the Sarva Shiksha Abhiyan and Right to Education Act, 2009. However, dropout rates remain high, especially at the secondary level. NFHS-5 data shows that while primary enrolment is nearly universal, only 66% of girls complete secondary education compared to 78% boys.
- **Case Study:** In Rajasthan, community-based initiatives like Balika Shiksha Foundation have successfully reduced dropout rates by providing bicycles, scholarships, and safe transport facilities. These interventions highlight the importance of addressing practical barriers to education.
- **Barriers:** Several barriers hinder girls' education:
 - **Poverty:** Families often prioritize boys' education, perceiving girls as destined for marriage.
 - **Early Marriage:** Child marriage remains a significant cause of dropout, with UNICEF reporting that 27% of girls in India are married before 18.
 - **Sanitation Facilities:** Lack of toilets in schools disproportionately affects adolescent girls, leading to absenteeism during menstruation.
- **Judicial Pronouncement:** The Supreme Court strengthened the constitutional imperative for universal education in **Unni Krishnan v. State of Andhra Pradesh (1993)** by extending Article 21 to encompass the right to education.

- **Government Schemes:**
 - ***Kasturba Gandhi Balika Vidyalaya (KGBV)***: Residential schools for girls from disadvantaged groups.
 - ***National Scheme of Incentives to Girls for Secondary Education***: Provides scholarships to encourage retention.

iii. Health and Nutrition

- **Malnutrition**: Malnutrition remains a critical issue. NFHS-5 data reveals that 35% of girls under five are underweight compared to 33% boys. Girls are often last in line for food within households, reflecting cultural biases. Malnutrition has long-term consequences, including stunted growth, poor cognitive development, and increased vulnerability to disease.
- **Case Study**: Preschool education, health examinations, and additional nutrition are all provided under the Integrated Child Development Services (ICDS) program. In states like Tamil Nadu, effective implementation of ICDS has significantly reduced malnutrition among girls, demonstrating the importance of robust delivery mechanisms.
- **Reproductive Health**: Adolescent girls face challenges of early pregnancy, lack of awareness, and limited access to healthcare. According to NFHS-5, 7.9% of girls aged 15–19 were already mothers or pregnant at the time of the survey. Early pregnancy increases risks of maternal mortality, low birth weight, and intergenerational cycles of poverty.
- **Judicial Pronouncement**: The Supreme Court upheld women's and girls' autonomy over their bodies in ***Suchita Srivastava v. Chandigarh Administration (2009)***, recognizing reproductive autonomy as a component of Article 21.
- **Government Schemes:**
 - ***Rashtriya Kishor Swasthya Karyakram (RKSK)***: Focuses on adolescent health, including reproductive health education.
 - ***Janani Suraksha Yojana***: Provides financial incentives for institutional deliveries, reducing maternal mortality.

iii. Violence and Exploitation

- **Child Marriage:** Despite legal prohibition under the Prohibition of Child Marriage Act, 2006, child marriage persists. UNICEF estimates that India accounts for one-third of the world's child brides. Poverty, tradition, and lack of enforcement contribute to its prevalence.
- **Case Study:** In Bihar, community vigilance groups have successfully prevented child marriages by reporting cases to local authorities. These grassroots interventions highlight the importance of community participation in enforcing laws.
- **Sexual Violence:** Sexual violence remains a grave concern. The POSCO Act, 2012 offers comprehensive protection, yet underreporting and low conviction rates undermine its effectiveness. NCRB data (2022) reported over 50,000 cases under POCSO, with conviction rates below 30%.
- **Judicial Pronouncement:** The Supreme Court recognized marital rape of females between the ages of 15 and 18 as a breach of children's rights in *Independent Thought v. Union of India* (2017), making sexual relations with a teenage wife illegal. This historic ruling improved safeguards against sexual exploitation for girls.
- **Domestic Labour:** Many girls are pushed into child labour, often invisible within households. Domestic work is unregulated, leaving girls vulnerable to exploitation, abuse, and denial of education. The Child Labour (Prohibition and Regulation) Act, 1986 prohibits employment of children in hazardous occupations, but enforcement remains weak.
- **Case Study:** NGOs like Save the Children have rescued thousands of girls from domestic labour, rehabilitating them through education and vocational training. These interventions demonstrate the importance of civil society in complementing legislative efforts.
- **Comparative Perspectives:** India's child rights frameworks align with international commitments but face implementation challenges.
 - **UNCRC (1989):** India ratified the Convention on the Rights of the Child, committing to survival, protection, and development rights.
 - **CEDAW (1993):** Ratification reinforced gender equality commitments.

- **Global Comparison:** Countries like Bangladesh have made significant progress in reducing child marriage through community mobilization and strict enforcement. In contrast, India's progress has been uneven, reflecting regional disparities.
- **Case Study:** Comparative studies show that while India's *POCSO Act* is comprehensive, conviction rates remain low compared to countries like the UK, where specialized child protection units ensure stronger enforcement.

The socio-status of the girl child in contemporary India reflects both achievements and challenges. Demographic realities reveal persistent son preference and higher female infant mortality. Education has expanded access but faces barriers of poverty, early marriage, and inadequate infrastructure. Health and nutrition remain critical concerns, with malnutrition and reproductive health challenges undermining girls' development. Violence and exploitation—child marriage, sexual abuse, and domestic labour—continue to threaten their dignity and rights.

Case studies, judicial pronouncements, government schemes, and comparative perspectives highlight both progress and gaps. A socio-legal perspective underscores that protecting the rights of the girl child requires not only laws but also cultural transformation, institutional enforcement, and community participation. The journey towards equality is ongoing, demanding sustained commitment to confirm that each girl child in India can live with dignity, opportunity, and empowerment.

2.10 Section III: Legislative Developments Protecting the Girl Child

The legislative journey of protecting the girl child in India reflects the nation's evolving socio-legal consciousness. From constitutional guarantees to specific statutes addressing exploitation, education, health, and dignity, India has attempted to create a strong framework to protect the rights of its daughters. Yet, the lived reality of the girl child often reveals gaps between law and practice. This section critically examines legislative developments under four broad categories: constitutional safeguards, child-centric laws, gender-specific laws, and labour and trafficking laws.

2.10.1 Constitutional Safeguards

The Indian Constitution is the bedrock of child rights. It enshrines equality, dignity, and protection, laying the foundation for legislative and policy interventions. Following articles of Indian constitution safeguards the right of girl child:

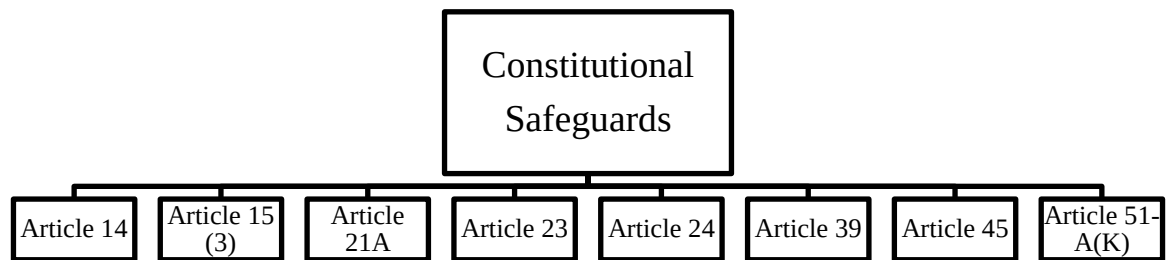


Figure 2.1: Constitutional Safeguards for Girl Child in India

- i. **Article 14 (Equality before law):** Any form of discrimination on the basis of caste, race, religion, place of birth, or sex is condemned in this article. All Indian citizens, including girls, are guaranteed equal protection under the law. This section has been utilized in cases challenging discriminatory employment and educational practices. Article 14 was extended in the *Visakha v. State of Rajasthan* case in 1997. In accordance with Articles 14, 19, and 21 of the Indian Constitution, the judgment sought to protect the basic rights of working women. Sexual harassment is a violation of women's fundamental rights to life, gender equality, and a dignified living, as stated in Article 14 of the Indian Constitution. The Court determined that although the Indian Constitution does not specifically address sexual harassment in the workplace, it is implied by these fundamental rights.”¹
- ii. **Article 15(3) (Special provisions for women and children):** Recognises the need for affirmative action provision intended to remedy the disadvantage faced by women.² It empowers the state to enact laws and schemes specifically for the welfare of women and children, such as scholarships,

¹ indiankanoon.org

² Ghia, Unnati (2020) "Affirmative Action Under Article 15(3): Reassessing The Meaning of "Special Provisions" For Women," National Law School of India Review: Vol. 32: Iss. 2, Article 3. Available at: <https://repository.nls.ac.in/nlsir/vol32/iss2/3>.

reservation in education, and targeted health programmes. Within Article 15, clause (1) contains a right to non-discrimination,⁵ while clause (2) is targeted at specific forms of discrimination. Both clauses provide concrete rights of non-discrimination to individuals on specified grounds. These clauses are followed by Article 15(3), which says that "nothing in this article shall stop the State from creating any special provisions for women and children".³

iii. Article 21A (Right to free and compulsory education): Inserted by the 86th Constitutional Amendment (2002), this article mandates free education for children aged 6–14 years. This provision has been crucial in expanding access to education for girls, though retention remains a challenge. Article 21A states **“the state shall provide free and compulsory education to all children between the ages of 6 and 14 through a law that it may determine.”**

The Ramamurthi Committee Report in 1990 was the first to develop the tussle for the right to education. In **Mohini Jain v. State of Karnataka (1992)**, Supreme Court ruled that even though the right to education is not distinctly mentioned in the Constitution, it can be deciphered through the Preamble and a bare reading of DPSP in Part IV. The Supreme Court in 1993 in the case of **Unni Krishanan v. State of Andhra Pradesh** opined the necessity of the right to education as a fundamental right. Although, the court denied the opinion in the Mohini Jain case that RTE can be demanded at all levels. It stated that one cannot avail the right to education provided by the constitutional levels. In the year 1999, the Tapas Majumdar Committee was formulated to insert Article 21A into the Constitution.⁴

The **Sarva Shiksha Abhiyan** and later the **Samagra Shiksha Abhiyan** were launched to operationalise Article 21A, with special focus on girl child enrolment and retention.

iv. Article 23 (Prohibition of Traffic in Human Beings and Forced Labour):

The ban on forced labor and human trafficking is discussed in this article. It outlaws the trafficking of human people, including trafficking for exploitation, slavery, or forced labor. Article 23 guarantees protection against such actions

³ Ghia, Unnati (2020) "Affirmative Action Under Article 15(3): Reassessing The Meaning of "Special Provisions" For Women," National Law School of India Review: Vol. 32: Iss. 2, Article 3. Available at: <https://repository.nls.ac.in/nlsir/vol32/iss2/3>.

⁴ www.drishtijudiciary.com

by acknowledging the inherent dignity and rights of persons. Additionally, it forbids any kind of compelled work, including forced labor. It guarantees that no one may be forced to labor against their choice or in an exploitative environment.

The goal of Article 23 is to end actions that take advantage of and subjugate people, especially weaker groups in society like women and girls. It supports the values of justice, equality, and human rights. It highlights how crucial it is to safeguard people's freedom and dignity and make sure that no one is exposed to exploitation or dehumanizing working conditions. It protects the entitlement to just compensation for labor performed.

- v. **Article 24 (Prohibition of employment of children in factories, etc.):** "No child below the age of 14 years shall be hired by any factory or mine or involved in any other hazardous work," according to this article.⁵ Article 24 forbids minors from working in certain dangerous jobs or procedures in order to safeguard their rights and welfare. Preventing exploitation, protecting children's health and development, and guaranteeing their access to school are the goals. Article 24 serves to protect the interests of girls as they are more susceptible to exploitation and typically receive less education than boys.
- vi. **Article 39:** Under this article The State shall, in particular, direct its policy towards securing:
 - (a) that all citizens, men and women alike, have the right to a sufficient standard of living;
 - (b) that the community's material resources are owned and controlled in a way that best serves the common good;
 - (c) that the way the economy functions does not lead to the concentration of wealth and production means to the detriment of all;
 - (d) that men and women receive equal compensation for equal work;
 - (e) "that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength and that the health and strength of workers, men and women, and the tender age of children are not abused."

⁵ www.labour.gov.in

(f) that childhood and youth are shielded from exploitation and from material and moral desertion, and that children are provided with the means and chances to grow up in a healthy way, in a free and dignified environment.⁶

vii. Article 45 (Provision for Free and Compulsory Education for Children):

As per this article “The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.” It is a shift from its original focus wherein “The State will make an effort to ensure that all children receive free, obligatory education until they turn fourteen within 10 years of the adoption of this Constitution.”⁷ This makes Article 45 crucial for pre-primary development, complementing Article 21A, ensuring foundational learning for every child. This article will ensure elementary education for girl child which will help in their social as well as economic upliftment.

viii. Article 51A(K): Article 51A talks about fundamental duties of each and every citizen of India. As per the clause K of this article, it shall be the duty of every citizen of India “who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.”⁸ This article underscores the shared responsibility of citizens (parents/guardians) and the State in ensuring universal education for children, making education a core civic responsibility alongside fundamental rights. The clause added by the 86th Amendment Act, 2002, linked this duty with the right to free and compulsory education under Article 21A.

2.10.2 Child-Centric Laws

i. Child Marriage Restraint Act, 1929 → Prohibition of Child Marriage Act,

2006: The colonial-era *Child Marriage Restraint Act* was India’s first attempt to regulate child marriage. Post-independence, it was replaced by the *Prohibition of Child Marriage Act, 2006*, which criminalises child marriage and provides for annulment.

Case Study: In Rajasthan, community vigilance groups have successfully prevented child marriages by reporting cases to local authorities. Yet, NCRB data

⁶ www.constitutionofindia.net

⁷ www.education.gov.in

⁸ www.indiankanoon.org

(2022) shows thousands of cases registered annually, reflecting persistence of the practice.

ii. Judicial Pronouncement: The Supreme Court recognized marital rape of females between the ages of 15 and 18 as a breach of children's rights in **Independent Thought v. Union of India (2017)**, making sexual relations with a teenage wife illegal.

iii. Juvenile Justice (Care and Protection of Children) Act, 2015: This Act covers the protection, care, and rehabilitation of underprivileged children, particularly females who have been abandoned, orphaned, or exploited. It also lays down procedures for adoption, foster care, and child-friendly justice.

Case Study: The Mission Vatsalya programme under the Act has rehabilitated thousands of girl children rescued from trafficking and child labour.

iv. Judicial Pronouncement: In *Laxmi Kant Pandey v. Union of India* (1984), the Supreme Court laid guidelines for adoption, safeguarding the interests of girl children against exploitation in inter-country adoptions.

v. Right of Children to Free and Compulsory Education Act, 2009: Operationalising Article 21A, this Act mandates free education for children aged 6–14 and reserves 25% seats in private schools for disadvantaged groups.

vi. Statistical Data: According to *Unified District Information System for Education (UDISE)*, enrollment of girls in primary schools reached 94% in 2023, but dropout rates at secondary level remain high at 34%.

vii. Government Scheme: *Kasturba Gandhi Balika Vidyalaya (KGBV)* provides residential schooling for girls from disadvantaged backgrounds, addressing barriers of distance and safety.

2.10.3 Gender-Specific Laws

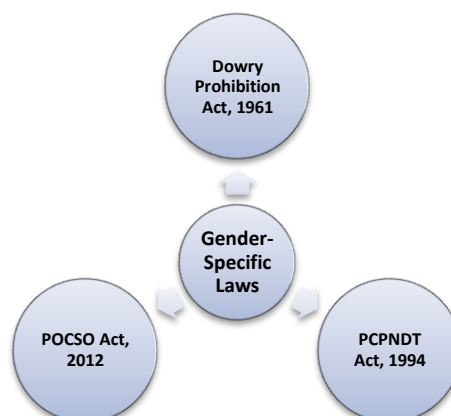


Figure 2.2: Gender Specific Child Laws in India

i. Dowry Prohibition Act, 1961

The Dowry Prohibition Act, 1961 represents one of the earliest legislative attempts in post-independence India to address gender-based violence rooted in patriarchal social practices. The act is considered as a landmark social reform legislation with an objective of removing dowry and safeguarding married women from economic exploitation and violence in the country. Though primarily aimed at curbing dowry, this Act indirectly safeguards girl children by reducing economic burdens associated with their marriage. Originally seen as property or valued security handed to the groom or his family by the bride's family, dowry later evolved into an exploitative and oppressive practice.

Although dowry is often perceived as a post-marital issue, its socio-legal consequences extend to the girl child, manifesting in discrimination, neglect, economic deprivation, early marriage, and, in extreme cases, dowry-related deaths and cruelty. The Act was enacted with the objective of prohibiting the giving, taking, or demanding of dowry and to dismantle a social institution that perpetuates structural violence against women and girls.⁹ As per the NCRB data, the number of cases registered under this act has significantly increased over the period of time. Following table shows recent trend of cases registered under the act:

Table 2.1
Number of Cases Registered Under Dowry Prohibition Act, 1961

Year	Number of Cases
2023	15,489
2022	13,479
2021	13,568
2020	10366
2019	13307
2018	12826

Source: NCRB Report, ‘Crime in India 2023’=

⁹ Ministry of Law and Justice, Statement of Objects and Reasons, Dowry Prohibition Bill, 1961.

The number of deaths reported in the year 2023 under dowry related cases stood at whooping 6100.¹⁰

Case Study: Awareness campaigns in Kerala have significantly reduced dowry-related child marriages, demonstrating the indirect impact of the Act.

The Act became operative on July 1st, 1961. However, it was significantly modified by the Dowry Prohibition (Amendment) Acts of 1984 and 1986 to reinforce punitive measures and broaden its reach due to inadequate enforcement and definitional problems. In reaction to an increase in dowry killings and abuse of married women, these modifications were passed (**Agnes, 1999; Diwan, 2018**)¹¹¹².

Definition of Dowry

Section 2 of the act defines Dowry as “Any valuable asset or property that is given or agreed to be given, either directly or indirectly, to the other spouse by one of the parties to a marriage, or by either party's parents or by anybody else, at any point before or after the marriage in connection with the marriage of the aforementioned parties.”¹³

The above-mentioned definition is purposely broad. It covers Direct and indirect transfers, demands at pre-marriage, at-marriage, and post-marriage and property or “valuable security” within the meaning of the IPC.

Although, as long as they are reasonable in relation to the giver's financial situation, traditional gifts given freely and listed in a list kept in accordance with the Dowry Prohibition (Maintenance of Lists of Presents to the Bride and Bridegroom) Rules, 1985, are not included in the act.

Penalty for Giving or Taking Dowry

Section 3 stipulates penalties for both dowry offering and receiving. Following the 1984 amendment, the punishment consists of:

- A minimum imprisonment of five years, and
- A minimum fine of ₹15,000 or the amount of dowry, whichever is higher.

¹⁰ NCRB Report, ‘Crime in India 2023’

¹¹ Agnes, Flavia (1999). Law and Gender Inequality: The Politics of Women’s Rights in India. Oxford University Press.

¹² Diwan, Paras (2018). Modern Hindu Law. Allahabad Law Agency.

¹³ Dowry Prohibition Act, 1961

Thus, the Act criminalizes both the provider and the recipient, demonstrating the legislature's goal to deter the activity on both fronts. Nonetheless, courts have frequently adopted a practical stance in cases when the bride's family is forced to provide the dowry.

Penalty for Demanding Dowry

Demanding a dowry directly or indirectly is illegal under Section 4. Among the penalties are:

- Imprisonment in the range of six months to five years, and
- Up to ₹15,000 of fine.

Even if the dowry is not really received, the act of asking it is illegal. The coercive aspect of dowry discussions is addressed by this clause.

Dowry to Be for the Benefit of the Wife

Any dowry must be given to the bride during three months after the marriage, according to Section 6 of the act. Failing to do so is a crime that carries a fine and jail sentence. The property must be given to the woman's heirs if she passes away before getting it.

This clause aims to safeguard married women's proprietary rights and stop husbands or in-laws from stealing them.

Cognizability and Burden of Proof

The amendment made in the act in 1986 made offences cognizable for specific purposes which make enforcement mechanisms of the act much stronger. Under Section 8A of the act, the burden of proof in specific cases is shifted to the accused, which mark an important departure from the general principle of criminal jurisprudence. Also, Section 8B of the act necessitates the employment of Dowry Prohibition Officers to stop and detect offences under the Act.

Relationship with Dowry Death

The Act has also been reconciled by the judiciary with Section 304B IPC (dowry death), which establishes statutory presumptions in the event when a woman dies within seven years of marriage under suspicious circumstances.

The Indian Penal Code's Section 304B defines dowry death and stipulates that the punishment is at least seven years in jail, with the possibility of life in prison. In accordance with Section 113B of the Evidence Act, if it can be demonstrated that

the lady suffered abuse or harassment "soon before her death" in relation to the dowry demand, courts may assume that the husband or family members were responsible for the dowry death. As a result, the Dowry Prohibition Act is a component of a larger legal system that addresses violence against married women.

Implementation Challenges

Although stringent provisions are made under the act, still it faces several challenges while implementing it. Some of these challenges are as follows:

- Many of the cases where dowry is demanded are not reported as a result of family pressure and societal shame.
- Evidentiary challenges in demonstrating the demand for dowries.
- It has become a trend in the society to give "customary gifts" which are not treated as Dowry, rather a matter of prestige. These trends put a pressure on the family of bride, to spend huge money, which actually is a kind of Dowry but is kept out of it.

There have been claims of abuse of dowry laws, including Section 498A IPC, however empirical research shows that under-enforcement is still a greater issue (Agnes, 1999)¹⁴. Academics contend that social change, women's economic empowerment, and public knowledge are just as important as legislative reform (Diwan, 2018)¹⁵.

ii. Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT) Act, 1994

One of the most complex challenges in addressing female foeticide is its **invisibility as a crime**. Unlike other offences against the girl child such as infanticide, trafficking, or sexual violence, sex-selective abortion occurs within the private sphere of medical consultation and family decision-making. Although the PCPNDT Act criminalises sex selection, the offence remains largely **hidden, consensual, and undocumented**, making detection and prosecution extremely difficult. To curb the declining sex ratio in the country triggered by sex-selective abortions and misuse of diagnostic technologies, the PCPNDT Act was enacted in

¹⁴ Agnes, Flavia (1999). Law and Gender Inequality: The Politics of Women's Rights in India. Oxford University Press.

¹⁵ Diwan, Paras (2018). Modern Hindu Law. Allahabad Law Agency.

1994. The law was thereafter amended in the year 2003 to increase its scope for the inclusion of pre-conception techniques and explicitly prohibit sex selection.¹⁶

The statement of the law defines its scope as "To provide for the prohibition of sex selection, before or after conception, and for the regulation of pre-natal diagnostic techniques for the purposes of detecting genetic abnormalities or metabolic disorders or chromosomal abnormalities or certain congenital malformations or sex-linked disorders and for the prevention of their misuse for sex determination leading to female foeticide." The act is extended to the whole of India except the State of Jammu and Kashmir.

The primary objectives of the Act are:

- (i) to prohibit selection of sex before or after conception;
- (ii) to prevent wrong use of techniques of pre-natal diagnostic for the purpose of sex determination; and
- (iii) to regulate diagnostic facilities through strict registration and monitoring mechanisms.¹⁷

PCPNDT Act, 1994 represents a crucial legislative intervention aimed at addressing the deeply entrenched social evil of **sex-selective abortion**, which constitutes one of the gravest and most systematic crimes against the girl child in India. Enacted against the backdrop of a sharply declining child sex ratio, the Act seeks to prohibit selection of sex before or after conception and to regulate the use of pre-natal diagnostic techniques solely for legitimate medical purposes.¹⁸

The Act must be understood not merely as a regulatory statute but as a **socio-legal instrument** intended to combat patriarchal preferences for male children that result in the elimination of the girl child even before birth. The legislation reflects India's constitutional commitment to **gender equality (Articles 14 and 15)** and the right to life and dignity under **Article 21**, while also aligning with international human rights norms, particularly the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).¹⁹

¹⁶ Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Amendment Act, 2003.

¹⁷ Section 3, PCPNDT Act, 1994.

¹⁸ Ministry of Health and Family Welfare, *Statement of Objects and Reasons, PCPNDT Bill, 1994*.

¹⁹ Articles 14, 15 & 21, Constitution of India; Convention on the Elimination of All Forms of Discrimination against Women, 1979.

The amendment was introduced in response to technological advancements that enabled sex determination even before pregnancy, thus undermining the original intent of the legislation.

The Indian judiciary has played a pivotal role in strengthening the implementation of the PCPNDT Act. In ***Centre for Enquiry into Health and Allied Themes (CEHAT) v. Union of India***, the Apex Court issued comprehensive directions for effective enforcement of the Act, emphasizing that declining sex ratio poses a serious threat to constitutional values and social equilibrium.²⁰ The Court recognized female foeticide as a form of **gender-based violence**, thereby situating the issue within the broader discourse on crimes against women and girl children.

Key Features of the Law

(a) Prohibition of Sex Selection

The act's Section (3A) expressly forbids sex selection either before to or following conception. No one is allowed to perform or assist in sex selection techniques, including infertility clinics or experts.

(b) Regulation of Diagnostic Techniques

Prenatal diagnostic procedures including ultrasonography, amniocentesis, and chorionic villus sampling are only allowed under Section (4) of the act to detect: Congenital malformations, hemoglobinopathies, chromosomal abnormalities, genetic metabolic illnesses, and sex-linked genetic disorders.

Only when certain medical requirements are met—such as the mother being older than 35, having a history of genetic problems, experiencing repeated miscarriages, etc.—can the surgery be performed.

(c) Mandatory Registration

All genetic counselling centers, genetic laboratories, genetic clinics, ultrasound clinics, and imaging centres are required under Section (18) of the act to register with the appropriate authority. Operating without registration is a crime that carries penalties.

²⁰ *CEHAT v. Union of India*, (2003) 8 SCC 398.

(d) Prohibition of Advertisement

Advertisements pertaining to sex determination or sex selection are prohibited by Section (22) of the Act. Any kind of communication endorsing these services is subject to fines and jail.

(e) Record Maintenance

The act's Section (29) mandates that clinics keep thorough records of each treatment they do. Under the Act, neglecting to keep accurate records is regarded as a major infraction that results in a presumption of guilt.

(f) Offences and Penalties

The act's Sections (23–25) specify the following penalties for infractions:

- Three years in jail (for a first offense)
- A fine of up to ₹10,000 (more for repeat offenses)
- Medical registration suspension or revocation

The Act reflects the gravity of the legislation by making offenses cognizable, non-bailable, and non-compoundable.

(g) Appointment of Authorities

The Act provides the appointment for:

- Central Supervisory Board
- State Supervisory Boards
- Appropriate Authorities at State and District levels
- Advisory Committees

The above bodies are accountable for monitoring implementation, granting registrations, investigating complaints, and initiating prosecutions.

Penalties under the Act

The act recommends strict criminal and professional penalties to discourage sex selection and misuse of diagnostic techniques.

Penalty for Conducting or Aiding Sex Selection

Any medical professional or individual who violates the Act's provisions—such as by performing sex determination or sex selection—is subject to punishment under Section (23) of the act up to an imprisonment of 3 years or monetary penalty **up to ₹10,000** for the first offence. Subsequent offences are punishable up to imprisonment of 5 years and monetary penalty of up to **₹50,000** or more. Also,

the name of the medical practitioner will be reported to the State Medical Council for Suspension of registration on the first offence and Permanent removal of registration for repeat offence.

Penalty for Advertisement of Sex Determination

According to the statute, anybody who issues, publishes, distributes, or transmits ads for sex determination services faces a maximum sentence of three years in jail and a fine of up to ₹10,000. Print, electronic, web, and other media ads fall under this category.

Penalty for Operating Without Registration

Under Section 23, operating a genetic clinic, ultrasound clinic, or imaging centre without the required registration carries penalties that include fines and jail time.

Seizure and Sealing of Equipment

The proper authorities have the authority to suspend or terminate clinic registration, seal ultrasound machines and equipment, and launch legal action.

Offence to be Cognizable, Non-Bailable and Non-Compoundable

All offenses under this Act are punishable by law, without the possibility of bail or compounding. No court will consider an offense under this Act unless either (a) the relevant Appropriate Authority, or any officer designated in this capacity by the Central Government or State Government, as the case may be, or the Appropriate Authority, files a complaint or within a minimum of fifteen days, a person notifies the relevant authority of the alleged crime and his intention to file a complaint with the court in the required format.

Challenges in Implementation

The PCPNDT Act represents a progressive legislative response to gender-biased sex selection. However, systemic gender inequality cannot be eradicated by law alone. Various challenges in the implementation of the law includes:

- Deep-Rooted Patriarchal Norms of son preference driven by socio-economic factors such as inheritance, dowry, and lineage continuation.
- Weak Enforcement Mechanisms due to Inadequate staffing of appropriate authorities, limited inspections and monitoring, and delays in prosecution and low conviction rates.

- Misuse of technology through portable ultrasound machines and cross-border services results in evasion of regulatory oversight. Some clinics also misrepresent records to hide illegal practices.
- Although a large number of cases are registered under the law, the conviction rate remains quite low due to evidentiary challenges and procedural lapses²¹.
- Low public awareness in many rural and semi-urban areas, about the legal prohibition of sex selection also act as a big hurdle in the implementation of the law.

iii. Protection of Children from Sexual Offences (POCSO) Act, 2012

This Act aimed “to protect children from offences of sexual assault, sexual harassment and pornography and provide for establishment of Special Courts for trial of such offences and for matters connected therewith or incidental thereto.”²²

The Act was passed in response to the rising number of child sexual offenses in India. Prior to POCSO, sexual crimes against children were prosecuted under the general provisions of rape, outraging modesty, or unnatural offences of **Indian Penal Code (IPC), 1860**, which lacked child-specific definitions, procedures, and safeguards. On November 14th, 2012, the Act came into effect, demonstrating India's adherence to the Constitution's Articles 15(3), 21 and 39(f) as well as its international commitments under the UN Convention on the Rights of the Child (UNCRC), to which it is a signatory. As per the Criminal Law (Amendment) Act of 2019, POSCO Act, 2012 was significantly modified in 2019 to strengthen penalties, including the addition of the death sentence for severe penetrative sexual assault under specific conditions.

The Act describes a **child** as any human less than eighteen years of age and adopts a **gender-neutral approach** while recognizing the structural realities wherein girl children are disproportionately affected by sexual abuse.²³ The statute criminalizes a wide spectrum of sexual offences, ranging from sexual harassment to aggravated penetrative sexual assault, thereby acknowledging that sexual violence against children is not limited to rape alone but includes various forms of exploitation, abuse, and assault.

²¹ UNFPA (2012). Sex Imbalances at Birth: Current Trends, Consequences and Policy Implications.

²² www.indiacode.nic.in

²³ Section 2(d), Protection of Children from Sexual Offences Act, 2012.

The POCSO Act provides precise and expansive definitions of sexual offences. **Penetrative sexual assault** under Section 3 includes not only penile penetration but also penetration by objects or other body parts, thereby widening the scope of criminal liability.²⁴ This provision is particularly relevant in addressing offences against girl children, where perpetrators often exploit legal loopholes to evade stricter punishment. Additionally, Section 5 classifies some offenses as **aggravated penetrative sexual assault**, particularly when they are carried out by trusted individuals including family members, educators, law enforcement, or medical personnel.²⁵

The recognition of aggravated offences reflects an understanding of **power imbalance and betrayal of trust**, which is a recurring feature in crimes against the girl child. The enhanced punishment prescribed under Section 6, including life imprisonment and the death penalty (post-2019 amendment), demonstrates the legislature's intent to introduce a strong deterrent against heinous crimes involving minor girls.²⁶

One of the most progressive aspects of the POCSO Act lies in its **procedural innovations**, which prioritize the psychological well-being and dignity of the child victim. The Act forbids holding children overnight in police stations and requires that the child's statement be recorded at a location of her choosing, ideally by a female police officer.²⁷ The provision for **in-camera trials**, non-disclosure of identity, and assistance of parents or trusted persons during investigation seeks to minimize secondary victimization.

For girl children, who often face social stigma and familial pressure, these safeguards are crucial in enabling access to justice. In *Sakshi v. Union of India*, the Supreme Court highlighted the need for sensitive procedures in cases of child sexual abuse, a principle that later found statutory expression in the POCSO framework.²⁸

Sexual offenses against minors must be reported, and failure to do so is punishable under Section 19 of the Act. This provision aims to break the culture

²⁴ Section 3, POCSO Act, 2012.

²⁵ Section 5, POCSO Act, 2012.

²⁶ Protection of Children from Sexual Offences (Amendment) Act, 2019.

²⁷ Sections 24–27, POCSO Act, 2012.

²⁸ *Sakshi v. Union of India*, (2004) 5 SCC 518.

of silence that frequently surrounds sexual abuse of girl children within families and institutions.²⁹ Additionally, Sections 29 and 30 introduce a **reverse burden of proof**, whereby the court presumes the guilt of the accused unless proven otherwise. This deviation from traditional criminal jurisprudence acknowledges the evidentiary difficulties faced by child victims, especially minor girls who may lack the capacity or social support to testify effectively.

While the POCSO Act is **gender-neutral** in language, its socio-legal relevance is deeply intertwined with the realities of **gendered violence**. Empirical data consistently indicates that a majority of POCSO victims are **girl children**, often assaulted by known persons within domestic or institutional spaces.³⁰ The Act, therefore, operates as a critical legal instrument in addressing **sexual violence against the girl child**, reinforcing her right to bodily integrity, dignity, and access to justice under Article 21 of the Constitution.

Key Features of the Law

(a) Classification of Offences

The Act classifies offences into distinct categories:

- Penetrative Sexual Assault (Section 3)
- Aggravated Penetrative Sexual Assault (Section 5)
- Sexual Assault (Section 7)
- Aggravated Sexual Assault (Section 9)
- Sexual Harassment (Section 11)
- Use of Child for Pornographic Purposes (Section 13)

(b) Aggravated Offences

Under the act Aggravated forms apply when:

- The offender is a person in a position of trust or authority (e.g., police officer, teacher, relative).
- The child is less than 12 years of age.
- The offence results in serious injury, pregnancy, or death.

The 2019 amendment increased the penalty for serious penetrative sexual assault to a minimum of 20 years in hard prison, with the possibility of life in prison and, in some situations, the death sentence.

²⁹ Section 19, POCSO Act, 2012.

³⁰ National Crime Records Bureau, *Crime in India* Reports (relevant years).

(c) Mandatory Reporting

Section (19) of the Act requires that child sexual offenses must be reported compulsory. There are consequences for not reporting. This clause aims to lessen abuse concealment and silence.

(d) Establishment of Special Courts

Section 28 of the Act designates Special Courts for the prompt trial of offenses. According to the Act, the trial must be finished within a year, if at all feasible, and the evidence must be documented within thirty days.

(e) Presumption of Guilt

Once basic facts are established, the Act shifts the burden of proof by introducing a legislative presumption against the accused under Section (29). This is a substantial divergence from conventional criminal law concepts.

Challenges in Implementation of the Law

Despite progressive features, several challenges hamper the effective implementation of the law:

- (a) In most of the cases the accused is a family members or known persons, leading to pressure on victims to withdraw complaints. This results in underreporting of cases leading to injustice with the victim.
- (b) Despite the Act's need for a rapid trial, the backlog of cases and insufficient infrastructure in Special Courts result in a large case backlog.
- (c) The victim-centric goals of the Act are compromised by inadequate child-friendly infrastructure like lack of qualified investigators, child psychologists, and appropriate support networks.
- (d) Enforcement issues have arisen as a result of the surge in child pornography and cyber grooming cases brought on by the quick expansion of internet platforms.

2.10.4 Labour and Trafficking Laws

i. Child Labour (Prohibition and Regulation) Act, 1986: Prohibits employment of children in hazardous occupations and regulates conditions of work. Amendments in 2016 banned services of children less than 14 years in all occupations, except family enterprises.

Case Study: NGOs like *Bachpan Bachao Andolan* have rescued thousands of girls from domestic labour, rehabilitating them through education and vocational training.

ii. Judicial Pronouncement: In *M.C. Mehta v. State of Tamil Nadu (1996)*, the Supreme Court directed rehabilitation of child labourers, recognising their right to education and dignity.

iii. Immoral Traffic (Prevention) Act, 1956: Focuses on the sexual exploitation and trafficking of women and children. It makes trafficking, exploitation, and brothel-keeping illegal.

Case Study: In West Bengal, rescue operations under this Act have rehabilitated thousands of trafficked girls, though challenges of reintegration remain.

iv. Government Scheme: *Ujjawala Scheme* provides rescue, rehabilitation, and reintegration support for trafficked girls.

v. Comparative Perspectives India's legislative framework aligns with international commitments but faces implementation challenges.

vi. UNCRC (1989): India ratified the Convention on the Rights of the Child, committing to survival, protection, and development rights.

- **CEDAW (1993):** Ratification reinforced gender equality commitments.
- **Global Comparison:** Countries like Bangladesh have reduced child marriage through strict enforcement and community mobilisation. In contrast, India's progress has been uneven, reflecting regional disparities.

Case Study: Comparative studies show that while India's *POCSO Act* is comprehensive, conviction rates remain low compared to countries like the UK, where specialised child protection units ensure stronger enforcement.

India has passed a varied range of laws aimed at safeguarding the rights of the girl child—from constitutional guarantees to specific statutes addressing education, health, exploitation, and dignity. Case studies, judicial pronouncements, government schemes, and statistical data highlight both progress and persistent challenges.

A socio-legal perspective reveals that while legislation is necessary, it is insufficient without effective enforcement, cultural transformation, and community participation. The journey towards protecting the girl child is ongoing,

demanding sustained commitment to ensure that every girl in India can live with dignity, equality, and opportunity.

2.11 Protection of Girl Child in Bharatiya Nyaya Sanhita, 2023

Bharatiya Nyaya Sanhita (BNS), 2023, is India's new primary criminal code that replaces the colonial-era Indian Penal Code (IPC), focusing on modernizing offenses, strengthening national security, and consolidating crimes against women and children, while also introducing concepts like community service and digital forensics.

Various sections under BNS which focus on girl child are as follows:

i. Section 64: A minimum punishment of 10 years in rigorous imprisonment of any sort, with the potential of life imprisonment, and a fine are imposed on anybody found guilty of rape, excluding those situations mentioned by subsection (2).³¹

ii. Section 65: (1) If someone rapes a woman under the age of sixteen, they would be punished with harsh imprisonment for at least twenty years, but they may potentially be imprisoned for life, which would mean they would be incarcerated for the remainder of their natural life. A fine will also be imposed on them.

As long as the penalty is reasonable and sufficient to pay for the victim's rehabilitation and medical expenses, with the additional condition that any fines imposed under this paragraph would be paid to the victim.

(2) The highest punishment for raping a lady under the age of twelve is life in prison, which includes a fine, death, or imprisonment for the rest of the offender's natural life. The minimum sentence is twenty years in a harsh prison. As long as the penalty is reasonable and sufficient to pay for the victim's rehabilitation and medical expenses: With the further disclaimer that any fines imposed under this clause would be paid to the victim.³²

iii. Section 66: A term of at least twenty years in rigorous jail is imposed on anyone who commits an offense punishable under subsection (1) or subsection (2) of section 64 and, in the process, places the lady in a prolonged vegetative state or causes an injury that kills her. The maximum penalty is life sentence, which

³¹The Gazette of India Extraordinary, Page 23

³² The Gazette of India Extraordinary, Page 25

would mean the accused would be in jail for the remainder of their natural life or till death.

iv. Section 70 (2): If more than one person conspires to rape a woman under the age of eighteen, they will all be found guilty of the offense and sentenced to life in prison, which entails serving out the remainder of their natural lives, a fine, or even death. As long as the punishment is fair and adequate to cover the victim's medical costs and rehabilitation: With the additional proviso that the victim would get payment for any fines assessed under this provision.³³

v. Section 71: Anyone convicted of a crime punishable by sections 64, 65, 66, or 70 before being found guilty of an offense punishable under any of the aforementioned sections faces the possibility of death or life in prison, meaning they must spend the rest of their natural life behind bars.³⁴

vi. Section 74: At least 1 year and a maximum of 5 years in jail, along with a fine, are applied on anybody who attacks or uses illegal force against a female with the purpose of offending her or who knows that doing so will probably offend her modesty.³⁵

vii. Section 76: Along with a fine, anybody who abuses, uses, or assists a female with the purpose of stripping her nude or disrobing her, will suffer a minimum term of 3 years in jail and a maximum sentence of 7 years.³⁶

viii. Section 77: The first conviction has a minimum sentence of 1 year in any type of jail, with a maximum sentence of three years, as well as a fine. A second or subsequent conviction carries a minimum sentence of 3 years in any type of jail, with a maximum sentence of seven years, as well as a fine. This punishment applies to anybody who films or observes a woman engaging in a private act in a setting where she would typically expect neither the perpetrator nor anyone else to be watching, or who disseminates such an image at the perpetrator's request.³⁷

Explanation 1: In the objective of this section, a "private act" is defined as an act of watching that takes place in a location that would be reasonably expected to provide privacy under the circumstances, where the sufferer is using a restroom,

³³ The Gazette of India Extraordinary, Page 26

³⁴ The Gazette of India Extraordinary, Page 26

³⁵ The Gazette of India Extraordinary, Page 27

³⁶ The Gazette of India Extraordinary, Page 27

³⁷ The Gazette of India Extraordinary, Page 27

performing a sexual act that is not typically performed in public, or having their genitalia, posterior, or breasts exposed or only covered in underwear.

Explanation 2: If the victim agrees to the photos or any action being taken, but not to the distribution of those photographs or actions to other people, then such distribution will be penalized under this provision.³⁸

ix. Section 78 (2): A person convicted of stalking faces a fine and any sort of custody for a maximum of 3 years. They will be penalized with any kind of imprisonment for an extreme of 5 years and a penalty as well if they are found guilty for a second or subsequent term.³⁹

x. Section 79: Anyone who intentionally offends a woman's modesty by saying something, making a sound, or displaying an object in any way with the intention that the woman will hear it, see it, or hear it, or by invading her privacy, faces a fine and simple imprisonment for a maximum of three years.⁴⁰

xi. Section 91: A fine, a maximum of 10 years in jail, or both may be imposed on anybody who will fully keeps a child from being born alive or causes it to pass away before the kid is born. If the act was not performed in good faith to save the mother's life, this punishment will be applied.⁴¹

xii. Section 92: Anyone who will fully keep a child from being born alive or causes it to pass away before the infant is born faces an extreme sentence of 10 years in imprisonment, a fine, or both. This penalty will be applied if the mother's life was not saved by the act in good faith.⁴²

xiii. Section 93: A maximum penalty of 7 years in either form of jail, a penalty, or both is imposed on anybody who is the parent or guardian of a child under the age of twelve and exposes or abandons the kid in any area with the aim to entirely abandon the child.⁴³

Explanation: If the child dies as a result of the exposure, this clause is not meant to stop the perpetrator from being tried for murder or culpable homicide, as the case may be.

³⁸ The Gazette of India Extraordinary, Page 28

³⁹ The Gazette of India Extraordinary, Page 28

⁴⁰ The Gazette of India Extraordinary, Page 28

⁴¹ The Gazette of India Extraordinary, Page 30

⁴² The Gazette of India Extraordinary, Page 30

⁴³ The Gazette of India Extraordinary, Page 30

xiv. Section 95: Anyone who hires, employs, or engages a child in criminal activity will face a term of minimum 3 years in imprisonment, with the chances of a ten-year sentence, along with a fine. If the crime is committed, the penalty for that offense will also be applied, just as if the offence had been committed by the individual.⁴⁴

Explanation: Hiring, employing, engaging or using a child for sexual exploitation or pornography is covered within the meaning of this section.

xv. Section 96: A severe punishment of 10 years in jail and a fine is imposed on anybody who, by any means, forces a child to leave a place or carry out an action with the knowledge that the child may be compelled or lured into participating in illicit sexual behaviour with another person.⁴⁵

xvi. Section 98: Anyone who sells, rents, or else disposes of a child knowing that the child will be utilized for prostitution, illegal sexual relations, or any further illegal and immoral reason at any age, or knowing that it is usual that the child will be utilized for any of these purposes, faces an extreme verdict of ten years in imprisonment of any type along with a fine as well.⁴⁶

Explanation 1: A person under the age of eighteen who sells, rents, or otherwise disposes of a female to a prostitute or to a brothel owner or operator is presumed to have done so with the goal of utilizing her for prostitution, unless the opposite is shown.

Explanation 2: According to this section, "illicit intercourse" refers to sexual relations between individuals who are not married or who are not bound by any union or tie that, while not equivalent to a marriage, is recognized by the personal law or custom of the community to which they belong, or, in the case of two different communities, of both such communities, as forming a quasi-marital relationship between them.

xvii. Section 99: Anyone who buys, rents, or otherwise obtains a child knowing that the child will be used for prostitution, illicit sexual relations with another person, or any other illegal and immoral purpose at any age, or who knows it is likely that the child will be used for any of these purposes, faces a minimum

⁴⁴ The Gazette of India Extraordinary, Page 30

⁴⁵ The Gazette of India Extraordinary, Page 30

⁴⁶ The Gazette of India Extraordinary, Page 31

verdict of seven years in prison of any kind and a maximum sentence of fourteen years. They will also be subject to a fine.⁴⁷

Explanation 1: Any prostitute or person managing a brothel who buys, rents, or otherwise obtains control of a girl below the age of eighteen is supposed to have done so with the goal of exploiting her for prostitution, unless the opposite is shown.

Explanation 2: The definition of "illicit intercourse" is identical to that found in section 98.

xviii. Section 107: If any child, any person of unsound mind, any delirious person or any individual in a situation of intoxication, commits suicide, whoever abets the instruction of such suicide, shall be punished with death or imprisonment for life, or imprisonment for a term not exceeding ten years, and shall also be liable to fine.⁴⁸

xix. Section 139: (1) Anyone found guilty of kidnapping a child or obtaining guardianship of a child without being the child's legal guardian for the purpose of using the child for work or begging faces a least verdict of ten years in imprisonment, with the chances of a life verdict, along with a fine also.⁴⁹

(2) A fine and a minimum sentence of twenty years in prison, with the possibility of an extension to life, are imposed on anybody who maims a child with the intent to hire or use the child for begging. This means that the offender would be incarcerated for the remainder of their natural life.

(3) If a child is hired or used for begging by someone who is not the child's legal guardian, it is presumed—unless proven differently—that the person kidnapped the child or obtained custody of the child in order for the child to be employed or used for begging.

xx. Section 141: It is punishable by up to ten years in prison and a fine if a girl under twenty-one or a boy under eighteen is imported from any country outside of India with the knowledge or intent that the girl or boy may be forced or lured into having an illicit sexual relationship with another person.⁵⁰

⁴⁷ The Gazette of India Extraordinary, Page 31

⁴⁸ The Gazette of India Extraordinary, Page 34

⁴⁹ The Gazette of India Extraordinary, Page 45

⁵⁰ The Gazette of India Extraordinary, Page 46

xxi. Section 144: (1) Anyone who knows or has a reasonable suspicion that a child has been trafficked and engages in any kind of sexual exploitation of the child receives a minimum term of five years in jail, a maximum sentence of 10 years, and a fine.⁵¹

2.12 Section IV: Critical Analysis of Legislative Implementation

India has passed a varied range of laws aimed at safeguarding the rights of the girl child. From constitutional guarantees to specific statutes addressing education, health, exploitation, and dignity, the legislative framework is robust on paper. Yet, the lived reality of the girl child often reveals a troubling gap between law and practice. This section critically analyses legislative implementation under three broad sub-sections: the gap between law and practice, judicial interventions, and policy initiatives.

2.12.1 Gap Between Law and Practice

i. Weak Enforcement: Despite strong laws, enforcement remains weak. The *Prohibition of Child Marriage Act, 2006* criminalises child marriage, yet UNICEF estimates that 27% of girls in India are married before 18. Similarly, the *PCPNDT Act, 1994* prohibits sex-selective abortions, but misuse of ultrasound technology continues, reflected in the skewed child sex ratio of 918 girls per 1000 boys (Census 2011).

Case Study: In Rajasthan, despite awareness campaigns, child marriage ceremonies are often conducted secretly at night to evade detection. Local officials, sometimes complicit due to corruption or social acceptance, fail to intervene. This demonstrates how entrenched cultural practices undermine legislative intent.

ii. Corruption and Social Acceptance: Corruption among enforcement agencies and social acceptance of discriminatory practices weaken implementation. For instance, dowry-related child marriages persist despite the *Dowry Prohibition Act, 1961*. Families often justify such practices as tradition, making enforcement socially unpopular.

⁵¹ The Gazette of India Extraordinary, Page 47

Statistical Data: NCRB (2022) reported over 50,000 cases under the *POCSO Act, 2012*, but conviction rates remain below 30%. This reflects systemic weaknesses in investigation, prosecution, and judicial processes.

iii. Lack of Awareness: Awareness of rights remains limited, especially in rural areas. Many families are unaware of schemes like *Sukanya Samriddhi Yojana* or laws protecting girls from exploitation. Without awareness, laws remain inaccessible.

iv. Comparative Perspective: Bangladesh has made significant progress in reducing child marriage through community mobilisation and awareness campaigns, demonstrating that enforcement must be complemented by social change. India's reliance on punitive measures without adequate awareness has limited impact.

2.12.2 Judicial Interventions

In order to ensure that laws are implemented and to broaden the extent of children's rights, courts have played a proactive role. Judicial activism has often bridged gaps between law and practice.

i. Expanding Article 21: In the landmark 1993 decision of *Unni Krishnan v. State of Andhra Pradesh*, the Supreme Court held that the right to education is implicitly guaranteed by Article 21. This decision paved the way for the creation of Article 21A and the Right to Education Act of 2009.

Case Study: The *Right to Education Act* mandated 25% reservation in private schools for disadvantaged children. Judicial monitoring ensured compliance, though challenges remain in urban slums where private schools resist implementation.

ii. Banning Child Labour in Hazardous Industries: Recognizing the right to education and dignity of young laborers, the Supreme Court ordered their rehabilitation in *M.C. Mehta v. State of Tamil Nadu* (1996). This judgment reinforced the *Child Labour (Prohibition and Regulation) Act, 1986*.

Statistical Data: ILO estimates that India has 10.1 million child labourers, many of them girls in domestic work. Judicial interventions have reduced hazardous child labour, but invisible labour within households persists.

iii. Protecting Reproductive Rights: In the 2009 case of *Suchita Srivastava v. Chandigarh Administration*, the Supreme Court acknowledged that Article 21 includes reproductive liberty. This judgment affirmed the right of adolescent girls to make decisions about their bodies, strengthening protections under the *PCPNDT Act*.

iv. Criminalising Marital Rape of Minors: In *Independent Thought v. Union of India* (2017), the Apex Court criminalised sexual intercourse with a minor wife, recognising marital rape of girls aged 15–18 as a breach of child rights. This landmark judgment strengthened protections as per the *POCSO Act*.

v. Comparative Perspective: Unlike India, countries like the UK have specialised child protection courts and units, ensuring speedy trials and higher conviction rates. India’s judicial interventions are progressive but hampered by delays and lack of infrastructure.

2.12.3 Policy Initiatives

Legislation alone cannot transform societal attitudes. Policy initiatives and government schemes play a key role in operationalising laws and promoting awareness.

i. Beti Bachao Beti Padhao (BBBP): Launched in 2015, BBBP aims to address declining child sex ratio and promote education. It combines awareness campaigns, enforcement of PCPNDT Act, and incentives for girl child education.

Statistical Data: The sex ratio at birth improved from 918 in 2011 to 931 in 2023, reflecting modest success. However, independent evaluations reveal uneven impact, with funds often diverted to publicity rather than grassroots implementation.

Case Study: In Haryana, intensive campaigns under BBBP—such as community mobilisation and strict monitoring of ultrasound clinics—led to significant improvement in sex ratio. Yet, in states like Uttar Pradesh, impact remains limited due to weak enforcement.

ii. Sukanya Samriddhi Yojana: A savings scheme for girl children, providing financial security for education and marriage. While popular in urban areas, awareness remains low in rural regions.

iii. Kasturba Gandhi Balika Vidyalaya (KGBV): Residential schools for girls from disadvantaged groups. These schools have successfully reduced dropout rates, especially in states like Bihar and Uttar Pradesh.

Judicial Pronouncement: In *State of Karnataka v. Associated Management of English Medium Primary Schools (2014)*, the Supreme Court strengthened policy measures aiming at universal education by upholding the legality of the Right to Education Act.

iv. Integrated Child Development Services (ICDS): Provides supplementary nutrition, health check-ups, and preschool education. Effective implementation in states like Tamil Nadu has reduced malnutrition among girls, though challenges remain in northern states.

Comparative Perspective: Countries similar to Sri Lanka have achieved near-universal female literacy through sustained policy initiatives, demonstrating that consistent investment in education yields long-term benefits. India's fragmented implementation limits impact.

Table 2.2
Comparison Between Key Legislations for the Girl Child -
Objectives, Challenges, and Outcomes

Legislation	Objective	Enforcement Challenges	Observed Outcomes
Prohibition of Child Marriage Act, 2006	Prevent child marriage by setting legal age and penalising offenders.	Social acceptance of early marriage. Secret ceremonies evade detection. Weak local enforcement.	27% of girls still married before 18 (UNICEF). Vigilance groups in Rajasthan show success.
PCPNDT Act, 1994	Prevent sex-selective abortions and improve child sex ratio.	Collusion between families and clinics. Poor monitoring of ultrasound centres. Low conviction rates.	Sex ratio at birth improved from 918 (2011) to 931 (2023). Haryana saw notable gains under BBBP.
POCSO Act, 2012	Provide child-friendly procedures and strict penalties for sexual offences.	Underreporting due to stigma. Judicial delays. Lack of trained personnel.	50,000+ cases reported in 2022. Conviction rate <30%. Courts increasingly sensitive post-2017

			ruling.
Right to Education Act, 2009	Guarantee free and compulsory education for children aged 6–14.	Dropouts due to poverty and early marriage. Resistance from private schools. Infrastructure gaps.	Primary enrollment near universal. Secondary completion for girls ~66%. KGBV schools improved retention.
Juvenile Justice Act, 2015	Provide care, protection, and rehabilitation for children in need.	Overburdened child welfare committees. Inadequate shelter homes. Poor inter-agency coordination.	Mission Vatsalya rehabilitated thousands. Adoption procedures streamlined. Still gaps in post-rescue care.
Dowry Prohibition Act, 1961	Curb dowry practices and reduce economic burden of daughters.	Cultural acceptance of dowry. Poor reporting and enforcement. Weak deterrence	Dowry-linked child marriages persist. Kerala shows decline due to awareness
Child Labour Act, 1986	Prohibit hazardous child labour and regulate conditions of work.	Invisible domestic labour by girls. Loopholes for family enterprises. Weak inspections.	Hazardous labour reduced. Domestic exploitation continues. NGOs play key rescue role.
Immoral Traffic (Prevention) Act, 1956	Prevent trafficking and sexual exploitation of women and children.	Poor inter-state coordination. Victim-blaming attitudes. Limited reintegration support.	Thousands rescued under Ujjawala Scheme. Reintegration remains a challenge. Community-based models show promise.

Source: Self Made

This table 2.2 reveals that while India’s legislative framework is extensive and well-intentioned, enforcement challenges—ranging from cultural resistance to institutional gaps—continue to undermine its effectiveness. The outcomes vary widely across states and depend heavily on community participation, judicial

activism, and policy integration. A rights-based approach must therefore go beyond legal text to address these systemic barriers.

The critical analysis of legislative implementation reveals a paradox: India has strong laws protecting the girl child, but enforcement remains weak. The gap between law and practice is shaped by corruption, lack of awareness, and social acceptance of discriminatory practices. Judicial interventions have expanded the scope of child rights, bridging gaps in legislative implementation. Policy initiatives like BBBP have shown modest success but suffer from uneven impact. Case studies, judicial pronouncements, government schemes, statistical data, and comparative perspectives highlight both progress and challenges. A socio-legal perspective underscores that protecting the rights of the girl child requires not only laws but also effective enforcement, cultural transformation, and sustained policy initiatives.

The journey towards equality is ongoing, demanding collective commitment from the state, judiciary, civil society, and communities. Only then can India ensure that every girl child lives with dignity, opportunity, and empowerment.

2.13 Section V: Socio-Legal Challenges

In India, protecting and empowering girls requires more than just passing legislation. It is a complex socio-legal process that requires dismantling entrenched traditions, addressing economic constraints, and strengthening institutional mechanisms. Despite progressive legislation, the lived reality of millions of girls continues to be shaped by patriarchal norms, poverty, and weak enforcement structures. This section critically examines these socio-legal challenges under three broad sub-sections: patriarchy and cultural norms, economic constraints, and institutional weaknesses.

i. Patriarchy and Cultural Norms: Laws Often Clash with Entrenched Traditions

a. The Persistence of Patriarchy: Patriarchy remains the most formidable barrier to the effective implementation of laws protecting the girl child. Cultural traditions often valorise sons as bearers of lineage and economic security, while daughters are perceived as liabilities due to dowry and patrilocal marriage

systems. This son preference manifests in skewed sex ratios, female infanticide, and neglect of girls in nutrition and education.

Case Study: In Haryana, despite strict enforcement of the *PCPNDT Act, 1994*, families collude with medical practitioners to determine the sex of the foetus. Community acceptance of son preference undermines the law, demonstrating how entrenched cultural norms resist legislative change.

b. Clash Between Law and Tradition: Laws prohibiting child marriage often clash with traditions that valorise early marriage as a means of securing family honour. The *Prohibition of Child Marriage Act, 2006* criminalises child marriage, yet ceremonies are conducted secretly at night to evade detection. Families justify the practice as tradition, making enforcement socially unpopular.

Judicial Pronouncement: The Supreme Court recognized marital rape of females between the ages of 15 and 18 as a breach of children's rights in *Independent Thought v. Union of India (2017)*, making sexual relations with a minor wife illegal. This judgment directly challenged patriarchal traditions that legitimised child marriage.

c. Cultural Practices and Violence: Patriarchal norms also perpetuate violence against girls. Practices such as dowry, honour killings, and restrictions on mobility undermine legislative protections. The *Dowry Prohibition Act, 1961* exists, but dowry-related child marriages persist due to cultural acceptance.

Comparative Perspective: Bangladesh has reduced child marriage through community mobilisation and awareness campaigns, demonstrating that enforcement must be complemented by cultural transformation. India's reliance on punitive measures without adequate social change has limited impact.

ii. Economic Constraints: Poverty Exacerbates Vulnerability of Girl Children

a. Poverty and Education: Poverty is a significant barrier to education. Families often prioritise boys' education, perceiving girls as destined for marriage. Despite the *Right to Education Act, 2009*, dropout rates among girls remain high, especially at the secondary level.

Statistical Data: NFHS-5 data shows that while primary enrolment is nearly universal, only 66% of girls complete secondary education compared to 78%

boys. Poverty, early marriage, and lack of sanitation facilities contribute to dropout.

Case Study: In Bihar, community-based initiatives like *Balika Shiksha Foundation* have successfully reduced dropout rates by providing bicycles, scholarships, and safe transport facilities. These interventions highlight the importance of addressing economic barriers.

b. Poverty and Health: Poverty exacerbates malnutrition and poor health among girls. NFHS-5 data reveals that 35% of girls under five are underweight compared to 33% boys. Girls are often last in line for food within households, reflecting cultural biases.

Government Scheme: The *Integrated Child Development Services (ICDS)* provides supplementary nutrition, health check-ups, and preschool education. Effective implementation in states like Tamil Nadu has reduced malnutrition among girls, though challenges remain in northern states.

c. Poverty and Exploitation: Economic constraints push girls into child labour and trafficking. Although hazardous child labor is prohibited by the Child Labour (Prohibition and Regulation) Act, 1986, millions of girls engage in domestic jobs that are frequently undetectable inside households.

Case Study: NGOs like *Bachpan Bachao Andolan* have rescued thousands of girls from domestic labour, rehabilitating them through education and vocational training. Poverty remains the root cause, demonstrating that legislation alone cannot eliminate exploitation.

Judicial Pronouncement: In *M.C. Mehta v. State of Tamil Nadu (1996)*, the Supreme Court directed rehabilitation of child labourers, recognising their right to education and dignity. This judgment reinforced the need for economic support alongside legal prohibition.

iv. Institutional Weaknesses: Lack of Trained Personnel, Inadequate Infrastructure, and Slow Judicial Processes

a. Weak Enforcement Mechanisms: Institutional weaknesses undermine legislative implementation. Lack of trained personnel, inadequate infrastructure, and corruption weaken enforcement of laws like the *POCSO Act, 2012* and *PCPNDT Act, 1994*.

Statistical Data: NCRB (2022) reported over 50,000 cases under POCSO, but conviction rates remain below 30%. Delays in investigation, lack of child-friendly courts, and inadequate training of police officers contribute to low conviction rates.

Judicial Delays: Slow judicial processes hinder effective protection. Cases of child marriage, sexual abuse, and trafficking often take years to resolve, leaving victims vulnerable.

b. Judicial Pronouncement: The Supreme Court laid the foundation for child-friendly practices later enshrined in POCSO in **State of Punjab v. Gurmit Singh (1996)**, wherein the court emphasized sensitivity in treating instances involving sexual offenses. Yet, implementation remains weak due to judicial delays.

c. Inadequate Infrastructure: Schools often lack basic infrastructure like toilets, contributing to dropout among adolescent girls. Health centres lack trained personnel to address reproductive health needs. Child protection units are understaffed, limiting their effectiveness.

Government Scheme: The *Beti Bachao Beti Padhao (BBBP)* scheme aims to improve child sex ratio and promote education, but independent evaluations reveal that funds are often diverted to publicity rather than infrastructure development.

d. Comparative Perspective: Countries like the UK have specialised child protection units and courts, ensuring speedy trials and higher conviction rates. India's institutional weaknesses—lack of trained personnel, inadequate infrastructure, and slow judicial processes—limit the effectiveness of its legislative framework.

iv. Comparative perspective between Socio-Legal Challenges, Legislative Responses, and Outcomes

Table 2.3
Comparative Table: Socio-Legal Challenges, Legislative Responses and Outcomes

Challenge	Legislative / Policy Response	Judicial Pronouncements / Case Studies	Observed Outcomes & Gaps
Patriarchy & Cultural Norms	Prohibition of Child Marriage Act, 2006 (criminalises child marriage) Dowry Prohibition Act, 1961 (curbs dowry practices) PCPNDT Act, 1994 (prevents sex-selective abortions) Awareness campaigns under Beti Bachao Beti Padhao (BBBP)	Independent Thought v. Union of India (2017): criminalised sexual intercourse with minor wives. CEHAT v. Union of India (2001): directed strict implementation of PCPNDT Act. Case studies from Rajasthan & Haryana show clandestine child marriages and sex-selective practices despite laws.	Sex ratio at birth improved modestly (918 in 2011 → 931 in 2023). Child marriage prevalence remains ~27% (UNICEF). Cultural acceptance of dowry and son preference undermines enforcement.
Economic Constraints (Poverty)	Right to Education Act, 2009 (free education 6–14 years) ICDS Scheme (nutrition & preschool care)	M.C. Mehta v. State of Tamil Nadu (1996): directed rehabilitation of child labourers. Case studies in	NFHS-5: 35% of girls under five underweight. Secondary school dropout

	Sukanya Samridhi Yojana (financial security for girls) Kasturba Gandhi Balika Vidyalaya (KGBV) (residential schooling for disadvantaged girls)	Bihar: bicycles & scholarships reduced dropout rates. Tamil Nadu ICDS centres reduced malnutrition significantly.	for girls ~34%. Poverty continues to push girls into child labour and early marriage.
Institutional Weaknesses	POCSO Act, 2012 (child-friendly procedures for sexual offences) Juvenile Justice Act, 2015 (care & rehabilitation) Child Labour Act, 1986 (prohibits hazardous labour) Policy initiatives like Mission Vatsalya and BBBP	State of Punjab v. Gurmit Singh (1996): emphasised sensitivity in sexual offence trials. Case studies: NCRB (2022) reported 50,000+ POCSO cases, conviction rate <30%. Grassroots NGOs (e.g., Bachpan Bachao Andolan) highlight gaps in enforcement.	Judicial delays and lack of child-friendly courts hinder justice. Enforcement agencies understaffed and undertrained. Infrastructure gaps (schools without toilets, health centres without personnel) perpetuate vulnerability.

Source: Self Made

This table 2.3 demonstrates that while India's legislative framework is comprehensive, **patriarchy, poverty, and institutional weaknesses** continue to undermine its effectiveness. Laws clash with entrenched traditions, poverty exacerbates vulnerability, and weak institutions fail to deliver justice. Comparative perspectives (e.g., Bangladesh's community mobilisation against

child marriage, UK's specialised child protection courts) highlight that **social transformation and institutional strengthening** are as critical as legislation.

The socio-legal challenges facing the girl child in India reveal a paradox: strong laws exist, but entrenched patriarchy, poverty, and institutional weaknesses undermine their implementation. Patriarchal norms clash with legislation, poverty exacerbates vulnerability, and institutional weaknesses hinder enforcement. Case studies, judicial pronouncements, government schemes, statistical data, and comparative perspectives highlight both progress and persistent challenges.

A socio-legal perspective underscores that protecting the girl child's rights requires not only laws but also cultural transformation, economic support, and institutional strengthening. The journey towards equality is ongoing, demanding collective commitment from the state, judiciary, civil society, and communities. Only then can India ensure that every girl child lives with dignity, opportunity, and empowerment.

2.14 Section VI: Towards a Rights-Based Framework

In India, the debate over girls' rights has frequently oscillated among protection and survival. While legislative safeguards have sought to prevent exploitation and discrimination, the challenge lies in moving beyond a protectionist paradigm towards a rights-based framework that ensures dignity, empowerment, and holistic development. A rights-based approach situates the girl child not as a passive recipient of welfare but as an active rights-holder entitled to equality, education, health, and participation. This section explores three critical pillars of such a framework: empowerment through education, community participation, and holistic development.

i. Empowerment through Education: Ensuring Quality Education as the Most Sustainable Path

Education as a Transformative Tool: Education is the highly powerful instrument for dismantling patriarchal structures and uplifting the socio-status of the girl child. It provides not only literacy but also agency, self-confidence, and opportunities for leadership. The *Right of Children to Free and Compulsory Education Act, 2009* operationalised Article 21A, mandating free education for children aged 6–14. Yet, challenges of access, retention, and quality persist.

Case Studies

- **Bihar Bicycle Scheme:** The *Mukhyamantri Balika Cycle Yojana* provided bicycles to girls, enabling them to travel safely to schools. This reduced dropout rates significantly, demonstrating how practical interventions can empower girls.
- **Kasturba Gandhi Balika Vidyalaya (KGBV):** Residential schools for disadvantaged girls have improved enrolments in states like Uttar Pradesh and Bihar, addressing barriers of distance and safety.

Judicial Pronouncements

- ***Unni Krishnan v. State of Andhra Pradesh (1993)*:** The Supreme Court held that the right to education is implicit in Article 21, paving the way for Article 21A.
- ***State of Karnataka v. Associated Management of English Medium Primary Schools (2014)*:** Upheld the constitutionality of the *Right to Education Act*, reinforcing the state's obligation to provide education.

Statistical Data

- NFHS-5 data shows that while primary enrolment is nearly universal, only 66% of girls complete secondary education compared to 78% boys.
- Dropout rates are highest among rural girls, reflecting barriers of poverty, early marriage, and inadequate infrastructure.

Comparative Perspective: Countries similar to Sri Lanka have achieved near-universal female literacy through sustained investment in education. India's fragmented implementation highlights the need for consistent policy focus and community engagement.

ii. Community Participation: Grassroots Movements Challenging Patriarchal Norms

The Role of Communities: Legislation alone cannot dismantle entrenched traditions. Community participation is essential for challenging patriarchal norms and ensuring effective implementation of laws. Grassroots movements, NGOs, and local self-governments play a key role in transforming attitudes.

Case Studies

- **Child Marriage Vigilance Groups in Rajasthan:** Community groups have successfully prevented child marriages by reporting cases to local authorities. These interventions demonstrate the power of collective action.
- **Self-Help Groups in Kerala:** Women's collectives have mobilised communities to promote girls' education and resist dowry practices, supplementing legislative measures.

Judicial Pronouncements

- ***Gaurav Jain v. Union of India (1997)*:** Directed rehabilitation of children of sex workers, recognising the role of community-based interventions in protecting vulnerable girls.
- ***Laxmi Kant Pandey v. Union of India (1984)*:** Laid guidelines for adoption, emphasising community oversight to prevent exploitation.

Government Schemes

- ***Beti Bachao Beti Padhao (BBBP)*:** Combines awareness campaigns with enforcement of PCPNDT Act. Community mobilisation has been central to its success in states like Haryana.
- ***Ujjawala Scheme*:** Provides rescue, rehabilitation, and reintegration support for trafficked girls, often implemented through community-based organisations.

Statistical Data

- UNICEF reports that community mobilisation has reduced child marriage prevalence in districts with active vigilance groups.
- BBBP evaluations reveal that districts with strong community participation show greater improvement in sex ratio compared to those relying solely on publicity.

Comparative Perspective: Bangladesh's success in reducing child marriage through community mobilisation highlights the importance of grassroots participation. India's reliance on punitive measures without adequate community engagement has limited impact.

iii. Holistic Development: Beyond Survival Towards Dignity, Self-Expression, and Leadership

Moving Beyond Protection: A rights-based framework must move beyond survival and protection to focus on dignity, self-expression, and leadership opportunities. Holistic development includes education, health, participation in decision-making, and opportunities for leadership.

Case Studies

- **Balika Panchayats in Gujarat:** Girl children elected to local councils have demonstrated leadership, challenged patriarchal norms and promoted awareness of child rights.
- **Save the Children Initiatives:** Programmes focusing on life skills, vocational training, and leadership development have empowered girls to become advocates for their communities.

Judicial Pronouncements

- ***Suchita Srivastava v. Chandigarh Administration (2009)*:** Recognised reproductive autonomy as part of Article 21, affirming the right of adolescent girls to make decisions about their bodies.
- ***People's Union for Civil Liberties v. Union of India (2001)*:** Directed strengthening of nutrition schemes, recognising the right to food as part of dignity.

Government Schemes

- ***Rashtriya Kishor Swasthya Karyakram (RKSK)*:** Focuses on adolescent health, including reproductive health education and counselling.
- ***Sukanya Samriddhi Yojana*:** Provides financial security for education and marriage, promoting dignity and empowerment.

Statistical Data

- NFHS-5 reveals that 7.9% of girls aged 15–19 were already mothers or pregnant, highlighting the need for reproductive health education.
- Leadership programmes have increased girls' participation in local governance, though representation remains limited.

Comparative Perspective: Countries like Nepal have promoted child clubs where girls participate in decision-making, demonstrating the potential of holistic

development. India's initiatives remain fragmented, requiring integration of education, health, and leadership programmes.

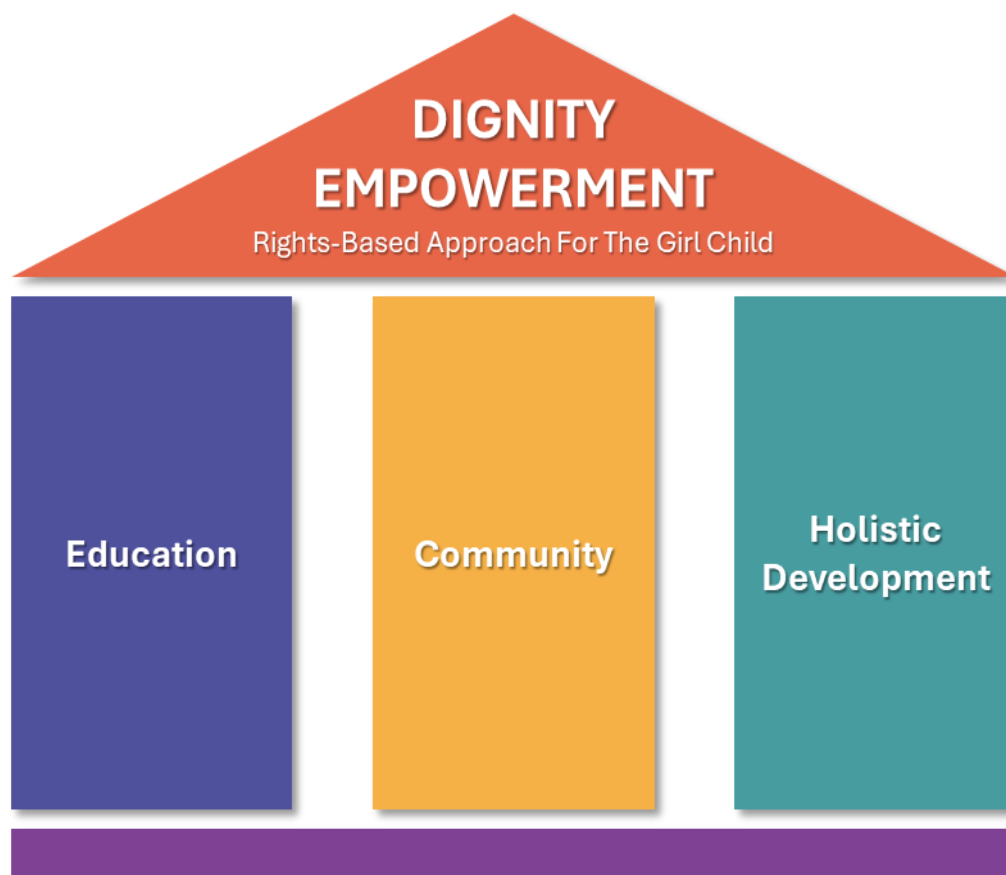


Figure 2.3: Three pillars—Education, Community, and Holistic Development—Supporting a Rights-Based Approach for the Girl Child in India.

Source: Self-Created

Towards a rights-based framework, India must move beyond protectionist legislation to ensure empowerment through education, community participation, and holistic development. Case studies, judicial pronouncements, government schemes, statistical data, and comparative perspectives highlight both progress and challenges.

A socio-legal perspective underscores that protecting the rights of the girl child requires not only laws but also cultural transformation, economic support, and institutional strengthening. Empowerment through education provides the foundation, community participation ensures sustainability, and holistic development guarantees dignity and leadership.

The journey towards equality is ongoing, demanding collective commitment from the state, judiciary, civil society, and communities. Only then can India ensure that every girl child lives not merely as a survivor but as a dignified, empowered, and equal citizen

The socio-status of the girl child in India remains precarious despite legislative safeguards. The challenge lies not in the absence of laws but in their effective implementation and in transforming societal attitudes. A critical socio-legal perspective reveals that empowerment of the girl child needs a multi-dimensional outlook—legal, social, economic, and cultural.

The fight to protect the rights of girls is still going on. It demands not only stronger enforcement of laws but also a collective societal commitment to dismantle patriarchal structures and nurture environments where girls can thrive as equal citizens.

CHAPTER 3

CASE STUDIES ON CRIMES

AGAINST GIRL CHILD IN

INDIA AND JUDICIAL

RESPONSE

CHAPTER 3

CASE STUDIES ON CRIMES AGAINST GIRL CHILD IN INDIA AND JUDICIAL RESPONSE

This chapter analyses selected judicial cases and incidents of crimes against the girl child in India to understand how legal mechanisms respond to violations of her rights, and to evaluate their adequacy in ensuring justice and deterrence. The chapter has classified various criminal cases into following categories:

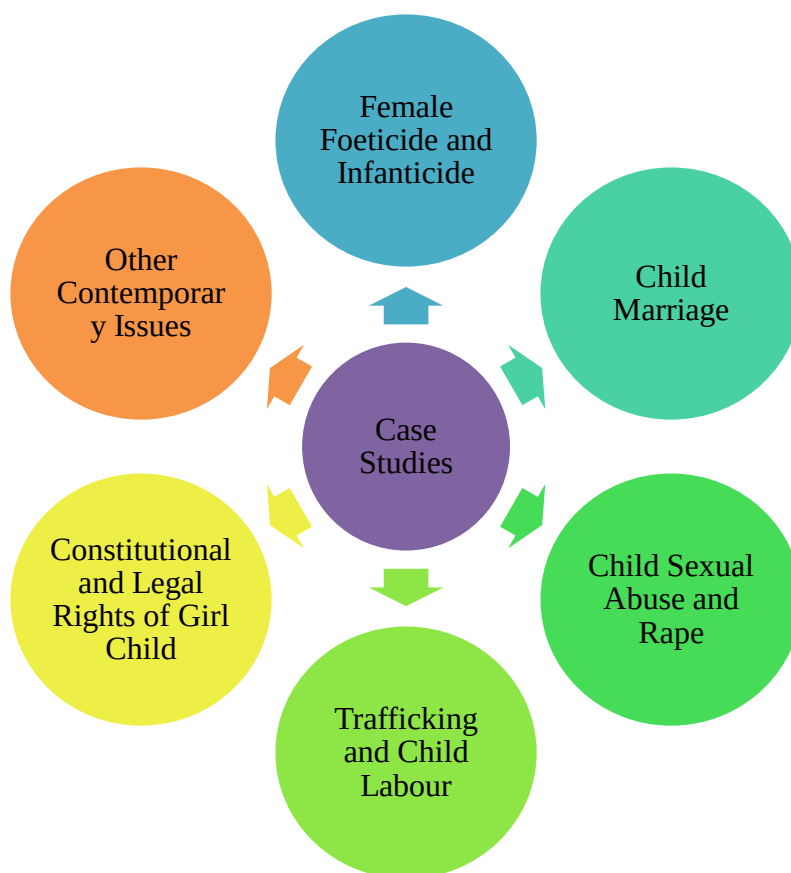


Figure 3.1: Classification of Case Studies

3.1 Female Foeticide and Infanticide

Case 1: Centre for Enquiry into Health and Allied Themes (CEHAT) and others v. Union of India & Ors. (2001) 5 SCC 577

Background of the Case

Among the most important case involving female foeticide, NGOs petitioned the Supreme Court over the PCPNDT Act of 1994's non-implementation. By using

modern medical procedures, the traditional method of female infanticide—which involved poisoning the newborn or allowing her to choke on her husk—continues in a different form. Regretfully, advanced medical technology being abused to abort a girl child before she is born. Both competent and untrained doctors or compounders terminate a female child's foetus, knowing full well that abortion is immoral, unethical, and may even be illegal. In certain states where female infanticide is rampant and unchecked, this has impacted the general sex ratio. Parliament wisely passed the Prenatal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (henceforth referred to as "the PNDT Act") in order to regulate the problem. According to the Preamble, among other things, the Act's goal is to stop the abuse of these methods for determining a woman's sex during pregnancy, which can result in female foeticide, as well as for other related or incidental purposes. The Act became operative on January 1, 1996.

It is evident that the PNDT Act is not being implemented effectively by either the federal government or the state governments. Thus, the petitioners resorted to the Court in compliance with Article 32 of the Indian Constitution. The Centre for Enquiry into Health and Allied Themes (CEHAT), a research facility of the Anusandhan Trust with locations in Pune and Mumbai, was one of the petitioners. Mahila Sarvangeen Utkarsh Mandal (MASUM), situated in Pune, Maharashtra, was the second petitioner. Dr. Sabu M. Georges, who possesses technical expertise and experience in the subject, was the third petitioner.

Even after the Pre-Natal Diagnostic techniques (Regulation and Prevention of Misuse) Act, 1994, was established, the petitioners emphasized the concerning drop in the child sex ratio brought on by the pervasive abuse of prenatal diagnostic procedures for sex determination and female foeticide.

The petitioners argued that by not effectively implementing the Act, the State had infringed upon the female child's basic rights to equality (Article 14) and life (Article 21).

Legal Issues Involved

i. Whether the government authorities were fulfilling their statutory duties under the PNDT Act to control and stop misuse of diagnostic techniques.

ii. Whether failure to enforce the Act violated the **constitutional rights of the girl child**.

iii. Whether the Court may impose orders to guarantee that the law is strictly applied at the federal and state levels.

Judgment

The Supreme Court of India noticed that the deteriorating sex ratio was a matter of grave national concern and that female foeticide amounted to a violation of human and constitutional rights.

The Union and State Governments received comprehensive directives from the Court, which included:

- i. Formation of Appropriate Authorities and Advisory Committees under the Act.
- ii. Registration and periodic monitoring of all genetic counselling centres, clinics, and laboratories.
- iii. Suspension or cancellation of licences of clinics conducting illegal sex determination tests.
- iv. Launch of nationwide awareness campaigns by the central government to highlight the social and moral evils of female foeticide.
- v. State governments must submit compliance reports to the Ministry of Family Welfare and Health.

The Court ruled that the State's obligation to safeguard the life and dignity of the female child included the execution of the PNDT Act.

Socio-Legal Analysis

This case marked the first major judicial intervention in combating female foeticide in India. The Court recognized that technological misuse — in the form of ultrasound and diagnostic tests — had intensified gender discrimination and endangered the very existence of the girl child.

From a **social perspective**, the case highlighted deep-rooted patriarchal attitudes, economic pressures, and cultural biases favouring male children as the primary causes behind sex-selective abortions.

From a **legal standpoint**, the judgment transformed the PNDT Act into a proactive tool of gender justice, setting the foundation for the later PCPNDT

(Amendment) Act, 2003, which expanded its scope to include *pre-conception* sex selection and strengthened penalties for violations.

Critical Evaluation

Despite the fact that the PNDT Act was enacted by Parliament, neither the State Governments nor the Central Government have taken the required actions to put it into effect. While the directions were commendable, implementation remained a major challenge. Many states failed to establish monitoring committees or prosecute violators effectively.

However, this case marked the beginning of a new age of judicial activism in which the courts started to view female foeticide as a crime against humanity and the Constitution, rather than just a health or family issue.

Conclusion

The *CEHAT v. Union of India* case stands as a landmark in the jurisprudence of child rights and gender justice. It reaffirmed the judiciary's commitment to protecting the right to be born as an essential part of Article 21.

This judgment remains a cornerstone in India's ongoing struggle to eliminate female foeticide and uphold the dignity and equality of the girl child.

Case 2: Mr. Vijay Sharma and Mrs. Kirti Sharma v. Union of India (2007)

Background of the Case

This case is connected to a couple with two daughters who sought to get a third child, specifically a son. They desired to give birth to a male child and sought to use prenatal diagnostic techniques (or technologies enabling sex selection) to select the sex of the foetus. They claim that if they are permitted to choose the sex of their child and have a son, they will be able to experience the love and devotion of both son and daughter at the same time, and their current children will be able to grow up with their own brother. The constitutional validity of the **Pre-Conception and Pre-natal Diagnostic Techniques (PCPNDT) Act** was challenged by the couple on the basis that it violates the right to equality (Article 14). The petitioners have sought treatment from a number of clinics in order to use prenatal diagnostic methods to determine the sex of the foetus. However, because it is illegal under the aforementioned Act, all clinics have refused to treat them.

The petitioners claim that they have no plans to abuse prenatal diagnostic methods. They argue that they can care for and raise one more child because they are financially stable. They cannot receive the same treatment as other couples that engage in sex-selective abortion to conceive a male child. It is impossible to apply the aforementioned Act's requirements uniformly. The petitioners claim that their primary goal is to maintain family balance. They contend that a married couple should be permitted to use prenatal diagnostic methods to conceive a child of the opposite sex if they already have a child of one sex. In actuality, if prenatal diagnostic methods are permitted, the optimal female-to-male ratio may be preserved.

Legal Issues Involved

- i. Whether the ban on selection of sex (pre-conception or prenatal), as mentioned under the PCPNDT Act, is constitutionally valid or violates the principle of equality under Article 14.
- ii. Whether couples having children of one sex (all daughters, in this case) should be treated differently / permitted to have a child of the opposite sex using prenatal diagnostic methods — i.e. whether a “family balancing” argument can justify sex selection.
- iii. Whether the statutory prohibition is arbitrary or unreasonable under constitutional standards.

Judgment

- i. On September 6, 2007, the High Court dismissed the petition, ruling that the challenged provisions of the PCPNDT Act are constitutional and do not violate Article 14. The Court ordered that the PC&PNDT Act including provisions prohibiting pre-conception sex selection and prenatal sex determination is not arbitrary or unreasonable. The ban is in tune with the legislative objective of preventing sex-selective abortions and protecting the dignity and life of the girl child.
- ii. The court made a distinction between the Medical Termination of Pregnancy (MTP) Act of 1971 and the PCPNDT Act, explaining that they have different objectives; the MTP Act addresses pregnancy termination for health,

humanitarian, and eugenic reasons, while the PCPNDT Act specifically aims to prevent selection of sex and female foeticide.

iii. The court affirmed that allowing sex selection for “family balancing”, even without foeticide, contributes to an artificial decrease in female births and would perpetuate the social bias in favour of a male child, creates social imbalance, and disrespects women's dignity.

iv. The court also instructed the government to closely adhere the Supreme Court's previous directives in the **Centre for Enquiry into Health & Allied Themes (CEHAT) v. Union of India** case to ensure proper implementation and prevent the misuse of diagnostic techniques.

v. On the ground of Article 14, the Court rejected the petitioners’ argument that all couples should not be treated alike. It held that the prohibition does not constitute discriminatory classification, because the law aims to protect a compelling societal interest — preventing female foeticide and maintaining sex ratio.

Socio-Legal Analysis

Social Dimension

- The case reflects the deeply entrenched **son-preference** and patriarchal values dominant in many Indian families — the petitioners’ wish for a male child after two daughters is a clear example. This underscores how sex selection is sought not out of medical necessity, but to satisfy social/ patriarchal expectations.
- The decision affirms that **sex-selection and female foeticide have far-reaching social consequences**: skewed sex ratio, devaluation of the girl child, gender imbalance, and systemic gender discrimination. The judgment thus supports the rights of the girl child to be born, protected, valued, and to survive.
- By upholding the ban, the Court contributed to safeguarding the **right to life and dignity of female foetuses / unborn girl children**; the case aligns with the broader struggle for protecting girl-child rights in India.

Legal Dimension

- Legally, the judgment reinforces the constitutional legitimacy of the PC&PNDT Act, affirming that state regulation of prenatal diagnostics and sex selection is permissible and necessary in light of social context and gender justice concerns.
- The Court's reasoning shows that **equality under Article 14 does not mean identical treatment in all circumstances**; differential treatment is acceptable if grounded in compelling social interest, and not arbitrary.
- The case becomes a significant **precedent for protecting female foeticide victims and unborn girl-child rights**, discouraging misuse of medical technology for sex selection, and reinforcing protective jurisprudence in favour of girl-children.

Critical Evaluation

Strengths:

- The judgment recognizes and upholds gender justice and protection of girl-child rights at the prenatal stage, before birth.
- It confronts social prejudices (son-preference, gender bias) and uses law to uphold the **dignity of women and girl-children**.
- The reasoning balances individual autonomy / reproductive choice against societal interest in preventing gender imbalance and protecting vulnerable unborn lives — choosing protection of equality and social justice over market or personal desire for sex selection.
- Provides constitutional backing for regulatory measures aimed at preventing female foeticide, reinforcing the social welfare dimension of state legislation.

Limitations / Challenges:

- From a strictly personal-liberty perspective, the decision restricts couples' reproductive autonomy — for couples who may genuinely wish a balanced family without ill-intent. The Court does not offer a narrow carve-out for innocuous "family balancing."
- Some argue that such a prohibition may drive couples to **illegal, clandestine clinics**, increasing risk to maternal health and unregulated medical procedures.

- Enforcement of the ban and regulation of prenatal diagnostic techniques depends heavily on state machinery, medical ethics, oversight, and sometimes there is lack of compliance or corruption — limiting the practical success of the legislative framework.
- The judgment does not address deeper social issues — son-preference, patriarchal norms, dowry, gender-biased socialisation — which continue to drive demand for male children; law alone may not change social attitudes.

Conclusion

In terms of the legal defence of the rights of girls and unborn female foetuses, the case of **Vijay Sharma & Kirti Sharma vs. Union of India** is historic. It underscores that sex selection is not a matter of private choice alone but has detrimental societal implications — including gender imbalance and violation of rights of unborn girl-children. It demonstrates how the law intervenes to protect girl-child rights right from conception, upholding constitutional values over individual preferences that perpetuate gender bias.

Case 3: Voluntary Health Association of Punjab v. Union of India (2013) 4 SCC 1

Background of the Case

The case dealt with the grave problem of female foeticide, which is brought on by the abuse of sex-determination methods and the consequent drop in the child-to-sex ratio. An NGO focused on women's health and child welfare, the Voluntary Health Association of Punjab, filed a Public Interest Litigation (PIL) under Article 32 to implement the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 more strictly. The petitioner argued that the State's inability to stop sex determination methods and the widespread violations of the PCPNDT Act were causing the systematic elimination of female children before birth, in violation of the equality and life protections guaranteed by the constitution. The Supreme Court of India in this case gave the federal and state governments stringent, obligatory instructions for the successful application of the Pre-Conception and Prenatal Diagnostic Techniques (PC-PNDT) Act, 1994. The case followed earlier petitions in which the court had issued directions for the employment of the PC-PNDT Act. Citing the 2001 and 2011 Census data, the court noted that despite earlier warnings and the legislation, the child sex ratio

continued to fall. The court observed that the various states and Union Territories had failed to properly implement the law, with few prosecutions and convictions. This indicated that authorities were "callous" in their duties. Due to the continued non-compliance, the Supreme Court took the stern step of summoning health secretaries from several states with particularly low sex ratios, including Punjab, Haryana, Delhi, Rajasthan, Uttar Pradesh, Bihar, and Maharashtra.

Legal Issues Involved

- i. Whether the State machinery had failed in enforcing the PCPNDT Act effectively.
- ii. If the basic rights protected by Articles 14, 15, and 21 of the Constitution are violated by female foeticide.
- iii. What remedial and preventive measures could be directed to strengthen the legal and administrative framework against sex-selective abortions.

Judgment

The Supreme Court condemned the continued decline in the female sex ratio and termed female foeticide as a “national tragedy and a crime against humanity.” The Court reiterated that the right to life under Article 21 extends even to the unborn girl child and that female foeticide violates the principle of equal protection of laws under Article 14. In its decision, the court issued extensive and detailed directions to ensure the PC-PNDT Act was enforced effectively. These included:

- i. Strengthening oversight:** In order to assess enforcement progress, the court ordered the Central Supervisory Board and State Supervisory Boards to hold more frequent and stringent sessions.
- ii. Expediting trials:** Under the PC-PNDT Act, trial courts were instructed to prioritize and resolve all outstanding matters in a certain, expedited amount of time.
- iii. Improving record-keeping:** States were ordered to maintain more transparent and verifiable records of births and to disclose data on sex ratios and prosecutions.
- iv. Mapping clinics:** Authorities were told to map all clinics and seize any ultrasound machines sold illegally to unregistered facilities.
- v. Mandatory awareness campaigns:** The judgment stressed that awareness campaigns must go beyond basic information to address the social and moral

aspects of female foeticide. It was emphasized that a woman has an equal role in society.

vi. Enhanced training: The court directed judicial academies to train appropriate authorities and prosecutors to ensure proper enforcement and reduce procedural lapses.

Socio-Legal Analysis

The judgment represented the judiciary's evolving role in linking gender discrimination with constitutional rights. It emphasized that the State has a positive obligation to protect women and the girl child from cultural practices that deny them the right to life. The judgment reiterated the Supreme Court's commitment to eradicating female foeticide and its willingness to use judicial oversight to enforce social legislation. The court's mandatory and time-bound directions forced government bodies to move from passive non-compliance to active enforcement. The court kept the matter alive for continued monitoring, signalling that it would not tolerate further inaction on this critical social issue.

Socially, the case exposed the persistence of son preference across regions, educational levels, and economic classes — proving that legal reform must be accompanied by social re-education and value transformation. Beyond just implementing the law, the court highlighted the need for public awareness and empowerment to change the deeply ingrained discriminatory mindset against girl children.

Critical Evaluation

Though the judgment reaffirmed the spirit of *CEHAT (2001)*, implementation gaps continued. Many states reported poor monitoring, lack of data transparency, and low conviction rates under the PCPNDT Act. Nevertheless, the decision provided a constitutional foundation for later rulings extending legal regulation to digital advertisements.

Conclusion

This case reinforced that female foeticide is not only a legal offence but also a violation of fundamental human rights. It established the principle that protection of the girl child begins before birth, thereby strengthening India's socio-legal framework for gender justice.

This judgment remains a milestone in the constitutional protection of the unborn girl child, combining legal enforcement with moral urgency.

Case 4: Sabu Mathew George v. Union of India & Ors. (2016) 14 SCC 382

This is a 2008 case where a writ petition was filed to ban ‘advertisements’ relating to pre-natal sex determination from search engines in India. Section 22 of the Preconception and Prenatal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 is the operative provision.

The petitioner, **Sabu Mathew George**, a social activist working for the protection of the girl child, filed a Public Interest Litigation (PIL) under Article 32 of the Constitution before the Supreme Court of India.

The petitioner emphasized that the practice of female foeticide persisted unchecked even after the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 [PCPNDT Act] was passed. He alerted the Court to the fact that, in violation of Section 22 of the PCPNDT Act, search engines such as Google, Yahoo, and Microsoft were disseminating online content and ads that encouraged or enabled sex determination tests.

The petitioner said that the purpose of the Act and the unborn female child's fundamental rights were being undermined by such internet content, which was promoting unlawful sex selection activities. The 'doctrine of auto-block' was a significant factor in this instance.

Legal Issues Involved

- i. Whether displaying or publishing advertisements related to pre-natal sex determination by online platforms violates Section 22 of the PCPNDT Act, 1994.
- ii. Whether internet intermediaries (search engines) have a legal obligation to prevent access to content that promotes or facilitates sex selection.
- ii. Whether failure to regulate such online material constitutes a violation of the fundamental rights of the girl child under Articles 14, 15, and 21 of the Constitution.

Judgment

The Supreme Court of India, taking cognizance of the seriousness of the issue, held that online advertisements and search results promoting sex selection tests directly violated Section 22 of the PCPNDT Act. The judgment drew strength

from the principles laid down in earlier cases — *CEHAT v. Union of India* (2001) and *Voluntary Health Association of Punjab v. Union of India* (2013) — extending the ambit of protection to digital platforms in the modern era.

The Court issued a number of directives to guarantee adherence to the law:

- i. The Court had listed roughly 40 search terms, imposing the aforementioned standard on the respondents, stating that any attempt at looking up the banned search terms would be ‘auto-blocked’. Search engines such as Google, Yahoo, and Microsoft were directed to develop a mechanism (“Auto Block” or “Ad Word Policy”) to automatically identify and block any advertisements, web pages, or links that violate the PCPNDT Act.
- ii. The Union Government was instructed to create a nodal agency to monitor online content and notify search engines of any violations for prompt removal.
- iii. The Court emphasized that technological advancements should not be used to defeat the objectives of social justice, particularly the protection of the girl child.
- iv. The Court reiterated that the right to life and dignity of the girl child begins at conception, and that preventing female foeticide is a constitutional and moral duty of the State and society.

Socio-Legal Analysis

The Court recognized the digital dimension of gender discrimination — how technology, when misused, can perpetuate social evils like female foeticide. This case was a turning point in India’s legal response to emerging challenges of the digital age.

From a social perspective, the judgment highlighted that the mindset favouring male children continued to persist despite legal prohibitions, revealing that the fight against female foeticide is both legal and cultural.

From a legal perspective, the case demonstrated the judiciary’s proactive role in adapting existing legislation to new technological realities, thereby ensuring that the spirit of the Constitution — particularly gender equality under Articles 14 and 15 — is upheld in all spheres.

Critical Evaluation

The ruling was a pioneering step in extending the enforcement of the PCPNDT Act into the digital domain. However, practical challenges remain in monitoring

and blocking online content, given the vastness of the internet and jurisdictional limitations of international tech companies.

The Court's insistence on continuous monitoring and collaboration between the government and tech companies was crucial, but enforcement remains uneven.

Nonetheless, the judgment established an important precedent in cyber jurisprudence, reinforcing that freedom of information cannot override the right to life and dignity of the girl child.

Conclusion

This case stands as a landmark in the intersection of technology, law, and gender justice. It reaffirmed the judiciary's unwavering commitment to protecting the girl child even before birth, and expanded the reach of the PCPNDT Act to include the digital sphere.

The case complements the earlier rulings of **CEHAT (2001) and Voluntary Health Association (2013)**, collectively forming a trilogy of judicial interventions that have strengthened the socio-legal framework against female foeticide and infanticide in India.

Case 5: Federation of Obstetric and Gynaecological Societies of India (FOGSI) v. Union of India & Ors. (2019) 6 SCC 283

Background of the Case

The Supreme Court of India is considering whether some provisions of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (PC&PNDT Act) are constitutional in the case of Federation of Obstetrics and Gynaecological Societies of India (FOGSI) v. Union of India and Others (2019 INSC 620). The Federation of Obstetrics and Gynaecological Societies of India (FOGSI), an apex body of obstetricians and gynaecologists across India, representing obstetricians and gynaecologists nationwide, challenged Sections 23(1) and 23(2) of the Act, alleging that these sections unfairly penalize minor clerical errors in record-keeping, thereby violating Articles 14, 19(1)(g), and 21 of the Indian Constitution.

Particularly, FOGSI challenged the constitutional validity of **Sections 23(1) and 23(2)** of the Act, arguing that these provisions equated minor clerical or record-keeping errors (such as incomplete Form F, missing addresses, minor anomalies

in paperwork) with the grave offence of sex determination and female foeticide, and thereby, subjected medical practitioners to criminal liability and drastic sanctions (sealing of ultrasound machines, criminal prosecution) even for inadvertent mistakes.

FOGSI contended that:

- The Act's implementation was heavily skewed against medical professionals even when no sex-determination wrongdoing was proven.
- The provisions violated Articles 14 (equality), 19(1)(g) (right to practise profession), and 21 (right to life & liberty) of the Constitution.
- Minor clerical lapses were being penalised on par with sex-determination offences, which led to professional harassment and erosion of medical services.

Thus, the case centred on the tension between strict enforcement of a social-welfare legislation aimed at preventing female foeticide and protection of the rights of medical practitioners under constitutional norms.

Legal Issues Involved

- i. Whether Sections 23(1) and 23(2) of the PCPNDT Act are **constitutionally valid**, including whether the penal sanctions for “contravention” of the Act and rules (including record-keeping violations) are *arbitrary* or violate Articles 14, 19(1)(g), and 21.
- ii. Whether the Act and rules distinguish sufficiently between **substantive offences** (sex-determination, female foeticide) and **mere procedural/clerical lapses**, or whether the law treats them equally without differentiation.
- iii. Whether the Act's stringent sanctions (including sealing of diagnostic machines, prosecution of doctors) are **reasonable restrictions** in the interest of social welfare and gender justice, and whether such restrictions are proportionate.
- iv. The broader question: whether enforcement of the Act in the face of persistent skewed child sex ratio and female foeticide justifies stringent penal measures even for minor anomalies.

Judgment

The Supreme Court committee, led by Justice Arun Mishra, examined the allegations that the PC&PNDT Act was being enforced in a manner that

disproportionately targeted medical professionals for minor clerical errors, such as incomplete forms or improper record-keeping. FOGSI contended that such actions were not only onerous but also failed to distinguish between genuine offenses of sex determination and unintentional administrative lapses.

Following careful consideration, the Court maintained constitutionality of section 23(1) and 23(2) of the PC&PNDT Act. It emphasized the critical importance of maintaining accurate records to prevent female foeticide and ensure the proper use of prenatal diagnostic technologies. The Court ruled that deficiencies in record-keeping under the Act are indicative of potential violations of its core objectives and thus warrant strict penalties.

The judgment dismissed Fogsi's petition, reinforcing the Act's provisions as essential tools in combating gender-based discrimination and maintaining the integrity of medical practices related to prenatal diagnostics.

Key reasoning points:

- The Court emphasised that the PCPNDT Act is **social-welfare legislation** enacted in light of the serious threat posed by sex-selective abortions and persistent imbalance in child sex ratio, which ultimately leads to violence against women and girls.
- The Court held that **non-maintenance or tampering of records** (e.g., Form F) is not merely a clerical anomaly but a “springboard” for the misuse of diagnostic techniques for sex-selection; such violations therefore cannot be treated lightly or equated with simple administrative lapses.
- The Court found that the restrictions on doctors' practice (including registration and possible suspension) are **reasonable restrictions** in the interest of protecting the rights of the girl child and preventing female foeticide. It ruled that Sections 23(1) & (2) do not violate Articles 14 or 19(1)(g), because the Act has safeguards and is directed at a pressing social evil.
- The Court rejected the argument that **minor clerical errors** should be decriminalised, noting that diluting the provisions would defeat the purpose of the Act. The Court observed that the classification of offences and the large

discretion to appropriate authorities were justified given the serious nature of the crime.

The Court referred to several landmark cases to substantiate its reasoning:

- **Ram Krishna Dalmia v. Justice S.R. Tendolkar** (AIR 1958 SC 538) – Emphasized the presumption of constitutionality and the burden on challengers to prove violations.
- **Subramanian Swamy v. Union of India** (2016) 7 SCC 221 – Discussed the principle of reasonableness and non-arbitrariness in legal provisions.
- **Centre for Enquiry into Health & Allied Themes (CEHAT) v. Union of India** (2001) 5 SCC 577 – Highlighted the necessity of stringent implementation of the PC&PNDT Act.
- **Voluntary Health Association. of Punjab v. Union of India** (2016) 10 SCC 265 – Affirmed the importance of maintaining records to prevent abuse of prenatal diagnostics.

Socio-Legal Analysis

This case has a prominent position in India's socio-legal framework for safeguarding the rights of girls, especially when it comes to stopping sex-selective behavior and female foeticide.

- **Social Perspective:**

The judgement reinforces that female foeticide is more than a medical or ethical issue—it is a profound gender injustice that begins even before birth. The Court's language (describing female foeticide as “the most inhumane, immoral and anti-social act”) underlines that the girl child's rights begin with her very right to be born and counted.

It also places responsibility on medical practitioners and regulatory authorities as front-line actors in safeguarding the girl child, given how prenatal diagnostic techniques can be misused.

- **Legal Perspective:**

The case affirms that legislative and judicial frameworks must treat protective provisions for the girl child as part of constitutional obligations under Articles 14, 15 and 21. The Court recognised the Act as part of the State's duty to protect the life and dignity of the girl child.

It also clarifies that strict procedural compliance (with rules like Form F, registration, machine sealing) is not mere bureaucracy but integral to a legal regime aimed at preventing sex-selection.

In summary, the judgment shows how the law treats the girl child's right to life and dignity from the *prenatal stage*, reflecting a pre-birth socio-legal protection scheme.

Critical Evaluation

The **FOGSI (2019)** judgment is highly significant and has both strengths and limitations:

Strengths:

- It validates stringent enforcement against sex-selective practices and keeps alive the priority of protecting the girl child from the earliest stage.
- It closes a potential loophole (that clerical errors should not result in severe penalties) by reaffirming that even such anomalies help facilitate sex-selection misuse.
- It reinforces compliance culture and signals to all stakeholders that protecting the girl child is non-negotiable.

Limitations / Challenges:

- Critics argue that treating minor clerical errors with the same severity as sex-determination offences may lead to over-criminalisation of medical professionals, potentially affecting access to prenatal diagnostic services in underserved areas.
- The judgement places significant responsibility on doctors and diagnostic centres, but does less to address root-causes of son-preference (cultural, economic, social) that drive female foeticide.
- Implementation remains uneven: despite legal clarity, many States still struggle with low conviction rates and weak monitoring mechanisms.

The case exemplifies how the legal regime for female foeticide treats the act of sex-selection as a crime against the girl child's right to life — and how the law shifts the burden not only to perpetrators but also to systemic safeguards (record-keeping, registration, monitoring). It also demonstrates the tension between professional rights (doctors) and child-rights imperatives in social-legal policy.

Conclusion

In this case the Supreme Court repeated that the protection of the girl child begins **before birth**, recognising the right to life of the unborn girl and the State's duty to prevent sex-selection. The case shows that the legal framework for child-rights must incorporate proactive, preventive, and procedural mechanisms, not just punishments.

Case 6: Ravinder Kumar v. State of Haryana (2024) - INSC 684 / 9 S.C.R. 397

Background of the Case

The case revolves around the appellant, a physician and radiologist, who faced allegations of engaging in illegal sex determination and medical termination of pregnancy. On April 27, 2017, a raid was conducted at the appellant's clinic based on a complaint against Dhanpati, who was purportedly running a racket involving these illegal activities. A decoy patient was involved, and during the raid, a significant amount of cash was seized along with an ultrasound report allegedly signed by the appellant. FIR was registered under **Section 23 of the PCPNDT Act, 1994** (illegal sex determination) and a protest under **Section 28(1)** of the Act. Dr. Kumar challenged the FIR and protest in the High Court, which declined to quash them. He then appealed to the Supreme Court. This case illustrates how **implementation and procedural safeguards matter deeply**, not just the letter of the law.

Legal Issues Involved

- i. Whether the absence of a collective decision by the Appropriate Authority rendered the search under Section 30(1) of the PCPNDT Act unlawful. The appellant's counsel argued that the raid was illegal because it was authorized solely by the Civil Surgeon, without the consent of the other members of the Appropriate Authority.
- ii. Section 30(1) of the PCPNDT Act requires that the Appropriate Authority, consisting of the Civil Surgeon, a District Program Manager, and a District Attorney, must collectively decide if there is "reason to believe" that an offence under the Act is being committed before a search can take place. This is meant to prevent arbitrary actions.

- iii. Whether there would be an abuse of the legal system if the prosecution was carried out using evidence found during an unlawful search.
- iv. The balance between strict enforcement of PCPNDT Act (to prevent sex-selection) vs. protecting procedural rights of medical practitioners.

Judgment

i. Illegality of the Raid: The court found that the decision to conduct the raid was indeed made unilaterally by the Civil Surgeon, violating the provisions of the Act. This lack of collective decision making invalidated the search and the subsequent seizure of evidence.

ii. Impact on Prosecution: Since the foundation of the FIR and the complaint was based on materials obtained during this illegal search, the court determined that the prosecution would be an abuse of the legal process.

iii. Quashing of Charges: Consequently, the court ruled to quash both the FIR and the complaint against the appellant, reinforcing the need for procedural adherence in law enforcement actions related to sensitive issues like prenatal diagnostics.

iv. Safeguards Against Arbitrary Actions: The phrase "reason to believe" is designed as a safeguard to ensure that searches are justified and based on a collective evaluation of the evidence. The court noted that there must be a rational basis for forming this belief.

v. Procedural Violations: The state argued that urgent circumstances justified the single member authorization of the raid, but the court found this unacceptable. It stated that a quick video meeting could have been arranged to involve all members in the decision.

vi. Discrepancies in the Search Operation: The court also pointed out inconsistencies in the documentation of the search team, further undermining the validity of the operation.

Socio-Legal Analysis

Social Perspective:

This case is significant in the fight against **female foeticide and sex-selection**, because it involves a medical practitioner and a diagnostic clinic — central actors in the misuse of ultrasound technology. The judgment sends a strong message that

procedural safeguards in the law must be strictly followed, even when combating a serious social evil.

Legal Perspective:

The Court's decision underlines that **procedural propriety is vital**, and the state cannot bypass statutory requirements (here, the composition of the Appropriate Authority) in the name of enforcing the PCPNDT Act. It reaffirms the principle that **due process cannot be sacrificed** even for socially significant legislation.

Critical Evaluation

Strengths:

- Protects constitutional rights of medical practitioners against arbitrary or illegal searches.
- Reinforces statutory safeguards under PCPNDT Act, thereby strengthening the legitimacy of enforcement mechanisms.
- Helps ensure that prosecutions under the Act are based on lawful procedures, enhancing integrity of the system.

Limitations / Challenges:

- Some may argue that quashing FIR on a procedural ground weakens enforcement in a domain (sex-selection) where misuse of ultrasound is widespread.
- There is a risk that stricter procedural requirements may slow down investigations, giving time for illicit clinics to destroy or hide evidence.
- For your thesis, this case highlights a tension: strong legal protection for the girl child vs. protection of doctors' procedural rights — showing the complexity of implementing gender-justice laws.

Conclusion

In this case, the appeal was allowed, and both the FIR and the pending complaint were quashed, highlighting the significance of proper procedural compliance in upholding the rights of individuals against unlawful searches and seizures.

The Supreme Court recently ruled that under the PCPNDT Act, any search and seizure operation must be authorized collectively by all three members of the District Appropriate Authority, not by a single member. The court emphasized that a decision made by just one member, such as the Civil Surgeon, is illegal. This ruling stems from a case where a doctor was accused of participating in a sex determination and abortion racket. By quashing the FIR on this ground, it upheld the principle that even in socially sensitive cases like sex-selection, due process is non-negotiable.

Table 3.1
Summary of Cases: Female Foeticide and Infanticide

Sr. No.	Case Title	Year	Brief Judgement
1	Centre for Enquiry into Health and Allied Themes (CEHAT) and others v. Union of India & Ors.	2001	The Supreme Court issued detailed directions to the Union and State Governments, including constitution of Appropriate Authorities and Advisory Committees under the PCPNDT Act and suspension or cancellation of licences of clinics conducting illegal sex determination tests.
2	Mr. Vijay Sharma and Mrs. Kirti Sharma v. Union of India	2007	The High Court dismissed the petition, ruling that the challenged provisions of the PCPNDT Act are constitutional and do not violate Article 14. The court affirmed that allowing sex selection for “family balancing”, even without foeticide, contributes to an artificial decrease in female births and

			would perpetuate the social bias in favour of a male child, creates social imbalance, and disrespects women's dignity.
3	Voluntary Health Association of Punjab v. Union of India	2013	The court mandated stricter and more regular meetings of the Central Supervisory Board and State Supervisory Boards to review enforcement progress of PCPNDT Act. Trial courts were directed to prioritize and dispose of all pending cases under the PC-PNDT Act within a specific, accelerated timeframe.
4	Sabu Mathew George v. Union of India & Ors.	2016	Search engines such as Google, Yahoo, and Microsoft were directed to develop a mechanism (“Auto Block” or “Ad Word Policy”) to automatically identify and block any advertisements, web pages, or links that violate the PCPNDT Act. The Union Government was instructed to create a nodal agency to monitor online content and notify search engines of any violations for prompt removal.
5	Federation of Obstetric and Gynecological Societies of India (FOGSI) v. Union of India & Ors.	2019	Supreme Court emphasized the critical importance of maintaining accurate records to prevent female foeticide and ensure the proper use of prenatal diagnostic technologies. The Court ruled that deficiencies in record-keeping under the Act are indicative of potential violations of its core

			objectives and thus warrant strict penalties.
6	Ravinder Kumar v. State of Haryana	2024	The court found the raid on clinic of a physician and radiologist doctor illegal as the decision to conduct the raid was indeed made unilaterally by the Civil Surgeon, violating the provisions of the Act. This lack of collective decision making invalidated the search and the subsequent seizure of evidence.

3.2 Child Marriage

Case 7: Lajja Devi v. State (2012)

Background of the Case

It is a landmark Indian court case where the Delhi High Court, acting *suo motu (on its own motion)* from a letter by Lajja Devi about her minor daughter's alleged kidnapping, clarified that under India's Prohibition of Child Marriage Act (PCMA), child marriages are voidable rather than void, giving the youngster the option to revoke the union when they become an adult.

A letter was written by **Smt. Lajja Devi** to the Chief Justice of the Court alleging that her daughter **Ms. Meera (minor)** was kidnapped by **Pramod, Vinod and Manoj** from Delhi, where her daughter visited her maternal uncle to meet him. After which she also filed an F.I.R under section 363 of I.P.C. The letter was deemed as a Writ Petition and was placed before the bench. Moreover, it was admitted by Ms. Meera (minor) that she was not kidnapped, but went with the accused in her own free will. It took some more petitions with similar facts into consideration.

The court ruled that while the marriage itself isn't **automatically invalid**, the minor should stay with parents, and the act of solemnizing the marriage is punishable, highlighting that the girl's consent to marry an adult isn't enough to stop criminal proceedings or grant custody to the husband if she's a minor.

Legal Issues Involved

- i. What will be the legality of marriage solemnized between a minor and an adult?
- ii. Whether it permit the husband the custody of his minor wife?

Judgement

- i. After analysing various authorities, courts concluded such marriages are simply not void nor avoidable they are non-existent.
- ii. But there are certain provisions in some enactments which imply or refer such marriages as voidable. The section 6 (1) (c) of Dowry Prohibition Act uses words “when women was a minor” or section 13 (2)(iv) of Hindu Marriage Act which provides the option of dissolution to women these provisions confer such marriages are voidable.
- iii. The Prohibition of Child Marriage Act of 2006 permits a juvenile girl to marry a man if custom, tradition, religion, and personal law permit it. granting legal legitimacy to such unions.
- iv. If a marriage is not void, a wife would follow her husband as it is already provided under section 6 (c) Hindu Minority and Guardianship Act, 1956, that the husband is the guardian of the wife
- v. If the girl is below 16 years of age, consent is immaterial. But if a special circumstance persists and the girl, after attaining the age of 16 or more, gives a statement that she consented to go with the man in question, then the proceeding under section 363 and 376 I.P.C can be quashed.

Socio-Legal Analysis

- **Protection vs. Autonomy:** The case reflects a common social problem: minors (especially girls) running away or eloping — sometimes consenting, sometimes under pressure — and claiming adulthood/consent. The Court’s decision reinforces legal protection over social/personal claims of autonomy for minors.
- **Child-Marriage & Legal Safeguards:** As the law then stood, child-marriages (or relationships involving minors) are subject to statutory safeguards. The verdict upheld the legislative objective: preventing child-marriage, protecting minors from exploitation, and ensuring guardianship and welfare over marital consent.

- **Guardianship & Welfare of Minor:** By directing that the minor remain with parents / lawful guardians, the Court prioritised welfare, stability and protection of the minor over purported consent or social claims — showing judicial recognition of minors’ vulnerability.
- **Precedent for Custody & Consent Cases:** This judgment offers jurisprudential clarity for courts and social actors: custodial rights or claims of consent / marriage by minors cannot override statutory protections without formal annulment / legal process.

Critical Evaluation

Strengths:

- The decision re-affirms protective jurisprudence: recognising minors’ vulnerability and ensuring their welfare via guardianship rather than treating them as adults based on behaviour or consent.
- It helps prevent exploitation, child-marriage, forced marriage or sexual exploitation masquerading as “consensual elopement.”
- It maintains the spirit of child-protection statutes and aligns with international norms regarding child rights, majority age, and protection of children from exploitation.

Limitations / Challenges:

- In practice, there may be **cases of genuine consensual elopement** by older minors (say 17–17.5 years) — the law’s rigidity may criminalise their autonomy, or force them under parental/guardian control even against their will. This could infringe on personal liberty, especially for older adolescents.
- The judgment depends heavily on **age verification** — bones-ossification tests, school records, birth certificates — which are often unreliable or unavailable in many parts of India; this may result in mis-classification, wrongful custody battles, or misuse.
- The protective approach may unintentionally push minors into **unregistered, clandestine relationships or marriages**, outside legal recognition — making them more vulnerable to social stigma, exploitation, or forced marriages under informal arrangements.

- The case does not directly address the question of child’s consent capacity, maturity and evolving compromise, which some critics argue needs a nuanced, psychologically informed approach rather than strict legal age thresholds.

Conclusion

Case of **Lajja Devi v. State (2012)** clarified the legal status of child marriages under the PCMA (2006), emphasizing that the Act overrides personal laws in this aspect. It balanced the minor's nascent autonomy with the state's duty to protect children from exploitation, ensuring they aren't forced into unwanted adult relationships. The case illustrates the judicial approach to protecting minors, preventing child-marriage, and safeguarding girl-child rights even when social pressures or “consent claims” arise.

The court considered several questions stemming from consolidated petitions, including the validity of marriages involving minors, whether an adult spouse could have custody of a minor, whether a minor girl could choose her guardian, and if FIRs for kidnapping or rape could be quashed based on a minor's statement of consent.

Case 8: Smt. Sharavva Lamani vs. The State of Karnataka 2021

Background of the Case

A writ petition was filed on behalf of Smt. Sharavva Lamani, whose minor daughter (the detinue) had reportedly left home after being **pressured by her parents into early marriage and discontinuance of studies**. The mother (petitioner) claimed her daughter was kidnapped. However, the Additional Advocate General, on instruction, submitted that the minor girl (detinue) had voluntarily left for Goa to live with her brother because her parents were forcing her into marriage and stopping her education.

She was produced before the Court by police from Laxmeshwar Police Station, Gadag District. When produced before the High Court, the girl stated she was unwilling to return to her parents and preferred to go to a juvenile center/remand home. The State/juvenile authorities had placed the girl in a juvenile facility (Balakiyara / Bala Mandir) pending inquiry into her welfare and wellbeing. The writ petition sought directions regarding custody, rehabilitation, and continuation

of the detainee's education, and raised concerns about compulsion to marry and interruption of studies.

The court also instructed the authorities to ensure the girl could continue her studies and, if she later wished to return to her parents, to facilitate the process after obtaining a suitable undertaking from the parents guaranteeing her safety and future.

Legal Issues Involved

- i. Whether the detainee (minor) should be kept in institutional custody or permitted to pursue education free from coercion, taking into account her **best interests** and wishes.
- ii. What role the Juvenile Justice authorities, police and the High Court should play in protecting a minor from **forced marriage** and ensuring access to education and family contact where appropriate.
- iii. Whether parental wishes (to marry the minor and discontinue her studies) can override the statutory protective regime for children and the minor's autonomous choice where she expresses a different preference.

Judgment

The Single-Judge Bench (Justice S. Sunil Dutt Yadav) considered the material placed on record (police report, statements and age evidence) and the detainee's stated desire to continue education. The Court recorded that the detainee was **about 17 years of age** and had voluntarily left home because her parents were pressuring her to marry and discontinue studies. In the exercise of its protective jurisdiction under the Juvenile Justice framework, the detainee was ordered to be placed in a childcare facility by the High Court (Bala Mandir) and mandated that the Juvenile authority permit **visitation rights** to the parents **only if** the detainee wished to see them; alternatively, the Court allowed the detainee to accompany her parents to the institution after the Juvenile authority obtained a suitable undertaking ensuring her safety and education. The Court also directed the police to proceed with investigation as necessary. The writ petition was disposed of in accordance with these directions.

Socio-Legal Analysis

Social perspective:

The order illustrates common socio-cultural conflicts in rural India — **parental pressure for early marriage** versus a girl's right to education and bodily autonomy. The Court's approach prioritised the minor's welfare and educational prospects over familial pressure, reflecting changing social values that emphasise children's agency.

Legal perspective:

The decision demonstrates the High Court's application of child-centric principles embedded in the Juvenile Justice regime: the "best interest of the child" standard, protection from forced marriage, and preservation of educational opportunity. It also highlights judicial willingness to supervise juvenile authorities and balance institutional custody with family reunification when the minor's consent and safety are ensured.

Critical Evaluation

Strengths:

- The order is **child-centred** — it respects the detainee's expressed wish to continue education and avoids automatic reunification where coercion is alleged.
- It provides practical directions (visitation, undertakings, placement alternatives) that local juvenile agencies can implement.

Limitations / Challenges:

- The case is an **order of disposition** rather than a full-length reasoned judgment; therefore it provides limited jurisprudential doctrine for future disputes beyond the facts before the Court.
- Implementation depends heavily on local juvenile authorities' capacity and police follow-up; in many districts, resource constraints and social pressure may undermine the Court's protective intent.

Conclusion

Smt. Sharavva Lamani v. State of Karnataka is a concise but instructive High Court order applying juvenile-welfare principles to protect a minor from forced marriage and educational disruption. The case represents High Court Interventions

in “**Forced Marriage, Education and Juvenile Protection** and illustrate how courts use protective writ jurisdiction to secure the best interests of girl children at the district level.

Case 9: Society for Enlightenment and Voluntary Action & Anr. v. Union of India & Ors. (2024)

Background of the Case

The Indian Supreme Court stressed in the case the necessity of a more all-encompassing strategy to stop child marriage, emphasizing community-driven tactics as opposed to only depending on prosecutions. In accordance with the Prohibition of Child Marriage Act (PCMA), 2006, the court ordered Parliament to take into account allowing minor marriages. It also emphasized how crucial it is to address children's overlapping vulnerabilities, including those based on poverty, gender, and caste, while putting preventive measures into place.

In a Public Interest Litigation brought under Article 32 of the Indian Constitution, an NGO called Society for Enlightenment and Voluntary Action expressed grave concerns over the persistence of child weddings in India in spite of the Prohibition of Child Marriage Act of 2006. The petition called for the employment of Child Marriage Prohibition Officers (CMPOs), awareness campaigns, more robust enforcement measures, and extensive support networks for young brides. The lack of a particular regulation that forbids or prevents child betrothals—which are frequently exploited to get around the PCMA—was one of the main issues brought up.

Legal Issues Involved

- i. Whether the State has failed in discharging its constitutional and statutory obligations under the PCMA and relevant fundamental rights provisions (like Articles 14, 15, 21)?
- ii. Whether child marriages — and specifically child betrothals — violate the rights of minors (girls and boys) to autonomy, bodily integrity, education, health, development and childhood, as guaranteed under Articles 21, 15, and constitutional principles of equality and dignity.
- iii. Whether the government should be directed to adopt a multi-dimensional approach including awareness, rehabilitation, and support for child brides?

iv. Whether the current legal framework is sufficient to tackle the menace of child marriages, as the data surrounding the same shows otherwise?

Judgment

On 18 October 2024, a three-judge Bench of the Supreme Court (Chief Justice D.Y. Chandrachud, Justices J.B. Pardiwala and Manoj Misra) delivered its order on the petition. The Supreme Court of India declared child marriage, including child betrothals, as unlawful and strongly recommended that Parliament take legislative steps to explicitly prohibit the practice. Alongside this, the Court issued a set of comprehensive guidelines aimed at preventing and eliminating child marriage. The guidelines given by the Supreme Court are as follows:

- i. At the district level, State Governments and Union Territories were instructed to designate specific Child Marriage Prohibition Officers (CMPOs). These officers should receive required training, have regular performance reviews, and have the resources they need to do their jobs well.
- ii. States were encouraged to consider integrating Special Juvenile Police Units (SJPU) into the preventive framework. These units could be vital in identifying and intervening in at-risk situations involving minors.
- iii. Judicial officers, especially Magistrates, were empowered to take suo motu action in suspected or known instances of child marriage. Courts were encouraged to use preventive injunctions to stop such marriages before they occur, particularly on dates known for mass weddings.
- iv. Recognizing the urgency of timely intervention, the Court suggested that where feasible, special fast-track courts be established to deal specifically with cases of child marriage. This would ensure that victims receive swift justice and that deterrence is maintained.
- v. The Court stated that any failure by public servants to act in child marriage cases should be met with strict disciplinary and legal action, reinforcing accountability within the administration.
- vi. States and UTs were asked to draw up Annual Action Plans with specific performance indicators. These plans should account for regional social norms and adopt localized, community-based approaches to prevention.

vii. The Court also called for comprehensive sexuality education to be embedded into school curricula. This education was to include information on legal protections, consent, reproductive rights, and the negative impacts of early marriage. Informative posters and educational material on the dangers and illegality of child marriage were to be prominently displayed in schools, community centers, and other public spaces.

viii. Community-wide awareness programs targeting parents, religious figures, and other influencers were emphasized. Special attention was to be given to empowering adolescent girls through education and confidence-building initiatives, as well as promoting awareness of helplines and reporting mechanisms.

ix. Teachers and school staff were to be trained to recognize early warning signs—such as unexplained absences or behavioral changes—that may indicate an impending child marriage.

x. The Court recommended training local influencers—such as sarpanches, religious leaders, and grassroots workers—to challenge entrenched social norms that fuel the practice. It also advised collaboration with NGOs to ensure sustained outreach, volunteer engagement, and field-level intervention.

Socio-Legal Analysis

Social Perspective

- The Court recognised that child marriage in India is not simply a legal problem, but a deeply rooted socio-economic and cultural issue, often perpetuated by poverty, gender inequality, caste, community pressure, lack of education, and social norms.
- By emphasising “intersectional vulnerabilities” — gender, caste, class, rural/urban, minority/majority — the Court acknowledged that girl children from marginalised communities are at higher risk, and that solutions must be tailored accordingly rather than one-size-fits-all.
- The guidelines and directives mark a shift from reactive criminal law enforcement to preventive, protective, rehabilitative, and development-oriented governance. The Court recognised that punishing a few offenders

alone will not end child marriage — structural change is needed: education, empowerment, poverty alleviation, social awareness.

Legal Perspective

- The judgment reaffirms that constitutional rights of children (life, dignity, health, education, autonomy) are non-negotiable and must be protected even before “crime” occurs — presence of laws (PCMA) is insufficient without effective state mechanism and enforcement.
- By issuing binding guidelines and remedial directions, the Court exercised its *parens patriae* and public-interest jurisdiction, showing that courts can mandate state action when statutory implementation lags.
- The decision helps harmonise multiple overlapping laws — PCMA, child rights jurisprudence under fundamental rights and welfare statutes — and avoids legal loopholes (e.g. child betrothal, informal solemnisation) that circumvent statutory prohibition.

Critical Evaluation

Strengths:

- Most comprehensive judicial intervention against child marriage to date — not only condemning the practice but prescribing realistic, structural, preventive and rehabilitative measures.
- Recognises complex socio-economic and cultural dynamics behind child marriage — acknowledges that legal prohibition alone cannot solve the problem.
- Emphasizes child rights as human rights (autonomy, dignity, development), and positions the girl child not as a passive victim but a rights-bearer with agency.
- Provides a road-map for state actors, civil society, and community-based interventions — essential for long-term social change.

Limitations / Challenges:

- Implementation depends heavily on state capacity, political will, administrative will, and social change — numerous directives may remain aspirational without resource allocation and monitoring.

- Possible resistance from communities/traditional groups where child marriage is culturally accepted — judicial directives may face social pushback.
- The Court did not explicitly resolve the conflict between personal laws and PCMA: though recognizing child marriage's harm, it left open whether PCMA overrides personal laws — thus full legal clarity on all fronts remains pending.
- Addressing root causes — poverty, gender inequality, lack of education, patriarchy — requires socio-economic transformations beyond legal/regulatory instruments. Law can set standards but social change is gradual.

Conclusion

Society for Enlightenment and Voluntary Action & Anr. v. Union of India & Ors. (2024) is a pivotal socio-legal judgment in India's child-rights jurisprudence. It affirms that child marriage is a violation of fundamental rights, and mandates that the State take proactive, structural, and intersectional measures — not only to punish violations but to prevent them, rehabilitate victims, and address socio-economic roots. It provides both a strong jurisprudential anchor and a roadmap for analyzing how law, policy, and society must interact to safeguard rights of the girl child.

Case 10: Dismissal of NCPCR's Plea by Supreme Court (2025)

Background of the Case

In this case, the Supreme Court rejected an appeal filed by the NCPCR that contested a Punjab and Haryana High Court decision that upheld a Muslim personal law marriage in which the girl was 15 years of age or older or had achieved puberty. The Supreme Court ruled that the NCPCR lacked locus standi, or legal standing, to contest the High Court's ruling, which also gave the couple protection.

The case originated from a 2022 judgment by the Punjab and Haryana High Court. The High Court ruled that, under Muslim personal law, a marriage is valid if the girl has reached puberty or is 15 or older. The High Court order was upheld by Supreme Court by dismissing the NCPCR's plea, finding that the commission had no locus standi to challenge it. The court noted that it was "strange" for the

NCPCR to challenge an order that protected a couple, especially when it was meant to protect children. NCPCR's plea argued that such a High Court ruling undermined child-protection statutes (PCMA, Protection of Children from Sexual Offences Act, 2012 (POCSO)) and constitutional principles protecting minors.

The counsel representing the Commission argued that the challenge was confined to the legal issue of whether minor girls could marry under personal or customary laws when such marriages are criminalised under statutory law. While Muslim personal law recognises the capacity of a girl to enter into a marriage contract on attaining puberty, criminal statutes in India bar the marriage of girls under the age of 18 years and criminalise any sexual relations with minors. "No question of law arises here, as the relief sought has already been granted. Raise it in an appropriate case," Justice Nagarathna told the Commission.

The High Court's ruling had stemmed from a petition by a Pathankot-based Muslim couple, who had married under Muslim rites and sought protection from their families. Solicitor General Tushar Mehta, representing the NCPCR, had urged a stay on the High Court's observations, terming it a "serious issue" in view of the statutory prohibition of child marriages.

Legal Issued

- i. Whether a girl below 18 years — in this case 16 — can be deemed legally competent to marry under personal law, when statutory child-marriage law (PCMA) fixes the marriageable age at 18 for girls.
- ii. Whether personal law (in this case Muslim personal law allowing marriage at puberty) can override secular statutory protections meant to safeguard minors.
- iii. Whether NCPCR, as a statutory child-rights body, has **locus standi** to challenge a High Court's order in a matter involving the marriage of minors under personal law — especially when the order grants protection rather than imposes penal consequences.

Judgement

- i. The Supreme Court dismissed the NCPCR's appeal / SLP. The Court held that NCPCR had **no locus standi** to challenge the High Court's order granting protection to the couple. The Bench noted that the couple (both minors, under

personal law definition) themselves sought protection, and NCPCR being a “**stranger**” to the case cannot claim to be aggrieved or challenge the order.

ii. The Court observed that **no substantial question of law arises** in the petition as framed; thus, it refused to entertain the plea on merits, and declined to keep open the larger question about interplay between personal law, PCMA, and POCSO.

iii. With dismissal of the plea, the earlier High Court ruling stands (at least between the parties), though the Court did not formulate a comprehensive constitutional ruling on minimum age of marriage vs. personal law.

Socio-Legal Analysis

Social Dimension

- The case — and its outcome — highlight the tension between statutory child-protection norms and personal/religious laws in India, particularly when it comes to marriage of minors. For girl-children, especially from minority communities, such tension raises serious concerns about rights to education, bodily autonomy, informed consent, protection from exploitation, and social vulnerability.
- The decision to dismiss the plea may be viewed by many child-rights activists and scholars as a setback to the protective framework for minors: it leaves unresolved the conflict between PCMA / POCSO (secular child-rights statutes aiming to safeguard minors) and personal law schemes that allow marriage (and hence consent to sexual relations) at puberty. This can potentially perpetuate early marriages, disadvantage girl children’s rights, and weaken uniform protection across communities.
- The dismissal also reveals structural limitations in institutional child-rights protection: even the primary statutory child-rights body (NCPCR) was deemed to lack standing in a case of child marriage, raising concerns about how systemic litigation for child-rights enforcement can be pursued in future.

Legal Dimension

i. Legally, the Court’s emphasis on locus standi rather than addressing the substantive question (minimum age, personal law conflict) means a major

constitutional issue remains undetermined. The decision leaves open the debate about whether personal law overrides secular child-protection statutes.

ii. The outcome underscores judicial restraint and narrow interpretation of statutory standing for commissions like NCPCR — which may constrain their role in public-interest child-rights litigation.

iii. For jurisprudence concerning girl-child rights, the decision reflects the fragility of uniform protection when multiple legal regimes (personal law, secular statutes, constitutional rights) intersect, especially in social contexts involving gender, religion, and minority-community practices.

Critical Evaluation

Strengths (or the Court's rationale):

- The judgment preserves principles of party-based litigation: courts require that only actual parties (or aggrieved persons) may challenge judgments — a standard procedural safeguard.
- It avoids transforming every social or normative dispute — especially involving religious or personal law — into open-ended constitutional litigation, thereby preventing judicial overreach.
- By refusing to treat the High Court's protection order as precedent, the Court implicitly underscores caution and sensitivity in interfering with personal law and minority-rights claims, resisting sweeping doctrinal changes in one judgment.

Limitations / Criticisms:

- The decision arguably undermines child-rights protection, especially for girl-children, by leaving in place a High Court ruling that permits minor marriage under personal law. This raises serious contradictions with secular child-protection statutes (PCMA and POCSO), and leaves legal uncertainty and vulnerability for minor girls.
- By focusing on locus standi and avoiding substantive adjudication of the conflict between personal law and child-rights statutes, the Court missed an opportunity to clarify a pressing constitutional question — whether personal law can permit child marriage contrary to statutory prohibition.

- The dismissal may weaken the role of NCPCR (and similar bodies) as institutional safeguards for children: limiting their standing restricts systemic child-rights litigation, potentially making it harder to challenge practices that harm children at community / personal-law level.
- Socially, the decision may embolden practices of early marriage under personal law, especially among vulnerable and minority communities, thereby exacerbating risks of child exploitation, denial of education, early motherhood, and gendered disadvantages.

Conclusion

The August 2025 dismissal of the NCPCR's plea by the Supreme Court is a significant albeit controversial moment in India's jurisprudence around child marriage, personal law and child-rights protection. This case is crucial because:

- It underscores structural and institutional challenges in enforcing child-rights uniformly across social and legal regimes.
- It highlights the conflict between personal law and secular child-protection statutes, and the limitations of judicial remedies when standing or locus issues arise.
- It exposes a potential weakening of institutional child-rights protection mechanisms, when bodies like NCPCR are denied locus in matters affecting minors across communities.
- The case deepens the need for comprehensive legal reform, social awareness, strong child-welfare enforcement, and possibly a move toward uniform civil law / uniform child-protection standards transcending personal law distinctions.

Table 3.2**Summary of Cases: Child Marriage**

Sr. No.	Case Title	Year	Brief Judgement
1	Lajja Devi v. State	2012	The Delhi High Court ruled that while the marriage itself isn't automatically invalid, the minor should stay with parents, and the act of solemnizing the marriage is punishable, highlighting that the girl's consent to marry an adult isn't enough to stop criminal proceedings or grant custody to the husband if she's a minor.
2	Smt. Sharavva Lamani vs. The State of Karnataka	2021	The High Court directed that the minor girl be placed in a child-care facility (Bala Mandir) and mandated that the Juvenile authority permits visitation rights to the parents only if the minor girl wished to see them.
3	Society for Enlightenment and Voluntary Action & Anr. v. Union of India & Ors.	2024	The Supreme Court of India declared child marriage, including child betrothals, as unlawful and strongly recommended that Parliament take legislative steps to explicitly prohibit the practice. Alongside this, the Court issued a set of comprehensive guidelines aimed at preventing and eliminating child marriage.
4	Dismissal of NCPDR's Plea by Supreme Court	2025	The Supreme Court dismissed NCPDR's plea that challenged Punjab and Haryana High Court ruling upholding a marriage under Muslim personal law, where a girl had reached puberty or was 15 or older on the ground that NCPDR lacked the legal standing (locus standi) to challenge the High Court's order.

3.3 Child Sexual Abuse and Rape

Case 11: State of Punjab vs Gurmit Singh (1996)

Background of the Case

This case is a landmark judgement by the **Supreme Court** regarding the **testimony** of the victims in rape cases. This case brings to light the significant differences in the **evidence and credibility** required from rape victims. They bear a substantial burden when seeking justice against the accused. It is crucial for the Courts to know that excessive questioning can be detrimental. The recognition that these practices can demean and degrade the victims is a positive aspect of this decision. It marks a significant step forward in safeguarding the rights of the women and underlines the importance of protecting the dignity and well-being of rape victims.

A minor girl less than the age of 16 years was kidnapped and raped by three men namely, **Gurmit Singh, Jagjit Singh Bawa and Ranjit Singh**. The incident occurred in the State of Punjab on 30th March, 1984. The girl child was in 10th grade and was on her way to her maternal uncle's house, when she was forcibly taken by the accused in a car and driven to an isolated place and was raped. The next morning the accused left her near the **Boy's High School, Pakhowal**, the same place from where she was abducted.

After the nightmare faced by the girl child, she narrated the incident to her mother. The father contacted Sarpanch Joginder Singh of the village. The Sarpanch of both the villages tried to compromise the matter but no relief was given. Father reported the incident to the police station where she was taken for the medical examination. After the closing of the enquiry, the accused were arrested and charged for offences under **Sections 363, 366, 368, 376** of the Indian Penal Code, 1860. The matter was brought before the Trial Court.

The Trial Court acquitted the accused due to perceived inconsistencies in the **testimony of the Prosecutrix** and the lack of corroborative evidence. Aggrieved by the decision of the Trial Court, the acquittal of the accused was challenged in the Supreme Court by the Prosecutrix. An appeal was filed under Section 14 of the Terrorist Affected Areas (Special Courts) Act, 1984.

Key Legal Issues

- i. Whether the testimony of a rape survivor requires independent corroboration for conviction.
- ii. Whether the High Court was justified in overturning conviction despite clear testimony of the minor victim.
- iii. What should be the standard of proof and judicial approach in cases involving sexual offences against girl children.
- iv. How courts must ensure sensitivity during the trial of rape cases.
- v. The impact of legal procedure including insensitive questioning, on the dignity and psychological well-being of rape victims?

Court's Observations

i. Testimony of the prosecutrix is of sterling value

The Supreme Court held that the statement of the rape survivor—especially a minor—does **not** require corroboration unless there are compelling reasons to doubt her version. Her testimony stands at par with that of an injured witness and must be treated with **full respect and weight**.

ii. Misconception of “corroboration rule”

The Court criticized the High Court for insisting on rigid corroboration. It clarified that in Indian law, there is **no legal requirement** that the testimony of a prosecutrix must be corroborated in all cases.

iii. Trauma and reluctance of rape survivors

The Court observed that a victim of rape—particularly a minor—would be **highly unlikely to falsely implicate anyone**, as rape involves social stigma, humiliation, and emotional trauma.

iv. Sensitivity in trial courts

The judgment strongly criticized the insensitive and humiliating manner in which rape victims are often examined. The Court directed that:

- Trials for sexual offences must be conducted **in-camera**.
- Courts must adopt a **compassionate, non-intimidating approach** toward the victim.
- The dignity of the girl child must never be compromised during proceedings.

v. Burden on the accused, not on the minor victim

The Court emphasized that the accused cannot escape liability by exploiting minor inconsistencies in the victim's narration. The benefit of doubt must be **reasonable**, not based on fanciful or trivial factors.

Judgement

The ruling in rape cases has been drastically altered by the Supreme Court's ruling in the State of Punjab v. Gurmit Singh case. In this case the most important principle was primacy of the testimony of the victim and highlighting that if reliable and trustworthy, the testimony can solely form the basis for conviction without the need for corroborative evidence. The Supreme Court criticized the insensitive handling of rape victims by the lower courts, stressing that victims should not be subjected to harsh cross-examinations that may cause further trauma. It also clarified that medical evidence such as the presence of injuries or hymenal tears, is not determinative of consent or the occurrence of rape. The Court discouraged the use of the two-finger test labelling it as an irrelevant and undignified practice. Following are the key points of judgement given by Supreme Court:

- i. The appeal was granted after the Supreme Court reversed the Trial Court's ruling.
- ii. As directed by the trial court, it reinstated the accused's conviction.
- iii. The victim's evidence was confirmed by the court to be trustworthy, consistent, and dependable.
- iv. Courts were given strict instructions to guarantee victim-sensitive processes and in-camera trials in rape and sexual offense cases.

Socio-Legal Significance

This judgment is a landmark in Indian rape jurisprudence, especially concerning minor girls. It fundamentally changed the judicial approach by recognising that the prosecutrix's testimony is sufficient for conviction if credible. The Court's observations on the vulnerability of girl children, the psychological impact of sexual violence, and the need for sensitive judicial treatment strengthened the broader rights framework for the girl child. It also paved the way for later reforms

in rape law, including amendments in 2009 and 2013, and the enactment of the POCSO Act, 2012.

Critical Evaluation

Strengths

- The ruling strongly protects the dignity of rape survivors, especially minors.
- It rejects patriarchal assumptions that women and girls frequently lie about sexual violence.
- Provides a progressive interpretation that places **trust in the victim's voice**.
- Encourages a sensitive, child-centred approach in rape trials.

Weaknesses / Concerns

- While it strengthens the rights of girl child victims, implementation at the lower court level often remains inconsistent.
- Although the Court insisted on in-camera trials, many courts continued to follow traditional, insensitive approaches.
- The ruling did not address structural issues such as lack of specialised child-friendly courts (later addressed through POCSO).

Conclusion

Regarding victim testimony in rape trials, this case constitutes a significant ruling. In this instance, the Supreme Court reversed the accused's acquittal and emphasized that, in rape cases, the victim's testimony—if it is reliable and credible—is enough to get a conviction. The decision also condemned the insensitive treatment of rape victims in legal proceedings, calling for a more compassionate and respectful approach toward them. Additionally, the legal principles established in this case have had a lasting impact influencing numerous subsequent judgements and shaping the jurisprudence surrounding rape cases in India.

Case 12: Sakshi v. Union of India & Others (2004) 5 SCC 518

Background of the Case

The petitioner, **Sakshi**, a **non-governmental organisation (NGO)** working for the protection of women and children from sexual exploitation, filed a Public Interest Litigation (PIL) under **Article 32** of the Constitution of India before the Supreme Court. The NGO "Sakshi" filed a petition arguing for a broader

interpretation of "sexual intercourse" to include all forms of penetration and seeking to ensure such acts were prosecuted under rape laws, not lesser sections like Section 354 or 377 of the IPC.

The petition was based on the concern that the existing provisions of the Indian Penal Code (IPC), particularly **Section 375 (rape)**, did not cover several serious forms of sexual abuse and assault against women and girl children, such as:

- oral sex,
- penetration by foreign objects, and
- sexual assault by women or on male minors.

Sakshi argued that this narrow definition of rape failed to provide comprehensive legal protection to victims, especially **girl child**, who were often subjected to various forms of sexual assault not covered by the existing law. The organisation sought judicial directions to expand the definition of rape and to make procedural reforms ensuring **speedy and victim-sensitive trials** in cases of sexual violence.

Legal Issues Involved

- i. Whether the current explanation of rape under Section 375 IPC adequately covers all forms of sexual assault committed on women and children.
- ii. Whether non-penile penetration and other types of sexual assault might be included in the definition of rape by the Court through judicial interpretation.
- iii. Whether the criminal procedure in trials of sexual offences needs modification to ensure dignity, privacy, and protection of victims, especially child witnesses.

Judgment and Reasoning

The Supreme Court of India refused to expand the meaning of "rape" judicially, holding that such legislative changes fall within the domain of Parliament. However, the Court issued important procedural guidelines to ensure that victims, particularly girl children, are not subjected to additional trauma during the trial process. The court directed the **Union Government** to examine the feasibility of comprehensive amendments to the IPC and CrPC concerning sexual offences.

Key Observations and Directions:

i. Definition of Rape:

- The Court noted that Section 375 IPC's definition of rape was precise and restricted to unconsented penile-vaginal sex.

- It held that any expansion to include other forms of sexual assault, such as oral sex or penetration with objects, must come through legislative amendment, not judicial interpretation.

ii. Recognition of Child Sexual Abuse:

- The Court acknowledged the seriousness and occurrence of child sexual abuse, noting that many forms of abuse cause equal or greater trauma than rape.
- It observed that the existing law failed to provide adequate protection to child victims of sexual assault.

iii. Procedural Safeguards for Victims:

The Court, exercising its powers under Articles 32 and 142, issued the following **guidelines** to protect victims and witnesses during trials of sexual offences:

- The victim should be allowed to testify in camera (privately) to avoid humiliation and embarrassment.
- The victim should not be repeatedly cross-examined about her sexual history.
- Questions during cross-examination should be screened by the presiding judge to ensure relevance and dignity.
- Wherever possible, the child victim's statement should be recorded at home or in a friendly environment, preferably by a woman officer.
- Trials involving child sexual abuse should be conducted on a day-to-day basis to prevent harassment and delay.

iv. Recommendation to the Legislature:

- The Court recommended that the Government of India consider amending criminal laws to make them gender-neutral and comprehensive to include all forms of sexual assault.

Socio-Legal Analysis

The **Sakshi** judgment is a turning point in the evolution of Indian sexual-offence law, especially in the context of crimes against girl children.

• Social Perspective:

The case arose out of growing awareness of **child sexual abuse** and the inadequacy of the existing legal framework to protect young victims. It brought to

the forefront the **psychological trauma and social stigma** faced by girl children in court proceedings.

- **Legal Perspective:**

Although the Court did not expand the statutory definition of rape, it played a crucial catalytic role in prompting legislative reform.

The ruling had a direct impact on the Criminal Law (Amendment) Act of 2013 and the subsequent Justice Verma Committee Report (2013), which brought about:

- Section 375 (expanded definition of rape) to include all forms of penetration,
- Section 376A–E IPC (enhanced punishments), and
- eventually led to the Protection of Children from Sexual Offences (POCSO) Act, 2012, providing a comprehensive child-centric framework for dealing with sexual crimes.

Critical Evaluation

Strengths:

- The Court took a progressive and empathetic approach to protect the dignity of victims during trial.
- It recognised, for the first time, that child sexual abuse extends beyond traditional notions of rape, and victims require procedural sensitivity.
- The case demonstrated the judiciary's activism within constitutional boundaries — respecting legislative powers while ensuring immediate procedural justice.

Limitations:

- The Court's refusal to interpret Section 375 broadly was seen by some as a missed opportunity to provide immediate legal recognition to non-penile forms of sexual assault.
- The implementation of procedural safeguards varies widely across courts, leading to inconsistent protection for victims.

However, the subsequent enactment of POCSO Act (2012) and Criminal Law Amendment (2013) addressed many of these lacunae — fulfilling the reformative vision first articulated in *Sakshi*.

Conclusion

This case stands as a cornerstone in the legal protection of girl children from sexual abuse in India. Though the Court did not alter the statutory definition of rape, its directions on trial procedures, victim protection, and legislative reform paved the way for comprehensive laws addressing child sexual abuse.

This case exemplifies the judiciary's transformative role in recognising and addressing the systemic shortcomings in the criminal justice system's response to child sexual violence.

Case 13: Vasanta Sampat Dupare v. State of Maharashtra (2015) 1 SCC 253

Background of the Case

The case arose from a horrific crime committed on 31st December 2008 in Nagpur, Maharashtra.

The accused, Vasanta Sampat Dupare, a 53-year-old man, was a neighbour of the victim's family. On the evening of the incident, he lured a 4-year-old girl named Muskan (the victim) daughter of Pinki and Krishna from her home by offering chocolates and took her away on a bicycle.

When the child did not return home, her parents searched the locality and lodged a missing complaint with the police. The next morning, the victim's body was found in a bushy area near the accused's residence. The post-mortem report confirmed sexual assault and homicidal strangulation.

The accused was found guilty by the trial court in accordance with Indian Penal Code Sections 302 (murder), 376(2)(f) (rape of a minor girl), 363 (kidnapping), and 201 (destruction of evidence). Both the Bombay High Court's Nagpur Bench and the Supreme Court of India affirmed the conviction and death sentence in 2015.

The Court meticulously examined the prosecution evidence, including eyewitness testimonies, police investigation, forensic and medical reports. The Court determined that modest discrepancies among witnesses are normal deviations that do not undermine the prosecution's case. Several witnesses firmly recognized the accused as the one who enticed Muskan with the promise of chocolates and then rode off with her. The victim's body and incriminating items were found at the murder site as a result of the accused's revelation.

Medical evidence confirmed that Muskan suffered fatal head injuries and injuries consistent with forcible sexual intercourse. Forensic analysis found blood stains of the victim's blood group on the accused's clothes and on objects seized from the crime scene. The accused failed to offer any explanation for these incriminating facts. The Court also found the accused's injuries insignificant and unrelated to the crime.

The Court took into account the victim's young age, the heinous and twisted character of the crime, and the accused's lack of regret, using the ideas from **Bachan Singh and Machhi Singh**. Because the case was one of the "rarest of rare," the Court decided that the death penalty was appropriate. The accused's age and familial status were among the mitigating factors that were outweighed by the aggravating circumstances.

Legal Issues Involved

- i. Whether the accused's kidnapping, rape, and murder of the young girl had been established by the prosecution beyond a reasonable doubt.
- ii. if the circumstances warranted the use of the death penalty under the "rarest of rare" conditions.
- iii. If circumstantial evidence solely led to the accused's guilt since there were no eyewitnesses, did it create a full chain?
- iv. If there were any mitigating factors, the death penalty may have been reduced to life in prison.

Judgment

The **Supreme Court (Bench: Dipak Misra J. & Prafulla C. Pant J.)** maintained the conviction and confirmed the **death penalty**.

The Court reasoned that:

- i. The **chain of circumstantial evidence**—the accused last seen with the child, recovery of the bicycle, medical and forensic evidence confirming sexual assault, and matching blood samples—proved the crime beyond reasonable doubt.
- ii. The act was “**diabolical in conception and cruel in execution**,” reflecting the depravity of mind and absence of remorse.
- iii. The victim was an innocent 4-year-old child who was completely helpless and unable to defend herself.

iv. The Court thought that such offences “**shock the collective conscience of society**” and thus justified the imposition of the death penalty under the **rarest of rare doctrine** (as evolved in *Bachan Singh v. State of Punjab*, 1980).

v. No mitigating circumstances were found: the accused was mature, aware of the consequences, and had acted with deliberate intent.

Socio-Legal Analysis

This case starkly exposes the vulnerability of the girl child in Indian society and the severity of crimes of sexual violence and murder against minors.

From a social perspective, it reveals the failure of community vigilance and the deep-rooted predatory tendencies that threaten child safety, even within seemingly safe neighbourhoods.

From a legal standpoint, the judgment reaffirms the judiciary’s resolve to impose exemplary punishment in cases where the offence is gruesome and the victim a minor girl.

The Court’s language—emphasizing societal conscience and moral outrage—reflects the protective approach of Indian jurisprudence toward the girl child. It reinforces the principle that crimes of this nature not only violate the victim’s rights but also assault the dignity of the entire society.

Critical Evaluation

The case is a significant precedent in the jurisprudence of child rights and gendered violence:

- i. It demonstrates how Indian courts apply the “*rarest of rare*” doctrine to balance justice and deterrence.
- ii. However, scholars have debated whether capital punishment truly deters crimes against children, arguing instead for systemic reforms in investigation, prevention, and rehabilitation.
- iii. The case also influenced policy-level changes—including the strengthening of POCSO Act (2012) enforcement and increasing focus on fast-track courts for sexual offences against children.

Conclusion

In this instance, the Supreme Court’s ruling reflects a zero-tolerance policy against crimes including sexual assault and killings of girls.

The case exemplifies how the judiciary views such offences as assaults on human dignity, deserving the highest punishment under law.

Case 14: State of Himachal Pradesh v. Sanjay Kumar alias Sunny (2017) 2 SCC 51

Background of the Case

In light of the Protection of Children from Sexual Offences (POCSO) Act of 2012, this case is a significant court ruling. Sanjay Kumar, the accused, was accused of raping a 10-year-old girl from his Himachal Pradesh neighbourhood. The accused was found guilty by the trial court and given a life sentence in jail in as per Section 376(2)(f) of the Indian Penal Code (IPC) and pertinent provisions of the POCSO Act.

The accused appealed the order to the High Court, where he was successful because the court considered the matter again and concluded that the prosecution had not proven its case beyond a reasonable doubt. It asserts that there were specific circumstances that gave rise to reasonable doubt in the prosecution's account. As a consequence, the trial court's recorded conviction was overturned, clearing the accused. The State appealed to the Supreme Court, challenging the acquittal and emphasizing that minor discrepancies in a child's testimony should not override the clear evidence of sexual assault. Despite being a juvenile witness, the prosecutrix's statement instils trust since, during her deposition in court, she gave the impression that she was a capable witness with no need for a tutor.

Legal Issues Involved

- i. Whether the testimony of a child victim can be considered reliable without corroboration.
- ii. The extent to which minor inconsistencies affect the credibility of the victim's statement.
- iii. Applicability and interpretation of Sections 29 and 30 of the *POCSO Act, 2012* (presumption of guilt against the accused).
- iv. Whether the High Court erred in reversing a well-reasoned conviction based on technical grounds.

Judgement

The accused's conviction and life sentence were upheld by the Supreme Court, which ruled that:

- i. The *sole testimony of the victim* can be the basis of conviction if it inspires confidence.
- ii. Minor contradictions are natural, especially when a traumatized child recounts events of sexual assault.
- iii. After the prosecution demonstrates fundamental facts, the burden of evidence largely transfers on the accused as per the POCSO Act, which aims to create a child-friendly legal system.
- iv. The Court noted that the High Court disregarded the essence of protection laws intended for victims who were children and did not take a compassionate stance.
- v. The initial information report's delay was appropriately justified by the exceptional conditions. It is unacceptable to use the delay in the first information report as a formal means of dismissing the prosecution's case and raising questions about its validity. It just alerts the court to look for and evaluate whether a reason for the delay has been provided.
- vi. For violating Section 376(2)(f), the respondent faces a hard twelve-year jail term and a fine of ₹50,000; if he does not pay the punishment, he faces an additional one-year sentence. Additionally, he was found guilty of violating Section 506 of the IPC, for which he received a two-year harsh jail term. The two phrases will run simultaneously.

The Court reaffirmed that in cases pertaining to sexual crimes against children's technicalities cannot override substantive justice.

Socio Legal Analysis

Even innocent youngsters are not spared in incidents of child rape, which are examples of perverted craving for sex. This is the most disgusting thing there is. A crime against humanity, that is. Due of the societal shame associated with these occurrences, many of them go unreported. This case is a landmark in reinforcing judicial sensitivity towards the plight of child victims of sexual violence. The judgment reflects the judiciary's awareness that traditional evidentiary standards can disadvantage child victims due to their age, trauma, and societal pressures.

From a **social perspective**, the case reveals:

- Persistent stigma and fear associated with reporting sexual crimes.
- The need for *psychological counselling* and *child-friendly courts* to support victims.
- The influence of patriarchal attitudes that often lead to victim-blaming or disbelief.

From a **legal perspective**, it underlines:

Some surveys indicate that the number of child rape cases has sharply increased. Children require extra safety and attention. In certain situations, the courts bear a greater burden of obligation to ensure that these children receive the appropriate legal protection. Such protection is necessary because to their mental and physical immobility.

- The *evolution of Indian jurisprudence* from scepticism to trust in child testimony.
- The proactive interpretation of *POCSO Act provisions* to ensure justice for the vulnerable.
- The Court's insistence that the justice system must not re-traumatize victims through adversarial procedures.
- It is by no means implied that when a child is the victim of a rape, the accusation must be taken as gospel and the accused must be found guilty.

Critical Evaluation

While the judgment represents a progressive step, challenges remain in the *implementation* of POCSO provisions across states. Delays in trial, inadequate training of police officers, and lack of specialized child psychologists continue to hinder justice delivery. Moreover, despite strong legal safeguards, the conviction rate under POCSO remains low (as per NCRB data, around 30–35%), suggesting the gap between *law on paper* and *law in practice*. In its judgement Supreme Court specified that “The submission overlooks the fact that in India women are slow and hesitant to complain of such assaults”. The case thus underscores the need for systemic reform, not just judicial pronouncements.

Conclusion

The case exemplifies the judiciary's growing dedication to upholding the female child's rights and dignity. It emphasizes the idea that justice for children must be prompt, considerate, and substantial, bridging the gap between legal formality and social justice. The Supreme Court has reaffirmed in its ruling that crimes against girls are social problems that require extensive socio-legal remedies rather than only being legal violations.

Case 15: Alakh Alok Srivastava v. Union of India (2018)

Background of the Case

In this case, the Supreme Court stressed the necessity for child-friendly processes and gave guidelines for the prompt resolution of matters under the POSCO Act. The case also addressed the immediate medical care of an eight-month-old victim of a sexual assault. The court ordered High Courts to ensure special courts handle POCSO cases, officers are sensitized, and trials are conducted efficiently without unnecessary adjournments.

PIL was filed by the petitioner, **Adv. Alakh Alok Srivastava**, highlighting a horrific incident in **Muzaffarpur, Bihar**, where minor girls in a state-funded shelter home were subjected to brutal sexual abuse, torture, and trafficking. A Tata Institute of Social Sciences (TISS) report had earlier exposed systematic and large-scale sexual exploitation of more than **34 minor girls** housed in the shelter facility run under government supervision. The petitioner sought urgent and wide-ranging judicial intervention regarding child protection, safety audits, oversight of shelter homes, and criminal action against officials. The broader concern raised was the failure of state machinery, particularly the Social Welfare Department of Bihar, to safeguard children under the Juvenile Justice Act.

Petitioner's Arguments

- The Bihar government failed to monitor and regulate the shelter home, violating Articles **14, 15(3), 21, and 39(f)** of the Constitution.
- A **systemic breakdown** of child protection laws is reflected in the sexual abuse of adolescents.
- Investigation, medical care, counselling, and rehabilitation of the victims must be monitored directly by the court.

- The case exposed nationwide vulnerabilities, requiring reforms in all states.

Respondent's Arguments (State of Bihar & Union Government)

- Accepted that serious lapses occurred but argued that corrective actions were being taken.
- Claimed that FIRs had been registered and several persons arrested.
- Stated that mechanisms under the Juvenile Justice Act were functional but needed strengthening.

Legal Issues Involved

- Whether the State of Bihar violated its statutory duty under the **Juvenile Justice (Care and Protection of Children) Act, 2015** to safeguard children in institutional care.
- Whether shelter homes across the country require mandatory independent audits, monitoring, and accountability mechanisms.
- Whether the Supreme Court should oversee the criminal investigation, victim rehabilitation, compensation, and monitoring.
- Whether systemic reforms were necessary to prevent **sexual abuse of children** in state-run and NGO-run childcare institutions.

Judgement

The Court treated the matter as one of "**grave systemic failure**" and kept the proceedings open for continuous monitoring for months. The Supreme Court issued **strong, wide-ranging, nation-level directives**, including:

i. CBI Investigation

- The Court ordered the CBI to take over the probe, given the seriousness and possibility of political/administrative interference.

ii. Surveillance & Monitoring

- Installed stringent monitoring mechanisms for all shelter homes under JJ Act.
- Mandated **regular social audits** by independent bodies like NCPCR and SCPCR.

iii. Protection & Rehabilitation of Victims

- Ordered immediate medical care, psychological counselling, trauma support, educational arrangements, and protection from coercion or intimidation.

iv. Regulation of Childcare Institutions Nationwide

- Directed states to ensure registration, licensing, staff verification, CCTV installation, and compliance with JJ Act norms in all child-care institutions.

v. Accountability of Government Officials

- Government officials responsible for negligence could face criminal proceedings.

vi. Compensation

- Directed Bihar government to reimburse interim compensation to child victims as per the Victim Compensation Scheme.

Socio-Legal Analysis

i. Protection of the Girl Child

- The case underscores the **vulnerability of institutionalized girls**, especially those without parental care.
- It reveals how **state negligence** can facilitate large-scale sexual violence.

ii. Systemic Reform & Accountability

- It highlights the inadequacies in the functioning of shelter homes under the JJ Act.
- Brings into focus the urgent need for **independent audits**, trained staff, stricter monitoring committees, and transparency.

iii. Criminal Justice & Political Accountability

- The Supreme Court's intervention reflects judicial activism where executive mechanisms failed.
- Recognizes sexual violence against girl children as a **constitutional violation** rather than merely a criminal offence.

iv. Social Implications

- Exposed the dangers of **unregulated NGOs running shelter homes**.
- Emphasised the need for community awareness, reporting mechanisms, and mental health support.

Critical Evaluation

Positive Aspects

- Restored public faith by taking strong suo motu-like actions.
- Addressed systemic issues rather than treating the case as an isolated incident.

- Prioritized **victim-centric justice**, including counselling, rehabilitation, and compensation.
- Nationwide reforms mandated — a rare instance of **judicial policy intervention**.

Concerns / Limitations

- Despite strong orders, implementation by many states remains weak.
- Overreliance on judicial intervention indicates continuing failures of child welfare administration.
- Long-term rehabilitation of the girls remains challenging due to stigma and trauma.

Conclusion

The Apex Court's landmark ruling has provided guidance to the higher courts to ensure that matters under the POCSO Act are tried quickly and that the courts are kid-friendly so that children can freely testify. This was done to uphold the Act's goal of shielding the youngster from numerous dangers so that they wouldn't feel uneasy or afraid and wouldn't be reminded of the traumatic event and the horrific experience. This case is important because:

- It links sexual abuse with state accountability.
- It illustrates how child protection laws have not been successfully implemented in practice.
- It highlights the Supreme Court's role in upholding dignity, safety, and welfare of girl children.

Case 16: Attorney General for India v. Satish & Another (2021) INSC 762

Background of the Case

The controversial ruling about skin-to-skin contact of Bombay High Court was reversed by Supreme Court in this case, marking a milestone ruling. A three-judge panel made up of Justices Bela M. Trivedi, S. Ravindra Bhat, and Uday Umesh Lalit rendered the ruling.

The Protection of Children from Sexual Offenses Act, 2012 (POCSO Act) strictly defined the offense of sexual assault in two separate verdicts issued by the Bombay High Court (Nagpur Bench) early in 2021. In one of the cases, the accused, Satish Ragde, had lured a 12-year-old girl to his house under the pretext

of offering her a guava, then pressed her breast and tried to remove her salwar while she was clothed, and attempted to silence her when she cried out. The accused then locked her in a room and bolted the door from outside. The victim's mother found her daughter crying in the accused's house after hearing shouts from a room on the first floor. When police arrived, the accused was attempting suicide by hanging himself.

Sections 342, 354, and 363 of the IPC as well as Section 8 of the POCSO Act were considered by the trial court to condemn Satish. On appeal, however, the High Court upheld his conviction as per Sections 342 and 354 of the IPC but cleared him of the POCSO allegation on the basis that there was no "skin to skin" contact, which meant the act did not qualify as sexual assault under Section 7 of the POCSO Act. There was a lot of disputes about the Bombay High Court's interpretation. Thus, the Supreme Court heard the case.

The respondents contended that this interpretation would weaken child protection laws and set a risky precedent. The case was thereafter taken up by Supreme Court of India on its own initiative and granted the Attorney General of India, the National Commission for Women, and the State of Maharashtra special leave petitions (Criminal) to investigate the validity of the "skin to skin" criterion.

Legal Issues Involved

- i. Whether an act of physical contact with a child (e.g., touching breast over clothing, attempting to remove clothing) requires **direct “skin to skin” contact** in order to amount to “sexual assault” under Section 7 of the POCSO Act.
- ii. Whether the primary component of the offense under Section 7 is evidence of the accused's sexual intent rather than the type or extent of physical contact.
- iii. Whether the High Court's interpretation restricting “physical contact” to “skin to skin” was legally tenable and consistent with the legislative purpose of the POCSO Act.
- iv. The implications of this interpretation for the protective mandate of the POCSO Act and for jurisprudence on crimes against the girl child (and children generally).

Judgment

The Supreme Court, in a three-judge bench (Hon'ble Justices U.U. Lalit, S. Ravindra Bhat and Bela M. Trivedi), delivered the judgment on **18 November 2021**, citing 2021 INSC 762. The Court took help of the doctrine "**Ut Res Magis Valeat Quam Pereat**" which means that the construction of a rule should give effect to the rule rather than destroying it.

Key holdings:

- i. According to the Court, an offense under Section 7 of the POCSO Act does not need "skin to skin" contact. Whether the accused engaged in "any other act with sexual intent involving physical contact without penetration" or touched the child's genital area is what counts.
- ii. The Court emphasised that **sexual intent** is the key element. The interpretation which mandates "skin to skin" contact would render the second part of Section 7 virtually meaningless and defeat the legislative purpose of the Act.
- iii. The Court applied the definition of "force" under Section 349 IPC by analogy (via Section 2(2) POCSO Act) to hold that contact through clothing can amount to "physical contact" and thus lies within the purview of Section 7.
- iv. The Court allowed the appeal of the Attorney General for India and other petitioners, disapproved the High Court's narrow interpretation, and reinstated the POCSO conviction possibility for similar acts.

Socio-Legal Analysis

In relation to the POCSO Act's jurisprudence on children's rights, particularly those of girls, this case is historic. Technicalities like the lack of "skin to skin" contact cannot negate the protection that children are entitled to, and it confirms the protective attitude that the legislation was designed to instil.

From a **social perspective**, the ruling sends a strong message that sexual violence against children cannot be minimised by fine distinctions of contact, thereby reinforcing societal condemnation of such acts.

From a **legal perspective**, the judgment clarifies that the correct interpretation of Section 7 aligns with the object and purpose of the POCSO Act: to give a child-friendly mechanism and ensure that offences committed with sexual intent against children are not left unpunished due to overly restrictive judicial interpretation.

Critical Evaluation

It is admirable that this ruling restored the POCSO Act's protective intent and closed a gap that endangered the development of child-protection law. However, challenges remain: **evidence of sexual intent** continues to be difficult to prove, especially when the child is young and unable to articulate precisely what occurred. Moreover, ensuring that all investigating agencies adopt this broader interpretation uniformly remains an implementation challenge.

Nevertheless, for your thesis on crimes against the girl child, the case represents a **vital judicial safeguard**—ensuring that legal protection for children is not diluted by technical interpretations.

Conclusion

In this case the Supreme Court decisively held that the essence of sexual assault under the POCSO Act is **sexual intent**, and that acts of physical contact with a child—even through clothing—can fall within Section 7. This judgment strengthens the socio-legal framework for protecting the girl child (and all children) from sexual offences.

Case 17: Manoj Pratap Singh v. State of Rajasthan (2022)

Background of the Case

On 17th January 2013, a 7½-year-old girl, who was mentally and physically challenged, was kidnapped in the Rajsamand district of Rajasthan with betrayal of trust. The accused, **Manoj Pratap Singh**, allegedly lured the child with chocolates from a fruit-cart operated by her parents. The victim girl was then viciously raped by him, and he murdered her by giving terrible damage to her skull. A stolen motorbike was used in all of these incidents. The accused, who was about 28 years old, had already committed several crimes, including breaking Section 3 of the Prevention of Damage to Public Property Act, 1984, Section 379 IPC, and even Section 307 IPC, prior to this offense. The accused had elderly parents, a wife, and a daughter who was eight years old.

The child was later found dead — her body was discovered early morning at a nearby location after the accused gave information, the motorcycle was recovered, blood stains and forensic evidence linked the accused to the crime. According to certain provisions of the Indian Penal Code (IPC), Manoj Pratap Singh was found

guilty by the trial court and given the death penalty; the judgment and sentence were upheld by the High Court. The case was appealed to India's Supreme Court. Three judge-bench of the Supreme Court denied to commute the death penalty to life in prison. The Court observed that it is improbable that the appellant would not be able to and would not be motivated to perpetrate the same act again if he were granted an absolution. This is because the accused continued to commit crimes after being found guilty of this heinous crime. Even while incarcerated, the accused's behaviour was not without flaws. In addition to fighting with other prisoners and receiving a seven-day sentence, he was charged with and found guilty of committing another murder, this time of a Pakistani national who was a co-inmate, while working with three other prisoners.

The Supreme Court was forced to uphold his death sentence despite the fact that in a number of cases, courts have refused to impose or approve the death penalty, even in cases involving horrific murders. This is primarily because they believe that even a remote chance of the convicted person's reformation should be given an opportunity instead of the death penalty, which is irreversible.

Legal Issues Involved

- i. Whether the prosecution established beyond reasonable doubt the kidnapping, sexual assault (rape), and murder of the minor girl child by the accused.
- ii. Whether the case qualifies as one of the “rarest of rare” offences warranting the death penalty under Indian jurisprudence.
- iii. Whether the circumstantial evidence (including recovery of motorcycle, blood-stains, forensic report, last seen with accused) forms a complete chain that leads exclusively to the guilt of the accused.
- iv. What mitigating and aggravating factors are present: the offender’s prior criminal record, the vulnerability of the victim, his conduct post-arrest etc., and how they bear on sentencing.

Judgment

The Supreme Court, in its judgement delivered on 24th June 2022, upheld the death sentence awarded to the appellant.

Key reasoning included:

- i. The victim was a **mentally and physically challenged 7½-year-old girl**, thus particularly vulnerable.
- ii. The crime was carried out with **extreme depravity**: the child was kidnapped, raped, and murdered by causing severe head injuries (including fracture of frontal bone) after luring her.
- iii. The chain of circumstances was complete: accused last seen with the child, stolen vehicle used, blood stains and forensic evidence, recovery of body based on his confession/ information, no acceptable alternative hypothesis offered by defence.
- iv. Mitigating issues such as the age of the accused (28 at time of crime), his wife and minor daughter, and aged father were considered but outweighed by aggravating factors: previous criminal cases (the accused had at least four prior cases), nature of the offence, and his conduct post-conviction (including another jail murder).
- v. On sentencing, the Court reaffirmed that the death penalty remains available in exceptional cases and the court's role is not to make it redundant.

This case is a stark example of the intense vulnerability of the girl child — especially when physically/mentally challenged — and the egregious risk posed by predatory offenders.

From a **legal perspective**, the judgment reinforces the doctrine that crimes against such children must attract the highest level of scrutiny and strongest punishment. It offers a precedent that the ***rarest of rare*** doctrine applies not just because of death, but because of the particular heinousness, vulnerability of victim and lack of remorse. It also illustrates how Indian courts treat assistance of forensic evidence and circumstantial proof in child sexual assault-murder cases.

Critical Evaluation

The case is significant for its clarity in applying the *rarest of rare* doctrine, its robust handling of circumstantial evidence, and its strong stance on protecting the girl child. However, it raises issues: despite strong judgment, many such crimes continue to occur — thus, judgments are necessary but not sufficient; preventive, social-educational and community mechanisms remain crucial. Also, reliance on death penalty remains contested from human rights and systemic reform perspectives.

This case provides a powerful analytical anchor: it shows how the legal system treats one of the gravest crimes against a girl child and thereby how law, society and institutional response come together.

Conclusion

In this case the Supreme Court's decision represents an unequivocal commitment to protecting the rights of girl child to life, bodily integrity, dignity and safety. The ruthless nature of the crime, the vulnerability of the victim, and the trial and appellate processes together make this case a **landmark** in the jurisprudence on child sexual abuse and homicide in India.

This case is worthwhile for illustrating the *extreme end of the spectrum* of crimes against a girl child and the socio-legal responses that follow.

Case 18: Sartaj Khan v. State of Uttarakhand (2022)

Background of the Case

On 11th April 2015, a 15-year-old Nepalese girl was intercepted near the Indo-Nepal border (Sharda Barrage, Banbasa, Uttarakhand) by the Human Trafficking Unit. Sartaj Khan, from Pilibhit, was apprehended with a 15-year-old girl near the Indo-Nepal border in Banbasa, Uttarakhand. The girl alleged she was lured from Nepal with the promise of a shopping trip, only to be brought to India for exploitation. During his arrest, the police recovered a pocket-diary, condoms, “man-force” tablets, cash (Indian & Nepali), and two mobile phones. Sections 363 (kidnapping), 366-B (importing a young girl), 370(4) (trafficking), 506 (criminal intimidation), and Section 8 of the POCSO Act were the charges brought against him for exploitation of a child. In the trial court (Special Sessions Court, Champawat), he was acquitted. The Uttarakhand High Court reversed this

acquittal on appeal (in December 2017), sentencing him to 10 years for importing a girl from a foreign country and other concurrent sentences. Thereafter, the doors of Supreme Court of India was knocked by Khan. The case went to the Supreme Court, which dismissed the appeal.

Legal Issues Involved

- i. Whether the appellant “allured” or “enticed” the minor girl, making out the elements of Sections 363, 366-B, and 370(4) of IPC.
- ii. Whether the Indian courts had jurisdiction to try the offence, given that parts of the offence may have occurred outside India, and whether sanction under Section 188 CrPC was required.
- iii. Whether the victim was indeed a minor (under 18 years) at the time of offence, implicating Section 370(4) IPC and POCSO Act applicability.
- iv. The reliability and sufficiency of medical/radiological/dental evidence for determining age.

Judgement

- i. The Supreme Court rejected Khan’s challenge to the trial on jurisdictional grounds, holding that **Section 188 CrPC** did not apply because **part of the offence occurred on Indian soil**.
- ii. The Supreme Court reinforced that Section 188 of the Criminal Procedure Code (CrPC), which requires Central Government sanction for offenses committed outside India, does not apply when the crime has components in India. Because the trafficking and exploitation of the girl continued on Indian soil, the trial in India was lawful without that sanction.
- iii. On the question of age, the Court accepted medical evidence (radiological and possibly dental) that established the victim was below 18 years, making the charges under Section 370(4) IPC and Section 8 POCSO valid.
- iv. Regarding “allurement,” the Court found sufficient evidence that Khan had **lured** the girl into India by promising shopping, hotel stay, etc.
- vi. Given the above, the Court maintained the conviction and sentence imposed by the High Court.

Socio-Legal Analysis

Social Perspective:

This case highlights the vulnerability of girl children, especially those from impoverished or cross-border regions, to trafficking and exploitation. The manner in which Khan allegedly lured the minor girl reflects how predators exploit innocence and poverty across international (Nepal-India) borders. The court also called for socio-economic measures to prevent trafficking, the establishment of special investigation teams, and photo data banks for tracing missing children.

Legal Perspective:

The judgment reaffirms Indian courts' jurisdiction over cross-border trafficking, especially when part of the crime occurs within India. It also highlights the importance of rigorous age determination in trafficking and child sexual exploitation cases, and the role of medical boards in establishing minority for legal protection under child-specific laws like POCSO.

The court mandated that the Uttarakhand government improve verification and counselling for minor girls crossing the India-Nepal border. It ordered enhanced patrolling, increased manpower at the border, and stronger anti-trafficking units. The court recommended invoking the Money Laundering Act against traffickers.

Critical Evaluation

Strengths:

- The decision strengthens anti-trafficking jurisprudence by clarifying that lack of sanction under Section 188 CrPC is not a bar when part of the offence occurs in India.
- It also emphasizes a **child-centric approach**, accepting medical evidence to protect the minor under POCSO provisions.
- The Court's reasoning sends a strong deterrent message against cross-border trafficking and exploitation of minors.

Limitations / Challenges:

- Age determination via medical/radiological methods has inherent uncertainty, and reliance on such evidence can be contested.

- It reflects only **penal enforcement**; but addressing root causes (poverty, cross-border governance, trafficking networks) requires systemic social and policy interventions.
- For your thesis, this case shows how legal protection for the girl child must grapple with transnational crime and not just domestic offences.

Conclusion

In this case the Supreme Court upheld the conviction of the appellant for trafficking, kidnapping, and sexual exploitation of a minor girl, even though she was trafficked from Nepal. The Court affirmed its jurisdiction, accepted medical evidence for age, and reinforced the protection offered by **IPC and POCSO**.

This case illustrates the legal complexities, the socio-legal risk to girls, and the judicial safeguards needed to protect them.

Case 19: State of Rajasthan vs. Gautam s/o Mohanlal (2023)

Background of the Case

This is a case which shocks the conscience of the Court. Complainant **Rakesh** submitted a written report before SHO, Police Station Udyog Nagar, Kota on 8.5.2014 stating therein that he and his wife **Smt. Kajod** were residing at Suryanagar in the house of **Chittar Lal** as tenant. **Gautam Harizan** was also residing in the same house as tenant. They both used to attend to their respective jobs. They were having a daughter and a son. The elder was daughter aged 5 years and younger was son aged about two and half years. He further stated that on 8.5.2014, as usual, he left the house for his job at 6.00 A.M. and his wife left the house at about 9-10 A.M. after leaving children with their aunt **Lad Bai**, who was living in neighbourhood.

While returning at 3.00 PM, wife of complainant found her daughter in a pool of blood. Blood was oozing from her private parts. On asking, she told to her mother that during day hours, Gautam Harijan uncle brought her from her Mausi's (sister of mother) house to his room. There he removed her clothes and undergarments. He did something to her private parts due to which there was bleeding. Accused had caused bite also. She was suffering from pain. His wife called him and they noticed that Gautam Harijan committed rape with their daughter on account of

which, there was bleeding from her private parts and her garments were also stained with blood.

Following an investigation, the Trial Court found the accused guilty of several charges, including rape (clauses (i) and (m) of sub-section (2) of Section 376 IPC — since the victim was a minor) and kidnapping (Section 363 IPC), as well as violations of the POSCO Act, 2012. In addition, the offender was found guilty of sexual assault and aggravated sexual assault under Section 377 IPC (unnatural offenses) and the applicable POCSO laws. In addition to extra penalties for other offenses, the accused was given a life sentence (natural life) in prison by the Trial Court for the rape allegations. In response to an appeal, the Rajasthan High Court lowered the life sentence to 12 years of hard imprisonment. The reasons given by the High Court for showing leniency are:

- i. The age of the respondent-accused was twenty-two years;
- ii. The respondent-accused belonged to a poor scheduled caste family;
- iii. The respondent-accused is not a habitual offender and
- iv. The respondent-accused has been suffering incarceration since 8th May 2014.

Issues Involved

- i. Given the horrific nature of the crime—the rape of a very young child, aged between five and six—was the High Court right to reduce the sentence from life to twelve years?
- ii. Whether mitigating factors like the accused's young age, his caste or economic background, absence of prior criminal record, or time undergone in incarceration, can warrant leniency in child-rape cases involving minor victims.
- iii. What should be the appropriate sentencing policy in crimes concerning child sexual abuse/rape under IPC and POCSO — especially regarding life imprisonment vs. fixed-term sentence, remission, compensation, and victim rehabilitation.

Judgement

- i. Although upholding Gautam's conviction, the Supreme Court determined that the High Court's sentence reduction was excessively light.
- ii. The accused was given a harsh 14-year jail term for the offenses under clauses (i) and (m) of sub-section (2) of Section 376 IPC after the court increased the

punishment. No remission would be permitted during this extended sentence, the Court further held.

iii. The Trial Court upheld the additional penalties imposed for the remaining offenses (such as kidnapping, detention, POCSO offenses, etc.).

iv. The Court further mandated that the victim receive compensation in the amount of the fine (as previously imposed), with a part set aside for the State. The State Legal Services Authority in question was instructed to guarantee payment under the victim-compensation plan.

v. Further, the Court criticized the inclusion of caste/religion in the cause-title of the case (as carried by lower courts) and directed that such practice should be discontinued.

Socio-Legal Analysis

Social Dimension

- The case highlights the **acute vulnerability of girl children** in domestic settings — even within families living in a shared tenancy, often under precarious social and economic conditions. The heinous offence against a 5–6-year-old girl reflects the extreme forms of gender-based violence and abuse that girl children face, underscoring the urgent need for effective protective mechanisms.
- By raising the sentence and ordering victim compensation and rehabilitation measures, the Court signals that child-rape is not mere a criminal matter but a profound **violation of child rights, dignity and bodily integrity**. It also stresses State’s responsibility to ensure victim safety, counselling and social reintegration — beyond mere punishment of the perpetrator.
- The judgment contributes to broader societal messaging: that caste, economic status or personal background of the accused cannot rationalize lenient treatment in crimes against children. This helps challenge prevailing social biases that may otherwise influence judicial outcomes.

Legal Dimension

- Legally, the decision strengthens jurisprudence on sentencing in child-sexual-offence cases. By rejecting unwarranted leniency and emphasizing the gravity of offences involving minor victims, the Court reinforces deterrence,

normative condemnation of child-rape, and importance of proportionality between crime and punishment.

- The Court uses its appellate authority to correct what it perceives as miscarriage of justice by the High Court — confirming that judiciary must not compromise on sentences simply because of mitigating factors when children's bodily integrity and dignity are at stake.
- The order regarding victim compensation and rehabilitation — including fine distribution, and direction to State Legal Services Authority — reflects a more holistic, welfare-oriented understanding of justice in child-rights cases, combining retributive and restorative justice.
- The instruction to omit caste/religion from cause titles reinforces constitutional values of equality, non-discrimination and secularism, even at the level of judicial documentation.

Critical Evaluation

Strengths:

- The judgment sends a **strong deterrent message** — recognizing that rape of a minor is among the gravest offences, deserving stringent sentences and no remission protections.
- It balances **punishment and victim-oriented justice** — not only convicting the perpetrator, but ordering compensation and rehabilitation measures for the child-victim.
- By overruling the High Court's leniency, the Supreme Court reinforces accountability, discourages unduly lenient reductions in serious crimes, and restores public faith in the justice system's responsiveness.
- The decision on cause-title (removing caste/religion) is socially progressive, promoting equality and dignity even in court records.

Challenges / Limitations:

- Fourteen years' imprisonment, though strict, may still be viewed as moderate given the age of the victim (5–6 years), the trauma, and irreversible damage to childhood. Some may argue that life-sentence (or minimum fixed longer term) would be more appropriate deterrence.

- Implementation of victim compensation, counselling, rehabilitation — though ordered — depends heavily on state machinery (legal services authorities, welfare departments), which may suffer from resource constraints, bureaucratic delays or lack of follow-through.
- There remains scope for further judicial or legislative clarity on non-remission in child-rape cases: while SC has denied remission in this case, systemic policy (e.g. mandatory non-remission) might be needed for consistency across similar cases.
- The case deals with sentencing — not with broader systemic issues like prevention, social transformation, awareness — which are essential to reduce incidence of such crimes. Punishment alone may not suffice.

Conclusion

State of Rajasthan vs. Gautam s/o Mohanlal (2023) is a **landmark jurisprudence** in India's fight against child sexual offences. It reaffirms that crimes against girl children — especially rape of minors — deserve stringent punishment, robust judicial response, and state responsibility for victim rehabilitation. The Court's approach balances retributive and restorative justice, constitutional values (equality, secular record-keeping), and societal protection of children. It illustrates how the law operates to protect the dignity, bodily integrity, and rights of girl children, how judicial scrutiny evolves in light of societal values, and how the state and courts must ensure both accountability and victim protection.

Case 20: Probhat Purkait @ Provat v. State of West Bengal (2024)

Background of the Case

A 14-year-old girl from rural West Bengal went missing in May 2018, according to her mother's complaint. It was eventually discovered that the girl had married a 25-year-old guy who, with the assistance of his sisters, had taken her. In addition to penetrating sexual assault on a minor under the POCSO Act, 2012 (Section 6), the girl's mother claimed that the man had abducted her daughter and filed a First Information Report (FIR) under Sections 363 and 366 of the IPC.

According to Sections 363 (kidnapping), 366 (kidnapping with the intent to force marriage), 376(3) (rape of a minor girl under sixteen), and 376(2)(n) (repeated

rape of the same woman) of the Indian Penal Code and Section 6 (aggravated penetrative sexual assault of POCSO victim) of the POCSO Act, the man was found guilty in September 2022 by the District Court in Baruipur, West Bengal. The defendant received a 20-year jail term.

Four years later, in July 2023, a Division Bench of the Calcutta High Court began hearing an appeal against the conviction. During the proceedings, the girl submitted that her affair with the man was **consensual** and that she had eloped to marry him “out of her own volition.” She also informed the High Court that she was a single mother with a ten-month-old baby from her marriage with the accused and that she was living in “destitute” conditions with an ailing mother. Consensual relationships are not a statutory exception under the POCSO Act. But the High Court overturned the conviction using its ‘inherent powers’ under Section 482 of the Criminal Procedure Code, 1970 (CrPC). This provision confers a High Court with inherent powers to secure the “ends of justice” and prevent the “abuse of process of any Court.” The High Court also stated that the POCSO Act should be amended by the legislature to exclude consensual relationships from its ambit.

On 20 August 2024, a Division Bench of the Supreme Court comprising Justices Abhay S. Oka and Ujjal Bhuyan held that ‘consensual sex’ is not an exception under the Protection of Children from Sexual Offences Act, 2012 (POCSO).

Legal Issues Involved

- i. Whether the High Court was correct in equating a minor girl’s “**consensual**” relationship with an adult / young adult as a case outside the scope of POCSO / IPC especially when the law sets 18 years as the age of agreement for sexual intercourse.
- ii. Whether a distinction can be drawn (legally) between “exploitative / abusive sexual offences” and “non-exploitative consensual adolescent relationships” when the victim is less than 18 years; and whether statutory protections for minors should yield to notions of “consent” or “autonomy.”

- iii. Whether judicial discretion (or inherent powers under CrPC / constitutional jurisdiction) can be used to override statutory protections in a particular case, potentially creating a “category of romantic / consensual underage relationships.”
- iv. The appropriateness of moralistic or advisory observations (about controlling sexual urges, prescribing social duties) by a court while deciding criminal offences — and their compatibility with constitutional morality, dignity, and rights to privacy.

Judgement

- i. The SC set aside the Calcutta High Court’s acquittal, restored the original conviction under POCSO / IPC, and rejected the reasoning that treated consensual relationship as outside the offence.
- ii. The Court strongly condemned the High Court’s moralistic observations — especially the advice to adolescent girls to “control sexual urges.” It called those remarks “objectionable and unwarranted.”
- iii. The SC directed that the matter be remitted for sentencing. The lower courts were to comply with statutory safeguards under POCSO and the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act), given the minor status of the victim, including ensuring that the victim’s best interests are protected and her welfare given priority.
- iv. In 2025, the Court — after expert-committee and social welfare assessment — invoked its power under Article 142 of the Constitution to tailor sentencing and rehabilitation measures. It recognised that while conviction must stand to uphold the rule of law, sentencing in child-sexual offence cases involving minors requires sensitivity to the victim’s welfare, psychological state, social realities, dignity and rehabilitation.

Socio-Legal Analysis

Social / Child-Rights Perspective

- The case underscores the complexity of adolescent sexuality in India: in reality, relationships may begin during adolescence, sometimes consensual, but the statutory framework treats all sexual relations with minors as per se criminal, to protect minors from exploitation. The High Court’s reasoning attempted to recognise this reality and treat adolescent autonomy.

- However, by restoring conviction, the SC reaffirms the protective purpose of POCSO and constitutional commitment to safeguarding girl-child's bodily integrity, dignity, and autonomy — even when the girl (or social narrative) perceives the relationship as consensual. This underscores the vulnerability of minors (even older adolescents) given power imbalances, social pressure, maturity difference, and risk of exploitation.
- The Supreme Court's rejection of moralistic commentary by the High Court signals a commitment to dignity, privacy, and constitutional morality, avoiding judgmental or patriarchal prescriptions about adolescent sexuality.

Legal / Jurisprudential Perspective

- The decision restores legal clarity: statutory age of consent (18 years) under POCSO / IPC applies uniformly; courts cannot carve out an exception for “consensual adolescent relationships.” This prevents creation of informal “Romeo–Juliet” exceptions that risk bypassing child-protection law.
- The use of constitutional powers (Article 142) to address welfare and rehabilitation issues shows a combination of retributive and restorative justice — acknowledging that child-sexual offences require punishment, but also long-term care, psychological support, social reintegration for victim and any children born.
- The case serves as a precedent reaffirming strict statutory protections for minors, resisting social / judicial tendencies to dilute child-rights in the name of consent or romantic love.

Critical Evaluation

Strengths:

- Upholds statutory framework (POCSO / IPC) and principle that minors cannot legally consent for sex — reinforcing protection for girl children.
- Rejects moralistic, patriarchal judgments that stigmatize adolescent sexuality and place burdens on girl-children (e.g. “control your urges” remarks) — protecting dignity and privacy, avoiding victim-blaming.
- Ensures that justice includes rehabilitation, welfare and long-term protection of the minor — incorporating social realities, psychological trauma, and child-rights in sentencing.

Challenges / Limitations / Concerns:

- Strict statutory approach may criminalize consensual teenage relationships in some cases, potentially pushing such relationships underground, increasing risk of unreported pregnancy, unsafe abortions, or social ostracization rather than protection.
- The fixed age-of-consent (18) may not reflect evolving capacities and social reality of adolescence — critics argue it may deny agency to older adolescents. But loosening it risks exploitation and misuse. The balance is hard.
- Implementation of rehabilitation and welfare directives depends heavily on state capacity, child-welfare institutions, social support networks — which may be weak, especially in rural or marginalized areas.

Conclusion

The Supreme Court's verdict in **Probhat Purkait @ Provat v. State of West Bengal (2024)** is landmark for child-rights jurisprudence. It reaffirms that statutory protections under POCSO and IPC cannot be overridden by notions of adolescent consent or romantic relationships. It protects the right to bodily safety, dignity and childhood of minors, even when social perceptions may treat them as consenting.

This case is particularly significant because:

- It demonstrates how courts must resist social and moral pressures that undermine child protection.
- It underscores the need for a robust child-rights regime that balances protection, dignity, and welfare (not just punishment).
- It highlights ongoing ethical and legal dilemmas around adolescence, consent, agency, and state's protective role — making it a vital case for critical socio-legal analysis.

Case 21: Jai Prakash v. State of Uttarakhand (2025), INSC 861 / 8 S.C.R. 243

Background of the Case

This case involves allegations of sexual assault and murder of a child. On 28th July, 2018 at 12:30 pm the victim who was the child of Sant Pratap, was playing outside her house with her cousins before she went missing. Sant Pratap,

started looking for her daughter and upon asking the other children present there, it came to his knowledge that Jai Prakash took all the children away to his hut and gave them Rs. 10/- each to go to the shop. When asked with Jai Prakash regarding the location of his daughter, he was informed that his daughter left to the shop, soon after Jai Prakash handed the 10 rupees to her. After a few hours of searching with Kulbhushan and Mohd. Alam, upon searching the hut of the appellant, the victim was found dead under the empty cement bags. Sant Pratap, soon after finding his daughter's dead body, lodged an FIR at P.S. Sahaspur, Dehradun and demanded for immediate action. After registration of the FIR, investigation for the matter was started.

A post-mortem report found injuries consistent with sexual assault, and cause of death was "manual throttling by hand causing asphyxia", where the cells and tissues within the body do not receive enough oxygen to function properly. The trial court after carefully examining the evidence, convicted Jai Prakash under **IPC Sections 302 (murder), 376 (rape), 377 (unnatural offence), and POCSO Sections 5/6.**

Witnesses demonstrated that the victim was last seen with the appellant and that the victim's body was discovered in the Jai Prakash's hut. It was also observed by the court the brutal nature of the crime stating the victim, a helpless child, was subject to strangulation and sexual assault, and concluded that the case will fall within the class of the '**rarest of rare**' cases relying on **Sunderajan v. State** as the the case harmed the very nature of peaceful co-existence. He was sentenced to **death**, a sentence confirmed by the Uttarakhand High Court. He appealed to the Supreme Court, which delivered its judgment on 16 July 2025.

Legal Issues Involved

- i. Whether the prosecution had proven beyond reasonable doubt that Jai Prakash had raped and murdered the minor girl.
- ii. Whether the "last-seen" theory (i.e., witnesses saw him last with the child) and DNA evidence sufficiently established a link to the crime.
- iii. Whether the death sentence was justified under the *rarest-of-rare* doctrine, considering the facts of the case and the appellant's personal background.

iv. Whether mitigating circumstances — such as socio-economic background, age, character, or potential for reform — were adequately considered in sentencing.

Judgment

- The Supreme Court upheld Jai Prakash's conviction, finding that the circumstantial evidence (last-seen witnesses, recovery of body) and forensic DNA link established guilt beyond reasonable doubt.
- However, the Court commuted the death sentence to life imprisonment without remission (for natural life) instead of hanging. The court referenced the **Mohd. Farooq Abdul Gafur v. State of Maharashtra (2010)** judgment, which determined that in situations when there is only circumstantial evidence, a court may decide to prioritize life in prison above the death penalty. The necessity of an impartial and consensus-based approach to the "**rarest of rare**" theory was also brought about by this case.
- The bench (Justices Vikram Nath, Sanjay Karol, and Sandeep Mehta) held that the lower courts focused only on brutality of the crime when deciding on the death penalty and failed to adequately evaluate aggravating vs. mitigating factors. In the recent decision of **Manoj v. State of M.P.**, this court stressed the necessity of applying the "rarest of rare" concept and reiterated the two-step method for determining whether a case falls under its jurisdiction. Finding the aggravating and mitigating conditions and giving them equal weight is the first step. Finding out if the option of life in prison was closed was the second test. The lower courts in this case primarily concentrated on the savagery of the crime and ignored the appellant's aggravating and mitigating factors while imposing the death punishment.
- In its reasoning, the Court noted:
 - The psychological / probation reports revealed that Jai Prakash came from a very poor background, began working young, had no major psychiatric issues, and behaved well in prison.
 - It emphasized that brutality alone cannot justify capital punishment; life imprisonment can serve justice, especially when potential for reformation exists.

Socio-Legal Analysis

Social Perspective:

This case starkly reveals how predatory adults can exploit children's innocence — a simple lure (money for candy) was used to commit a heinous crime. It highlights the vulnerability of girl children, especially in poor or unguarded environments, and underlines the urgency of strong social prevention measures (child supervision, community vigilance, education).

Legal Perspective:

The judgment is important because it reaffirms the role of DNA and last-seen evidence in convicting in child sex offences. It also reflects a balanced judicial approach: while upholding the severity of the crime, the Court demonstrated restraint by commuting the death penalty, showing that even in severe child crimes, mitigating circumstances must be weighed.

Critical Evaluation

Strengths:

- The judgment strengthens jurisprudence on child sexual violence, reaffirming that such crimes will attract severe punishment.
- The Court's commutation signals a mature application of the rarest-of-rare doctrine, not just relying on brutality but also on reformatory potential.
- By considering socio-economic background and psychological report, the Court signals that capital punishment must not be mechanical.

Limitations / Challenges:

- Some might argue that commuting to life may reduce deterrence, especially in crimes involving children.
- The decision underscores systemic failure: why was a 10-year-old left vulnerable enough for someone to lure her? Preventive infrastructure (community, policing, child protection) needs strengthening.
- For your thesis, this case underlines a tension between punitive justice and rehabilitative justice in crimes against girl children.

Conclusion

This case showcases the cautious approach of the Supreme court in capital sentencing, where it reaffirmed that cruelty of the crime by itself cannot be the

ground for capital punishment. By upholding the conviction, but commuting the judgement to life imprisonment without remission till natural life, court ensured that the doctrine of 'rarest of rare' should be applied reasonably, keeping in account the mitigating factors.

While the judgement limits the sentencing of death penalty, it also places doubts on the principle of 'rarest of rare' and the judgement of life imprisonment without remission till natural life. The rights of the victim were reduced in this case and focus was more on the rights of the accused, but balance should be maintained ensuring constitutional commitment of the court.

Case 22: Sushil Kumar Tiwari v. Hare Ram Sah & Others (2025), INSC 1061

In 2016, a few months after the festival of Holi, the victim (a minor) - the appellant's (Sushil Kumar Tiwari) daughter - started feeling unwell. Upon finding that her health was constantly deteriorating, the appellant's wife took their daughter to her native place in Ballia, Uttar Pradesh for treatment. There, she was taken to Zila Mahila Chikitsalaya on 01.07.2016 and upon examination, the victim was found to be 3 months pregnant. Upon questioning, she disclosed that she was raped by the respondents, namely, **Hare Ram Sah and Manish Tiwari** about 3-4 months ago, sometime after the festival of Holi. On the strength of this disclosure, the appellant lodged a complaint at PS Piro, District Bhojpur, Bihar on 02.07.2016, which culminated into FIR/Criminal Case No. 209/2016. Investigation commenced and chargesheet was filed in the concerned Court.

At the trial court, the respondents were sentenced under **Section 376(2) IPC** (rape) and **Sections 4 & 6 of the POCSO Act**. They were punished to undergo rigorous life imprisonment along with a fine of Rs. 50,000/- each. In default of payment of fine, additional sentence of imprisonment for one year was imposed. However, the Patna High Court acquitted them, citing procedural and evidentiary irregularities. The matter reached the **Supreme Court**, which delivered its judgment on 1st September 2025. The High Court decision of the acquittal of the respondents was overturned by the Apex court and the convictions and sentences were restored.

The Court quoted that the victim's age (12-13 years) was adequately proven by oral testimonies and a school transfer certificate, despite minor variations, and **her**

minority was "beyond doubt". The Court stressed sensitivity to socio-economic circumstances in rural areas where document discrepancies are common, to ensure POCSO Act's protections are not diluted. The Apex Court observed that a minor victim's inability to recall precise dates/times after being threatened is "completely natural" and the Court found the victim's consistent testimony about the incidents occurring "a few days after Holi" and the medical report confirming a 3-4 months pregnancy on July 1, 2016, sufficiently corroborated the timeframe.

On the validity of the Joint Trial, Supreme Court, relied on **The State of Andhra Pradesh Vs Cheemalapati Ganeswara Rao & Anr, 1963** observed, on the aspect of offences on different time and different places, as a part of "**same transaction**" the application of three tests of "**unity of purpose and design**", "**proximity of time or place**" and "**continuity of action**". Supreme Court concluded that the prosecution presented a "**fairly consistent and creditworthy case**" that was wrongly discarded by the High Court based on a "**misapplication of procedure**", and consequently the Apex Court reversed the High Court's judgment and the judgment of conviction and sentence by the trial court was restored. The respondents were ordered to surrender within two weeks.

Legal Issues Involved

- i. Whether the prosecution had proved the crime of rape **beyond reasonable doubt**, given alleged inconsistencies in testimony, age, pregnancy, and abortion.
- ii. Whether the **joint trial** of both accused under CrPC **Section 223** was valid and whether any prejudice was caused by such a trial.
- iii. Whether **technical procedural errors** (e.g., framing of charge, date in charge) should lead to acquittal when the substantive case is strong.
- iv. How the principle of "**beyond reasonable doubt**" should be implemented in POCSO cases involving minors: whether minor contradictions can lead to acquittal.

Judgement

- i. The Supreme Court restored the conviction of the accused, setting aside the High Court's acquittal.

- ii. About the victim's age, the Court held the victim was of age 12-13 years and thus a minor at the time of offence, relying on school transfer certificate and mother's testimony, despite minor discrepancies in medical age report.
- iii. On pregnancy and abortion, the Court accepted medical evidence and the victim's testimony, rejecting the High Court's doubts.
- iv. Regarding the charge framing, though the formal charge had a wrong date, the Court held under CrPC Section 464 that such error does not vitiate the trial if no prejudice is shown.
- v. On joint trial, the Court rejected the High Court's claim of prejudice: even if there was technical non-compliance with Section 223, the accused failed to show actual prejudice caused by it.
- vi. Concerning reasonable doubt, the Court criticized the High Court's "hyper-technical" approach, holding that trivial inconsistencies should not be elevated to a standard that allows an actual offender to escape justice.
- vii. The Court concluded that substantive justice must prevail over procedural formalism, stressing that "procedure is not supposed to control justice."
- viii. The Court ordered the respondents to surrender within two weeks for serving their sentences.

Socio-Legal Analysis

Social Perspective:

This case underscores the vulnerability of **minor girls** to repeated sexual exploitation, especially in rural or semi-urban settings. It highlights the risk of **serious procedural lapses** giving fertile ground for acquittal unless courts remain vigilant and victim-sensitive.

Legal Perspective:

The judgment reaffirms that in POCSO cases involving minors, courts must prioritize **credibility of the victim's testimony** and weigh minor procedural errors in light of **substantive justice**. It clarifies that the protective ethos of the POCSO Act should not be undermined by technicalities or overly formalistic legal reasoning.

Critical Evaluation

Strengths:

- Strong reaffirmation that procedural irregularities should not let culprits off for heinous child crimes.
- Proper application of CrPC Section 464 to uphold conviction despite minor defects in charge — promotes fairness without undermining justice.
- Emphasis on child-centric justice and judicial sensitivity in POCSO trials.

Limitations / Challenges:

- The case highlights persistent tensions between procedure and justice; some may argue the risk of eroding procedural safeguards.
- It may place heavier burden on lower trial courts to be “fault-free” in framing charges, which could complicate prosecutions.
- Implementation of this approach depends on judicial capacity: not all courts may apply this “substance-over-form” standard equally.

Conclusion

Sushil Kumar Tiwari v. Hare Ram Sah & Others (2025) is a landmark decision in POCSO jurisprudence that restores conviction in a minor rape case, overturning a High Court acquittal grounded in procedural technicalities. The Supreme Court's decision affirms that in sexual crimes against children, **justice must not be derailed by technical missteps**, provided the core facts and evidence are strong.

This case is an example of justice under the conditions of “**Procedural Barriers, Minor Inconsistencies & the Rights of Child Victims**”. It illustrates how courts can (and must) balance procedural law with rights-based, substantive justice for children.

Table 3.3

Summary of Cases: Child Sexual Abuse and Rape

Sr. No.	Case Title	Year	Brief Judgement
1	State of Punjab vs Gurmit Singh	1996	The Supreme Court accepted testimony of the victim who was a minor girl and highlighting that if reliable and trustworthy, the

			testimony can solely form the basis for conviction without the need for corroborative evidence.
2	Sakshi v. Union of India & Others	2004	The Supreme Court of India declined to expand the definition of “rape” judicially, holding that such legislative changes fall within the domain of Parliament. However, the Court issued important procedural guidelines to ensure that victims, particularly girl children, are not subjected to additional trauma during the trial process. The court directed the Union Government to examine the feasibility of comprehensive amendments to the IPC and CrPC concerning sexual offences.
3	Vasanta Sampat Dupare v. State of Maharashtra	2015	The Court found the case to be among the "rarest of rare," warranting the death penalty to the accused on the charges of rape and murder of a minor girl. Mitigating factors such as the accused’s age and family status were outweighed by the aggravating circumstances.
4	State of Himachal Pradesh v. Sanjay Kumar alias Sunny	2017	The Supreme Court restored the conviction and life sentence of the accused, on the ground that the sole testimony of the victim can be the basis of conviction if it inspires confidence.
5	Alakh Alok	2018	In this case the Supreme Court

	Srivastava v. Union of India		treated the matter as one of " grave systemic failure " and kept the proceedings open for continuous monitoring for months. The Court ordered the CBI to take over the probe, given the seriousness and possibility of political/administrative interference.
6	Attorney General for India v. Satish & Another	2021	The Court held that "skin to skin" contact is not required for an offence under Section 7 of the POCSO Act. What matters is whether the accused touched the sexual part of the child's body or committed "any other act with sexual intent involving physical contact without penetration." The Court took help of the doctrine " Ut Res Magis Valeat Quam Pereat " which means that the construction of a rule should give effect to the rule rather than destroying it.
7	Manoj Pratap Singh v. State of Rajasthan	2022	The Supreme Court, in its judgement delivered on 24 th June 2022, upheld the death sentence awarded to the accused who raped and murdered a minor girl.
8	Sartaj Khan v. State of Uttarakhand	2022	The Supreme Court reinforced that Section 188 of the Criminal Procedure Code (CrPC), which requires Central Government sanction for offenses committed outside India, does not apply when the crime has

			components in India. Because the trafficking and exploitation of the girl continued on Indian soil, the trial in India was lawful without that sanction.
9	State of Rajasthan vs. Gautam s/o Mohanlal	2023	The Court enhanced the sentence of the rape accused of a minor girl who has to undergo rigorous imprisonment for 14 years for the offences under clauses (i) and (m) of sub-section (2) of Section 376 IPC. The Court also held that no remission shall be allowed during this enhanced sentence.
10	Probhat Purkait @ Provat v. State of West Bengal	2024	The Apex Court set aside the decision of Calcutta High Court to acquit accused of rape and murder of a minor girl and strongly condemned the High Court's moralistic observations — especially the advice to adolescent girls to “control sexual urges.” It called those remarks “objectionable and unwarranted.”
11	Jai Prakash v. State of Uttarakhand	2025	The Apex Court commuted the death sentence of the rape accused of a minor girl to life imprisonment without remission (for natural life) instead of hanging. The court cited the case of Mohd. Farooq Abdul Gafur v. State of Maharashtra , which held that a court may choose to give importance to life imprisonment

			over death penalty in cases which are solely based on circumstantial evidence.
12	Sushil Kumar Tiwari v. Hare Ram Sah & Others	2025	The Supreme Court of India overturned the High Court decision of acquittal of the rape accused of a minor girl and restored the convictions and sentences set by the trial court.

Source: Self Made

3.4 Trafficking and Child Labour

Case 23: Bandhua Mukti Morcha v. Union of India (1984) 3 SCC 161

Background of the Case

Bandhua Mukti Morcha, a leading organization working against bonded labour, surveyed stone quarries in the Faridabad District near Delhi. The survey revealed that many workers, originally from Maharashtra, Madhya Pradesh, Uttar Pradesh, and Rajasthan, were enduring extremely harsh working conditions, with several of them being bonded labourers. Deeply concerned, the petitioner wrote a letter to the Supreme Court, bringing these issues to its attention, and filed a Public Interest Litigation (PIL), regarding:

- Large-scale existence of **bonded labourers**, including women and children,
- In stone quarries of Haryana,
- Living in inhumane and exploitative conditions.

The organization argued that these labourers were:

- Forced to work without wages,
- Permanently indebted to contractors,
- Living without basic rights such as schooling, medical care, housing, or minimum wages.

The PIL claimed that hundreds of workers were trapped in bonded labour and living in degrading conditions.

The petition was taken as a writ petition under **Article 32** of the constitution and the Supreme Court responded by appointing a commissioner to investigate the allegations. Within a few days, the commissioner carried out the investigation and confirmed the claims in the petitioner's letter. A report was submitted to the Court, validating the accusations of bonded labour and poor living conditions.

Legal Issues

- i. Whether the writ petition filed under Article 32 of the constitution is valid or not.
- ii. Whether any fundamental right of the worker was actually violated or not.
- iii. Whether the Supreme court is empowered to appoint any commission or investigating body under Article 32 of the constitution or not.
- iv. Whether the workmen mentioned in the case are bonded labourers or not under **Bonded Labour System (Abolition) Act, 1976**.
- v. Whether workmen in the present case entitled to relief under various social labour legislations or not.

Judgement

The Supreme Court found the petition true and therefore gave directions to the government of Haryana, the Central Government and other administrative authorities as follows:

- i. The government of Haryana within 6 weeks of the judgement shall constitute a vigilance committee in each division of district to ensure compliance under Section 13 of the Bonded Labour Act, 1976.
- ii. The government of Haryana will appoint a district magistrate to identify the bonded labour as per the law.
- iii. The state government also has to take the help of NGO's and other voluntary agencies to ensure the implementation of the Bonded Labour Act, 1976
- iv. The government of Haryana, within 3 months of the judgement has to re-habitat the bonded labourers.
- v. Both the Central and State Government together must ensure the implementation of the Minimum Wages Act, 1948.
- vi. The concern offices from the Central government has to conduct surprise visits at least once a week.

vii. The Central Board of Workers education will organise camps often to educate the workers about their rights and benefits provided by law.

Socio-Legal Analysis

Social Dimension

The judgment exposed how economic compulsion and social vulnerability (poverty, indebtedness, caste marginalisation) create modern forms of bondage that particularly affect women and children. Child labour in quarries deprived girls (and boys) of education and subjected them to hazardous work, perpetuating intergenerational deprivation.

Legal Dimension

The decision is a paradigmatic example of public interest jurisprudence where constitutional remedies were deployed to remedy systemic social injustices. The Court expanded the substantive content of Article 21 to include decent living conditions, education and rehabilitation, thereby reading socio-economic protections into fundamental rights. The judgment also affirmed the legitimacy of PILs relying on aggregate evidence and directed executive accountability for implementation of welfare statutes.

Critical Evaluation

Strengths:

- Transformative use of constitutional remedy: converted statutory protections into enforceable public entitlements (release + rehabilitation).
- Recognised children as specially vulnerable within labour contexts and directed concrete remedial measures (education, health).
- Institutionalised monitoring mechanisms — setting a template for future socio-legal interventions (e.g., trafficking, bonded labour, child labour across sectors).

Limitations / Challenges:

- Implementation gaps: subsequent monitoring revealed uneven compliance across states and local administrations.
- Reliance on judicial directions did not substitute for sustained administrative capacity-building; many remedies required long-term budgetary and policy commitment.

- The case prompted debate about judicial overreach vs necessary corrective action — critics argued some directions encroached on executive prerogatives, though proponents saw them as essential where the executive failed.

Conclusion

Bandhua Mukti Morcha v. Union of India (1984) is a landmark socio-legal judgment that reframed bonded labour and child labour as constitutional violations requiring immediate remedial action. The case is particularly relevant under sections dealing with child labour, trafficking, and structural vulnerability of girl children. It illustrates how the law intervenes not only to punish individual offenders but to reconstruct institutional responses that protect the rights, dignity and future prospects of vulnerable children.

Case 24: Laxmi Kant Pandey v. Union of India (1984) 2 SCC 244

Background of the Case

Advocate **Laxmi Kant Pandey** brought a public interest litigation (PIL), which resulted in this historic ruling. In this public interest case, the Supreme Court took into account the claims of negligence and misconduct by adoption agencies while granting international adoptions. In its ruling, the Court established protections to ensure that international adoptions would be managed in a way that would advance the welfare of the children and their right to a family life.

In a letter to the Supreme Court (Court), petitioner Lakshmi Kant Pandey accused private adoption agencies and social groups of negligence and malpractice in allowing the adoption of Indian children to foreign parents. He mentioned the lengthy and dangerous trips these kids took to other nations, as well as cases of their adopted parents' negligence that left them destitute or subjected them to sexual exploitation. The Court treated his letter as a writ petition (a filing made with a higher court to secure prompt review of an issue) and this instituted the basis of the public interest litigation. The petitioner alleged that **foreign adoption agencies** were engaging in **malpractices**, including:

- trafficking of Indian children,
- illegal procurement of children from poor families,
- lack of proper verification of foreign adoptive parents,
- children being exported without adequate protection or scrutiny.

Many of these children were abandoned, destitute, or from economically vulnerable families, and were being sent abroad without legal safeguards. The Supreme Court took serious note of the absence of a comprehensive legal framework regulating inter-country adoptions in India.

Legal Issues Involved

- i. How should inter-country adoptions be regulated to prevent trafficking, exploitation, and illegal sale of children?
- ii. Whether the Indian Constitution obligates the State to protect children (particularly girl children) from exploitation, under Articles 15(3), 24, 39(f), and 45.
- iii. Whether guidelines should be laid down by the Supreme Court to govern:
 - procedures for adoption abroad,
 - verification of adoptive parents,
 - role of recognized adoption agencies,
 - post-adoption follow-up and monitoring.

Judgment

The Supreme Court delivered a **comprehensive judgment** laying down **mandatory guidelines** for inter-country adoptions, holding:

- i. Inter-country adoption should be permitted but only with strict safeguards, ensuring that no child is trafficked.
- ii. Primary preference must always be given to Indian parents.
 - If a suitable Indian family is not available, only then can the child be considered for foreign adoption.
- iii. Only government-recognized or authorised agencies can process inter-country adoptions.
- iv. The Court directed:
 - Home Study Reports of foreign adoptive parents must be thorough,
 - Background checks (financial, social, psychological) must be mandatory,
 - Adoption should occur only through licensed social / child welfare agencies.
- v. Post-adoption reporting: Foreign parents must periodically send updates on the child's health, education, and well-being.

vi. Before declaring a child legally free for adoption:

- There must be due inquiry to ensure the child is genuinely orphaned, abandoned, or surrendered,
- No coercion or inducement should be involved.

The Court emphasised that children—especially **girl children**—are vulnerable to abuse, trafficking, and exploitation, and therefore require the highest degree of protection.

Socio-Legal Analysis

Social Perspective

- The decision recognized the extreme vulnerability of orphaned or abandoned children, particularly girls, who are often victims of trafficking, sale, or sexual exploitation.
- It aimed to create a protective institutional framework so that:
 - adoption remained a child-welfare measure,
 - no economic or social exploitation occurred, and
 - foreign adoption agencies could not take advantage of poverty.

Legal Perspective

- This case is a cornerstone in child rights jurisprudence in India.
- It resulted in the formation of standardized guidelines that further shaped:
 - Juvenile Justice Act (2000, 2015) provisions on adoption,
 - CARINGS (Central Adoption Resource Information Guidance System),
 - CARA (Central Adoption Resource Authority) functioning.
- The ruling upheld the notion that the child's best interests are the most important legal concept and shielded children from being treated like commodities.

Critical Evaluation

Strengths

- First judicial intervention to create a complete protective framework for inter-country adoptions.
- Prevented large-scale trafficking of children under the guise of adoption.
- Ensured transparency, accountability, and follow-up in adoption processes.

- Recognized the special vulnerability of girl children, who are disproportionately trafficked.

Limitations & Challenges

- Initially, guidelines were challenging to implement uniformly across states.
- Non-recognized agencies continued illegal activities until later legislative reforms strengthened CARA.
- Enforcement at district levels (Child Welfare Committees, police, social workers) remains uneven even today.

Conclusion

The judgment in **Laxmi Kant Pandey v. Union of India (1984)** laid the foundation for a structured, transparent, and child-centric adoption system in India. It is one of the earliest and most significant cases protecting orphaned, abandoned, and especially female children from misuse and trafficking under the excuse of adoption.

Case 25: Vishal Jeet v. Union of India (1990)

Background of the Case

This case was a landmark **Public Interest Litigation (PIL)** in India where the Supreme Court addressed human trafficking for sexual exploitation, particularly of women and children, and the **Devadasi/Jogin** system, directing central and state governments to form advisory committees for victim rescue, rehabilitation, and prevention, emphasizing dignity and welfare over punishment, and ensuring protection against forced prostitution.

A writ petition was filed under Article 32 of the Constitution of India by an advocate, **Vishal Jeet** by way of a PIL seeking issuance of certain directions, to look into issues of Red Light areas and forced prostitution from a law enforcement perspective; to rescue victims of commercial sexual exploitation and provide them with proper medical aid, shelter, education and training in various disciplines of life so as to enable them to choose a more dignified way of life; and to look into issues pertaining to dedication of young girls as **Devadasi and Jogin**.

The petitioner argued that despite criminal laws and welfare legislations, **minor girls** were being systematically inducted into **prostitution**, especially in cities like Delhi, Mumbai, Kolkata and Chennai. The PIL showcase a big failure of the State

functioning and sought court intervention to direct both the Central and State governments to take concrete preventive and rehabilitative measures.

According to the Apex court, this issue is extremely significant, necessitating a thorough and in-depth investigation and a humanistic approach from several perspectives rather than just a legalistic one. In order to find an acceptable remedy and end this form of sexual exploitation of child, the Court was extremely concerned about the problems at hand. The court ruled that because this disease is both a social and a socioeconomic issue, more preventative rather than punitive measures should be implemented.

Legal Issues Involved

- i. Whether the State had failed in its constitutional obligation to safeguard sexual exploitation and trafficking of minor girls.
- ii. Whether the Devadasi/Jogin system amounts to violation of fundamental rights of girl children.
- iii. What guidelines and directions must the Court issue to ensure rescue, rehabilitation, and prevention of trafficking and child prostitution.
- iv. Role of police, welfare homes, NGOs, and legislative reforms in combating commercial sexual exploitation of girl children.

Judgement

- i. The Court strongly emphasised that the welfare and dignity of the girl child must be central in all legal and administrative actions. It observed that thousands of minor girls were being trafficked, sold, or forcibly coerced into prostitution, often with the complicity of organised syndicates and systemic administrative failures.
- ii. Court issued comprehensive directions to the Central and State governments to create specialised rehabilitation homes offering medical care, psychological counselling, education, and vocational training.
- iii. It also ordered the establishment of Advisory Committees involving NGOs, women's rights groups, and social workers to monitor implementation of welfare programmes.
- iv. Further strict enforcement of the Immoral Traffic Prevention Act, appointment of Special Police Officers, frequent police raids on brothels, maintenance of

confidential records of missing minor girls, and dignified handling of rescued children without harassment or stigma were the directions given by the Court.

v. The judgment recognised that long-term rehabilitation, rather than temporary shelter, is essential for reintegration of rescued girls into mainstream society.

Socio-Legal Analysis

From a socio-legal perspective, this ruling was a major turning point in Indian anti-trafficking law, as it brought national focus to the systematic exploitation of girl children rooted in poverty, caste-based customs, and gender discrimination. It reinforced the State's obligations under Article 23 by extending its scope to sexual exploitation and affirmed a child-centric approach to justice.

While the judgment prompted several reforms and later influenced laws such as the POCSO Act, 2012, it also had limitations, particularly the absence of strict implementation mechanisms and continued persistence of trafficking and Devadasi practices in some regions.

Conclusion

The Public Interest Litigation in this case was a first of its kind on the issues of trafficking of children and women for sexual abuse and exploitation. The judgment was a landmark decision where the Apex court of India gave directions for the protection and rehabilitation of those who had fallen victim to forced prostitution and those who were dedicated as *devdasis* by their families or communities for cultural reasons and were currently in prostitution. The case established a framework for government action, resulting in the establishment of Central Advisory Committees (CACs) and State Advisory Committees (SACs). The case transformed the fight against trafficking from a **purely punitive** approach to one focused on human rights, welfare, and rehabilitation for vulnerable individuals.

Case 26: M.C. Mehta v. State of Tamil Nadu (1996) 6 SCC 756

Background of the Case

This case is a landmark Supreme Court judgment that banned child labor in hazardous industries, particularly match and fireworks factories in Tamil Nadu. The court mandated that children under 14 be removed from dangerous work, that special schools be established for their education, and created a welfare fund for

them financed by employers who violate the law. The ruling underlined the necessity of rigorous enforcement and rehabilitation while upholding children's rights to free and compulsory education.

The case begins when Public Interest Litigator **M.C. Mehta** filed a writ petition under Article 32 before the Apex court of India after large numbers of children were found working in **hazardous factories**, particularly **match and fireworks units** in Sivakasi, Tamil Nadu. The children were of small age and engaging in such a hazardous job exposed them to a very high risk. Investigations revealed:

- Thousands of children were working in explosives and matchstick units.
- Children performed dangerous tasks in cramped, poorly ventilated environments with high risks of burns, explosions and accidents.
- Poverty, indebtedness and lack of schooling were driving children into hazardous industries.
- State authorities failed to enforce:
 - The **Child Labour (Prohibition and Regulation) Act, 1986**,
 - The **Factories Act, 1948**,
 - Child rights protections under the Constitution.

This case raised concerns about the violation of adolescents' basic rights who work in hazardous sectors. Among the primary concerns were the state's duty to protect children from exploitation and ensure their right to an education and a decent life, the violation of Article 24 of the Indian Constitution, and the inadequate application of the Child Labour (Prohibition and Regulation) Act, 1986.

The State of Tamil Nadu, representing the respondent, did not challenge the petitioner's assertions. Instead, they reaffirmed their dedication to addressing the problem of child labor in Sivakasi and recognized its severity. The state indicated its readiness to collaborate with others to find a resolution and acknowledged the gravity of employing minors in hazardous industries. Rather than presenting a counterargument, the respondent put forward recommendations and suggestions for addressing the issue. They suggested actions to enhance the living conditions of child laborers, ensure educational access, and create opportunities for the progress and development of such children. To implement these measures and

rectify the situation, the state expressed its willingness to work in partnership with the petitioner.

Legal Issues Involved

i. Whether the children's attendance in match factories and fireworks constituted a breach of their fundamental rights and safeguards under Articles:

21 – Right to life with dignity,

- 24 – Prohibition of child labour in hazardous employment,
- 32 – Power of the Supreme Court to enforce rights.

ii. Whether the State failed to enforce statutory obligations under:

- Child Labour Act, 1986,
- Factories Act, 1948,
- Labour welfare and educational statutes.

iii. Whether the Supreme Court could issue positive directions for rehabilitation, education and compensation, rather than merely declaring violation.

Judgement

The Court ruled that Siva Kasi is not the only place where child labor exist. The Court cited several provisions found in the Indian Constitution, such as Articles 24, 39(e) and 9(f), 41, and 47, which protect children's social rights by outlawing child labor and requiring free and compulsory education along with the provision of standards of honor. Other domestic laws that protect these rights including the Conditions of Employment for Bidi and Cigar Workers Act, the Apprentice Act, and the Child Labor (Prohibition and Regulation) Act. Additionally, India adopted the Convention on the Rights of the Child, which extends protection into a variety of a child's life.

The court determined that the primary cause was the families' declining financial condition, which made the kids work hard.

The Apex Court held that:

- Working of children in hazardous environments like fireworks units violates **Articles 21 and 24**, irrespective of parental consent or economic compulsions.
- Poverty cannot justify denial of fundamental rights.

- Governments are required by law and the constitution to safeguard children from exploitation, provide for their education, and bring criminal charges against anyone who violate these laws.
- The Court issued comprehensive remedial directions, including:
 - **Ban on child labor:** The court ruled that hiring children under 14 in dangerous industries like match and fireworks factories was unconstitutional.
 - **Educational and rehabilitation programs:** It ordered the immediate removal of children from these workplaces and the establishment of special schools to provide them with free and compulsory education.
 - **Welfare fund:** A welfare fund was created to aid the children and their families. Employers who violated the child labor laws were required to contribute to this fund. The State Government must deposit **₹5,000 per child** in a Child Labour Rehabilitation Fund.
 - **Employer responsibility:** Employers were also ordered to provide transport facilities for children and ensure they worked for no more than six hours a day in a separate, safe area for tasks like packing. One adult from the child's family must be given employment preference in the same establishment, or an additional compensation of ₹25,000 must be paid.
 - **Government action:** The government was instructed to watch the implementation of these directives, with state governments required to submit quarterly compliance reports.
 - **Compensation:** Each child identified in hazardous work must be paid **₹20,000 compensation**, recoverable from the employer.

Socio-Legal Analysis

Social dimension:

This case in its entirety, is a prime example of the Indian judiciary's dedication to social justice and the defense of children's rights. It established significant legal precedents and offered a thorough framework for handling the intricate problem of child labour, acting as a ray of hope for the country's complete elimination of this social ill.

The judgment recognised child labour as a structural problem caused by poverty, absence of schooling, lack of state supervision and economic exploitation. It highlighted the particular vulnerability of children, especially in hazardous sectors, and acknowledged that social inequality forces children into situations that destroy childhood and dignity.

Legal dimension:

This case transformed child rights jurisprudence by affirming that:

- Right to life under Article 21 includes education, development and freedom from economic exploitation.
- Courts may impose positive obligations on the State, including welfare measures and long-term rehabilitation plans.
- When the administration fails, PIL is a legitimate constitutional instrument for both identifying violations and reforming the procedures used to implement policies.

Critical Evaluation

Strengths

- First major judgment to introduce compensation + rehabilitation + education as a combined constitutional remedy for child labour.
- Extended the role of the judiciary into policy supervision and rights-based governance.
- Triggered major reforms in child labour enforcement nationally.
- Recognized that removing a child from labour without ensuring family economic support forces re-entry, hence mandating adult employment alternatives.

Limitations

- Implementation varied across states; many industries failed to comply fully.
- Heavy dependence on local bureaucracy for monitoring led to:
 - Weak enforcement,
 - Under-reporting of child labour,
 - Limited follow-up in unregistered establishments.

Conclusion

This case was a landmark decision in Indian child rights jurisprudence. This historic case represents a turning point in the Indian legal system's dedication to defending the welfare and rights of child labourers. The ruling acknowledged child labor as a widespread national issue in necessity of immediate attention in addition to addressing the particular issues of child labor in Sivakasi, Tamil Nadu. It shifted the focus from mere prohibition of child labour to ensuring rehabilitation, education and structural change. This case is crucial in demonstrating:

- The Supreme Court's evolution of socio-legal rights under Article 21,
- Judicial recognition of children's rights as enforceable entitlements,
- The role of PIL in securing systemic relief for child workers, especially in hazardous industries.

Case 27: Bachpan Bachao Andolan v. Union of India & Others, (2011) 5 SCC

Background of the Case

A non-governmental organization Bachpan Bachao Andolan led by **Nobel Laureate Kailash Satyarthi**, petitioned the Supreme Court of India to address the use of child performers in traveling circuses. A series of PILs were filed highlighting:

- growing cases of child trafficking,
- bonded labour,
- sexual abuse of minor girls,
- disappearance of children, and
- the State's failure to trace missing minors or protect them.

A study revealed that children were being trafficked from Nepal or taken from their homes, forced to work as child laborers, and subjected to mental, physical, and sexual abuse. There existed no unified national procedure to record, investigate, or track missing children. The right to education, child labor regulations, and other national and international rights were found to be breached by these actions. The Apex Court imposed rehabilitation programs for the victims, authorized raids to rescue the children, and banned the employment of minors in circuses. The case is regarded as a significant advancement for children's rights in

India and demonstrated the Court's willingness to entertain petitions from NGOs as a means of pursuing human rights reform.

Legal Issues Involved

i. Whether both Central and State governments have failed in their constitutional duties under:

- Article 14 (equality),
- Article 21 (protection of life and dignity),
- Article 23 (prohibition of trafficking and forced labour).

ii. Whether the lack of a uniform national system for registering and tracing missing children violated the Juvenile Justice framework and child rights jurisprudence.

iii. Whether the Apex Court could direct the creation of a nationwide mechanism for:

- identification,
- recovery,
- rehabilitation, and
- tracking
of missing children.

Judgement

The Supreme Court delivered multiple landmark orders over several years, holding:

i. “All missing children must be treated as trafficked unless proven otherwise.”

- This powerful presumption shifted the burden to the State to investigate seriously and promptly.

ii. Mandatory Registration of FIRs

- The Court directed that every case of a missing child must result in **immediate FIR registration**, not just a daily diary entry.

iii. Establishment of a Nationwide Tracking Mechanism

- Directions were issued to:
 - Create **ZIPNET / TrackChild** portals for real-time monitoring,
 - Digitize missing persons' data,

- Link police stations, child welfare agencies, and shelters nationwide.

iv. Responsibility Placed on State Machinery

- The Court made it mandatory to establish in every district:
 - Anti-Human Trafficking Units (AHTUs),
 - Special Juvenile Police Units (SJPU),
 - Child Welfare Committees (CWCs),
 - District Child Protection Units.

v. Rehabilitation and Social Reintegration

- The Court held that recovery of a child is not enough.
- The State must ensure:
 - education,
 - psychological care,
 - counselling,
 - vocational training, and
 - protection from re-trafficking.

vi. Protection of Child Witnesses

- The Court issued directions to ensure that child victims of trafficking and sexual exploitation are handled with **sensitivity and dignity**.

Socio-Legal Analysis

Social Perspective

- The case recognized that missing and trafficked children—especially girls—are the most invisible victims of crime.
- Once abducted or trafficked, they are often:
 - pushed into prostitution,
 - sold into domestic servitude,
 - forced into child marriage, or
 - sexually abused in brothels and placement agencies.
- The judgment brought national attention to the scale of child disappearance, which had long been ignored or trivialized.

Legal Perspective

- The Apex Court expanded the explanation of Articles 21 and 23 to impose a positive duty on the State.

- Instead of dealing with individual incidents, the Court reformed the entire institutional structure, ensuring:
 - police accountability,
 - digital record-keeping,
 - welfare agency coordination,
 - enforcement of the Juvenile Justice Act.
- These directives paved the way for later reforms in:
 - JJ Act, 2015,
 - integrated child protection systems,
 - modernization of missing child databases.

Critical Evaluation

Strengths

- First judgment to treat missing children as victims of crime by default.
- Introduced a nationwide procedural model for tracking and rescuing children.
- Strengthened inter-agency coordination among police, CWCs, NGOs, and welfare authorities.
- Recognized rehabilitation, not rescue alone, as the core principle of child justice.

Limitations

- Implementation varies widely across states.
- TrackChild and similar networks still depend on:
 - regular data updates,
 - district-level training,
 - institutional accountability.
- Many poor and marginalized children continue to remain undocumented and unreported.

Conclusion

The **Bachpan Bachao Andolan v. Union of India** series of judgments transformed the legal landscape for **missing, trafficked, and sexually exploited children**, especially girl children.

It shifted Indian jurisprudence from reactive policing to systemic protection, digital tracking, and mandatory rehabilitation, laying the foundation for a modern child protection infrastructure.

The case remains one of the most influential Supreme Court interventions in combating child trafficking and protecting the rights and dignity of vulnerable children in India.

Case 28: Pinki Vs. State of Uttar Pradesh and Ors. (2025)

Background of the Case

This case spins around a major interstate child trafficking racket exposed in Varanasi, Uttar Pradesh. The vulnerable children from impoverished families were abducted and sold for illegal adoptions across various states. The case gained attention due to its grave nature, involvement of multiple accused and procedural delays that obstructed justice. The bail was granted to several accused by the Allahabad High Court, despite the severity of the charges, drew criticism when many of them absconded. The intervention of the Apex Court brought attention to the urgent need for expedited trials and stricter accountability in handling child trafficking cases.

The victims were children from extremely poor families, abducted while sleeping with their parents on streets and pavements. Two specific victims, a four-year-old boy named **Rohit** and a one-year-old girl named **Mohini** were among those trafficked. The abducted children were sold to childless couples across states like Rajasthan, Bihar and Jharkhand, for amounts ranging from Rs. 40,000 to Rs. 10 lakhs. The trafficking operation was highly organized. Some individuals were directly involved in kidnapping the children, others handled transportation across state borders and a few acted as agents brokering illegal adoptions. One accused, **Manish Jain**, was identified as a kingpin while others such as **Santosh Sao** and **Jagveer Baranwal** were active participants in the racket.

Despite the serious nature of the offences, the Allahabad High Court granted bail to 13 accused persons. The families of the victims challenged these bail orders through **Special Leave Petitions** filed before the Supreme Court. Post-release, several accused absconded which complicated the investigation and stalled trial proceedings. In a key breakthrough, on **20th March, 2025**, one of the

trafficked children was rescued from the custody of accused **Anil Prasad Baranwal** in **Kolkata, West Bengal**. This recovery was facilitated through the direct intervention of the Supreme Court.

Legal Issues Involved

- i. Whether the High Court's grant of bail to accused persons in an interstate child-trafficking racket was justifiable, given the severity, organised nature of offences, risk of absconding, and vulnerability of victims (children).
- ii. Whether mere possibility or history of trafficking, risk of flight, and involvement in organised trafficking provides sufficient basis to deny bail, even if statutory bail parameters exist.
- iii. What measures and safeguards should be mandated by courts — including procedural directions for speedy trial, protection of victims and families, institutional accountability (e.g. hospitals, adoption agencies), and remedial rehabilitation for trafficked children — to ensure justice, deterrence, and child-rights protection under criminal law and juvenile-justice regime.
- iv. The balance between individual liberty of accused and societal interest in preventing heinous crimes against children, ensuring human dignity and constitutional protection under Article 21, and safeguarding child rights under statutes like the juvenile law, anti-trafficking norms and penal law.

Judgment and Reasoning

- On **15th April 2025**, a two-Judge Bench (Justice J.B. Pardiwala & Justice R. Mahadevan) of the Supreme Court allowed the appeals, set aside the High Court's bail orders, and restored criminal proceedings against the accused.
- The Court sharply criticized the High Court's "callous" approach in granting bail — noting that many accused were habitual offenders, repeats, with prior history of trafficking, and that bail orders led to several absconding and risked derailing the trial and victim protection.
- Recognising the seriousness and organised character of the trafficking network, the Supreme Court held that the usual presumption of innocence does not override **public interest, victims' safety**, and the risk of irreversible harm when dealing with child-trafficking. The Court re-emphasized that in

crimes involving children's lives, **liberty is not absolute** and must be regulated in interest of collective security and justice.

- The Court issued a wide array of directions and remedial measures to ensure justice, protection and rehabilitation:
 - Immediate surrender and remand of accused persons; committal of cases to Sessions Court within 2 weeks; framing of charges within 1 week; trial preferably completed on day-to-day basis within 6 months.
 - Appointment of special public prosecutors versed in child-trafficking cases.
 - Police protection for victims and families pending trial, to prevent intimidation or tampering.
 - Special emphasis: **If a newborn infant is trafficked from any hospital, the hospital's licence must be suspended** immediately (in addition to criminal liability) — marking high state-responsibility for institutional failures in newborn trafficking.
 - Ensuring that rescued/ recovered trafficked children are admitted to school under the Right of Children to Free and Compulsory Education Act, 2009 (RTE), continued support for their education and rehabilitation, and compensation to victims under relevant state/federal welfare schemes (e.g. under the BNSS 2023 in UP, and “Rani Laxmi Bai Mahila Evam Bal Samman Kosh”).
 - All State Governments and High Courts are directed to implement the recommendations of the relevant human-trafficking report (the “BIRD report”) and develop statewide mechanisms for detection, rescue, trial, rehabilitation and monitoring.

Socio-Legal Analysis

Social Perspective:

- The judgment recognises that child trafficking in India — especially involving impoverished, street-connected children, slum dwellers, migrants — is not merely a criminal issue but deeply tied to **poverty, social exclusion, homelessness, lack of social safety nets, structural inequality and systemic neglect**. In such a context, traffickers exploit vulnerability, anonymity and

desperation. The case brings to light how infants and toddlers — as young as 1 year old — are abducted from street-homes or while sleeping with parents and sold across states — underscoring how grave and dehumanizing the trafficking ecosystem is.

- By cancelling bail and pushing for swift trials, the Court aims to **deter traffickers** and send a clear message that child-trafficking will not be tolerated. The order for hospital-licence suspension if newborn trafficking is involved underscores societal and institutional accountability, not just criminal liability — signalling that institutions (hospitals, medical facilities) must guard newborns and infants diligently.
- The remedial direction for rehabilitation, education and support for rescued children emphasises that justice for trafficked children is not just punitive but also restorative; the Court recognises that children need holistic support — school, security, social protection — to recover from trauma and prevent re-victimization.

Legal Perspective:

- The judgment marks a strong jurisprudential stand: in offences involving children's lives, organized trafficking and systemic exploitation, courts must go beyond narrow procedural formalism and adopt a **victim-centric, rights-based, institutional-remedy approach**. The Supreme Court applied its constitutional role under Article 21 (life, dignity, liberty) to uphold collective interest and child rights over individual accused's bail claims.
- By prescribing time-bound trials, special prosecutors, police protection, institutional accountability and rehabilitation measures, the Court effectively used its **parens patriae** and supervisory powers to craft a **structural judicial remedy** — recognizing that trafficking is not a sporadic crime but a systemic evil requiring systemic redress.
- The decision also helps to align criminal law (IPC), child-protection law (juvenile statutes), human-rights jurisprudence and welfare policy — providing an integrated framework for combating child-trafficking, exploitation, illegal adoption, and institutional neglect.

Critical Evaluation

Strengths:

- The judgment is a landmark legal intervention against child-trafficking, likely to deter organized criminal networks, especially across states.
- It links **institutional accountability** (hospitals, adoption agencies, police, judiciary) with child-rights protection — giving a broad template for systemic reforms.
- By mandating rehabilitation, schooling, education support and social welfare for rescued children, the Court emphasises **not merely punitive justice but restorative justice** — crucial for long-term social reintegration.
- The framing of bail, trial, custody, witness-protection, and special prosecution sets a model for effective criminal justice administration in child-exploitation cases.

Limitations / Challenges:

- Implementation depends heavily on state machinery, police capacity, speedy arrest of absconders, resources for special prosecutors, and institutional compliance — which are often weak in many states.
- There is risk of delays, corruption or lack of follow-up, which may again jeopardize the welfare and security of rescued children.
- Mere judicial directions may not suffice — long-term social change, poverty alleviation, alternative livelihoods, and systemic reforms would be needed to prevent recurrence of child-trafficking; these lie beyond what courts alone can guarantee.
- Given large backlog of existing trafficking cases, the two-year- or six-month-trial deadline may be difficult to enforce, unless there is strong administrative commitment.

Conclusion

Pinki v. State of Uttar Pradesh (2025) stands out as one of the most significant recent judgments on child-trafficking and protection of minors in India. It combines criminal justice, child-rights protection, institutional accountability, and welfare-oriented remedial measures. It shows not just how courts can punish offenders, but how they can shape policy and enforcement frameworks to protect

vulnerable children — emphasizing that legal rights must translate into systemic safeguards, social protection, and rehabilitative justice.

Table 3.4
Summary of Cases: Trafficking and Child Labour

Sr. No.	Case Title	Year	Brief Judgement
1	Bandhua Mukti Morcha v. Union of India	1984	The Supreme Court gave directions to the government of Haryana to constitute a vigilance committee in each division of district to ensure compliance under Section 13 of the Bonded Labour Act, 1976. Also, both the Central and State Government together must ensure the implementation of the Minimum Wages Act, 1948.
2	Laxmi Kant Pandey v. Union of India	1984	The Supreme Court delivered a comprehensive judgment laying down mandatory guidelines for inter-country adoptions, holding that inter-country adoption should be permitted but only with strict safeguards, ensuring that no child is trafficked.
3	Vishal Jeet v. Union of India	1990	The Supreme Court issued comprehensive directions to the Central and State governments to create specialised rehabilitation homes offering medical care, psychological counselling, education, and vocational training to trafficked children.
4	M.C. Mehta v. State of Tamil Nadu	1996	The court ruled that employing children under 14 in hazardous industries like match and fireworks

			factories was unconstitutional. It ordered the immediate removal of children from these workplaces and the establishment of special schools to provide them with free and compulsory education.
5	Bachpan Bachao Andolan v. Union of India & Others	2011	The Supreme Court directed ordered that all missing children must be treated as trafficked unless proven otherwise. The Court directed that every case of a missing child must result in immediate FIR registration , not just a daily diary entry.
6	Pinki Vs. State of Uttar Pradesh and Ors	2025	The Supreme Court set aside the High Court's bail orders, and restored criminal proceedings against the accused. The Supreme Court held that the usual presumption of innocence does not override public interest, victims' safety , and the risk of irreversible harm when dealing with child-trafficking. The Court re-emphasized that in crimes involving children's lives, liberty is not absolute and must be regulated in interest of collective security and justice.

Source: Self-Made

3.5 Constitutional and Legal Rights of Girl Child

Case 29: Gaurav Jain v. Union of India & Others (1997) 8 SCC 114

Background of the Case

In this case a petition was filed as a public interest litigation based on a **1988 *India Today*** article about the plight of prostitutes' offspring by Advocate Gaurav Jain. The sought the court's intervention to address the rights and rehabilitation of prostitutes in India. The petitioner sought a declaration affirming several fundamental rights for prostitutes, including freedom, protection from re-entrapment, and socio-economic empowerment to ensure equality, dignity, and social integration. While the case broadly addressed the rights of those in prostitution, it specifically highlighted the need for separate educational institutions for their children.

The petitioner highlighted that children born and raised in red-light districts were socially ostracised, denied access to education, and often became victims of **sexual exploitation and trafficking**. There was **no comprehensive national policy** addressing the rights of children of sex workers at that time.

This case is considered a landmark case that laid the groundwork for subsequent judgments addressing the rights of children in vulnerable situations. Following issues were raised in the petition:

i. Rights of Prostitutes: The petitioner emphasized the need to recognize prostitutes as free citizens with the right to dignity, economic empowerment, social justice, and self-reliance. The plea argued for measures to support their reintegration into society and protect them from being trapped again into the cycle of exploitation.

ii. Rights of Children of Prostitutes: Building on the earlier case (*Gaurav Jain v. Union of India*, 1990 Supp SCC 709), the petition addressed the plight of children, especially girls, born to prostitutes. While the court had previously rejected the plea for hostels to shelter these children, it acknowledged the necessity of segregating them from their mothers to shield them from harmful influences.

iii. Eradication of Prostitution: The petition also underscored the broader aim of eradicating prostitution through systematic rehabilitation and reintegration efforts,

focusing on ensuring socio-economic opportunities for women to break free from exploitative environments.

Legal Issues Involved

- i. Whether the State has a constitutional duty to ensure the **right to dignity, development, and protection** of children of sex workers.
- ii. Whether children of prostitutes should be **compulsorily separated** from their mothers to prevent exploitation.
- iii. Whether the Court can direct the government to establish **rehabilitation homes, educational support, and social reintegration mechanisms**.
- iv. Intersection of fundamental rights under:
 - **Article 14** (equality),
 - **Article 21** (life and dignity),
 - **Directive Principles – Articles 39(f), 45, 47**, mandating protection of children and youth.

Judgement

i. Rejection of Segregation: The court rejected the plea for separate educational and residential facilities of children from their mothers, reasoning that segregation would isolate the children. Instead, it ruled that children of prostitutes should be integrated into mainstream society.

ii. The Court recognized that children of prostitutes are doubly victimized:

- first by birth into a stigmatized environment,
- second by societal neglect that pushes them towards prostitution.

iii. Establishment of a Committee: The court ordered the constitution of a high-level committee to study the issue comprehensively and recommend national schemes for the rescue, protection, and rehabilitation of both child prostitutes and their children. The committee will involve representatives of social workers, police, NGOs and women and child welfare agencies.

iv. Mandated rehabilitation efforts: The court mandated that states must establish or fund juvenile homes and NGOs to provide care, education, and vocational training.

v. Focus on Economic Empowerment: The judgment also directed states to formulate programs to eradicate practices like the "Devadasi" system and create economic empowerment avenues for women exiting prostitution.

Socio-Legal Analysis

Social Perspective

- The judgment recognized the systemic social injustice faced by children of prostitutes, especially girl children:
 - They face discrimination, social exclusion, and sexual vulnerability.
 - Many are pushed into prostitution due to lack of alternatives.
- The case reframed prostitution not just as a criminal issue but as a human rights concern, demanding social welfare intervention.

Legal Perspective

- The Court reinforced that fundamental rights under **Article 21** apply to all children, irrespective of social background.
- The judgment blended enforceable rights with Directive Principles, especially **Articles 39(f) and 45**, giving them stronger legal weight.
- It led to the development of policies under:
 - Immoral Traffic (Prevention) Act,
 - Women and Child Welfare Schemes,
 - UJJAWALA Scheme (2007) for rehabilitation of trafficking victims.

Critical Evaluation

Strengths

- Acknowledged the **State's responsibility to protect vulnerable children** who are not at fault.
- Affirmed the **constitutional right to childhood dignity**.
- Moved from a criminal-law approach toward a **welfare and rights-based approach**.
- Directed creation of real-world institutions for rehabilitation and education.

Limitations

- Implementation across states has been **inconsistent**, especially in:
 - long-term educational support,

- adequate residential homes,
- monitoring mechanisms.
- Stigma and discrimination continue to persist in society.

Conclusion

The judgment in this case is one of the most important decisions recognizing the constitutional rights of children born into prostitution, particularly girl children who face the highest vulnerability to sexual exploitation.

The Court shifted the legal narrative from punishment to protection, calling for systemic rehabilitation, social integration, and preservation of family bonds. The case stands as a vital precedent in the socio-legal protection of children at risk of trafficking and exploitation in India.

Case 30: Independent Thought v. Union of India & Another (2017) 10 SCC 800

Background of the Case

A Writ petition was filed in Supreme Court (2013) in the public interest by Independent Thought, a child rights NGO. The validity of Exception 2 to Section 375 of the IPC, which decriminalized sexual relations among a husband and his wife in the age of 15 and 18 years, was contested in this case. Since the age decided for sexual activity was 18 years in all other cases under the IPC, the petitioners claimed that this clause infringed upon the rights of a married female child between the ages of 15 and 18. The minor Marriage Prohibition Act forbids minor marriages, whereas the POCSO Act establishes the consent age at 18. The petition sought clarification and harmonization of Exception 2 with existing laws on child marriage and children's rights. The NGO argued that the marital rape exception violated:

- Article 14 (Right to Equality),
- Article 15 (Prohibition of discrimination),
- Article 21 (Right to dignity, life & bodily integrity),
- Rights of the girl child against sexual violence.

Exception 2 aimed to safeguard consented child marriages since the Respondent-State contended that, despite being illegal, child marriage was nonetheless a social reality and was widely practiced in the nation. Making these weddings illegal will

target particular groups in society and their customs. Additionally, the Respondent contended that the female child had explicitly or implicitly agreed to sexual relations with her husband by virtue of marriage.

Legal Issues Involved

- i. Whether **Exception 2 to Section 375 IPC**, permitting sexual intercourse with a minor wife aged 15–18 years, is constitutionally valid.
- ii. Whether the **marital rape exception contradicts**:
 - The POCSO Act (prohibits all sexual acts with girls below 18),
 - The Child Marriage laws,
 - India's international child rights obligations.
- iii. Whether the State can **recognize marital rape immunity** when the wife is a minor and legally incapable of giving consent.

Judgement

- i. The Court accepted the petitioner's claim that Exception 2 violated Article 14 and failed to produce a meaningful categorization. Additionally, it was noted that Exception 2 clearly violated Article 21's guarantee of the right to live a decent life with a minimum level of autonomy and safety.
- ii. The Court further noted that although most laws (including the Juvenile Justice (Care and Protection of Children) Act, 2000 (JJ Act), the Prohibition of Child Marriage Act, 2006 (PCMA), and POSCO) consider anyone under the age of 18 to be a child and set the consent age for sexual activity at 18, Exception 2 allowed husbands to have non-consensual sex with wives who were older than 15. Consequently, the Court concluded that Exception 2 to Section 375 was in violation of both the words and purposes of POCSO and the social welfare objectives of Article 15(3). The Court decided that:
 - A girl under **18 years cannot legally consent** to sexual intercourse, regardless of marital status.
 - The marital exception **created artificial and discriminatory classification** between married and unmarried minor girls.

iii. The Court clarified that the ruling does **not invalidate child marriage per se**, but criminalizes sexual intercourse with minor wives aged 15–18, **treating it as rape**.

Socio-Legal Analysis

Social Perspective

- The judgment recognizes the prevalence of early and forced marriages in India, often influenced by poverty, patriarchy, and lack of education.
- Prior to this decision, minor married girls had no legal protection **against rape by husbands**, reinforcing social norms that normalized sexual violence within marriage.
- The ruling:
 - Protects adolescent girls,
 - Strengthens advocacy against child marriage,
 - Encourages legal recognition of girls' bodily rights within marriage.

Legal Perspective

- The decision harmonizes Indian laws by:
 - Eliminating conflict between IPC and POCSO regarding the age of consent.
- It strengthens the jurisprudence that:
 - Marriage is not a license for sexual violence.
- The ruling shifts family law and criminal law towards:
 - Gender-just interpretation of marital relationships,
 - Recognition of individual rights over marital status.

Critical Evaluation

Strengths

- Major milestone in recognizing **bodily autonomy of married minor girls**.
- Clarifies constitutional commitment to equality and dignity.
- Aligns Indian law with global norms on child protection.
- Enhances coherence across statutes (IPC, POCSO, CMRA).

Limitations / Challenges

- The judgment:

- Did not address **marital rape of adult women**, leaving broader marital rape immunity untouched.
- Implementation challenges persist:
 - Social stigma,
 - Reluctance in reporting crimes within marriage,
 - Lack of awareness in rural communities,
 - Enforcement challenges for police and lower courts.

Conclusion

This case is a landmark decision that **criminalized sexual intercourse with minor wives aged 15–18 years**, treating it as rape. It reinforced the supremacy of child protection laws and constitutional values of dignity and equality. The case marked a significant step toward recognizing rights of girls within marriage, even though the broader debate on **marital rape for adult women remains unresolved**.

Case 31: Indian Young Lawyers Assn. v. State of Kerala (2018) SC 1690

Background of the Case

This case is also known as **Sabrimala Case** and is a milestone judgement of Indian Supreme Court that ruled the practice of barring women of menstruating age (10 – 50) from the Sabarimala temple was unconstitutional and breach fundamental rights to equality and religious freedom. **Independent Thought**, a child-rights/ women-rights NGO logged the petition, challenging the exclusionary custom followed at Sabarimala Temple (Kerala). The restriction was based on the claim that the presiding deity is a Naishtika Brahmachari (celibate), and that presence of female in that age band allegedly compromises the celibacy/purity required for worship.

The petitioners argued that this practice violated constitutional fundamental rights — including equality, non-discrimination and dignity of women — and sought directions to declare the ban invalid, allow women of every age into the temple, and strike down the relevant statutory/executive provisions (including **Rule 3(b)** of the Kerala Hindu Places of Public Worship (Authorization of Entry) Rules, 1965). After evaluating the questions put forth by the parties' attorneys, a three-judge bench referred the case to a five-judge Constitution bench.

Because Sabarimala Temple's religious rituals during "Puja" and other religious events are comparable to those of similar other Hindu temple, the petitioners contended that Temple of Sabarimala is not a different religious denomination. It is run by or via a statutory organization established as per the Travancore-Cochin Hindu Religious Institutions Act, 1950, rather than having its own administration. According to Section 29(3A) of the aforementioned Act, the Devaswom Commissioner must report to the government on the Board's operations every three months. Prior to evaluating any religious activity based on constitutional principles, it must be determined with certainty if the practice is, in essence, the "essence" of the religion in question. Even if an addition was made for historical reasons and has now become an essential component of the aforementioned religious organization, it will not be protected by Article 26(b) of the Constitution if it is so abhorrent and violates the core values of our Constitution. Discrimination in temple admittance is not a rite or ceremony associated with Hinduism because the religion does not discriminate against women. Although no right is unqualified, access to temples may be restricted, and women cannot be completely excluded or prohibited from entering.

The respondent countered that the 1965 Act and its regulations are compliant with Article 25(2)(b) of the Constitution. The tradition and use that young girl (those between the ages of 10 and 50) are not allowed to enter the Sabarimala temple stems from the core beliefs of the temple's establishment, which are the deification of Lord Ayyappa and his worship. When Ayyappa explained the Sabarimala pilgrimage, he stressed the need of "Vrutham," or certain observances that must be followed in order to achieve spiritual cleansing. In harmony with the Vruthum, the pilgrim isolates himself from all family relations for 41 days. During this time, the male either lives somewhere else or the lady leaves the house. The issue with women is that they are unable to finish the 41-day Vruthum since their periods ultimately fall within that time frame, and it is customary for all Hindus for female to refrain from visiting temples or engaging in religious activities during their periods. Prohibition is not a kind of social discrimination; rather, it is a part of the basic spiritual discipline connected to this particular trip.

The god does not want young ladies to visit the temple's premises, according to previous "**Devaprasanams.**"

Legal Issues Involved

- i. Does the exercise of exclusion based on a biological feature unique to women constitute "discrimination" and contradict the fundamental principles of Articles 14, 15, and 17? Additionally, is it not protected by "morality" as defined in Articles 25 and 26 of the Constitution?
- ii. Can a religious institution make a claim in this respect under the general heading of the right to govern its own matters in issues of religion, and does the exercise of excluding such women qualify as a "essential religious practice" under Article 25 of the Constitution?
- iii. Does Ayyappa Temple have a denominational nature, and if so, is it acceptable for a "religious denomination" run by a statutory board and funded by the Consolidated Fund of Kerala and Tamil Nadu under Article 290-A of the Constitution to engage in such activities that go against the morals and constitutional principles outlined in Articles 14, 15(3), 39(a), and 51-A(e)?
- iv. Does Rule 3 of the 1965 Rules provide "religious denomination" the authority to exclude women between the ages of 10 and 50 from entering the nation? And if so, wouldn't limiting women's access based on their sex violate Articles 14 and 15(3) of the Constitution?
- v. Whether Rule 3(b) of the 1965 Rules is ultra vires the 1965 Act and, if treated to be intra vires, whether it will be breaching of the provisions of Part III of the Constitution?

Judgment

The Court noted that "Devotion cannot be subjected to gender discrimination." It also noted that the social stigma associated with menstruation and notions of "purity/pollution" cannot serve as a constitutional basis to deny women equal access to places of worship. On **28th September 2018**, a 5-Judge bench of the Supreme Court (led by then-Chief Justice) delivered its judgment by a **4:1 majority**, holding:

- i. The exclusion of female in the age band 10–50 from Sabarimala was **unconstitutional**.

- ii. The Court struck down Rule 3(b) of the 1965 Rules (as applied to Sabarimala), and held that women of all age-groups must be permitted entry into the temple.
- iii. The Court decided that the practice constituted **gender-based discrimination** and **breached the dignity, bodily autonomy and equality** of women.
- iv. The Court assessed whether the exclusion was an “essential religious practice”: it concluded it was **not essential** — the custom could not override constitutional morality or fundamental rights.
- v. The majority emphasised that customs or traditions must yield to constitutional values of **equality, dignity, and gender justice** when they conflict.

Socio-Legal Analysis

Social dimension:

The judgment challenged deeply embedded patriarchal norms around gender and purity, especially the taboo around menstruation, temple access, and religious participation. It marked a significant step toward dismantling institutional religious discrimination and affirmed women’s dignity and equal citizenship rights.

Legal dimension:

The case stands as a landmark on how constitutional morality and fundamental rights must prevail over discriminatory customs. It reaffirmed the primacy of constitutional guarantees over religious customs and interpretations that restrict equality. The judgment also contributed to jurisprudence on gender justice, religious freedom vs. non-discrimination, and the concept of essential religious practices in Indian law.

Critical Evaluation

Strengths:

- Bold affirmation of **gender equality and dignity** in religious and social contexts.
- Strengthened constitutional protections under Articles 14, 15, 21 and 25 against discriminatory customs.
- Rejected the notion that religious customs are above constitutional scrutiny.
- Provided a jurisprudential precedent for challenging gender-based exclusion in religious institutions.

Limitations / Ongoing Challenges:

- Social resistance: After the verdict, certain groups continued to oppose women's entry — showing that legal reforms don't automatically translate into social change.
- Implementation difficulties: Even though the ruling is binding, ground-level enforcement, policing, and public resistance have sometimes obstructed its full realization.
- The narrow scope: The judgment addresses age-based exclusion but does not directly address other forms of discriminatory practices (e.g., caste, economic status) that may persist in religious or social institutions.

Conclusion

This case is a milestone in Indian constitutional and social jurisprudence that:

- Affirmed that **constitutional morality, gender equality, and dignity** override discriminatory religious customs;
- Expanded the meaning of fundamental rights in the context of religious institutions;
- Represented a significant victory for gender justice and the rights of women and girl children;
- Remains a precedent for challenging discriminatory practices in places of worship across India.

The case dealt with issues like **socio-legal rights, gender justice, and protection of girl children's dignity**. It illustrates how legal reform can challenge entrenched patriarchal customs and institutional exclusion.

Case 32: Sampurna Behura v. Union of India & Others (2018) 4 SCC 433

Background of the Case

The landmark judgment in this case delivered by the Apex Court of India on February 9, 2018, addresses the critical issues surrounding the application of juvenile justice laws and the protection of children's rights in India. The case originated from a PIL filed by Sampurna Behura, a sociologist actively engaged in child welfare. The petition highlighted the State Governments' failure to effectively implement the Juvenile Justice (Care and Protection of Children) Act, 2000, subsequently amended by the Juvenile Justice (Care and Protection of

Children) Act, 2015 (JJ Act). The core issues revolve around the establishment and functioning of Juvenile Justice Boards (JJBs), Child Welfare Committees (CWCs), inadequate infrastructure in child care institutions, and the overall neglect of children's fundamental and human rights by the State apparatus. The Supreme Court recognized the issue as a serious nationwide problem affecting millions of vulnerable children, many of whom were victims of exploitation and abuse. Following precedents were cited by Apex Court in its judgement that shaped its direction:

- **Sheela Barse v. Union of India (1986)**: This case emphasized the State's duty to treat children as national assets, prohibiting their incarceration in jails and mandating the establishment of Juvenile Justice Boards.
- **Naisul Khatun v. State of Assam (2010)**: Highlighted the ineffective functioning of JJBs, where social workers failed to participate meaningfully in judicial proceedings, thereby questioning the integrity of the juvenile justice process.

Legal Issues Involved

i. Whether the **State and Central governments had failed in their constitutional and statutory duty** to implement the Juvenile Justice Act effectively.

ii. Whether children's rights under:

- **Article 14** (equality),
- **Article 21** (right to life, dignity, and protection),
- **Directive Principles—Articles 39(e), 39(f), 45**, were being violated due to the failure of juvenile protection systems.

iii. Whether the Supreme Court could issue **nationwide mandatory directions** to strengthen institutional systems such as:

- CWCs, JJBs,
- Special Juvenile Police Units (SJPU),
- Integrated Child Protection Scheme (ICPS).

Judgment and Reasoning

In a detailed judgment, the Supreme Court held:

i. **Children are entitled to full constitutional protection**, and the State's failure to apply the Juvenile Justice Act amounts to a breach of **Article 21 (right to life and dignity with care and protection)**.

ii. The Court expressed **strong dissatisfaction** at the poor implementation of the JJ Act and stated that:

- Children were being deprived of minimum rights and safeguards due to administrative apathy and poor infrastructure.

iii. Key Directions Issued by the Court:

- All States must **set up fully functional CWCs and JJBs** in every district.
- **Special Juvenile Police Units (SJPUs)** must be established and trained to handle child victim cases sensitively.
- Every district must have:
 - Child Protection Officers,
 - District Child Protection Units,
 - Child Care Institutions meeting minimum standards.
- Government must ensure:
 - rehabilitation, counselling, and education for children rescued from abuse or trafficking.
- The Ministry of Women and Child Development must monitor implementation regularly and submit compliance affidavits.

iv. The Court emphasized that procedures must be child-friendly, and the justice system must function in line with the **UN Convention on the Rights of the Child**, which India has ratified.

Socio-Legal Analysis

Social Perspective

- The case recognized that systemic failure of child protection machinery results in direct victimization of children, especially:
 - girl children trafficked for labour or prostitution,
 - runaways,
 - children suffering domestic or sexual abuse,
 - orphans without institutional support.

- The judgment acknowledged that without functioning CWCs and JJBs, children were being:
 - unlawfully detained,
 - denied legal aid,
 - deprived of education and rehabilitation.

Legal Perspective

- The Supreme Court transformed the Juvenile Justice Act from a passive law into an enforceable mandate.
- It clarified that:
 - protecting children is a non-negotiable constitutional duty,
 - failure to establish juvenile protection institutions amounts to a constitutional violation.
- The judgment strengthened the foundations for later reforms under the:
 - Juvenile Justice (Care and Protection of Children) Act, 2015,
 - National-level monitoring through the Integrated Child Protection Scheme (ICPS),
 - Expanded oversight by the National Commission for Protection of Child Rights (NCPCR).

Critical Evaluation

Strengths

- Landmark judgment establishing **systemic oversight** instead of case-specific remedies.
- For the first time, the Court issued **nationwide uniform directions** to protect children.
- Promoted specialized:
 - child-friendly policing,
 - rehabilitation,
 - education and reintegration.
- Strengthened recognition of children as **rights-bearers, not merely beneficiaries of charity**.

Limitations

- Implementation is **uneven across Indian states**, especially in rural districts.
- Many CWCs and JJBs remain understaffed or underfunded.
- Regular monitoring remains weak, requiring continuous judicial and executive engagement.

Conclusion

This case is one of the most important judgments establishing systemic legal protection for children under the Juvenile Justice framework in India.

By holding State Governments accountable and outlining detailed directives for the establishment and functioning of essential bodies, the Court has reinforced the imperative of prioritizing children's welfare. The judgment not only addresses existing systemic flaws but also sets a precedent for proactive judicial involvement in safeguarding vulnerable sections of society. Moving forward, the successful implementation of these directions hinges on the commitment of governmental bodies to prioritize child rights, ensure adequate resource allocation, and foster an environment conducive to the holistic development and protection of children. This landmark decision underscores the judiciary's role as a guardian of fundamental rights, especially for those who are marginalized and voiceless. This case is vital because it:

- shifts the debate from individual crimes to structural accountability,
- recognizes that failure to protect children is itself a constitutional violation, and
- influenced later reforms under the JJ Act, 2015 and nationwide child protection policies.

Case 33: Vineeta Sharma Vs Rakesh Sharma (2020)

Background of the Case

This case represents a landmark judgment by The Supreme Court that established daughters have equal coparcenary rights to ancestral property as sons, with retrospective effect from September 9, 2005. The court decided that a daughter's right to coparcenary property is acquired by birth, and it is not necessary for the father to have been alive on the date the 2005 amendment came into effect. This decision clarified conflicting interpretations and ensured gender equality in matters of inheritance.

The case arose due to confusion and conflicting judicial decisions regarding whether daughters have a **coparcenary right by birth** in Hindu Joint Family property as per the **Hindu Succession (Amendment) Act, 2005**, even though the father (coparcener) had died before the amendment came into effect (i.e., before 9 September 2005). Various High Courts and even Supreme Court benches had delivered conflicting judgments in **Prakash v. Phulavati (2015)** and **Danamma v. Amar (2018)**, creating substantial ambiguity. To resolve the conflict, the matter was referred to a three-judge bench.

Vineeta Sharma, the Plaintiff/Appellant, had filed a suit claiming her share of ancestral property against her family members including her brother **Rakesh Sharma**. She contended that since her father, Mr. Dev Dutt Sharma had died intestate, she could have the right over the property among other heirs. According to Vineeta Sharma, as the property was not included in HUF, she is entitled to the (1/4)th of her father's property.

Legal Issues Involved:

- i. Whether the 2005 amendment gives daughters coparcenary rights by birth, or only if the father was alive on 9 September 2005.
- ii. Whether partition done before 2005 would affect the daughter's right.
- iii. Whether the amendment has **prospective, retrospective, or retroactive** effect.

Judgement

- i. The judgment affirmed that under the amended Section 6 of the Hindu Succession Act, 1956, daughters are coparceners by birth, just like sons, and have the same rights and liabilities.
- ii. This right applies to daughters born before and after the 2005 amendment. It also has a retrospective effect, meaning it applies to all pending proceedings and matters where the case was not already finalized before the judgment.
- iii. The ruling clarified that a daughter is not disqualified from being a coparcener if her father passed away before the 2005 amendment was enacted.
- iv. Only partitions that were registered and completed before 20 December 2004 would be treated as valid and not reopened.

v. All daughters, married or unmarried, enjoy **equal rights and liabilities** in coparcenary property.

Socio-Legal Analysis

- The judgment recognizes the **historical gender discrimination** in succession laws, where women were denied inheritance rights in ancestral property.
- The case reflects a major socio-legal shift towards **substantive gender equality**, not merely formal equality.
- By granting rights by birth, the Court acknowledges the changing status of women in Indian society—moving far from the notion that property belongs only to the male lineage.
- The judgment strengthens the legal position of daughters, improving their:
 - Economic autonomy
 - Property ownership
 - Social standing within the family
- It aligns with India’s obligations under international conventions such as **CEDAW**, promoting equal rights for women.
- The case also highlights the societal resistance to giving women equal property rights, especially in rural and patriarchal settings.

Critical Evaluation

- The decision is considered progressive, but practical challenges remain:
 - Many families still rely on informal partitions; the Court’s insistence on “registered or court-ordered” partition may lead to litigation.
 - Implementation difficulties persist due to lack of awareness, patriarchal norms, and family pressure preventing daughters from claiming rights.
 - The judgment does not address the emotional and social coercion that often forces women to “voluntarily” relinquish their property rights.
- Despite these concerns, the judgment is a strong step toward actualizing constitutional values of equality, non-discrimination, and dignity.

Conclusion

Judgment in this case is a landmark ruling establishing daughters as **equal coparceners by birth**, ensuring gender justice in Hindu family law. It removes ambiguity and upholds constitutional values of equality and dignity. While

societal barriers remain, the judgment strengthens women’s economic rights and marks a significant socio-legal advancement in India’s journey toward gender equality.

Table 3.5

Summary of Cases: Constitutional and Legal Rights of Girl Child

Sr. No.	Case Title	Year	Brief Judgement
1	Gaurav Jain v. Union of India & Others	1997	The court rejected the plea for separate educational and residential facilities of children of prostitutes from their mothers, reasoning that segregation would isolate the children. Instead, it ruled that children of prostitutes should be integrated into mainstream society. The court mandated that states must establish or fund juvenile homes and NGOs to provide care, education, and vocational training to such children.
2	Independent Thought v. Union of India & Another	2017	The Supreme Court held that a girl under 18 years cannot legally consent to sexual intercourse, regardless of marital status. The Supreme Court also clarified that the ruling does not invalidate child marriage per se, but criminalizes sexual intercourse with minor wives aged 15–18, treating it as rape.
3	Indian Young Lawyers Assn. v. State of	2018	In its decision the Supreme Court held that “Devotion cannot

	Kerala		be subjected to gender discrimination.” The exclusion of women in the age group 10–50 from Sabarimala was unconstitutional . The Court struck down Rule 3(b) of the 1965 Rules (as applied to Sabarimala), and held that women of all age-groups must be permitted entry into the temple.
4	Sampurna Behura v. Union of India & Others	2018	In a detailed judgment, the Supreme Court held that Children are entitled to full constitutional protection, and the State’s failure to implement the Juvenile Justice Act amounts to a violation of Article 21 (right to life and dignity with care and protection). It issued directions to all States to set up fully functional Child Welfare Committee (CWCs) and Juvenile Justice Board (JJBs) in every district.
5	Vineeta Sharma Vs Rakesh Sharma	2020	The judgment of Supreme Court affirmed that under the amended Section 6 of the Hindu Succession Act, 1956, daughters are coparceners by birth, just like sons, and have the same rights and liabilities. This right applies

			to daughters born before and after the 2005 amendment.

Source: Self-Made

3.6 Other Contemporary Issues (Online sexual exploitation, cyber grooming, missing children cases, kidnapping etc.)

Case 34: S Varadarajan vs State of Madras (1965)

Background of the Case

In 1960, Savitri, a 17-and-a-half-year-old girl and B.Sc. student, was living in Nungambakkam with her family. She developed a relationship with her neighbour, Varadarajan. When her sister saw them talking, Savitri expressed her desire to marry him. Their father, S. Natrajan, took her to a relative's house to keep her away from Varadarajan.

However, the next day, Savitri left the house on her own, met Varadarajan, and went with him in his car. They got married at the registrar's office with a friend as witness. Later, they stayed in Coimbatore and Tanjore.

Following this, Savitri's father filed a police complaint for kidnapping. The prosecution alleged that the appellant had kidnapped Savitri from her father's custody with intent to marry her or seduce her to illicit intercourse, punishable under **Section 366 IPC**. The appellant was found guilty by the trial court, and the Madras High Court upheld the verdict. Varadarajan was found guilty by the Madras High Court and given a severe one-year jail sentence. Varadarajan appealed against this decision in the Supreme Court.

Legal Issues Involved

- i. Whether a minor can voluntarily leave her lawful guardian without the guardian's permission?
- ii. Whether the act of Varadarajan taking Savitri amounts to kidnapping from lawful guardianship under the Indian Penal Code?
- iii. Was there active involvement by Varadarajan in taking Savitri out of her father's guardianship, or did she voluntarily accompany him?

Judgement

The Supreme Court of India acquitted the appellant, setting aside the conviction under Section 366 IPC.

The Court observed that:

- i. The word “**takes**” in Section 361 IPC connotes some act of the accused which may be regarded as the cause of the minor leaving her guardian’s custody.
- ii. Merely because the accused accompanied a minor girl who willingly left her home, it cannot be said that he “**took**” her away.
- iii. In this case, the girl was on the verge of majority, well-educated, and capable of understanding her actions. She voluntarily left her father’s house, called a taxi, and went with the accused.
- iv. The appellant did not initiate, induce, or compel her to leave; he merely complied with her wish to accompany him.
- v. Therefore, the essential element of “taking” or “enticement” required for kidnapping was not proved.
- vi. The Court ultimately held that Varadarajan could not be held guilty of taking away Savitri since her decision to go with him was voluntary.
- vii. Thus, considering the absence of force or deceit and the element of mutual consent, the Court allowed the appeal and acquitted Varadarajan of all charges.

Socio-Legal Analysis

This case has been one of the earliest and most frequently cited precedents on the interpretation of “**taking**” and “**enticement**” under Sections 361–366 IPC.

From a **social perspective**, the case reflects the complexity of adolescent relationships, autonomy, and parental control in traditional Indian society. It illustrates a situation where a girl nearing majority acted out of her own volition but was still legally treated as a minor under the law.

From a **legal perspective**, the Court adopted a **narrow interpretation** of “taking,” emphasizing the need for **active involvement or inducement** by the accused to constitute kidnapping. The decision thus introduced a crucial distinction between:

- a case where the girl is **actively taken or enticed**, and
- one where she **voluntarily leaves** her guardian’s custody to be with the accused.

The judgment remains significant because it established that **mere passive acquiescence or companionship** does not amount to kidnapping.

Critical Evaluation

While the *Varadarajan* case protects individuals from unjust criminalisation in consensual elopement situations, it has also been criticised for potentially **weakening the protection of minor girls**, especially those close to the age of majority.

Critics argue that:

- The Court's reliance on the girl's "near-majority" status may lead to subjective application, possibly undermining the protective intent of Sections 361–366 IPC.
- In modern contexts, where child protection laws (like the **POCSO Act, 2012**) have been enacted, such reasoning might not hold, as **consent of a minor is now legally irrelevant**.

However, the case remains an **important milestone** in understanding how Indian courts have historically balanced **individual autonomy** against **protective custody laws** for minors.

Conclusion

This judgment highlights the importance of recognizing individual agency, especially in cases involving consent and personal choice. The Court rightly concluded that responsibility cannot be unfairly placed on one party when both are voluntarily involved in the act. It is a significant decision that reinforces the principle that criminal liability should be based on clear evidence of wrongdoing, not mere assumptions. The case also sets a precedent for handling similar situations with sensitivity and fairness, ensuring that justice is not clouded by social prejudices or one-sided interpretations.

Case 35: Horilal v. Commissioner of Police, Delhi & Others (1996)

Background of the Case

It is a significant Supreme Court of India case that established guidelines for handling missing children and women, particularly regarding the urgency of search and the need for public dissemination of information.

Horilal filed a petition in the Supreme Court under Article 32 of the Constitution. His daughter had been missing for over a year and a half despite an FIR being lodged, and he sought court intervention to direct the police to search for her. The

Supreme Court issued detailed directives to the police on the prompt registration of complaints, publicizing missing persons' photos, conducting neighbourhood inquiries, and using various outlets like railway stations and airports to spread information.

Legal Issues Involved

- i. Whether there exists a constitutional or statutory obligation on police / State to act promptly and diligently on missing-child reports so as to protect child rights, dignity and life.
- ii. Whether failure to institute a systematic mechanism for tracing and rescue of missing children violates rights of children under Articles 21 (life, dignity), 14 (equality), and relevant child-protection statutes / norms.
- iii. Whether courts can — under their writ jurisdiction — mandate institutional safeguards and standard operating procedures for tracing missing / kidnapped children.

Judgement

The petition led to a set of guidelines dated 14th November 2002, widely known as the **Horilal guidelines**, which lay down steps that police / investigating agencies must follow in all missing-child or missing-person cases. Key directives include:

- i. As soon as a missing-person (especially a minor girl or child) complaint is lodged: publish a photo of the missing child — in newspaper/TV/at public transport hubs — within a week. The publication of photos of missing minors requires the written consent of their parents or guardians.
- ii. Conduct systematic inquiries: in the child's neighbourhood, school/workplace/friends/relatives, check with hospitals, mortuaries, shelters; check red-light areas; coordinate with border / transit checkpoints.
- iii. Establish a multi-task force / special cells for missing children / trafficked children; involve women police officers; treat missing-child cases as priority.
- iv. Maintain “missing-persons registries” at district/state level; police to update data, share across jurisdictions, cooperate with other states / inter-state agencies for tracing.
- v. Provide rewards for credible leads, ensure that complaints are not ignored, and prompt action is taken.

vi. In cases where a person remains missing, the police are directed to depute senior police officials to personally investigate the case and take all possible steps to find the missing person.

These guidelines were subsequently incorporated into standard police procedures across many states; they were referenced by child-rights bodies (such as National Commission for Protection of Child Rights — NCPCR) to demand compliance.

Socio-Legal Significance

- The case (through its guidelines) represents one of the earliest systemic judicial interventions recognising that missing / trafficked children are a public law issue, not merely private complaints — transforming missing-child cases into matters of State responsibility and public justice.
- The guidelines reflect child-centric jurisprudence: acknowledging that delays, inaction or lack of protocol in missing-child cases often lead to trafficking, sexual exploitation, bonded labour, and disappearance — especially of girl children and vulnerable minors.
- By mandating proactive, institutionalised tracing mechanisms, the case contributed to building national frameworks for missing-persons detection (data-sharing, inter-State coordination, media publicity), reducing impunity, and providing one of the earliest blueprints for child-safety governance in India.
- It has been widely cited in subsequent policy documents, reports on trafficking and missing children by central bodies (NCPCR, NHRC, UNICEF India) as foundational for missing-child response.

Limitations & Challenges

- The actual judgment text is not widely reported / available publicly; the public record is limited to guidelines and summarised orders — which means full facts, court reasoning, arguments, dissent (if any) are not accessible.
- As a result, the case lacks detailed judicial reasoning on *why* such guidelines are required (constitutional basis, rights analysis), making it more of policy-oriented directions than a detailed jurisprudential ruling.

- Implementation across states has been uneven; many police districts do not follow the guidelines strictly, leading to continued missing-child crises especially in rural areas or where trafficking networks are strong.
- Because of lack of comprehensive data, it's difficult to empirically measure effectiveness of the guidelines in actual recovery rates, timely tracing, and prevention of trafficking.

Conclusion (Annotated)

This case is not a traditional “crime-oriented” judgment but a **pioneering institutional-remedy order** that laid down long-lasting guidelines for tracing missing children and preventing child abduction / trafficking. While it does not offer detailed doctrinal jurisprudence, its socio-legal value is immense: it recasts missing children as a matter of public law and State responsibility. It shows how courts can and have stepped in to mandate structural, preventive frameworks, not just reactionary criminal sanctions.

Case 36: Laxmi v. Union of India & Others (2014) 4 SCC 427

Background of the Case

In essence, Laxmi, an acid attack survivor who drives a movement to stop such assaults and operates the non-governmental organization "**Chaanv Foundation**" to aid victims and survivors of such attacks, brought this PIL. In this case, three guys on a bike assaulted 15-year-old victim Laxmi with acid in New Delhi as revenge for her refusal to marry one of them. She naturally had severe physical and emotional trauma as a result. Even after seven operations, the government offered her no financial assistance in this care. On appeal, the Delhi High Court confirmed the sessions court's ruling and mandated that the accused pay the victim 3 lakh rupees in compensation under clause 1 subclause (b) of Section 357 of the CrPC, 1973 ("Order to pay compensation for any loss or injury caused by the offence"). The offenders were charged under sections 320 (grievous hurt), 325 ("punishment for voluntarily causing grievous hurt"), and 326 ("causing grievous hurt voluntarily for by dangerous weapons or means") of the IPC, 1860, since there was no separate provision to penalize this offense of "acid attack." The amount of punishment she received was not enough to make up for the trauma she had endured and the harm she had suffered to her bodily and emotional well-

being. She filed a PIL at the Apex court as a result of these occurrences, citing her serious concerns about the availability of acid on the market within minutes and without any scrutiny, the absence of legislation to stop such a horrible crime, and the regulation and rehabilitation of survivors.

Supreme Court's intervention was asked through this petition by Laxmi for:

- framing **regulations to control acid sale**,
- confirming **sufficient compensation and rehabilitation** for victims, and
- making **acid attack offences cognizable and non-bailable**.

Legal Issues Involved

- i. Whether Article 21 of the Constitution's guarantee to life and personal security is violated by the lack of regulations governing the sale and distribution of acid.
- ii. Whether acid attack victims are entitled to special **legal, medical, and financial protection and rehabilitation** from the State.
- iii. Whether the existing provisions of the IPC and CrPC were adequate to tackle acid attack offences or whether specific amendments were necessary.
- iv. What directions the Supreme Court should issue to ensure deterrence, prevention, and victim assistance in cases of acid violence.

Judgement

The **Supreme Court of India** delivered a landmark judgment recognising acid attacks as a distinct and grave form of gender-based violence that required special legislative and administrative action.

Key Findings and Directions:

1. **Regulation of Acid Sale:**
2. All States and Union Territories were ordered by the Court to create regulations governing the sale of acid.
 - i. Retailers must sell acid only to individuals above 18 years of age, after verifying identity proof and recording the purpose of purchase.
 - ii. Retailers must declare acid stock and report any sale to the local police within three days.
3. **Compensation and Medical Treatment:**
 - i. Victims of acid attacks must receive a **minimum compensation of ₹3 lakhs** (₹1 lakh within 15 days and the remaining ₹2 lakhs within 2 months) from the

respective State Governments to cover immediate medical expenses and rehabilitation.

4. Acid attack victims must get free medical care, including reconstructive surgery, from all public and private hospitals.
5. **Amendments in Law:**
 - i. The Court's directions prompted the Government to enact **The Criminal Law (Amendment) Act, 2013**, which inserted:
 - **Section 326A IPC** — causing grievous hurt by use of acid, with minimum punishment of 10 years (extendable to life imprisonment).
 - **Section 326B IPC** — attempt to throw acid, punishable with imprisonment up to 10 years.
 - ii. Acid attack offences were also made **cognizable and non-bailable**.
6. **Rehabilitation Measures:**
 - i. The Court emphasized the right of survivors to **employment, education, and social reintegration**.
 - ii. Directed the States to ensure **reservation of jobs and educational opportunities** for acid attack victims under disability categories.
7. **Monitoring Compliance:**
 - i. The matter was kept open for **continuous monitoring** by the Court, and periodic reports were sought from States to ensure compliance with its directions.

Socio-Legal Analysis

In terms of abuse against women and female children, this case was a turning point in Indian jurisprudence.

Social Perspective:

The case drew nationwide consideration to the horrific prevalence of acid attacks, which predominantly targeted **young girls and women** for rejecting male advances. The judgment transformed Laxmi's personal tragedy into a movement for **legal and social reform**, inspiring numerous survivors to seek justice and dignity.

Legal Perspective:

The Court effectively expanded the scope of **Article 21**, interpreting the “right to life” to include the **right to live with dignity, bodily integrity, and security**. It also demonstrated the Apex Court’s use of **judicial activism** to fill legislative gaps and to direct the State to enact and enforce preventive measures — a classic example of **Public Interest Litigation (PIL)** serving as an instrument of social justice.

Critical Evaluation

The *Laxmi v. Union of India* case is a milestone in India’s human rights and gender-justice framework.

Positive Aspects:

- It led directly to the Criminal Law (Amendment) Act, 2013, creating specific offences and stringent punishments for acid attacks.
- It established a structured victim-rehabilitation framework, making compensation and medical treatment mandatory.
- It triggered public awareness campaigns and civil society involvement in victim assistance and acid-sale regulation.

Limitations and Challenges:

- Despite judicial directions, implementation gaps remain — many States still fail to ensure strict regulation of acid sales.
- Compensation and rehabilitation are often delayed or insufficient, especially in rural areas.
- The law addresses punishment but does not fully tackle the patriarchal attitudes that lead to such crimes.

Thus, while the judgment is monumental, social transformation and enforcement are necessary to realise its full impact.

Conclusion

Despite enacting strict regulations and guidelines for victims' rehabilitation, governments appear to be doing nothing to help them. From treatment to rehabilitation, the victims are frequently assisted by the general population and non-governmental organizations. Seven years after the modification was made,

not much has been done, and it appears that it will take much longer to cover the entire route to full implementation of these provisions.

Case 37: Tejaswini Gaud and Others vs. Shekhar Jagdish Prasad Tewari and Others (2019)

Background of the Case

The Supreme Court judgment in the case of **Tejaswini Gaud vs. Shekhar Jagdish Prasad Tewari** addresses fundamental questions about child custody, natural guardianship rights, and the application of the welfare principle in Indian family law. The landmark judgment of The Supreme Court represents a significant judicial pronouncement that masterfully balances the statutory rights of natural guardians under the Hindu Minority and Guardianship Act, 1956, with the overarching principle of child welfare. This case emerged from tragic circumstances involving the custody of a minor girl child (**Shikha**) whose mother succumbed to cancer, leaving behind conflicting claims between the surviving father and the deceased mother's siblings who had been caring for the child during both parents' illnesses.

The dispute arose when **Shekhar Jagdish Prasad Tewari**, the natural father of minor child Shikha, sought custody of his daughter from his deceased wife's siblings who had been caring for the child during a period of extraordinary family crisis. The case traversed through the judicial system, culminating in this important Supreme Court pronouncement that has significant implications for custody jurisprudence in India. The court careful balance between respecting statutory provisions under the **Hindu Minority and Guardianship Act, 1956**, while simultaneously emphasizing that **the welfare of the child must remain the paramount consideration** above all other legal or personal claims. The judgment demonstrates the evolving nature of Indian family law, where traditional concepts of paternal authority are being refined through the lens of child-centric jurisprudence.

Shekhar Jagdish Prasad Tewari (respondent No.1) married Zelan on May 28, 2006. During the fifth month of Zelan's pregnancy in May 2017, she was diagnosed with advanced breast cancer - a devastating blow to the young family's hopes and dreams. Despite this challenging diagnosis, their daughter Shikha was

born on August 14, 2017, bringing joy amid the medical crisis. As Zela's condition deteriorated, the family relocated to Pune in June 2018, where they stayed at the residence of **Samir Pardeshi**, Zela's brother, seeking better medical care. The family moved back to Mumbai in July 2018, continuing their desperate fight against cancer. On October 17, 2018, Zela succumbed to her illness, leaving behind her infant daughter Shikha, who was then approximately 14 months old. The child continued to remain in the custody of the appellants, who had been her primary caregivers during the extended period of both parents' illnesses. When Shekhar recovered from his illness and sought custody of his daughter, the appellants **refused to hand over the child**. This refusal prompted Shekhar to file a complaint with the Dattawadi Police Station in Pune on November 17, 2018, and subsequently approach the Bombay High Court through a writ petition seeking custody of his minor daughter.

Legal Issues Involved

i. Maintainability of Habeas Corpus in Child Custody Matters: The foremost question was whether a writ of habeas corpus under Article 226 of the Constitution could be appropriately invoked to secure guardianship of a minor child from relatives who claimed to be acting in the child's best interests. This raised important questions about the scope and application of extraordinary constitutional remedies in family disputes.

ii. Natural Guardian Rights vs. Child Welfare Principle: The case forced the court to evaluate the conflict between the general rule that the child's welfare must always come first in custody decisions and Section 6 of the Hindu Minority and Guardianship Act, 1956, which designates the father as the child's natural guardian.

iii. Legal Authority vs. Compassionate Care: A crucial issue was whether the appellants' compassionate care and extended custody of the child during the family crisis could override the father's statutory rights as the natural guardian, particularly when the father had not abandoned the child but was prevented from caring for her due to serious illness.

iv. Definition of "Illegal Detention" in Family Context: The court had to determine whether the appellants' retention of the child after the father's recovery

and demand for custody constituted "illegal detention" sufficient to warrant the extraordinary remedy of habeas corpus.

Judgment

The Supreme Court's judgment in **Tejaswini Gaud** establishes several important legal principles that significantly contribute to the development of child custody jurisprudence in India.

- i. The judgment firmly establishes that **habeas corpus is maintainable in child custody matters when persons without legal authority retain custody of a minor**. The Court held: "In child custody matters, the writ of habeas corpus is maintainable where it is proved that the detention of a minor child by a parent or others was illegal and without any authority of law." This principle provides clear guidance for future cases involving custody disputes between natural guardians and other family members or caregivers.
- ii. The Court reinforced the **fundamental principle that child welfare overrides all other considerations**, including statutory rights of natural guardians. The judgment states: "The welfare of the minor child is the paramount consideration. The court while deciding the child custody cases is not bound by the mere legal right of the parent or guardian."
- iii. Natural Guardian Rights are Presumptive, Not Absolute. The judgment clarifies that while **Section 6 of the Hindu Minority and Guardianship Act** create a strong presumption in favour of the father's custody claim, this presumption can be rebutted if circumstances demonstrate that such custody would not serve the child's welfare.
- iv. The Court established that **compassionate care** during family emergencies, while commendable, does not create legal rights to permanent custody that can override the claims of natural guardians. However, such care may justify ongoing visitation or access rights.
- v. The judgment emphasizes that **child welfare must be assessed holistically**, considering not just physical needs but also emotional, psychological, educational, and moral development. The Court noted: "The word welfare must be taken in its widest sense."

Reasoning of the Court

i. Maintainability of Habeas Corpus: The Apex Court clarifies that habeas corpus is maintainable in child custody matters when the minor's detention by a person not eligible to legal custody is challenged. The Court referenced the landmark case of **Gohar Begum vs. Suggi @ Nazma Begam (AIR 1960 SC 93)**, where it was ordered that refusal to restore custody of a child to the natural guardian results in illegal detention under the meaning of habeas corpus provisions.

ii. It was clarified by the Court that **habeas corpus proceedings are summary in nature**, designed to address the legality of detention based on affidavits rather than elaborate evidence. **Justice Banumathi emphasized:** "The detention of a minor by a person who is not entitled to his legal custody is treated as equivalent to illegal detention for the purpose of granting writ, directing custody of the minor child."

iii. Natural Guardian Rights Analysis: After carefully reviewing Section 6 of the Hindu Minority and Guardianship Act, 1956, the Court concluded that the father has priority custody rights and is designated as the child's natural guardian. The Court observed that this statutory framework creates a rebuttable presumption in favor of the father's custody claim. However, the Court was careful to note that **natural guardian status is not absolute** and must be evaluated in light of Section 13 of the same Act, which makes **child welfare the principal consideration**. The Court stated: "Though the provisions of the special statutes govern the rights of the parents or guardians, but the welfare of the minor is the supreme consideration in cases concerning custody of the minor child."

iv. Welfare Principle Application: The Supreme Court's analysis of the welfare principle represents one of the most significant aspects of this judgment. The Court depended heavily on **Nil Ratan Kundu vs. Abhijit Kundu (2008)**, which established that the child's typical comfort, satisfaction, health, education, intellectual growth, and favourable environment must all be taken into account by the courts. **The Court emphasized:** "The word 'welfare' must be taken in its widest sense. The moral and ethical welfare of the child must also weigh with the court as well as its physical well-being." In applying this principle to the facts, the

Court found that the father had neither abandoned the child nor was he unfit to be her guardian. The Court noted that his nonappearance was because of serious illness—circumstances beyond his control—and that he had demonstrated both capability and desire to care for his daughter upon recovery.

v. Welfare Principle Application: The Supreme Court's analysis of the welfare principle represents one of the most significant aspects of this judgment. The Court relied heavily on **Nil Ratan Kundu vs. Abhijit Kundu (2008) 9 SCC 413**, which established that courts must consider the child's ordinary comfort, contentment, health, education, intellectual development, and favourable surroundings. **The Court emphasized:** "The word 'welfare' must be taken in its widest sense. The moral and ethical welfare of the child must also weigh with the court as well as its physical well-being." In applying this principle to the facts, the Court found that **the father had neither abandoned the child nor was he unfit to be her guardian**. The Court noted that his absence was due to serious illness—circumstances beyond his control—and that he had demonstrated both capability and desire to care for his daughter upon recovery.

Socio-Legal Analysis

Social Dimension:

- The case represents situations common in Indian society where **extended families step in** after the death or incapacity of parents.
- The judgment acknowledges that family arrangements are often informal, compassionate, and based on relationships rather than strict legal rights.
- The Court's focus on the child's psychological and emotional health demonstrates how child-centric methods are becoming more widely accepted in Indian custody law.

Legal Dimension:

- The decision clarifies the **limits of habeas corpus** in civil custody disputes — an area where confusion persisted.
- It reaffirms that, in accordance with the Guardians and Wards Act of 1890, habeas corpus cannot be used in lieu of a complete custody trial.
- At the same time, it acknowledges that courts have a **constitutional duty** to intervene when a minor's welfare is endangered.

- The case strengthens the jurisprudence that “**best interest of the child**” prevails over procedural or technical interpretations of custody rights.

Critical Evaluation

Strengths:

- The judgment strikes a balance between **constitutional remedies** and **specialised family law procedures**.
- It prioritises **child welfare**, reinforcing the Supreme Court’s consistent approach in child-rights matters.
- The ruling reduces misuse of **habeas corpus** as a shortcut in custody litigation and directs parties to appropriate civil courts.

Weaknesses / Limitations:

- The Court did not provide a definitive test for when custody becomes “illegal” sufficient to invoke habeas corpus, leaving some ambiguity.
- In urgent child-abuse or child-trafficking situations, family members may find it difficult to distinguish between when to file habeas corpus and when to seek custody.
- The emphasis on sending parties to civil courts may prolong disputes, potentially affecting the child emotionally.

Conclusion

The Supreme Court's judgment in **Tejaswini Gaud vs. Shekhar Jagdish Prasad Tewari** stands as a landmark decision that masterfully navigates the complex intersection of statutory rights, constitutional principles, and child welfare considerations. The case emerges from profoundly human circumstances that tested the boundaries of legal frameworks and challenged courts to develop nuanced approaches to family disputes.

Case 38: Anversinh @ Kiransinh Fatesinh Zala v. State of Gujarat (2021) 3 SCC 12

Background of the Case

On 14/05/1998, the father of the victim, Kiransinh Jalamsinh when came back from work got to know from his wife that their eldest daughter, victim in this case had not returned home. The victim worked as a maid in the noon and evening, after the father made enquiries got to learn that his daughter hadn’t come for her

shift in the evening that day and was last seen with the accused, Anversinh coming out of a vacant Bungalow near her working site. On enquiry it was found that the accused left for his home in Surpur along with the victim. Upon learning this the father rushed to the accused's home along with his uncle and brother-in-law but couldn't trace neither the accused nor the victim's whereabouts.

After returning to Ahmedabad, the father of the victim registered a complaint on 16/05/1998. The police were able to locate both the accused and the victim at a farm near Modasa, they were brought back to Ahmedabad on 21/05/1998. After a medical examination and seizure of clothes, the victim was sent back to her family. An FIR was logged against the accused, Anversinh and he was charged under section 363, Section 366 and section 376 of the IPC, 1860.

The trial court convicted the appellant under Sections 363 (kidnapping), 366 (kidnapping with intent to compel marriage) and 376 (rape) of the IPC and awarded sentences of 1 year RI under Sec 363, 5 years RI under Sec 366, and 10 years RI under Sec 376. On appeal, the Gujarat High Court cancelled the rape conviction (Sec 376) but upheld the kidnapping charges under Sections 363 and 366, with the sentence maintained at 5 years RI. The accused then appealed to the Apex Court of India, in order to re-assert his innocence. During the arguments it was highlighted that the High Court acknowledged the existence of a love affair between the appellant and the victim along with a consensual relationship between them and that both of them would frequently meet which leads to the appellant's acquittal for the charge of 376 IPC since there was consent involved in the relation and the victim didn't raise any alarm during their relation. However, the High Court also ruled that the victim did not voluntarily leave her parents' home and also that the victim did not consent to the marriage. The appellant heavily relied on the case of **S. Varadarajan Vs State of Madras** to prove the contradictions made in the order of the High Court and make the point that the victim although a minor willingly left her home which would not constitute to kidnapping.

Since the accused was acquitted of the charge of Section 376 of IPC by the High Court, the Appeal of the accused before the Supreme Court only dealt with his conviction under Section 363 and 366 of IPC which were sustained by the High

Court. The Apex Court while addressing the case stated that the charge of Section 366 of IPC was made out against the accused and found no fault with the conviction under the said section, since the accused/ appellant unintentionally admitted his liability to the charge, he admitted to being involved with the victim sexually and had an intention to marry her.

While addressing the charge of Section 361 of IPC, the Apex Court was of the view that the responsibility to make crucial decisions with respect to the physical safety of the minor lies upon their guardians, and hence although the victim was in a love with the accused but her infatuation cannot be used as a defence, the act would still fall under the offence of kidnapping although the accused was in a relation with the victim since her consent as a minor is immaterial.

The Supreme Court considered the punishment of the accused and in order to understand how just was the gravity of the punishment in this case, relied heavily on the case of **State of Madhya Pradesh Vs. Surendra Singh** and upon the perusal of the case and running it parallel to the facts of the case in hand decided to revisit the quantum of punishment awarded to the accused. The court also considered that the accused was young at the time of the offence and admittedly it was a case of a love affair and hence should be treated with a hope. The court considered this case as an instance of *mala prohibita* (offences that are only wrong because a law makes them so) and not *mala in se* (offences that are inherently evil and wrong). Although no case acquittal was made for section 363 and 366 of the IPC, but The Court disapproved the sentence of 5 years of rigorous punishment awarded to the accused.

The Supreme Court upon the perusal of the all facts and by relying on the twin principle of deterrence and correction decided to reduce the duration of the sentence to the period of the imprisonment already undergone by the accused. And settled the accused, Anversinh free, by partly allowing his appeal on 12th January 2021.

Legal Issues Involved

i. Whether the prosecution proved beyond reasonable doubt that the minor girl was “taken or enticed” by the appellant out of the lawful guardianship of her

parents, thus attracting Sections 363 and 366 IPC, irrespective of her alleged relationship with the appellant.

ii. Whether a consensual relationship between a minor girl and an adult appellant could be a defence to the charge of kidnapping under Sections 363/366 IPC.

iii. Whether the charge of rape (Sec 376 IPC) was properly made out given the evidence and whether sentence under such charge was justified in the background of the evidences of the case.

iv. Whether the duration of sentence was appropriate given the severity of the offence, the age of the parties, delay in trial, and other mitigating or aggravating circumstances.

Judgment

i. The Court reaffirmed that consent of a minor is irrelevant for the purposes of Sections 363/366 IPC (kidnapping from lawful guardianship / kidnapping with intent to compel marriage). The fact that the girl may have been in a “relationship” or love-affair does not override the protective provisions of the IPC.

ii. The Court ordered that the prosecution had recognized that the girl was removed from the custody of her guardians and was with the appellant; the ingredients of Sections 363/366 were thus made out.

iii. The Gujarat High Court overturned the rape conviction (Section 376 IPC), and the Supreme Court did not uphold it (although the appeal was partially granted). Given the circumstances, the Supreme Court determined that there was uncertainty regarding the use of force or the proper categorization of the offense under Section 376.

iv. On the sentencing issue, the Apex Court noted that while the appellant’s guilt under Sections 363/366 was proven, the duration of 5 years RI required reconsideration given factors such as: no weapon or violence used in kidnapping, young age of the accused at the time of offence (about 18/19 years), protracted delay in trial (over 22 years), both parties now settled in life and rehabilitated, no prior antecedents. The Court therefore **reduced** the sentence to the period of imprisonment already undergone by the appellant.

Socio-Legal Analysis

This case holds significant socio-legal importance in the context of protecting the rights of minor girls.

From a **social perspective**, the case highlights the vulnerability of minor girls to enticement or removal by adult males even when there is a portrayal of consensual relationship. It emphasises that “*infatuation*” or “*love-affair*” cannot be a cloak to evade legal protection of minors or to justify removal from lawful guardianship.

From a **legal perspective**, the judgment clarifies that the protective ambit of Sections 361–366 IPC (kidnapping from lawful guardianship and related offences) is wide enough to cover situations where a minor may be willing or taken willingly, so long as she is below the relevant age and is removed without guardian consent. The case reinforces the doctrine that the State has a protective duty under Articles 14, 15 and 21 of the Constitution for minor girls, and statutory protections cannot be diluted by real-life relationship contexts.

On sentencing, the Court’s decision reflects the need to balance **punishment and reformative justice**, especially when long delay, youth of offender, and absence of further crime are present — while still protecting societal interest in deterrence and safeguarding children.

Critical Evaluation

The *Anversinh* case is a valuable precedent on the intersection of **minority, consent, and kidnapping law**. It sends a strong message that the law treats removal of a minor from guardianship as a serious offence irrespective of claimed consent, thereby reinforcing the girl child’s right to protection. This case gave a principle that although the accused and the victim are in a consensual relation the accused cannot take that as a defence against the offence of kidnapping especially if the victim is a minor. This principle comes to the rescue in the cases where the minor under the influence of the accused and under infatuation leave the parents’ house without thinking through the decision thus hampering with her safety.

Nonetheless, from a critical viewpoint:

- i. The case raises questions about how to appropriately treat *consensual relationships involving minors* in Indian jurisprudence — while the law clearly

disallows consent as defence, social realities of adolescent relationships may be more complex.

ii. It emphasises the importance of effective and timely investigation, since the extraordinary delay (over two decades) compelled the Court to reduce sentence, thereby potentially diluting deterrence.

iii. The case underlines the challenge of aligning legal norms with socio-cultural practices (adolescent relationships, guardianship perceptions) and the need for preventive mechanisms (education, counselling) in addition to punitive ones.

Conclusion

In **Anversinh @ Kiransinh Fatesinh Zala v. State of Gujarat (2021)**, the Supreme Court reaffirmed that statutory protections for minor girls are paramount, and that removal from lawful guardianship and/or enticement of minor girls constitutes kidnapping offences regardless of claimed consent. The case stands as a **landmark for the rights of the girl child**, illustrating how the law prioritises her safety and dignity in contexts of relationship and guardianship. This case is especially relevant under the sub-heading of **“Kidnapping and Sexual Offences against Girl Children”**, offering a clear jurisprudential lens on how the courts interpret consent, guardianship and the protective mandate of law.

Case 39: Devnath Ratre v. Malti Ratre (2022)

Background of the Case

A Division Bench of the Chhattisgarh High Court, consisting of Goutam Bhaduri and Radhakishan Agrawal, JJ., decided in an appeal concerning the custody of a girl child that the mother should be given custody because the child's welfare is the most important factor and she is the one who should give the child special care and attention.

The parties **Devnath Ratre** (husband) and **Malti Ratre** (wife) were married on 26 April 2009 under Hindu rites. From the marriage, a daughter (minor) “Ku. Nikita” was born on 28th March 2010. The marital relationship turned acrimonious. The woman brought the child back to her parents' place in 2011 after leaving the marital home. The couple started living apart when counselling didn't work. A settlement in 2013 mandated ₹1,500/-per month for the wife and ₹1,000/-per month for the daughter after the woman filed a maintenance petition under

Section 125 CrPC on their behalf. Later, the husband applied for custody of the girl under the Guardians and Wards Act of 1890, claiming that the mother was unsuitable and harsh and that, as the child's natural guardian, the child should be with him. The Family Court rejected the application; the husband appealed to the High Court.

Tejaswini Gaud v. Shekhar Jagdish Prasad Tewari, (2019), Nil Ratan Kundu v. Abhijit Kundu, (2008), Purvi Mukesh Gada v. Mukesh Popatlal Gada, (2017), and Goverdhan Lal v. Gajendra Kumar, 2001 were the cases cited by the Chhattisgarh High Court. These cases established that the welfare of the child should be the primary consideration when handling child custody cases. The Court further noted that the Court must consider the child's moral and ethical wellbeing in addition to its bodily well-being when defining "welfare" under S. 13 of the Hindu Minority and Guardianship Act, 1956.

Citing **Balram v. Sushma, 2017**, the Court noted that the girl child requires extra care and attention from the mother due to her age and the biological changes she will experience.

The Court dismissed the appeal, ruling that the mother is granted custody of the child in the child's best interest.

Legal Issues Involved

- i. Whether the father, though a “natural guardian” under law, should be given custody of the minor child or whether custody should remain with the mother — considering welfare of the child as paramount.
- ii. If the welfare and best interests of the child should take precedence over the Hindu Minority and Guardianship Act, 1956's legislative preference for the father's guardianship (also known as the Guardians and Wards Act).
- iii. What factors (economic capacity, moral character, living conditions, child's interests) a Court must consider when deciding custody of a minor.

Judgement

- i. The High Court upheld the Family Court's decision denying custody to the father and ordered that the well-being of the child is the supreme consideration.

ii. The Court noted that though the father is the usual guardian, that statutory right does not guarantee custody when evidence suggests he may be unfit or unable to provide stable care and upbringing.

iii. The Court looked at multiple factors: father's modest income ($\approx$ ₹6,000 per month), lack of proper living environment, absence of other adult family members at home to care for the child when father was out working, and overall possibility of adverse impact on child's welfare if custody awarded to father.

iv. The Court invoked welfare-centered jurisprudence under the Guardians and Wards Act: though father has a natural-guardian status, the "welfare of the minor" under Section 13 of the 1956 Act must override.

Socio-Legal Analysis

Social dimension:

The case reflects the reality of many Indian families where economic hardship, marital breakdown, and social pressures affect child welfare. Premature assumption that "natural guardian = best custodian" may overlook on-ground vulnerabilities and needs of minors — especially girl children. This judgment confirms that custody must be decided based on **child's welfare and protection**, not rigid statutory rights.

Legal dimension:

The judgment reaffirms the principle that in guardianship/custody matters under Hindu and guardianship law, statutory entitlement of natural guardianship is subordinate to well-being of the child. The decision aligns with Supreme Court precedents that emphasise *parens patriae* jurisdiction of courts, recognising minors as rights-bearers with interest in dignity, welfare, stable upbringing, and that laws should not operate mechanically in favour of adult rights at the cost of the child.

Critical Evaluation

Strengths:

- Emphasises **substance over formality**: even statutory natural guardianship does not guarantee custody if child welfare demands otherwise.
- Ensures child-centred approach — examining economic capacity, environment, parental conduct rather than rigid application of law.

- Acts as a precedent for other similar custody disputes, giving courts guidance to prioritise child's best interests, especially where child is a girl (vulnerable in many contexts).

Limitations / Challenges:

- The decision depends heavily on local facts — economic status, living conditions — which may vary widely; thus its applicability may be limited and unpredictable.
- Enforcement of visitation rights, maintenance obligations and child welfare follow-up remain beyond judgment — success depends on administrative / social support.
- In many rural or impoverished settings, mothers may also lack resources; denying father custody still leaves child vulnerable to instability.

Conclusion

Devnath Ratre v. Malti Ratre (2022) is an important High Court judgment affirming that child's welfare and best interests override statutory natural-guardian status in custody disputes. The case illustrates a critical socio-legal principle: **legal entitlement of parents must yield to rights and protection of the child**, especially in contexts where economic hardship or social instability may negatively affect a girl child's upbringing and security.

Case 40: Just Rights for Children Alliance & Anr. v. S. Harish & Ors. (2024)

Background of the Case

In this case The Supreme Court of India has delivered a landmark judgment in September 2024 which significantly strengthens the law against the online sexual exploitation of girl children (and all children) in India. A report from the national Cyber Tipline (NCRB) dated 29 January 2020 alleged that the respondent, **S. Harish**, of Ambattur, Tamil Nadu had been downloading and storing material depicting sexual exploitation/abuse of children. On that basis, the local police registered an FIR under **Section 67B of the Information Technology Act, 2000 (IT Act)** and under **provisions of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act 2012)** — initially under Section 14(1), which penalised use of a child for pornographic purposes. Forensic analysis of Harish's mobile phone revealed the presence of over 100 pornographic video files,

including at least two videos depicting minors engaged in sexual activity. In the chargesheet filed in September 2023, the POCSO offence was modified to **Section 15(1) POCSO**, which penalises storage/possession of child sexual exploitative material (CSEAM) without deleting or reporting it. The accused filed a petition under **Section 482 CrPC** in the High Court of Madras (Crl. O.P. No. 37/2024), challenging the chargesheet. The High Court quashed the charges, holding that mere possession or viewing of such material did not constitute an offence absent transmission or sharing. A coalition of child-rights organisations — called Just Rights for Children Alliance (with another NGO) — filed a Special Leave Petition (SLP) seeking to overturn the High Court order, claiming that considering the seriousness of the child sexual exploitation material, dismissing the case would establish a risky precedent.

The Apex Court overturned a Madras High Court decision and held that the viewing, downloading, storing, or possession of "Child Sexual Exploitative and Abuse Material" (CSEAM) attracts criminal liability under the Protection of Children from Sexual Offences (POCSO) Act and the Information Technology (IT) Act.

Legal Issues Involved

- i. Whether mere **possession, storage or viewing of child sexual exploitative material (CSEAM)** — without evidence of distribution, publication or transmission — constitutes an offence under the POCSO Act (post its 2019 amendment) and/or the IT Act.
- ii. Whether the High Court erred in quashing the chargesheet on the ground that possession without distribution does not attract penal liability.
- iii. The correct interpretation and scope of **Section 15 POCSO** (storage/possession) vis-à-vis child pornography / CSEAM offences — especially after the 2019 amendment.
- iv. Whether terminology matters: whether courts should continue using “child pornography” or adopt a more accurate, child-rights sensitive term like “**Child Sexual Exploitation and Abuse Material (CSEAM)**” to reflect the seriousness of the offence and victimization of children.

Judgment

- i. The Apex Court allowed the appeal, set aside the High Court’s quashing order, and restored criminal proceedings against Harish under Section 15 POCSO and Section 67B IT Act.
- ii. The Court held that **mere possession or storage of CSEAM** is punishable under Section 15 of POCSO, even without proof of distribution or transmission — since possession itself causes harm and perpetuates demand, and failure to delete or report such material is punishable.
- iii. It emphasised the **legislative purpose** of POCSO: to safeguard children from all types of sexual exploitation and abuse, including in the digital domain, and noted that the storage of CSEAM supports ongoing exploitation and victimization.
- iv. The judgment directed that henceforth courts must refrain from using the term “child pornography” as it trivialises the issue; instead, they must use the term **CSEAM** (Child Sexual Exploitation and Abuse Material), reflecting the victimization of children and seriousness of the offence.

Socio-Legal Analysis

Social Dimension:

The judgment reflects the evolving nature of crimes against girl children and minors in the digital age. With widespread internet access, abuse is not limited to physical offences — storage and consumption of exploitative material perpetuate victimization, re-traumatization, and demand for child abuse content. By recognising possession alone as an offence, the Court acknowledges the **continuing harm inflicted on child victims**, even if direct physical violence is not ongoing.

It also underscores the **responsibility of digital consumers** and users — not just producers or distributors — in sustaining a market for child sexual exploitation. This broadens the scope of social accountability, deterrence, and moral responsibility in combating child abuse.

Legal Dimension: The decision strengthens the protective framework under the POCSO Act, especially after its 2019 amendment which introduced explicit offences for storage/possession. The Court’s interpretation clarifies that courts

cannot require transmission/publication as a precondition for penal liability — possession with intent (or failure to delete/report) suffices.

The judgment modernises legal discourse: replacing “child pornography” with “child sexual exploitation and abuse material (CSEAM)” signals a shift from adult-centred notions of pornography (which often imply consensual adult acts) to a child-rights centred concept focusing on victimization, exploitation, dignity, and protection.

The case establishes jurisprudence that adapts classical child-protection law to technological realities: digital storage, sharing platforms, and the global circulation of exploitative content.

Conclusion

The Supreme Court’s decision in **Just Rights for Children Alliance & Anr. v. S. Harish & Ors. (2024)** is a landmark in child-protection jurisprudence for India — bringing digital child sexual exploitation under firm legal control, reinforcing the protective ethos of the POCSO Act, and modernising the law to meet contemporary challenges posed by technology. The case deals with **digital crimes, child pornography / exploitation, and institutional safeguards in the digital age**. It shows how the law evolves to protect vulnerable children, acknowledging new modes of exploitation, and placing responsibility not only on overt traffickers/abusers but also on passive consumers of exploitative content.

Table 3.6

Summary of Cases: Other Contemporary Issues

Sr. No.	Case Title	Year	Brief Judgement
1	S Varadarajan vs State of Madras	1965	In this case the Supreme Court of India acquitted the appellant, setting aside the conviction under Section 366 IPC. The Court observed that merely because the accused accompanied a minor girl who willingly left her home, it cannot be said that he “took” her away. The girl was on the

			verge of majority, well-educated, and capable of understanding her actions. She voluntarily left her father's house and the accused did not initiate, induce, or compel her to leave; he merely complied with her wish to accompany him.
2	Horilal v. Commissioner of Police, Delhi & Others	1996	In this case the Supreme Court gave directions to police to publish a photo of the missing child in newspaper/TV/at public transport hubs within a week. The publication of photos of missing minors requires the written consent of their parents or guardians. Police must establish a multi-task force / special cells for missing children / trafficked children; involve women police officers; treat missing-child cases as priority.
3	Laxmi v. Union of India & Others	2014	In this case the Supreme Court of India delivered a landmark judgment recognising acid attacks as a distinct and grave form of gender-based violence that required special legislative and administrative action. The Court directed all States and Union Territories to frame rules to regulate the sale of acid. Retailers must sell acid only to individuals

			above 18 years of age, after verifying identity proof and recording the purpose of purchase.
4	Tejaswini Gaud and Others vs. Shekhar Jagdish Prasad Tewari and Others	2019	In this case the Supreme Court reinforced the fundamental principle that child welfare overrides all other considerations , including statutory rights of natural guardians. The judgment firmly establishes that habeas corpus is maintainable in child custody matters when persons without legal authority retain custody of a minor . The Court held: "In child custody matters, the writ of habeas corpus is maintainable where it is proved that the detention of a minor child by a parent or others was illegal and without any authority of law."
5	Anversinh @ Kiransinh Fatesinh Zala v. State of Gujarat	2021	The Court reaffirmed that consent of a minor is immaterial for the purposes of Sections 363/366 IPC (kidnapping from lawful guardianship / kidnapping with intent to compel marriage). The fact that the girl may have been in a "relationship" or love-affair does not override the protective provisions of the IPC. The

			Supreme Court also reduced the sentence to the period of imprisonment already undergone by the appellant as both parties were now settled in life and rehabilitated.
6	Devnath Ratre v. Malti Ratre	2022	The High Court observed that though the father is the natural guardian, that statutory right does not guarantee custody when evidence suggests he may be unfit or unable to provide stable care and upbringing. Thus, the High Court upheld the Family Court's decision denying custody to the father and held that the welfare of the child is the paramount consideration.
7	Just Rights for Children Alliance & Anr. v. S. Harish & Ors.	2024	The Court held that mere possession or storage of Child Sexual Exploitation and Abuse Material (CSEAM) is punishable under Section 15 of POCSO, even without proof of distribution or transmission — since possession itself causes harm and perpetuates demand, and failure to delete or report such material is punishable.

Source: Self-Made

CHAPTER-4

**COMPARISON OF GIRL
CHILD LAWS IN INDIA AND
OTHER SELECTED
COUNTRIES**

CHAPTER 4

COMPARISON OF GIRL CHILD LAWS IN INDIA AND OTHER SELECTED COUNTRIES

In an era of increasing international commitment to child rights and gender justice, a comparative examination of legal and constitutional protections afforded to the girl child assumes significant importance. While India has enacted an elaborate framework of constitutional guarantees, statutory enactments, and policy measures aimed at safeguarding the rights and dignity of the girl child, the effectiveness of these measures can be better understood when placed within a broader global context. Comparative analysis enables an evaluation of the strengths, limitations, and implementation mechanisms of domestic laws by juxtaposing them with international practices and diverse socio-legal systems. As a result, this chapter compares the constitutional and legal provisions pertaining to Indian girls' rights with those of a few other nations—namely the United States of America, Japan, China, Syria, Finland, Switzerland, and South Africa. These countries represent varied legal traditions, levels of socio-economic development, cultural frameworks, and approaches to child protection and gender equality. By examining constitutional safeguards, child-centric legislation, enforcement mechanisms, and the influence of international conventions within these jurisdictions, this chapter seeks to identify best practices, contextual challenges, and normative gaps. Such a comparative socio-legal analysis not only enriches the understanding of India's legal position but also offers valuable insights for reform, policy strengthening, and effective realization of the rights of the girl child in India.

4.1 Switzerland

i. Definition of Child in Switzerland

According to Article 1 of the Convention, "A child" in Switzerland is defined as any anyone under the age of 18, unless their legal majority is reached earlier. The Swiss Civil Code (CC) states in Article 14 that a person reaches majority at the

age of 18. Swiss law thus views everybody under the age of 18 as a child in accordance with article 1 of the Convention.¹

Rights of the girl child in Switzerland are protected through a combination of international treaties, constitutional provisions, and domestic laws. Swiss law generally protects *all children* regardless of gender, but there are specific gender-equality norms and child-protection measures that have particular relevance to girls.

The United Nations Convention on the Rights of the Child was ratified by Switzerland in 1997. Under this treaty, every child below 18 years of age is entitled to a number of rights, including protection, development, non-discrimination, and participation rights. It expressly requires Switzerland to shield children from discrimination based on a variety of factors, including sex.

Switzerland is also a party to other human-rights treaties like **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)** (ratified 1997), which obligates gender equality and protections against discrimination and **Council of Europe's Lanzarote Convention** against sexual exploitation of children — applicable in domestic law to safeguard children from abuse.

i. Legal Framework for Children in Switzerland

a. Discrimination

The Swiss Constitution's Article 8 forbids discrimination against anybody on the basis of their origin, race, sex, age, language, social standing, political, religious, or philosophical beliefs, or physical or mental disabilities. The basic right to equality before the law protects all people, regardless of their citizenship or majority. Consequently, children are likewise protected by this section. The Convention's Article 37(a) guarantees that children are protected against torture and other cruel, inhuman, or degrading treatment or punishment. The new Federal Constitution's article 10 paragraph 3 forbids torture and other cruel, inhuman, or humiliating treatment or punishment. Article 37(a) also mentions the death sentence and life in prison in relation to torture, and it forbids the application of these punishments to minors.

¹ OMTC Country Report. "Rights of the Child in Switzerland". ISBN 2-88477-027-5

b. Violence Against Children

While in the custody of their parents, legal guardians, or other caregivers, children are protected from all forms of physical or psychological abuse under Article 19 of the Convention. Thus, the provision protects children's human right to mental and physical health. Children's integrity is protected under Article 11 paragraph 1 of the Swiss Federal Constitution, which states that "Children and adolescents have the right to special protection of their personal integrity and to promotion of their development."

c. Age of Criminal Responsibility (Juvenile Justice)

Switzerland has a comparatively low criminal responsibility age. According to the Swiss Penal Code and Article 40, paragraph 3 of the Convention, there is "a minimum age below which children shall be presumed not to have the capacity to infringe the penal law." According to this rule, a person must be seven years old to be considered criminally responsible. There are specific regulations pertaining to criminal measures and punishments for minors under the age of fifteen. Adolescents, or youngsters under the age of eighteen, are subject to different regulations. The Penal Code stipulates penalties based on the offender's age.²

d. Education and Care

Since education is crucial to children's development, it is recognized as a universal right under Article 28 of the Convention on the Rights of the Child, which mandates that its members fulfill their obligation to offer it. According to Article 62 paragraph 2 of the Swiss Constitution, all children are entitled to free elementary education. A child who is temporarily or permanently separated from their home environment is entitled to particular protection and support under article 20 of the Convention. This clause is especially crucial for unaccompanied minors applying for asylum. However, only a few cantons have specialized facilities for the care of this particular group of children.

e. Child Marriage

Under **Article 94** of the Swiss Civil Code the minimum legal age of marriage is 18 years with no exceptions.³ Switzerland has committed to ending child, early

² OMTC Country Report. "Rights of the Child in Switzerland". ISBN 2-88477-027-5.

³ <https://www.girlsnotbrides.org/learning-resources/child-marriage-atlas/regions-and-countries/switzerland/>

and forced marriage by 2030 in line with target 5.3 of the Sustainable Development Goals. Although, there is no publicly available government data on child marriage in Switzerland. The Centre of Competence against Forced Marriage uncovered 119 cases of child marriage in the country in 2017, primarily among immigrants from Eritrea, Somalia, Iraq, Afghanistan and Syria.

Table 4.1

Comparison on the Rights of the Girl Child in India and Switzerland

Aspect	India	Switzerland
Constitutional Protection	Article 14 (Equality before law), Article 15(3) (special provisions for women & children), Article 21 (Right to life with dignity), Article 21A (Right to education)	Federal Constitution guarantees equality of men and women; special protection of children and adolescents; prohibition of discrimination
Right to Equality & Non-Discrimination	Constitutionally guaranteed; reinforced through laws like POCSO, JJ Act, PCPNDT Act	Constitution and Gender Equality Act prohibit discrimination on the basis of sex
Right to Education	Fundamental Right under Article 21A (ages 6–14); supported by Right to Education Act, 2009; schemes like Beti Bachao Beti Padhao	Free and compulsory education guaranteed; strong emphasis on equal access and quality education for girls
Protection from Sexual Abuse	POCSO Act, 2012 provides comprehensive protection against sexual offences; child-friendly procedures	Criminal Code and child-protection laws criminalize sexual exploitation; Lanzarote Convention strengthens safeguards
Protection from Child Marriage	Prohibition of Child Marriage Act, 2006	Legal minimum age of marriage: 18 years

	(minimum age for girls: 18 years)	
Juvenile Justice System	Juvenile Justice (Care and Protection of Children) Act, 2015 provides gender-neutral but sensitive protection	Federal Act on Juvenile Criminal Law provides rehabilitative and child-friendly justice
Gender-Specific Policies	Multiple girl-centric welfare schemes (education, nutrition, survival)	Gender Equality Act; policies focus on systemic equality rather than welfare schemes
Corporal Punishment	Not fully prohibited in all settings	Explicitly prohibited in all settings, including homes.

Source: Self-Made

4.2 Finland

i. Definition of Child in Finland

According to the Finnish Constitution and national law, a person below the age of **18 years** is considered as a child.

With a strong emphasis on the child's best interests across all legislation, such as the Equality Act and Child Welfare Act, and universal benefits like child benefit, Finland's laws protect girl children through comprehensive equality, non-discrimination, and child welfare acts, guaranteeing equal education, parental leave rights, inheritance, and protection from harmful practices like FGM (Kela). The Act on Equality, which promotes gender equality in employment and education, and child-specific laws that ensure rights, participation, and protection are important legal frameworks.

Finland broadly incorporates the **UNCRC** into its domestic system (best interests of the child, rights to protection and participation).

ii. Children's Rights in Finland

The Finnish Constitution guarantees **equality before the law**, prohibits discrimination and requires that **children are treated equally as individuals**. Depending on their age and developmental stage, children must be given the opportunity to participate in decisions that impact them.

Legal Framework

a. Child Welfare Act (417/2007) & Custody Act (361/1983): These acts Govern child protection, ensuring children's rights are upheld, allowing intervention in cases like FGM, and increasing children's participation in decisions affecting them.

b. Protection from Physical and Emotional Abuse

Corporal punishment is strictly illegal in Finland. Parents and caregivers must not hit, pull hair, or use physical punishment. Adults must protect children from sexual harassment and abuse.

c. Criminal Code Protections

Finland participates in implementing the **Lanzarote Convention** (Council of Europe) to prevent and combat sexual exploitation and abuse of children. In Finland sexual activity with anyone under **16 years** is a crime. This protects minors from sexual exploitation. Buying sexual services from someone under 18 is criminalized.

In order to prevent re-traumatization, specialized models like **Barnahus** (Children's House) offer child-friendly settings for abuse investigations along with coordinated assistance from law enforcement, prosecutors, and medical and social specialists.

d. Age of Criminal Responsibility and Court Rights

In Finland Minimum age of criminal responsibility is **15 years**. In various legal issues (custody, education, asylum), courts consider children's opinions based on age and maturity.

iii. Rights Related to Education and Development

a. Education

Girls have equal access to education, with materials supporting gender equality goals. Finnish children, including girls, have the right and obligation to education starting in early childhood, with **compulsory school beginning at age 7** (earlier in special cases).

b. Personal Rights Growing with Age

From about **12 years**, children's consent is required in Finland for changes to their name or religious affiliation. From **14 years**, children can engage in light

employment (with protections). From **15 years** onwards, youths gain more independent legal rights (employment contracts, bank accounts).

c. Minimum Age of Marriage

Finland's law is clear and absolute for marriage. With no legal exceptions, Finland has set **18 years** as the minimum age of marriage. Marriages contracted abroad before the age of 18 can be recognized only under limited public-policy restrictions (e.g., very large age gaps).

No traditional **dowry system** exists, and dowry is not part of legal regulation.

Table 4.2

Comparison on the Rights of the Girl Child in India and Finland

Aspect	India	Finland
Constitutional Protection	Articles 14, 15(3), 21 & 21A guarantee equality, special protection, dignity, and right to education	Constitution of Finland guarantees equality before law, non-discrimination, and special protection for children
Right to Equality & Non-Discrimination	Gender equality constitutionally guaranteed; affirmative action permitted	Strong constitutional and statutory commitment to gender equality; discrimination strictly prohibited
Right to Education	Fundamental Right (6–14 years) under Article 21A; RTE Act, 2009	Free and compulsory education; equal access from early childhood to higher education
Protection from Sexual Abuse	POCSO Act, 2012 provides stringent child-friendly criminal justice	Criminal Code criminalizes sexual abuse; child-sensitive investigation & victim support systems
Protection from Child Marriage	Prohibition of Child Marriage Act, 2006 (minimum age for girls: 18)	Minimum marriage age: 18 years with no exceptions

	years)	
Juvenile Justice System	Juvenile Justice (Care and Protection of Children) Act, 2015	Child Welfare Act emphasizes rehabilitation, care, and participation
Gender-Specific Policies	Multiple girl-centric welfare schemes (education, nutrition, survival)	Gender-neutral child policies with strong gender equality outcomes.
Corporal Punishment	Not fully prohibited in all settings	Explicitly prohibited in all settings, including homes.

Source: Self-Made

4.3 Japan

i. Definition of Child in Japan

A person less than the age of eighteen is legally considered a "child" in Japan, according to the Child Welfare Law and other related acts, though specific contexts like employment or criminal matters might have nuances, with the general age of majority now also being 18.

ii. Age of Criminal Responsibility

The minimum age for criminal responsibility is **14 years** in Japan⁴. The Penal Code of Japan provides that an act of a person under **14 years** of age is not punishable. Under the Juvenile Law of Japan, however, "juvenile" (shonen) refers to anyone below 18 years of age. With the objective of ensuring the sound upbringing of juveniles and correcting the character and adjusting the environment of delinquent juveniles, the Juvenile Law stipulates that anyone below 18 years of age is to be arbitrated in a Family Court, where proceedings for protection are taken to determine whether it is appropriate to take protective measures. Only if protective measures have been found to be inappropriate is he/her to be transferred to undergo criminal proceedings (provided that the person in question is 16 years of age or more and commits a crime punishable with death penalty, or penal servitude or imprisonment)

⁴ The Ministry of Foreign Affairs of Japan

ii. Minimum Age of Employment

With respect to persons under **18 full years of age**, provisions of the Labor Standards Law restrict working hours and work on rest days, prohibit late-night work in principle and regulate dangerous and hazardous work. The Labor Standards Law also prohibits the employment of children under **15 full years of age**. As an exception, however, with permission of the administrative office, children attaining **12 full years of age** may be employed in occupations in non-manufacturing enterprises involving light labor which is not injurious to the health and welfare of children, and children under 12 full years of age may be employed in enterprises for motion picture production and theatrical performance. Provisions of the Labor Standards Law are also applicable to the employment of part-time workers.⁵

iv. Minimum Age of Marriage

A man cannot be married until he is eighteen, and a woman cannot get married until she is sixteen, according to the Civil Code. A person under the age of twenty cannot be married without the approval of both parents. Anyone can independently become a party to a lawsuit after marriage, even if they are younger than 20.⁶

v. Sexual Crime

Under the Penal Code, anyone who performs a sexual act or commits an indecent act with a male or female person under the age of 13 years is subject to punishment, whether or not the act is committed by thereof violence or threat. The Child Welfare Law additionally prohibits inducement of a human less than the age of **18 years** to practice obscene acts. The law also prescribes punishment for keeping a child in custody with the objective of making him/her engage in harmful activities.⁷

vi. Girl Child Specific Laws

Japan has a strong legal system that protects the rights of girls, consist of constitutional guarantees, child-specific legislation, gender-equality laws, and international human-rights commitments. At the constitutional level, the

⁵ The Ministry of Foreign Affairs of Japan

⁶ The Ministry of Foreign Affairs of Japan

⁷ The Ministry of Foreign Affairs of Japan

Constitution of Japan (1947) forms the foundation to safeguard the girl child. Although most laws are **gender-neutral**, they operate within a strong constitutional mandate of **equality and child welfare**, which equally safeguards the rights of girls. Major constitutional provisions are as follows:

- a. **Article 14** guarantees equality before the law and explicitly prohibits discrimination on the grounds of sex, social status, or family origin.
- b. Protecting girls from discriminatory family practices is significantly impacted by **Article 24**, which establishes equality between men and women in form of marriage and family life.
- c. Additionally, **Article 25**, which guarantees the right to maintain the minimum standards of wholesome and cultured living, has been judicially interpreted to include access to education, healthcare, and social welfare for children, including girls.

vii. Major Legislative Provisions are as follows

a. Child Welfare Act, 1947

This is the core domestic statute governing child welfare in Japan. It offers for the protection, care, and healthy development of all children. It addresses issues such as child abuse, neglect, abandonment, and institutional care, and empowers Child Guidance Centers to intervene in cases where a child's welfare is at risk.

This Act is particularly important for protecting girls from abuse, exploitation, and family-based neglect. To complement this is the **Act on the Prevention of Child Abuse**, which strengthens reporting obligations and state intervention mechanisms.

b. Japanese Penal Code

Protection from sexual exploitation and abuse is primarily ensured through provisions of the Japanese Penal Code, which criminalizes sexual offences against minors, including rape, indecent acts, and exploitation. In recent years, Japan has strengthened its legal response to child sexual abuse through amendments that raise awareness, expand definitions of sexual offences, and improve victim support. Japan is also a party to the **Lanzarote Convention-inspired reforms**, aimed at combating sexual exploitation and abuse of children, including online abuse, which disproportionately affects girls.

c. Civil Code of Japan

It governs matters such as guardianship, parental authority, custody, and marriage. For both boys and girls, the minimum legal age of marriage has been raised to **18 years**, eliminating earlier gender-based distinctions and aligning domestic law with international child-rights standards. This reform is significant for the protection of girls from early marriage and coercive family arrangements. The Civil Code also emphasizes parental responsibility toward the welfare and development of the child.

d. Basic Act for Gender Equal Society, 1999

This act further promotes gender equality relevant to girl child in Japan. It aims to eliminate gender stereotypes and ensure equal opportunities in education, employment, and social life. While not child-specific, this law plays a crucial role in shaping an environment where girls are encouraged to participate equally in education and society, free from structural discrimination.

e. Basic Act on Education

Education rights of the girl child are protected under the **Basic Act on Education**, which guarantees equal access to education without discrimination. Compulsory education in Japan is free and universally accessible, and girls enjoy near-equal enrollment and achievement levels compared to boys. The law emphasizes respect for individual dignity and the development of personality, which aligns closely with CRC principles.

Thus, Japan safeguards the girl child rights through a strong constitutional commitment to equality, robust child-welfare legislation, criminal laws addressing abuse and exploitation, gender-equality policies, and adherence to international human-rights conventions.

Table 4.3
Comparison on the Rights of the Girl Child in India and Japan

Aspect	India	Japan
Constitutional Protection	Articles 14, 15(3), 21 & 21A guarantee equality, special protection, dignity, and right to education	Article 14 (equality & non-discrimination), Article 24 (gender equality in family), Article 25 (right to a wholesome life)
Right to Equality & Non-Discrimination	Gender equality constitutionally guaranteed; affirmative action permitted	Constitution prohibits discrimination on the basis of sex; emphasis on formal equality.
Right to Education	Fundamental Right (6–14 years) under Article 21A; RTE Act, 2009	Free and compulsory education; near-universal female literacy.
Protection from Sexual Abuse	POCSO Act, 2012 provides stringent child-friendly criminal justice	Penal Code criminalizes sexual abuse of minors; enhanced child-protection reforms.
Protection from Child Marriage	Prohibition of Child Marriage Act, 2006 (minimum age for girls: 18 years)	Minimum marriage age: 18 years for both sexes (post-reform).
Juvenile Justice System	Juvenile Justice (Care and Protection of Children) Act, 2015	Juvenile justice framework emphasizes rehabilitation and welfare.
Gender-Specific Policies	Multiple girl-centric welfare schemes (education, nutrition, survival)	Gender-neutral child laws supported by gender-equality policies.
Corporal Punishment	Not fully prohibited in all settings	Corporal punishment discouraged; child-welfare approach prioritizes non-violence.

Source: Self-Made

4.4 China

i. Definition of Child

In China, a "child" legally refers to someone below **18 years** of age aligning with the UN definition.

ii. Age of Criminal Responsibility

China has tiered ages for criminal responsibility: **16 years** for full liability, but **14-16 years** for 8 serious crimes (murder, rape, robbery, etc.), and a new provision allows prosecution of **12–13-year-old** for intentional homicide or severe, cruel assault (with procurator approval). This system, updated by Amendment XI in 2020, reflects a move towards accountability for serious offenses while still emphasizing rehabilitation for younger offenders.

Table 4.4
Age of Criminal Responsibility in China

Age	Criminal Responsibility
16 years and above	Full criminal responsibility for all crimes.
14 to under 16 years	Liable for specific severe crimes: intentional homicide, intentional harm causing death or serious injury, rape, robbery, drug trafficking, arson, explosion, and poisoning.
12 to Under 14 years	Can be prosecuted for intentional homicide or intentional assault causing death/serious disability using especially cruel methods, requiring approval from the Supreme People's Procuratorate.

Source: Self-Made

iii. Minimum Age of Employment

The general minimum age for employment in China is **16 years** old, as stipulated by the Labor Law of the People's Republic of China, prohibiting hiring minors under this age, though exceptions exist for arts, sports, and special crafts, provided their compulsory education rights are protected. Minors under **16 years** cannot engage in private business, and strict laws protect them from hazardous work, with penalties for employers who violate these rules.⁸

⁸ Labor Law of the People's Republic of China

iv. Minimum Age of Marriage

The legal minimum age for marriage in China, is **22 years** for men and **20 years** for women, a rule established by the Marriage Law to encourage later marriages and support family planning, though some advisors have recently suggested lowering it to 18 years to boost the birthrate. Marriage must be consensual, and bigamy is prohibited.

v. Girl Child Specific Policies in China

In China, the rights of the girl child are governed by a comprehensive legal and policy framework that combines constitutional guarantees, child-specific legislation, women-centric laws, criminal provisions, and international human-rights commitments. Although most laws are framed in gender-neutral terms, they operate alongside statutes that specifically promote gender equality and the protection of women and girls, reflecting China's constitutional and policy emphasis on equality and child welfare.

vi. Constitutional Provisions for Girl Child in China

The People's Republic of China's 1982 Constitution, as amended, establishes the framework for safeguarding the rights of girls at the constitutional level. The following are important provisions:

a. Article 1: In accordance with the Constitution and the actual conditions of the country, this Law is formulated to protect women's lawful rights and interests, promote the equality between men and women and allow full play to women's role in socialist modernization.

b. Article 33: Guarantees equality before the law for all citizens.

c. Article 46: Ensures that every person has the obligation and right to obtain education and supports children's and children's holistic development.

d. Article 48: States that "women in the People's Republic of China enjoy equal rights with men in all spheres of life, in political, economic, cultural, social and family life". It mandates that the state protect women's rights and interests in addition to implementing the equal pay for equal labor principle.

e. Article 49: Stipulates that "marriage, the family, and mother and child are protected by the state" and explicitly "prohibits maltreatment of old people,

women and children". It also outlines the responsibility of parents to rear and educate their minor children.

vii. Legislative Measures for Girl Child

a. Law of the People's Republic of China on the Protection of Minors (amended in 2020, effective June 1, 2021): A thorough foundation for defending children's rights to life, growth, protection, and participation is provided by this statute. It addresses family responsibility, school protection, social protection, judicial safeguards, and government accountability. The law explicitly prohibits abuse, neglect, abandonment, and exploitation of minors and places special emphasis on protecting girls from harmful practices, trafficking, and sexual exploitation. Recent amendments have strengthened provisions on cyber safety, school bullying, and state intervention in cases of abuse.

The law mandates that schools establish systems to prevent and control bullying, sexual assault, and harassment. It prohibits employers in units with close contact with minors from hiring individuals with a history of sexual offenses, abuse, kidnapping, or violence. It includes a specific chapter on online protection, addressing cyber-bullying, internet addiction, and the online exploitation of minors.

b. Law of the People's Republic of China on the Protection of Rights and Interests of Women (revised in 2022, effective January 1, 2023): This law explicitly states that gender equality is a basic national policy and mandates that the state take necessary measures to eliminate all forms of discrimination against women. It prohibits discrimination against women and girls in education, employment, healthcare, and family life. This law explicitly guarantees girls' equal right to education and opposes practices that undermine their dignity or development. It has been instrumental in addressing traditional gender bias, particularly in areas such as access to schooling and inheritance.

The law prohibits fetal sex identification for non-medical reasons and sex-selective termination of pregnancy to combat the historical preference for sons.

c. Criminal Law of the People's Republic of China: This law primarily ensured protection from sexual abuse, trafficking, and exploitation. It criminalizes rape, sexual assault of minors, child prostitution, trafficking of women and children,

and other forms of exploitation. Special provisions impose stricter penalties where victims are minors, reflecting heightened concern for the vulnerability of girls. Complementary laws and judicial interpretations further strengthen victim protection and rehabilitation.

d. Civil Code of the People’s Republic of China: This law governs family-related protections for the girl child. It regulates guardianship, parental responsibility, adoption, and marriage. For women, the legal minimum marriage age is twenty years old, which, although higher than international minimum standards, is intended to prevent early marriage and protect young girls from premature family responsibilities. The responsibility of parents and guardians to protect children's physical and mental health is also emphasized by the Civil Code.

e. National "Care for Girls" Campaign: Initiated by the government to address the skewed sex ratio at birth (SRB), this campaign aims to change traditional attitudes favoring sons. It uses advocacy to promote gender equality and improve the living environment and survival rate of girls. It includes law enforcement against illegal sex-selective abortions and benefits-oriented social policies to support families with only daughters regarding education, employment, and pensions.

Thus, China protects the rights of the girl child through a multi-layered legal framework encompassing constitutional equality, child-protection statutes, women-centric laws, compulsory education mandates, criminal sanctions against abuse and exploitation, and international treaty obligations. The Chinese legal system reflects a state-centric, rights-protective approach, recognizing the girl child as a rights-holder entitled to equality, dignity, education, and protection.

Table 4.5
Comparison on the Rights of the Girl Child in India and China

Aspect	India	China
Constitutional Protection	Articles 14, 15(3), 21 & 21A guarantee equality, special protection, dignity, and right	Articles 33, 48 & 49 of PRC Constitution guarantee equality, protection of

	to education	women, and protection of children.
Right to Equality & Non-Discrimination	Gender equality constitutionally guaranteed; affirmative action permitted	Constitutional equality guaranteed; State duty to protect women and girls.
Right to Education	Fundamental Right (6–14 years) under Article 21A; RTE Act, 2009	Nine years of compulsory education under Compulsory Education Law.
Protection from Sexual Abuse	POCSO Act, 2012 provides stringent child-friendly criminal justice	Criminal Law penalizes sexual abuse and exploitation of minors.
Protection from Child Marriage	Prohibition of Child Marriage Act, 2006 (minimum age for girls: 18 years)	Civil Code sets minimum marriage age: 20 for women.
Juvenile Justice System	Juvenile Justice (Care and Protection of Children) Act, 2015	Law on Protection of Minors and juvenile justice mechanisms.
Gender-Specific Policies	Multiple girl-centric welfare schemes (education, nutrition, survival)	Law on Protection of Women's Rights and Interests.
Corporal Punishment	Not fully prohibited in all settings	Legally banned in schools and kindergartens but remains lawful and common in the home, with parents often using physical discipline, though recent laws offer more protection against abuse.

Source: Self-Made

4.5 Syria

Syria has a variety of laws, legislative decrees, ordinances, and rulings that are pertinent to children's rights. The President is in charge of establishing the State's broad policy and directing its execution.⁹

i. Definition of Child in Syria

The Child Rights Law¹⁰, Personal Status Law¹¹, Penal Code, Juvenile Delinquent Law¹², and Military Service Law all define a child as anyone under the age of eighteen. The terms “**child**”, “**minor**” and “**juvenile**” are all used throughout Syrian legislation to refer to persons below eighteen years of age, although different laws set different levels of legal capacity or criminal responsibility for children based on the age of the child.

The term ‘child’ is the most common, whilst the term ‘minor’ is often used in the Personal Status law. The term ‘juvenile’ is normally used in relation to matters of juvenile justice or criminal proceedings involving minors or labour law.

ii. Age of Criminal Responsibility

The age of criminal responsibility in Syria was raised from **seven to ten years** under Decree No. 52/2003.

iii. The laws most relevant for child rights in Syria are as follows:

a. Syrian Constitution of 2012: The current constitution of the Syrian Arab Republic was adopted on 26th February 2012, replacing the previous Constitution that had been in force since 13th March 1973. Article 20 of the Constitution notes that the family is the nucleus of society and that the State is obliged to protect childhood, take care of young children and youth and provide suitable conditions for the development of their talents.¹³

b. Child Rights Law (Law No. 21 of 2021): The relatively recent Child Rights Law codifies many of the basic rights and principles relevant to children, along with the principle of the best interests of the child.

This law is especially important for Syria's child rights. It introduces a wide range of legislative protections for children, many of which reflect relevant provisions

⁹ Article 98, Constitution of Syria.

¹⁰ Article 1, Child Rights Law, Syria.

¹¹ Article 162, Personal Status Law, Syria.

¹² Article 1, Juvenile Delinquent Law, Syria.

¹³ Articles 20(1) and (2), Constitution of Syria.

and State obligations in the CRC. Additionally, regardless of who makes the decisions, it clearly emphasizes acting in the child's best interests in all child-related decisions and processes.¹⁴

The law covers the right to an identity and citizenship, freedom of expression, family rights, health rights, educational and cultural rights, the right to social development, access to information, protections against child labour, the right to social care, the right to personal protection and security and the principle of restorative justice for the child.

Although the Child Rights Law sets out the general principles and protections available to children in Syria, other laws set out the specific rules, requirements and criteria for particular areas of law. The Personal Status Law sets out in detail the rules governing family relations including marriage, guardianship, custody, paternity and inheritance rights whilst the Child Rights refers to overarching family rights. The Juvenile Delinquents Law sets out details of the handling of children in the criminal justice system whilst the Child Rights Law sets out the basic principles of correctional justice for children.

c. Civil Status Law. (Law No. 13 of 2021)¹⁵: This law sets out the legal requirements for registration of life events, such as birth, marriage, divorce and death, as well as issuance of identity documents and family booklets which are important for confirmation of legal identity.

d. Personal Status Law for Muslims (Law No. 59 of 1975): The Personal Status Law is the main law regulating family relations in Syria, covering matters such as marriage, dissolution of marriage, guardianship, custody and inheritance.

e. Legislative Decree on Children of Unknown Parentage (Decree No. 2 of 2023): This decree establishes a specialist government agency with responsibility for the care of children of unknown parentage. It sets out the responsibilities of the agency as well as the obligations of substitute families who are entrusted with the care of children of unknown parentage.

f. Penal Code. (Penal Code No 148 of 1949): The Penal Code sets out the key crimes punishable by law in Syria including crimes against minors including sexual abuse, child abduction, recruitment and trafficking and child neglect. It

¹⁴ Articles 1-2, Child Rights Law.

¹⁵ The 2021 Civil Status Law replaced the previous Civil Status Law of 2007.

also sets out the obligation of care by parents for young or disabled children and penalises the abandonment of children.

g. Juvenile Delinquents Law (Law No. 18 of 1974): The Juvenile Delinquents Law sets out the special procedures and protections governing the investigation, prosecution and sentencing of juveniles or minors for criminal offences.

h. Decree on Prohibition and Combat of Trafficking in Persons (Legislative Decree No. 3 of 2010): This decree prohibits and penalizes trafficking in persons, including children. It provides a definition of trafficking and sets out the criminal liability of perpetrators.

i. Prevention of Smuggling of Persons Law (Law No. 14 of 2021): According to the legislation, the State must provide smuggled women, children, and people with disabilities extra protection and take appropriate action based on their circumstances, with the child's best interests being given priority.

j. Children in Armed Conflict Law (Law No. 11 of 2013): This law was enacted following Syria's ratification of the Optional Protocol to the CRC on the involvement of children in armed conflict. The Act adds Article 488 to the Penal Code, prohibiting the recruitment of children or their involvement in combat operations of any kind.

k. Education Law (Law No. 35 of 1981): The Law confirms that education is compulsory up to the age of 15 year and is to be free of charge at all stages.

l. Decision of the Ministry of Education No. (6/4 543/2157 (2013) on Registration and Acceptance in Schools in Basic Education¹⁶: This decision allows students to be registered in public schools without any ID or supporting documents.

m. Labour Law (No. 17 of 2010): The Labour Law specifies the minimum working age of 15 and contains protections and restrictions on the employment and conditions of work of juveniles. It covers employer obligations towards juveniles, safeguards on the employment of juveniles and health and safety requirements for juveniles.

¹⁶ As amended by the Basic Education Act No. 32 of 2002.

n. Minors' Labour Regulations No. 12/2010: The Ministry of Labour and Social Affairs has issued this regulation specifying different sectors in which juveniles can be employed.

o. The Persons with Special Needs Law (Law No. 34 of 2004): This law clarifies the role of different agencies in providing services to persons with disabilities and promoting cooperation between them. This law applies to children with special needs.

p. Decision of MoSAL No. 1736/(30 December 2004): The decision bans the employment of children below 15 years of age and limits the types of work that children aged between 15 and 18 years can perform.

q. Legislative Decree No. 379 of 2002: This decree prohibits child prostitution, child pornography and the sale of children.

r. Resolution No. 472 (22 June 2004): This regulates the operation of Internet cafes to ensure they secure all measures that prevent access to pornographic sites, especially for children below 18 years of age.

s. Anti-Drugs Law (Law No 2 of 1993): The law increases the penalties for the use of minors in drug related crimes or for drug-related crimes committed against minors.

t. Law on Combating Prostitution (Law No. 10 of 1961): The law contains special provisions to protect against prostitution by children under 16 years of age and increased penalties for those perpetrators who are responsible for the minor's upbringing.

iv. Age of Marriage, Including Child Marriage

The age of capacity for marriage has been raised to 18 years old for both boys and girls¹⁷. However, adolescent children of at least 15 years of age may be married if they meet certain conditions¹⁸. The judge granting permission has discretion to see if the required elements are met, namely that the parties: (i) must be sincere¹⁹; (ii) must be physically able to have sexual relations²⁰; (iii) must have the consent of their legal guardian²¹; and (iv) the bride must give her approval²². A judge may

¹⁷ Articles 15(1), 16, Personal Status Law; Article 19, Children's Rights Law

¹⁸ Article 18(1), Personal Status Law

¹⁹ Article 18(1), Personal Status Law

²⁰ Article 18(1), Personal Status Law

²¹ Article 18(2), Personal Status Law

also require couples to attend sessions on marital life. Moreover, a judge may withhold permission if there is a disparity in age or if the judge can see no benefit of the marriage²³.

Children under 18 and unmarried women over 18 require a marriage guardian who must consent to the marriage on their behalf. The legal guardian is typically the father or paternal grandfather but the mother may also now act as ‘marriage guardian’ without the consent of a judge where the (male) legal guardian is absent and unreachable. Conducting a marriage of a minor without the approval of his or her guardian is indictable by custody of one (1) to six (6) months and a fine between SP50,000 and SP100,000. A marriage of a minor that is conducted without the approval of the court is punishable by a fine of SP25,000 to SP50,000 even if done with the approval of a guardian.

v. Parental Responsibilities

Issues of parental responsibility, legal guardianship, duties of care and custody of children are closely linked in **Sharia law** and clearly defined in the **Personal Status Law**. The Child Rights Law confirms that parents have primary responsibility for raising and caring for their children.²⁴

Although both parents are accountable for the child's upbringing, the mother's official role is larger under the concept of ‘**hadana**’ in Sharia law which involves custody of the child and daily care and responsibility, including raising the child and attending to daily needs. Children no longer require a custodian after the age of 15 when they can decide which parent to live with if the parents are separated. Legal guardianship or ‘**wilaya**’ typically rests with the father. The guardian is in charge of making important life decisions and serves as the child's legal representative, as well as the child's legal status and financial affairs.

The father, or the paternal grandfather in the absence of the father, has legal guardianship over children of the marriage as well as over any possessions of the child²⁵. Legal guardianship formally ends once a child turns 18.²⁶ There are two

²² Article 21, Personal Status Law

²³ Article 19, Personal Status Law

²⁴ Article 18, Child Rights Law

²⁵ Article 172, Personal Status Law.

²⁶ Article 163(4), Personal Status Law

types of guardianship, namely legal guardianship (*wilaya*) and appointed guardianship (**wisaya**).

Legal guardianship involves control over a child's education, medical treatment, career guidance, consent to marriage and any other affairs concerning the minor's interests.²⁷ The law differentiates between guardianship over the minor/ person (**al-wilayat ala al-nafes**) and guardianship over the minor's property (**al-wilayat ala al-mal**). Under the Personal Status Law both types of guardianships are an agnatic right, and derive from the father's side of the family.

In situations where the parents are separated or divorced, spouses and grandparents have the right to visitation with their children or grandchildren. If the parent with custody, typically the mother, denies visitation rights the court can issue an immediate visitation order. Where the parent is absent or deceased, the grandparents have visitation rights in relation to the child.²⁸

vi. Gap between Laws and its Implementation

Despite the presence of constitutional guarantees and Syria's formal accession to international tools like the Convention on the Rights of the Child and CEDAW, a profound gap persists between legal provisions and their actual implementation, significantly affecting the social position of the girl child. This gap is largely attributable to the prolonged armed conflict, weakened state institutions, displacement, and the dominance of personal status laws and customary practices, which often override statutory protections. In practice, girls continue to face widespread violations of their fundamental rights, including disrupted education, early and forced marriage, sexual and gender-based violence, trafficking, and limited access to healthcare. The absence of effective enforcement mechanisms, coupled with social stigma, poverty, and insecurity, further marginalizes girls and restricts their ability to claim legal remedies. Consequently, the girl child in Syria remains vulnerable not because of the absence of laws, but due to the systemic failure to translate legal norms into social reality, underscoring the urgent need for institutional strengthening, conflict-sensitive legal reforms, and community-level interventions to bridge the gap between law and lived experience.

²⁷ Article 170, Personal Status Law, as amended by Law No. 4 of 2019 and Law No. 20 of 2019

²⁸ Article 148, Personal Status Law.

Table 4.6
Comparison on the Rights of the Girl Child in India and Syria

Aspect	India	Syria
Constitutional Protection	Articles 14, 15(3), 21 & 21A guarantee equality, special protection, dignity, and right to education	Syrian Constitution guarantees equality before law but subject to personal status laws and emergency conditions
Right to Equality & Non-Discrimination	Gender equality constitutionally guaranteed; affirmative action permitted	Constitutional equality exists, but gender-based distinctions persist in personal and family laws.
Right to Education	Fundamental Right (6–14 years) under Article 21A; RTE Act, 2009	Education legally guaranteed, but severely disrupted by armed conflict and displacement. Girls face high dropout rates, early marriage, and security barriers
Protection from Sexual Abuse	POCSO Act, 2012 provides stringent child-friendly criminal justice	Penal Code criminalizes rape and abuse, but weak enforcement and stigma prevail.
Protection from Child Marriage	Prohibition of Child Marriage Act, 2006 (minimum age for girls: 18 years)	Personal status laws allow child marriage with judicial approval, affecting girls disproportionately.
Juvenile Justice System	Juvenile Justice (Care and Protection of Children) Act, 2015	Juvenile protection laws exist but implementation is inconsistent during conflict.
Gender-Specific Policies	Multiple girl-centric welfare schemes (education, nutrition, survival)	Limited gender-specific programs; heavy reliance on international humanitarian

		aid.
Corporal Punishment	Not fully prohibited in all settings	Corporal punishment not expressly prohibited; social acceptance persists.

Source: Self-Made

4.6 South Africa

i. Definition of Child

In South Africa, a "**child**" is legally defined as any person under the age of **18 years**, a standard set by the Constitution and the Children's Act to ensure universal protection, though certain acts like consenting to sex or making a will can be performed by those 16 and older.

ii. Age of Criminal Responsibility

In South Africa, the minimum age of criminal responsibility is **12 years old**, meaning children under 12 cannot be prosecuted and are referred to social services, while those 12-14 are presumed to lack capacity (unless the state proves otherwise) and 14+ are presumed to have capacity, under the Child Justice Act (CJA) amended in 2022.²⁹ The minimum age was raised from 10 to 12 in 2022 to align with international standards.

Table 4.7

Criminal Age Responsibility of Child in South Africa

Age	Criminal Responsibility
14 years and above	Deemed to have criminal capacity and can be arrested and prosecuted, though special provisions for rehabilitation apply.
12 to 14 years	Can be arrested, but the state must prove they understood the wrongfulness of their actions (rebuttable presumption).
Under 12 years	Cannot be arrested or charged; referred to the Department of Social Development or Children's Court.

Source: Self-Made

²⁹ Child Justice Act (CJA), South Africa

iii. Minimum Age of Employment

The minimum age for service in South Africa, is generally **15 years**, or the minimum school-leaving age (whichever is higher), with strict rules against hazardous work for those under 18, ensuring children's health, education, and development are protected. Children aged 15 to 18 can work but not in jobs inappropriate for their age or that risk their well-being, with specific regulations on hours for school-going minors.

iv. Minimum Age of Marriage

In South Africa, the standard minimum marriage age is 18 for both genders, requiring parental consent for those under 18; however, complexities exist, as some customary and religious laws allow marriage at younger ages (girls as young as 15 with consent).

v. Constitutional Provisions for Girl Child in South Africa

a. Section 28: South Africa's Constitution contains a dedicated children's rights provision that guarantees several fundamental rights to every child (defined as a person under the age of 18). The legal standing of girls in South Africa is based on these rights. According to the Constitution, the child's best interests must always come first in all decisions involving them.³⁰ The key rights under section 28 are:

- The right to parental or family care, or the right to suitable substitute care in the event that one is taken away from the family environment.
- The entitlement to social services, basic healthcare, basic nourishment, and housing.
- The right to be shielded from abuse, neglect, mistreatment, and humiliation.
- Protection against improper employment and exploitative labor practices.
- The right, if necessary, to state-funded legal counsel in civil cases involving the child.

b. Section 29(1)(a): It guarantees the right to basic education for everyone, including children, which is fundamental to the socio-legal empowerment of the girl child.³¹

³⁰ The South Africa Constitution, 1996

³¹ South Africa's Human Right Commission

v. Legislative Measures for Girl Child in South Africa

a. Children's Act 38 of 2005

It is a major South African law enacted to protect, promote, and fulfil the rights of children as set out in the Constitution of South Africa (Section 28) and in various international instruments concerning child rights. The Act attempts to establish a clear and consistent legal framework for the protection and wellbeing of children by combining and reforming legislation pertaining to children.³² **Protective, preventative, and supportive elements** are under the scope of the act which ensures that children's legal status, care, safety, and well-being are safeguarded within both family and community environments.

The Children's Act's fundamental principal is that the child's best interests come first in all matters pertaining to the child. This standard must guide all decisions, actions, services, and legal proceedings related to children. The Act recognises that children have a right to participate in matters affecting them, appropriate to their age and maturity. The Act defines the parental responsibilities and rights of biological and adoptive parents, guardians, and caregivers. These include care, protection, education, and development decisions affecting the child.

b. Marriage Act, 1961

It is a South African law that was passed in order to reform and combine the laws pertaining to marriage solemnization and related topics. It provides the civil framework under which most marriages (especially monogamous, civil and many religious marriages) are lawfully conducted and registered in South Africa.³³

The Act's primary aim is to ensure that marriages are **validly and legally solemnized** — meaning legally recognized — by establishing who may perform them, what ceremonies and formalities are required, documentation, and what constitutes a lawful marriage.

c. Child Justice Act

The Child Justice Act (Act No. 75 of 2008) came into operation on 1st April 2010. It creates a criminal justice system specifically for children in conflict with the law — that is, children accused of committing offences — in line with the Constitution (1996) and South Africa's international obligations regarding

³² Children's Act 38 of 2005, South African Government

³³ Marriage Act 25 of 1961, South African Government

children's rights.³⁴ The Act establish a child-centered criminal justice system that treats children differently from adults, recognizing their development needs and rights. It protects the constitutional rights of children (including dignity, fair trial, and the best interest principle) and provide for the minimum age of criminal capacity and a mechanism to deal with children who lack criminal capacity outside the criminal justice system. A rehabilitative, restorative, and rights-based approach is reflected from the objective of the act, rather than adult-style punitive justice.³⁵

The framework is designed to keep children out of conventional criminal procedures when possible, favoring healing, reintegration, and social support rather than incarceration. Before significant proceedings, the Act provides for assessing the child (by probation officers or qualified professionals) to understand the child's circumstances, developmental needs, and appropriate interventions. These assessments feed into diversion decisions, preliminary inquiries, and sentencing.

d. Basic Conditions of Employment Act, 1997

This Act is a foundational labour legislation of South Africa enacted to give effect to the right to fair labour practices guaranteed under Section 23 of the Constitution of South Africa, 1996. The Act establishes minimum employment standards applicable to all workers, with particular significance for women, young workers, and vulnerable categories, including the **girl child** engaged in lawful employment.

This act plays a crucial role in preventing economic exploitation of women and adolescent girls, ensuring safe, regulated, and dignified employment, supporting work–life balance through maternity and parental benefits and aligning labour law with gender equality and child protection norms.

e. Domestic Violence Act, 1998

The Domestic Violence Act, 1998 (Act No. 116 of 1998) is a landmark piece of social welfare legislation enacted to provide effective legal protection to victims of domestic violence, particularly women and children, in line with the constitutional mandate of human dignity, equality, and freedom from violence

³⁴ Child Justice Act 75 of 2008, South African Government

³⁵ Child Justice Act 75 of 2008, South African Government

under the Constitution of South Africa, 1996. The Act recognises domestic violence as a serious violation of fundamental human rights rather than a private family matter. To acknowledge the gendered nature of domestic violence is one of the core objectives of the act, which disproportionately affect women and girl children. The Act has special relevance for the **girl child** by recognising children as direct or indirect victims of domestic violence and protecting girls from sexual abuse, forced control, and psychological harm.

Table 4.8

Comparison on the Rights of the Girl Child in India and South Africa

Aspect	India	South Africa
Constitutional Protection	Articles 14, 15(3), 21 & 21A guarantee equality, special protection, dignity, and right to education	Section 9 (Equality), Section 28 (Children's Rights), Section 10 (Dignity) of the Constitution of South Africa, 1996.
Right to Equality & Non-Discrimination	Gender equality constitutionally guaranteed; affirmative action permitted	Explicit prohibition of discrimination on grounds of sex, gender, pregnancy, and age.
Right to Education	Fundamental Right (6–14 years) under Article 21A; RTE Act, 2009	Fundamental right to basic education (immediately realizable).
Protection from Sexual Abuse	POCSO Act, 2012 provides stringent child-friendly criminal justice	Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007.
Protection from Child Marriage	Prohibition of Child Marriage Act, 2006 (minimum age for girls: 18 years)	Marriage Act & Children's Act: minimum age 18; child marriage discouraged and regulated.
Juvenile Justice System	Juvenile Justice (Care and Protection of Children) Act,	Child Justice Act, 2008 emphasizing restorative

	2015	justice.
Gender-Specific Policies	Multiple girl-centric welfare schemes (education, nutrition, survival)	Gender equality laws; focus on protection from GBV and sexual offences.
Corporal Punishment	Not fully prohibited in all settings	Completely prohibited, including in the home.

Source: Self-Made

CHAPTER 5

**SUGGESTIONS AND
RECOMMENDATIONS TO
IMPROVE SOCIO-LEGAL
STATUS OF GIRL CHILD IN
INDIA**

CHAPTER 5

SUGGESTIONS AND RECOMMENDATIONS TO IMPROVE SOCIO-LEGAL STATUS OF GIRL CHILD IN INDIA

The detailed examination undertaken in the preceding chapters of this thesis demonstrates that the condition of the girl child in India is shaped by a complex interaction of historical discrimination, socio-economic deprivation, patriarchal cultural norms, and uneven legal enforcement. While India has developed an extensive constitutional mandate and a wide range of protective legislations aimed at safeguarding the rights and self-respect of the girl child, the persistence of crimes such as sexual abuse, child marriage, trafficking, dowry-related violence, and gender-based neglect reveals a significant gap between law and its enforcement. The judicial responses, though progressively child-centric in several landmark decisions, often suffer from delays, procedural rigidity, threat from the accused to the victim and his/her family and inadequate victim rehabilitation. Furthermore, the comparative analysis with selected foreign jurisdictions indicates that for the girl child to be well-protected, not only strong laws but also coordinated institutions, preventive education, social awareness, and accountability mechanisms are required. In this context, the present chapter seeks to propose comprehensive, multi-dimensional, and implementable suggestions and recommendations to improve India's socio-legal framework for the empowerment and protection of girl child.

5.1 Recommendations and Suggestions for Legislative Reforms

i. Even though India passed a series of laws that specifically target girls, such as the Protection of Children from Sexual Offences (POCSO) Act of 2012, the Prohibition of Child Marriage Act of 2006, the Dowry Prohibition Act of 1961, the Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT) Act of 1994, and others, but their weak enforcement has always remained a matter of concern. There is a pressing need for periodic legislative review to confirm that such laws remain responsive to emerging forms of exploitation, including cyber-related sexual offences and online trafficking. Parliamentary standing committees and law commissions should be mandated to conduct regular impact assessments of

existing child protection laws. Under the PCPNDT Act, 1994 hundreds of cases are registered annually; for instance, 425 cases were registered in the three years leading up to early 2023, and 615 in a similar period, according to Health Ministry reports. But a significant concern is the low conviction rate, with only 617 convictions over 25 years by December 2020, as noted in a parliamentary report. Some states/UTs have zero cases or convictions, indicating uneven enforcement. Although each crime as per this act has to be considered as cognizable, non-bailable and non-compoundable, but still the sex determination of foetus is a regular practice in India demonstrating the strong societal preference for male child. The penalties mentioned in the act looks quite lenient. The provision of imprisonment prescribed by the act are up to the tune of 3-5 years while the monetary penalty extends up to ₹1 lakh only. Such lenient penalties seem insufficient to create a sense of fear among law breakers. Hence, the present research **highly recommends to increase both imprisonment and monetary penalties under PCPNDT Act, 1994. It is also recommended to speed up the hearing of cases under PCPNDT Act so as to punish the law breakers on time.**

ii. Cases of rape or sexual exploitation puts a girl child in a severe trauma. Although clause (2) of section 36 of POSCO Act states that “A child's statement may be recorded by the Special Court via video conference, single visibility mirrors, curtains, or any other tool”, such practices are very limited in practical scenario. Reasons may be budgetary constraints or technological obsolescence. **Hence the present research suggested to strengthen the procedure of hearing of a case under POSCO Act, 2012 via video conferencing.** This will help a girl child to better provide her testimony and identify the victim without any fear.

iii. It has been seen that if the accused is of strong political or criminal background, this imposes a threat on the victim, witness or on their family. Case of Asaram and his son under POSCO is a strong example of this. **Asaram**, a multimillionaire with an estimated 20 million followers, was found guilty of raping a 16-year-old girl at his Jodhpur ashram and was given a life sentence. However, throughout the trial, which started in 2013, at least five witnesses were attacked, one went missing, three were slain, and even senior police officials who

were in charge of the investigation said they were intimidated. In two further instances involving the alleged rape of two sisters, Asaram and his son are still awaiting trial.¹ Women and girls who report these crimes are particularly more vulnerable if they come from underprivileged or socially marginalized groups. Police all too frequently put pressure on complainants to "settle" or "compromise" in situations when the offenders are powerful. Many victims do not disclose rape to authorities at all because of this harassment, lack of protection, victim blaming, and societal shame. Another important witness in every case against father and son is Mahendra Chawla, who was Asaram's son Narayan Sai's personal helper in the past. He was shot by two individuals on a motorcycle in his Haryana village in May 2015, which left him largely crippled. A day after his assigned police constable was dismissed for neglecting his duties, Chawla was attacked, leaving him defenseless and open to assault.

In the rape case from **Unnao (Uttar Pradesh)** the Bharatiya Janata Party member of legislative assembly **Kuldeep Sengar** was arrested in April 2018, nearly a year after he was accused of raping a 17-year-old girl. An apparent distinction in the cases is the profiles of the perpetrator Kuldeep Sengar who is not only a socially empowered person but also belongs to upper-caste communities. During the trial of the case, the complainant was on her way to Rae Bareilly from Unnao with her lawyer and two aunts, when a truck hit their car, killing her relatives, and leaving the survivor and her lawyer fighting for their lives with the support of a ventilator. Similarly, two police officials in Kathua, Jammu and Kashmir, have been accused of attempting to conceal evidence related to the January 2017 kidnapping, gang rape, and killing a Muslim girl 8-year-old.

India's conviction rate for rape cases is 26%, whereas the percentage for all offenses included by the Indian Penal Code (IPC) is 47%. Threats from the accused side induce witnesses to alter their evidence in court far too frequently, which is one of the causes. Provisions to safeguard witnesses and victims in court are included in both the Protection of Children Against Sexual Offences Act (POCSO) and the Indian Penal Code (IPC). For example, in-camera trials are held without the public or media present. POCSO also establishes special courts for

¹ www.hrw.org

children, which should guarantee that the child's name is kept secret during the inquiry or prosecution. Although, India does not have a nationwide witness or victim protection law, making witnesses and victims vulnerable outside the courtroom.

Such incidents elucidate the need of victim and witness protection in India so that justice can be delivered. In the words of **Jeremy Bentham** “Witnesses are the eyes and ears of justice”.² In cases involving heinous crime, witnesses turn hostile because of threat to life and property. Malimath Committee on Reforms of Criminal Justice System, 2003 said in its report that "By giving evidence relating to the commission of an offence, the witness performs a scared duty of assisting the court to discover the truth." The 14th Report of the Law Commission of India, published in 1958, contained the first mention of witness protection in India. The Law Commission of India's 154th and 178th reports provide more references on the topic. 198th Report of the Law Commission of India titled as "Witness Identity Protection and Witness Protection Programmes, 2006" is dedicated to this subject.

In 2015, Delhi became the only state to adopt a **Witness Protection Scheme**. The Delhi State Legal Services Authority (DSLISA) passes protection orders in each case after evaluating the threat. The police commissioner, who heads the Delhi police force, is responsible for the overall implementation of the witness protection orders. Protection measures can include armed protection, regular patrolling around witnesses' house, installing closed-circuit television cameras, and relocation. The **Witness Protection Scheme (WPS), 2018** was approved by the Supreme Court of India and notified by the Ministry of Home Affairs (MHA) to strengthen the criminal justice system by protecting witnesses and their families from threats, intimidation, or reprisals that may discourage them from testifying. Its core aim is to ensure that investigation, prosecution, and trial are not prejudiced due to fear of retaliation against witnesses. Despite being a significant step, The Supreme Court has expressed concern that the scheme is not being effectively implemented across states, resulting in witnesses remaining vulnerable. The scheme remains largely a **policy document**, not a **law enacted by**

² Witness Protection Scheme, 2018

Parliament, and thus lacks statutory backing, uniform enforcement and clear legal obligations on authorities.

Thus, the present research strongly **recommends to Indian government and the judicial system to pass a full-fledged law in the parliament for Witness and Victim Protection** which will replace the existing policy scheme so that the hearing of the case in the courtroom may proceed smoothly. Such law must aim at evaluating the threat and should determine the protection needs in each case carefully, allow for flexibility, and include regular follow-up. The law should provide clear legal duties, enforceable rights, penalties for breaches and uniform standards nationwide.

iii. Dowry has remained a deep-rooted social evil in Indian society. To control this government enacted Dowry Prohibition Act, 1961. But despite of the legislative measures, the country has seen an upsurge in the number of cases recorded under the act. Social norms of the society act as a hurdle to stop the culture of giving dowry during marriages. It has become an integral part of marriage. Dowry is not demanded during the marriages only, but it has emerged in form of post marriage demand also. The present research suggested to expand the meaning of ‘Dowry’ under Section 2 of the Act and clarified to expressly include **indirect demands, post-marriage coercion, customary gifts converted into obligations, and digital or financial transactions disguised as voluntary contributions**. Also, the punishment under the act seems to be insufficient to stop the trend. The research recommended to revise both the imprisonment and monetary penalty under the act. The hearing of such cases must be conducted under a dedicated fast track court. Also, the number of female police officers must be increased for better handling of the cases.

iv. Provisions relating to victim compensation, rehabilitation, medical care, psychological counseling, and social reintegration of girl child victims should be expressly incorporated as mandatory obligations of the State. The absence of structured post-trial rehabilitation frequently results in secondary victimization. Government compensation for rape victims in India varies significantly by state and case specifics, but generally involves funds from the Central Victim Compensation Fund (CVCF) and state schemes, with minimums often around ₹3

lakhs for rape under central guidelines, distributed in stages (FIR, charge sheet, conviction) by authorities like DLSA/SLSA, covering medical, rehabilitation, and other expenses, though delays and awareness remain issues. With increased expenses on medical care, transportation etc. the research suggested to increase the compensation amount for the Rape victims. Also, the speedy disbursal of such funds to the victims or their family is highly recommended.

v. Corruption in the police department in India is not hidden from anyone. In a large number of cases where the accused is from a political background or is financially sound, the involvement of police department with the accused is not a surprising fact. Under such conditions the justice is surely not guaranteed. Hence, the research strongly recommended a strong punishment system for any person from police department if found involvement with the accused.

vi. Certain grave offences involving irreversible harm to the dignity and bodily integrity of the girl child should be made strictly non-compoundable to prevent coerced compromises and informal settlements that undermine justice.

vii. With the changing nature of crime like digital arrest, it is suggested that the definitions of “sexual assault,” “aggravated sexual assault,” and “sexual harassment” should be periodically reviewed to address emerging forms of abuse, including online grooming, cyber exploitation, and technology-facilitated sexual violence.

viii. Girl child when becomes a victim of rape or sexual exploitation, passes through the stage of severe trauma. It is recommended that to deal with such cases police officers investigating POCSO cases must receive specialized training in child psychology, trauma-informed interviewing, and gender sensitivity.

ix. Any person below 18 years of age is handled under the Juvenile Justice Act, 2015. Only in case of **heinous crime** those aged 16-18 years can be tried as adults by a Children’s Court. It is seen that Numerous minors under the age of eighteen have been implicated in heinous crimes. An example of this is the **Nirbhaya** Rape and Murder Case of 2012. Change in cultural norms and more use of technology has increased the rate of crime among the youth. Although no age is stipulated the Committee on the Rights of the Child recommends that the minimum age of criminal responsibility be no lower than twelve, but this is the absolute minimum

and should be revised upwards where possible.³ As highlighted in Chapter-4 countries like China and South Africa has tiered age for criminal responsibility. Hence, **the research suggested to review the minimum age of criminal responsibility under Juvenile Justice Act, 2015.** India can also adopt a tiered age for criminal responsibility which may help in controlling crimes especially against girl child.

5.2 Recommendation and Suggestions for Strengthening Implementation and Enforcement Mechanisms

- i. One of the major findings of this study is that ineffective implementation remains the weakest link in the protection of girl child rights. Dedicated district-level monitoring and supervisory authorities should be established to ensure uniform enforcement of child protection laws.
- ii. It is suggested that the law enforcement agencies like Indian Police Services, Central Bureau of Investigation etc. must be made accountable to submit annual performance and compliance reports detailing registration of cases, investigation timelines, conviction rates, and victim support measures in crimes involving the girl child.
- iii. States Uttar Pradesh, Bihar, and Karnataka often lead in registered dowry *cases* (deaths/crimes), indicating high prevalence of the crime. To stop this trend, it is suggested to constitute specialized **dowry prohibition units** within the police department in these states, with trained officers to handle dowry-related complaints sensitively and efficiently.
- iv. Statutory accountability mechanisms must be introduced to fix personal responsibility on public officials for negligence, delay, or deliberate non-enforcement of girl-child-related laws. Disciplinary action should be an integral component of enforcement reform.
- iv. Adequate protection to informants and whistle-blowers under PCPNDT Act must be provided to ensure their safety. Also, it should be ensured that the law must not be misused by anyone.

³ Paragraphs 30-35 of Convention on the Rights of the Child (CRC) General Comment 10.

v. Grassroots-level functionaries such as Anganwadi workers, ASHA workers, and panchayat representatives should be integrated into the enforcement framework through training and reporting responsibilities.

vi. It is suggested that exclusive POCSO courts should be established in all districts, with adequate infrastructure and trained judicial officers for timely and fast completion of such cases.

vii. Testimony of girl child in POSCO Act should be accorded utmost priority and in the absence of other witnesses it may be considered as the sole base against the accused. Statements of child victims should be recorded, as far as possible, by trained female officers or child protection officers in child-friendly environments.

5.3 Recommendation and Suggestions for Judicial System

Judicial system plays an important role in providing justice to the victim. Especially when the victim is an innocent girl child, the role of judicial system becomes more important. A sensitive, efficient, and child-centric justice delivery system not only ensures safety and redressal but also contributes to the social empowerment and dignity of the girl child. The research proposes following suggestions and recommendations for the judicial system:

i. The Indian judicial system faces significant challenges including a massive backlog of cases, a shortage of judges and infrastructure, and issues with transparency and accountability. These problems lead to inordinate delays. It is said that "**justice delayed is justice denied**". As of January 2023, there were over **2.43 lakh (2,43,237)** cases pending trial under the Protection of Children from Sexual Offences (POCSO) Act in India. Reports indicated that if no new cases were added, it would take at least nine years to clear this backlog. To maintaining the trust of public in the justice delivery system and protecting the rights of girls depend on prompt justice. The report, titled '**Pendency to Protection: Achieving the Tipping Point to Justice for Child Victims of Sexual Abuse**', by the Centre for Legal Action and Behaviour Change (C-LAB) for Children, an initiative of India Child Protection, courts across the country disposed of 87,754 POCSO cases in 2025 against 80,320 new registrations. This pushed the national disposal rate to 109%. Such continuous efforts are needed each year to complete the pendency.

The research recommended that establishment of fast-track courts exclusively dealing with crimes against girl children should be expanded and adequately resourced. Also, the judicial officers posted in such courts should receive specialized training in child psychology, gender sensitivity, and trauma-informed adjudication.

ii. Child-friendly judicial procedures must be uniformly implemented across all courts, including in-camera proceedings, flexible evidentiary rules, video-recorded testimonies, and the availability of qualified counsellors or support staff. In case of crimes like rape or sexual exploitation the girl child passes through severe trauma. Hence, it is suggested that support persons, counsellors, or child psychologists should be permitted to assist the child during judicial proceedings.

iii. Continuous capacity-building programs should be introduced for judges, prosecutors, police officers, and forensic experts to ensure sensitivity, professionalism, and awareness of child psychology.

iv. Sentencing guidelines for offences against the girl child should be evolved to ensure consistency, proportionality, and a balance between deterrence and rehabilitation. Aggravating factors such as age of the victim, breach of trust, repeated abuse, or social vulnerability should be given due weight during sentencing. Judicial discretion should be exercised in a manner that reinforces societal condemnation of crimes against the girl child.

v. Judicial monitoring of investigation and trial processes in serious offences against the girl child should be encouraged to minimize delays and procedural lapses. Mechanisms should be introduced to review judicial delays, investigative lapses, and prosecutorial inefficiencies in cases involving girl children.

5.4 Institutional and Administrative Recommendations and Suggestions

i. Increased autonomy, sufficient financing, and competent personnel are necessary to fortify child protection organizations like the State Commissions, Child Welfare Committees, and the National Commission for Protection of Child Rights (NCPCR).

- ii. Institutional coordination among police, judiciary, education departments, health services, and civil society organizations should be formalized through inter-departmental protocols and standard operating procedures.
- iii. Mandatory reporting obligations within schools, hospitals, childcare institutions, and hostels should be strictly enforced, and failure to report should attract penal consequences.
- iv. Regular gender-sensitization, child-rights education, and legal training programs should be conducted for frontline administrators and service providers to ensure empathetic and rights-based responses.

5.5 Socio-Economic and Educational Measures

In order to end the cycle of discrimination against girls, education plays a key role. Policies should focus not only on enrolment but also on retention, transition to secondary education, and prevention of school dropouts. Although, India has seen a decrease in the dropout rates of girl students in school, but this alone is insufficient to confirm a bright future. The research proposes following educational suggestions and recommendations:

- i. Legal literacy and rights education programs should be incorporated into school curricula to empower children with knowledge of their rights and available remedies.
- ii. Schools should function as community hubs for spreading awareness on gender equality, child rights, and safety. Regular workshops on the rights of girl child must be organized in schools with the involvement of experts.
- iii. Scholarship schemes, conditional cash transfers, and incentive-based welfare programs must be transparently implemented and periodically evaluated to ensure that benefits reach intended beneficiaries.
- iv. Skill development, vocational training, and entrepreneurship programs for adolescent girls should be aligned with local employment opportunities to promote economic independence. This will help in uplifting the economic and social status of girl child.

5.6 Community, Family, and Cultural Interventions

Legal reforms must be complemented by social transformation. Community and family of girl child must also play a role for the safety of girl child and to uplift

their social status. The research proposed following suggestions and recommendations in this context:

- i. Although the pronounced preference for male children has declined over the period of time, but still the discrimination with girl child persist in Indian society. Newspapers and media channels frequently report the cases of throwing newly born girl child by parents or murder of girl child foetus. **In Hindon City a newly born girl child was found near the commode of a public toilet.** The research suggested that sustained community-level awareness campaigns should be organized to challenge deep-rooted patriarchal attitudes, son preference, and biased practices against the girl child. Such awareness campaigns must aim at stopping issues like gender bias, child marriage, and crime against the girl child.
- ii. In rural areas discrimination with girl child is more profound. Panchayats and NGOs must play a role to create awareness in favour of girl child in rural areas. Panchayats and local bodies should be held accountable for preventing child marriage, abuse, and trafficking.
- iii. Even in urban areas discrimination with girl child prevails in India society. Male child is offered with more educational opportunities, freedom to choose life partner, career opportunities etc. while girl child are deprived of such favours. Families must change their view and should offer equal opportunities to girl child also.
- iv. Family of a girl child must provide more moral support and must not compare girl child with that of male child. Family must provide support in all the areas of education, sports, cultural activities. Success story of women like P.V. Sindhu, Indian Women Cricket team, Falguni Nayar, Kiran Mazumdar-Shaw, Sushma Swaraj must be discussed at home to encourage girl child.
- v. Child marriage is a fundamental human rights violation. Deep-seated beliefs that girls are inferior to boys or the expectation that a girl's future lies solely with marriage and motherhood perpetuate the practice. Despite of various government efforts child marriage still persist in Indian culture. As per the news published in Rajasthan Patrika, between January and September, 2025 there were 866 cases of child marriage in Rajasthan alone. While in the year 2024 these cases stood at 1042. The trend is more profound in rural areas. Girls if married at a young age

gets deprived of education. Most child brides are forced to drop out of school, limiting their future economic opportunities and perpetuating a cycle of poverty across generations. Child brides often become pregnant before their bodies are physically mature, leading to high rates of maternal and infant mortality and other health complications. They are also more likely to contract sexually transmitted infections and experience domestic violence. **Hence, the research recommend that the family of girl child should discourage child marriage.** Girls must be provided equal education and career opportunities as that of boys. This will have benefits at both micro and macro level.

vi. Active engagement with parents, guardians, community leaders, religious institutions, and local influencers is essential to challenge deep-rooted patriarchal attitudes.

vii. Family counseling services and parental education initiatives should be promoted to address discrimination and neglect within households.

5.7 Recommendation and Suggestions on Role of Technology and Media

India has second largest market of mobile users in the world and one of the most affordable internet charges in the world. With this the role of technology must be increased in preventing crime against girl child. Technology should be effectively utilized for prevention, reporting, and monitoring of crimes against the girl child through digital complaint platforms, mobile applications, and integrated databases. The public's perspective, societal norms, and institutional accountability are all significantly shaped by the media. When exercised responsibly, media power can act as a catalyst for preventing crimes against the girl child and enhancing her social status. A committed, ethical, and child-centric media approach is indispensable for translating legal safeguards into social transformation and for ensuring a dignified and empowered future for the girl child in India.

The present research proposes following recommendations and suggestions regarding the role of technology and media:

i. Despite the passage of the Prohibition of Child Marriage Act of 2006, girl child marriage is still common in Indian society, particularly in rural regions. Many

time it is seen that the victim particularly if a girl child is unable contact police department due to family threat or social restrictions. Hence, it is suggested that online portals and mobile applications should be developed to enable anonymous reporting of dowry demands, particularly useful for young girls facing familial pressure.

ii. Crime in public or private transportation system has become a common practice. '**The Nirbhaya**' 2012 Delhi gang rape and murder of victim is an example of this. Mobile applications must be developed using which a girl child may contact immediately with nearest police department as well as with the family so that the crime could be stopped before it happens. Thus, the research recommends development of such girl child friendly mobile applications.

iii. Under the PCPNDT Act there should be mandatory online registration and real-time digital tracking of all ultrasound machines and diagnostic equipment. Centralized digital databases should be created to record pregnancy-related diagnostic procedures, enabling detection of abnormal sex ratio patterns at district and block levels. It is recommended that geo-tagging of diagnostic facilities and electronic record-keeping should be made compulsory to reduce data manipulation.

iv. Media organizations should play a constructive role in spreading awareness while strictly adhering to ethical reporting standards that protect the privacy, dignity, and identity of girl child victims. It is suggested that advertisements must be shown on TV channels focusing on the importance of girl child. This will spread awareness and will help in removing deep-rooted gender-based disparities in the society.

iv. Social media platforms can be leveraged for large-scale sensitization campaigns aimed at dismantling gender stereotypes and promoting positive narratives about the girl child. It is recommended that media content should consciously challenge deep-rooted gender stereotypes by portraying girls as capable, independent, and equal contributors to society.

v. Public awareness about the rights of girl child still remains low in India. With the increasing use of social media platforms, their public reach has increased steeply. Thus, it is suggested that media should actively disseminate information

regarding legal rights of the girl child, including protections under laws such as the POCSO Act, PCPNDT Act, Prohibition of Child Marriage Act, and Dowry Prohibition Act.

vi. Documentary movies highlighting the success stories of girl child victims excelling in education, sports, science, law, governance, and entrepreneurship, particularly from marginalized backgrounds must be shown on social media to encourage their social acceptance.

vii. Social media platforms should actively control the circulation of misogynistic content, child sexual abuse material, and harmful stereotypes through strict moderation and reporting mechanisms.

viii. Educational programming addressing gender equality, reproductive rights, child protection laws, and life skills should be integrated into mainstream media content. Media partnerships with schools, NGOs, and government agencies can enhance outreach and impact.

5.8 Suggestions and Recommendations on the Role of Government

i. Government must continuously work towards upliftment of economically backward families of the society through its schemes. Special focus must be given on female members of the family who plays a crucial role in improving the status of the girl child.

ii. More efforts must be made in rural areas for the economic and social uplift of females. Self Help Groups must be encouraged through more funding as they largely hold female members.

iii. Enlarging the brackets of social security schemes addressing poverty and vulnerability can reduce practices such as child labour and early marriage.

iv. Targeted health and nutrition interventions for girl children, particularly in rural, tribal, and marginalized communities, should receive sustained policy attention and financial support from government.

5.9 Learning from International Best Practices

Comparative insights from countries such as Finland, Switzerland, Japan, and South Africa demonstrate the effectiveness of integrated child protection systems, preventive education models, and comprehensive victim support services. Corporal punishments are ban in these countries which create a constructive

environment at home leading to the holistic development of girl child. Indian culture lag behind in terms of educational opportunities for girl child. While countries like Finland, Switzerland, Japan, and China demonstrate diverse legal and cultural strategies for protecting the girl child, a common thread lies in preventive governance, institutional accountability, and cultural responsibility. India's challenge is not the absence of law but the absence of effective integration between law, society, and institutions. By selectively adapting global best practices within its socio-cultural framework, India can significantly strengthen the safety, dignity, and social status of the girl child. Following are the comparative suggestions and recommendations for India:

- i. Countries like Finland and Switzerland treat the girl child as an autonomous rights-holder, not merely a beneficiary of welfare schemes. Child protection systems are preventive, decentralized, and strongly linked with social services. India should shift from a scheme-centric welfare approach to a rights-based child protection framework, where violation of girl child rights automatically triggers institutional responsibility.
- ii. Japan focuses heavily on preventive education and moral responsibility through schools and community institutions. Gender equality, child rights, and legal literacy should be formally integrated into school curricula, similar to Japan's moral education model. Prevention should be legally recognized as a state obligation, not merely a policy goal.
- iii. Japan and Finland promote gender-neutral upbringing, shared domestic responsibilities, and respect-based family structures. Cultural norms discourage overt gender discrimination. India should actively challenge patriarchal family norms through sustained cultural reorientation. Parenting programs promoting gender-neutral values should be institutionalized at community level. Cultural practices harmful to the girl child must be addressed through law-supported social reform, not moral persuasion alone.
- iv. In Switzerland institutions like school are legally accountable for failure to protect children. India must institutionalize inter-agency coordination through statutory protocols. Schools, hospitals, and child-care institutions should be legally liable for failure to report abuse or neglect.

v. Finland ensures equal access to quality education irrespective of gender or socio-economic status. Japan uses education to inculcate respect, discipline, and equality from an early age. India should focus on quality and retention, not just enrolment of girl children.

5.10 Concluding Observations

The realization of the rights of the girl child in India requires a sustained and coordinated socio-legal approach that transcends mere legislative enactments. Effective protection can be achieved only through continuous legal reform, robust implementation, judicial sensitivity, institutional accountability, and meaningful social change. The girl child must be recognized as an autonomous rights-holder entitled to dignity, equality, education, health, and security. The recommendations proposed in this chapter underscore the collective responsibility of the State, judiciary, institutions, communities, and families in ensuring that the promise of constitutional and legal protection is translated into lived reality for every girl child in India.

CHAPTER 6

CONCLUSION

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The historical and contemporary perspectives on girls in India are covered in Chapter 1. A contradictory cohabitation of respect and prejudice is revealed by the examination of the historical and current situation of the girl child in India above. While Indian society has traditionally acknowledged the symbolic, cultural, and economic significance of women and girls—often venerating them in religious and philosophical narratives—the lived realities of the girl child have largely been marked by neglect, exclusion, and systemic inequality. The importance of the girl child in the social and economic fabric of society, as a caregiver, contributor to household economy, and future participant in national development, remains insufficiently recognized in practice.

Historically, gender discrimination in India has been deeply embedded within patriarchal social structures, customary practices, and cultural norms that privileged male offspring over female children. Practices such as son preference, differential access to nutrition and education, early marriage, and social conditioning have collectively reinforced the subordinate status of the girl child. Although ancient texts and historical periods reflect instances of women's agency and respect, these ideals were often limited in scope and eroded over time due to rigid social stratification, economic dependencies, and institutionalized patriarchy.

In the contemporary context, despite significant constitutional guarantees and legislative interventions aimed at promoting equality and protecting the rights of the girl child, disparities persist across multiple dimensions. The girl child continues to face challenges relating to survival, development, protection, and participation. Issues such as declining child sex ratio, gender-based violence, educational dropouts, child marriage, trafficking, and economic marginalization underscore the continuing vulnerability of girls in Indian society. These challenges are further exacerbated by poverty, illiteracy, caste hierarchies, and regional inequalities, highlighting the intersectional nature of discrimination faced by the girl child.

The analysis further demonstrates that legal and policy measures, though progressive in intent, often remain disconnected from social realities due to weak implementation, lack of awareness, and entrenched cultural resistance. The persistence of

discriminatory attitudes within families and communities indicates that legal reform alone cannot dismantle deeply ingrained gender biases. Instead, the protection and empowerment of the girl child require a comprehensive approach that integrates legal safeguards with social transformation, economic empowerment, and cultural reorientation.

Thus Chapter-1 establishes the foundational premise of the present study—that the rights of the girl child in India cannot be examined in isolation from historical legacies and contemporary socio-economic conditions. Understanding the historical roots of gender discrimination and the present-day challenges faced by the girl child is essential for critically assessing the effectiveness of existing legal frameworks and judicial responses. The insights drawn from this chapter provide a contextual backdrop for the subsequent chapters, which explore legislative developments, judicial interventions, comparative perspectives, and reform-oriented recommendations. Ultimately, the chapter underscores the urgent need to move beyond symbolic recognition of the girl child towards substantive equality, dignity, and empowerment within Indian society.

The analysis undertaken in Chapter-2 highlights the evolving socio-legal framework governing the rights and status of the girl child in India, reflecting a gradual transition from protective paternalism to a rights-based approach. A strong normative basis for guaranteeing equality, dignity, and social justice for the female child is provided by the constitutional vision contained in the Preamble and strengthened by Fundamental Rights, Directive Principles of State Policy, and Fundamental Duties. Provisions guaranteeing non-discrimination, equal protection of laws, the right to life with pride, and special measures for women and children signify the State's commitment to substantive equality.

Building upon this constitutional mandate, India has enacted a wide range of child-centric and gender-specific legislations aimed at addressing various dimensions of vulnerability faced by the girl child. Laws relating to sexual offences, child marriage, dowry, domestic violence, trafficking, juvenile justice, and sex-selective practices represent a comprehensive legal response to entrenched forms of discrimination and abuse. The incorporation of relevant provisions under the Bharatiya Nyaya Sanhita further demonstrates an effort to modernize criminal law in alignment with contemporary social realities and international child rights standards.

However, Chapter-2 also critically reveals that the existence of an extensive legislative framework has not translated into proportional improvement in the lived socio-economic conditions of the girl child. Persistent issues such as gender-based violence, early marriage, educational deprivation, declining child sex ratio, and economic marginalization underscore the continuing vulnerability of girls across social strata. The gap between law and implementation remains a central challenge, arising from inadequate enforcement mechanisms, procedural delays, institutional apathy, lack of awareness, and deeply ingrained patriarchal norms. These deficiencies often result in underreporting of offences, low conviction rates, and secondary victimization of girl child survivors.

The socio-legal challenges confronting the girl child are further compounded by intersecting factors such as poverty, caste, regional disparities, and limited access to justice. The analysis suggests that legal reforms, while necessary, are insufficient in isolation. Without effective implementation, institutional accountability, and social acceptance, statutory protections risk remaining symbolic rather than transformative. The effectiveness of progressive policies is still being undermined by the continuance of cultural practices and societal attitudes that devalue the girl child.

Thus Chapter-2 underscores the critical need for a holistic and integrated approach that bridges the divide between legal intent and social reality. Strengthening institutional mechanisms, enhancing judicial sensitivity, promoting legal literacy, and fostering socio-cultural change are essential for ensuring that constitutional and legislative safeguards achieve their intended impact. The findings of this chapter lay the groundwork for subsequent analysis of judicial responses, comparative legal perspectives, and reform-oriented recommendations, reinforcing the central thesis that the realization of the girl child's rights in India depends not merely on legislative development, but on the effective convergence of law, society, and governance.

The case studies examined in Chapter-3 provide a compelling insight into the multifaceted nature of crimes committed against the girl child in India and the corresponding judicial responses to such violations. Through an analysis of judicial decisions relating to female foeticide and infanticide, child marriage, child sexual abuse and rape, trafficking, child labour, and other contemporary issues affecting the girl child, this chapter exposes the stark realities of gender-based violence and structural discrimination that persist despite an elaborate constitutional and legislative framework.

The judicial discourse emerging from cases on female foeticide and infanticide reflects a recognition by courts of the grave societal consequences of sex-selective practices, including demographic imbalance and the erosion of constitutional values of equality and dignity. Courts have repeatedly emphasized that such acts constitute not only criminal offences but also violations of the fundamental right to life of the unborn and newborn girl child. However, the limited number of successful prosecutions and challenges in evidence collection highlight serious enforcement gaps, thereby diluting the deterrent impact of judicial pronouncements. Despite of the enforcement of PCPNDT Act, 1994 gender ratio remains low in India reflecting male child preference of the society and poor implementation of the law.

In matters concerned with child marriage, the courts have played a decisive role in reaffirming the supremacy of statutory law over customary and religious practices that perpetuate the subjugation of girls. Judicial interventions have underscored the adverse physical, psychological, and social consequences of early marriage on the girl child, especially with respect to health, education, and autonomy. Nevertheless, the persistence of child marriage in several regions points to the limitations of judicial remedies in the absence of effective administrative action and community-level reform. Child weddings continue to occur in Indian culture despite the Prohibition of Child Marriage Act of 2006, which reflects both the community's desire to put an end to such practices and the shortcomings of the legal and administrative systems.

Cases involving child sexual abuse and rape reveal a more proactive and victim-centric judicial approach, especially following the enactment of specialized legislations. Courts have increasingly acknowledged the trauma faced by minor victims and have adopted child-friendly procedures, strict evidentiary standards, and purposive interpretation of protective laws. Despite these progressive developments, issues such as delayed trials, hostile witnesses, and secondary victimization continue to undermine access to justice for girl child survivors.

As per NCRB report India accounts for 90499 missing girls below 18 years of age at the end of 2021. Judicial responses to trafficking and child labour cases reflect an evolving understanding of the girl child as a victim of systemic exploitation rather than a mere offender or passive subject of rescue operations. Courts have invoked constitutional guarantees and international obligations to direct State authorities towards rehabilitation, education, and social reintegration. However, inadequate

coordination among enforcement agencies and insufficient rehabilitation mechanisms remain major obstacles in translating judicial directives into sustainable outcomes.

The examination of cases concerning constitutional and legal rights of the girl child and other contemporary issues demonstrates the judiciary's role as a constitutional guardian in expanding the interpretative scope of rights related to dignity, equality, education, and protection from exploitation. Judicial activism has often compensated for legislative and executive shortcomings, yet such interventions remain case-specific and reactive rather than preventive.

Overall, Chapter-3 establishes that while the Indian judiciary has shown commendable sensitivity and progressive intent in addressing crimes against the girl child, judicial intervention alone cannot eradicate deeply entrenched socio-cultural practices and systemic failures. The case studies underscore a persistent disconnect between legal norms and social realities, reinforcing the need for a comprehensive socio-legal approach that integrates judicial vigilance with effective implementation, institutional accountability, and societal transformation. The insights drawn from this chapter provide a critical foundation for the comparative analysis and reform-oriented recommendations discussed in subsequent chapters, emphasizing that the protection of the girl child's rights must move beyond courtroom remedies to encompass broader structural change.

The comparative analysis undertaken in Chapter-4 provides a broader global context for evaluating the legal and social positioning of the girl child in India. By examining the constitutional, statutory, and policy frameworks of countries such as Japan, China, Finland, Switzerland, Syria, and South Africa, this chapter highlights both the strengths and limitations of the Indian legal regime in protecting and promoting the rights of the girl child. The comparison demonstrates that while legal recognition of child and gender rights is a common feature across jurisdictions, the effectiveness of these frameworks varies significantly depending upon socio-cultural norms, governance structures, and implementation mechanisms.

The study reveals that developed welfare-oriented nations such as Finland and Switzerland have adopted a holistic child rights approach grounded in social security, universal education, healthcare access, and strong institutional accountability. In these jurisdictions, the rights of the girl child are integrated within broader human rights and welfare policies, resulting in minimal gender disparity and effective prevention of child abuse and exploitation. The emphasis on early intervention, state responsibility,

and community participation ensures that legal protections translate into tangible social outcomes.

In contrast, countries like Japan and China present mixed models wherein strong legislative frameworks and administrative mechanisms coexist with deeply rooted cultural norms influencing gender roles. While these nations have achieved notable success in areas such as education, health, and child welfare, challenges persist in addressing gender stereotyping and societal expectations that indirectly affect the autonomy and social status of girls. Nevertheless, the effectiveness of enforcement and the emphasis on collective responsibility in these systems offer valuable lessons for strengthening institutional compliance in India.

The comparison with Syria highlights the impact of political instability, conflict, and humanitarian crises on the realization of girl child rights. Despite the presence of formal legal provisions, prolonged conflict has severely undermined institutional capacity, exposing girls to heightened risks of violence, early marriage, displacement, and deprivation of education. This contrast underscores the critical role of political stability and governance in safeguarding child rights, reinforcing the idea that legal frameworks cannot operate effectively in isolation from broader socio-political conditions.

South Africa's constitutional and rights-based model, characterized by strong judicial oversight and alignment with international human rights norms, offers a relevant parallel for India as a developing democracy. The South African experience demonstrates how constitutional courts and rights-driven jurisprudence can actively address gender inequality and child protection, provided that implementation is supported by administrative commitment and public awareness.

Overall, the comparative assessment in Chapter-4 affirms that India possesses an extensive and progressive legal framework for the protection of the girl child, often comparable in scope to international standards. However, the primary challenge lies not in the absence of laws but in their effective enforcement, social acceptance, and institutional coordination. The experiences of other countries illustrate that sustainable enhancement in the position of the girl child requires a convergence of legal reform, social welfare policies, cultural transformation, and robust implementation mechanisms.

Thus, Chapter-4 reinforces the central argument of the thesis—that the realization of the girl child's rights in India necessitates moving beyond legislative adequacy

towards practical effectiveness. The comparative insights gained from international models provide a valuable foundation for formulating context-specific recommendations aimed at bridging the gap between law and lived reality. These findings pave the way for the subsequent chapter on suggestions and recommendations, which seeks to adapt global best practices to India's socio-legal environment while respecting its cultural diversity and constitutional values.

The suggestions and recommendations articulated in Chapter-5 are grounded in the empirical findings, judicial analyses, and comparative perspectives examined in the preceding chapters. They are formulated with the objective of bridging the persistent gap between constitutional ideals, legislative intent, and the lived realities of the girl child in India. This chapter moves beyond a purely normative discussion of rights and adopts a pragmatic socio-legal approach, recognizing that the protection and empowerment of the girl child require coordinated action across legal, institutional, social, and cultural domains.

Child weddings continue to occur in Indian culture despite the Prohibition of Child Marriage Act of 2006, which reflects both the community's desire to put an end to such practices and the shortcomings of the legal and administrative systems. While India possesses an extensive array of constitutional safeguards and child-centric statutes, their effectiveness is often undermined by weak administrative machinery, lack of accountability, procedural delays, and limited awareness at the grassroots level. The recommendations therefore emphasize institutional reforms, capacity building of enforcement agencies, and improved coordination among police, judiciary, child welfare bodies, and social service institutions.

The chapter also underscores the crucial part of the judiciary in safeguarding child-friendly justice delivery and reinforcing the rights-based approach towards the girl child. Judicial and procedural reforms aimed at expeditious trials, victim-sensitive processes, and effective rehabilitation are identified as vital for restoring trust in the justice system and reducing secondary victimization. At the same time, the chapter acknowledges that judicial intervention alone cannot address the structural and cultural factors that perpetuate crimes against the girl child.

Recognizing the socio-cultural roots of gender discrimination, the recommendations place significant emphasis on community, family, and media interventions. Transforming patriarchal mindsets, challenging harmful customs, and promoting positive narratives around the value of the girl child are identified as indispensable

components of long-term reform. Media is envisaged not merely as a watchdog but as an agent of social change capable of shaping public opinion, enhancing legal awareness, and promoting gender-sensitive discourse.

Drawing upon comparative insights from countries such as Finland, Switzerland, Japan, China, and South Africa, the chapter highlights the importance of integrating legal protections with welfare-oriented policies, social security measures, and education-driven empowerment strategies. These international experiences demonstrate that sustainable development in the position of the girl child is achieved when legal enforcement is complemented by robust social support systems and cultural acceptance.

In sum, Chapter-6 reaffirms that the realization of the rights of the girl child in India demands a holistic and integrated approach that transcends statutory reform. Legal provisions must be supported by effective implementation, institutional accountability, social transformation, and sustained political will. The recommendations presented herein are intended to serve not only as academic propositions but also as actionable policy inputs capable of contributing to meaningful socio-legal reform. This concluding note thus reinforces the core argument of the thesis—that ensuring dignity, equality, and security for the girl child is a collective societal responsibility and a prerequisite for inclusive and sustainable national development.

SUMMARY

Summary

According to its etymology, the word "child" is taken from the Latin infants, which means "the one who does not speak." According to the Romans, this term refers to the infant from the time of birth until they are seven years old. The idea that a human being is a person from birth till adulthood underwent significant change over centuries and civilizations. However, this idea of the child was broad, and the majority's age differed depending on the culture.

Anyone under the age of eighteen years is considered a child under the bulk of Indian legislation. However, the exact term may vary based on the legal context. Any anyone under the age of eighteen years is considered a "child" under the Juvenile Justice (Care and Protection of Children) Act, 2015. Section 2 of Bharatiya Nyaya Sanhita (BNS), defines a 'child' as any person less than the age of eighteen years. Although a human is legally a "child" until the age of 18, their criminal culpability is further defined by their ability to understand their actions.

A person under the age of 14 is considered as a child under the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 (Amended in 2016), which forbids them from engaging in any kind of employment. People between the ages of 14 and 18 are referred to as adolescents and are permitted to work in non-hazardous jobs.

The Prohibition of Child Marriage Act, 2006, prohibits child marriages, with the current minimum age for marriage being 18 years for women and 21 years for men.

Any individual between the ages of six and fourteen is considered a child under the Right of Children to Free and Compulsory Education (RTE) Act, 2009. A child is defined by the Prohibition of Child Marriage Act of 2006 as a male below the age of 21 and a girl below the age of 18.

Importance of Girl Child in Social and Economic Context

The girl child is not just the future mother or homemaker but a critical agent of social change and economic progress. In India, ensuring her survival, protection, education, and empowerment is vital for achieving inclusive growth, gender

equality, and sustainable development. A nation that invests in its girls invests in its future.

Ensuring the rights and capabilities of every girl child in India is not only a moral and constitutional imperative; it is also a proven strategy for accelerating social progress and economic growth. Evidence from national surveys and international research consistently shows that investments in girls' survival, education, health, protection, and agency yield large intergenerational returns—fewer child marriages and early births, lower infant and maternal mortality, higher productivity and incomes, and a stronger macroeconomy.

A girl child is both a development benefit and a force for change. She breaks down outdated customs and discriminatory practices as a leader, entrepreneur, and champion, opening the door for social justice and gender equality. Her voice elevates the demand for equal rights, emphasizing the value of girls and encouraging others to work toward a society in which all children, regardless of gender, can reach their full potential without worrying about prejudice or restrictions.

Problems Faced by Girl Child in India

The status and experiences of the girl child in India represent a critical concern across social, economic, health, and psychological domains. Despite concerted efforts by governmental and non-governmental stakeholders, girls continue to face structural and cultural disadvantages. There are various problems faced by girl child in India, few of which are as follows:

- Gender Discrimination
- Child Trafficking
- Female Foeticide and Infanticide
- Early and Forced Child Marriage
- Child Labour and Exploitation
- Sexual Violence, Abuse, and Safety Concerns
- Socio-Cultural Restrictions

Constitutional Vision for the Girl Child

- **Article 14** – Equality before law
- **Article 15(3)** – Special provisions for women and children

- **Article 21** – Right to life and dignity
- **Article 21A** – Right to education
- **Articles 23 & 24** – Prohibition of trafficking and child labour

Girl Child Socio Status and Legislative Development in India

The story of the girl child in India is both inspiring and troubling. Inspiring, because across centuries Indian culture has celebrated feminine divinity—worshipping goddesses as embodiments of wisdom, prosperity, and strength. Troubling, because the lived reality of millions of girls has often been marked by neglect, discrimination, and denial of basic rights. This paradox lies at the heart of India’s socio-legal discourse on the girl child. The chapter begins by situating the girl child within India’s social fabric, examining her socio-status, and then tracing the legislative developments that have attempted to safeguard and uplift her position. The socio-status of the girl child cannot be understood in isolation from the historical, cultural, and economic contexts that shape her life. Similarly, legislative measures cannot be evaluated without considering the social realities they seek to transform. This section therefore sets the stage for a nuanced exploration of the intersection between law and society, highlighting both progress and persistent challenges.

The Socio-Legal Perspective: Why It Matters

A socio-legal perspective is crucial for studying the rights enacted for girl child because law and society are interdependent. Laws may declare equality, but social practices often perpetuate inequality. For example, the *Prohibition of Child Marriage Act, 2006* criminalises child marriage, yet the practice continues in many regions due to poverty, tradition, and lack of enforcement. In the same way, the *Right to Education Act (RTE), 2009* guarantees free and compulsory education, but dropout rates among girls remain high because of household responsibilities, early marriage, and inadequate school infrastructure.

By adopting a socio-legal lens, this chapter does not treat legislation as an isolated phenomenon. Instead, it examines how laws interact with social realities, how they are resisted or embraced, and how they shape the everyday lives of girls. This perspective allows for a critical evaluation of both the achievements and limitations of India’s legislative framework.

Contemporary Challenges in Girl Child Status

The socio-status of the girl child in contemporary India is shaped by multiple factors:

- **Demographic Realities:** The skewed sex ratio, particularly in states like Haryana and Punjab, reflects persistent son preference and misuse of technology for sex-selective abortions.
- **Education:** While enrolment rates have improved, retention remains a challenge. Girls often drop out due to poverty, household responsibilities, or lack of sanitation facilities in schools.
- **Health and Nutrition:** Girls are more likely to suffer from malnutrition and receive less medical attention compared to boys.
- **Violence and Exploitation:** Child marriage, sexual abuse, trafficking, and domestic labour continue to undermine the dignity and safety of girls.

These challenges highlight the difference among legislative intent and social reality. They also underscore the necessity for an overall approach that combines legal safeguards with social transformation.

Legislative Developments: A Brief Overview

India has enacted a wide range of laws aimed at protecting and empowering the girl child. These include:

- **Constitutional Safeguards:** Articles 14, 15(3), and 21A provide the foundation for equality and education.
- **Child-Centric Laws:** Child welfare is directly addressed by The *Juvenile Justice Act*, the *Right to Education Act*, and the *Prohibition of Child Marriage Act*.
- **Gender-Specific Laws:** The *PCPNDT Act* seeks to prevent sex-selective abortions, while the *POCSO Act* provides comprehensive protection against sexual offences.
- **Labour and Trafficking Laws:** The *Child Labour Act* and the *Immoral Traffic (Prevention) Act* aim to protect children from economic and sexual exploitation.

These legislative measures represent a significant commitment to girl child rights. However, their success depends on effective implementation, public awareness, and cultural change.

The Gap Between Law and Practice

One of the central themes covered the chapter is the gap between law and practice. Laws may be progressive on paper, but their enforcement is often weak. Corruption, lack of resources, and social acceptance of discriminatory practices undermine their effectiveness. For example, despite strict penalties under the *PCPNDT Act*, sex-selective abortions continue because of collusion between families and medical practitioners. Similarly, many sexual abuse incidents remain unreported because of shame and fear of retaliation, even in the face of the *POCSO Act*.

This gap highlights the importance of viewing legislation not as an end in itself but as part of a broader socio-legal process. Effective change requires not only laws but also social movements, awareness campaigns, and institutional reforms.

Constitutional Safeguards

The Indian Constitution is the bedrock of child rights. It enshrines equality, dignity, and protection, laying the foundation for legislative and policy interventions. Following articles of Indian constitution safeguards the right of girl child:

- i. Child Marriage Restraint Act, 1929 → Prohibition of Child Marriage Act, 2006
- ii. Juvenile Justice (Care and Protection of Children) Act, 2015
- iii. Right of Children to Free and Compulsory Education Act, 2009
- iv. Dowry Prohibition Act, 1961
- v. Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT) Act, 1994
- vi. Protection of Children from Sexual Offences (POCSO) Act, 2012

The Indian judiciary has played a crucial and proactive role in responding to crimes against the girl child by interpreting laws in a progressive and victim-centric manner. Courts in India have consistently emphasized the protection of the dignity, safety, and fundamental rights of the girl child while dealing with cases involving sexual offences, child marriage, trafficking, and other forms of exploitation. Through various landmark judgments, the judiciary has strengthened

the enforcement of child protection laws and ensured strict punishment for offenders. The courts have also expanded the interpretation of constitutional rights, particularly the right to life, dignity, and equality, to safeguard the interests of girl children. In many cases, the judiciary has issued guidelines to ensure speedy trials, victim protection, and child-friendly procedures during investigation and trial, especially under special legislations such as the Protection of Children from Sexual Offences (POCSO) Act. Furthermore, the judiciary has directed governments and law enforcement agencies to improve institutional mechanisms, provide compensation and rehabilitation to victims, and ensure effective implementation of child protection laws. Through judicial activism, public interest litigations, and strict interpretation of laws, the judiciary has significantly contributed to strengthening the legal framework and promoting justice for girl children who are victims of crime in India.

The comparative analysis of girl child protection laws between India and selected countries reveals both similarities and differences in the approaches adopted to safeguard the rights and welfare of girls. In India, a comprehensive legal framework exists through constitutional provisions and specific legislations aimed at preventing child marriage, trafficking, sexual exploitation, and discrimination against the girl child. However, challenges often arise in the effective implementation and enforcement of these laws due to socio-cultural factors, lack of awareness, and institutional limitations. In contrast, countries such as Finland and Switzerland have well-developed child welfare systems with strong social security mechanisms, universal education, and effective child protection services that ensure a higher level of protection and gender equality. South Africa emphasizes strong legal enforcement and institutional accountability in dealing with crimes against children, while countries like Japan and China focus significantly on education, social discipline, and state-supported welfare systems to ensure child protection. At the same time, conflict-affected regions such as Syria highlight the difficulties in protecting child rights during periods of political instability and humanitarian crises. The comparative study therefore indicates that while India has established significant legal safeguards for the girl child, there is a need to strengthen implementation mechanisms, improve social awareness, and

adopt certain best practices from other countries in order to ensure more effective protection and empowerment of the girl child.

Having critically examined the historical evolution, socio-cultural positioning, legislative framework, judicial responses, and comparative international perspectives relating to the rights of the girl child, this present research offered a set of structured suggestions and policy-oriented recommendations aimed at strengthening the socio-legal status of the girl child in India. While India has enacted progressive legislations such as the Protection of Children from Sexual Offences Act, the Prohibition of Child Marriage Act, and the Pre-Conception and Pre-Natal Diagnostic Techniques Act, the preceding chapters have revealed significant gaps between law in theory and law in practice. The persistence of gender discrimination, child marriage, trafficking, sexual abuse, educational disparities, and socio-economic vulnerabilities indicates that legislative enactment alone is insufficient without effective enforcement, institutional accountability, community participation, and attitudinal change. Some of the suggestions and recommendations are as follows:

- The present research highly recommends to increase both imprisonment and monetary penalties under PCPNDT Act, 1994. It is also recommended to speed up the hearing of cases under PCPNDT Act so as to punish the law breakers on time.
- Thus, the present research strongly **recommends to Indian government and the judicial system to pass a full-fledged law in the parliament for Witness and Victim Protection** which will replace the existing policy scheme so that the hearing of the case in the courtroom may proceed smoothly. Such law must aim at evaluating the threat and should determine the protection needs in each case carefully, allow for flexibility, and include regular follow-up. The law should provide clear legal duties, enforceable rights, penalties for breaches and uniform standards nationwide.
- The research recommended to revise both the imprisonment and monetary penalty under the act. The hearing of such cases must be conducted under a dedicated fast track court. Also, the number of female police officers must be increased for better handling of the cases.

- The research strongly recommended a strong punishment system for any person from police department if found involvement with the accused.
- The research suggested to review the minimum age of criminal responsibility under Juvenile Justice Act, 2015. India can also adopt a tiered age for criminal responsibility which may help in controlling crimes especially against girl child.
- One of the major findings of this study is that ineffective implementation remains the weakest link in the protection of girl child rights. Dedicated district-level monitoring and supervisory authorities should be established to ensure uniform enforcement of child protection laws.
- It is suggested that the law enforcement agencies like Indian Police Services, Central Bureau of Investigation etc. must be made accountable to submit annual performance and compliance reports detailing registration of cases, investigation timelines, conviction rates, and victim support measures in crimes involving the girl child.
- The research recommended that establishment of fast-track courts exclusively dealing with crimes against girl children should be expanded and adequately resourced. Also, the judicial officers posted in such courts should receive specialized training in child psychology, gender sensitivity, and trauma-informed adjudication.
- Child-friendly judicial procedures must be uniformly implemented across all courts, including in-camera proceedings, flexible evidentiary rules, video-recorded testimonies, and the availability of qualified counsellors or support staff. In case of crimes like rape or sexual exploitation the girl child passes through severe trauma. Hence, it is suggested that support persons, counsellors, or child psychologists should be permitted to assist the child during judicial proceedings.
- Judicial monitoring of investigation and trial processes in serious offences against the girl child should be encouraged to minimize delays and procedural lapses. Mechanisms should be introduced to review judicial delays, investigative lapses, and prosecutorial inefficiencies in cases involving girl children.

- Mandatory reporting obligations within schools, hospitals, childcare institutions, and hostels should be strictly enforced, and failure to report should attract penal consequences.
- Regular gender-sensitization, child-rights education, and legal training programs should be conducted for frontline administrators and service providers to ensure empathetic and rights-based responses.
- Legal literacy and rights education programs should be incorporated into school curricula to empower children with knowledge of their rights and available remedies.
- Skill development, vocational training, and entrepreneurship programs for adolescent girls should be aligned with local employment opportunities to promote economic independence. This will help in uplifting the economic and social status of girl child.
- The research suggested that sustained community-level awareness campaigns should be organized to challenge deep-rooted patriarchal attitudes, son preference, and biased practices against the girl child. Such awareness campaigns must aim at stopping issues like gender bias, child marriage, and crime against the girl child.
- In rural areas discrimination with girl child is more profound. Panchayats and NGOs must play a role to create awareness in favour of girl child in rural areas. Panchayats and local bodies should be held accountable for preventing child marriage, abuse, and trafficking.
- Family of a girl child must provide more moral support and must not compare girl child with that of male child. Family must provide support in all the areas of education, sports, cultural activities. Success story of women like P.V. Sindhu, Indian Women Cricket team, Falguni Nayar, Kiran Mazumdar-Shaw, Sushma Swaraj must be discussed at home to encourage girl child.
- **Hence, the research recommend that the family of girl child should discourage child marriage.** Girls must be provided equal education and career opportunities as that of boys. This will have benefits at both micro and macro level.

- It is suggested that online portals and mobile applications should be developed to enable anonymous reporting of dowry demands, particularly useful for young girls facing familial pressure.
- Under the PCPNDT Act there should be mandatory online registration and real-time digital tracking of all ultrasound machines and diagnostic equipment. Centralized digital databases should be created to record pregnancy-related diagnostic procedures, enabling detection of abnormal sex ratio patterns at district and block levels. It is recommended that geo-tagging of diagnostic facilities and electronic record-keeping should be made compulsory to reduce data manipulation.
- Social media platforms can be leveraged for large-scale sensitization campaigns aimed at dismantling gender stereotypes and promoting positive narratives about the girl child. It is recommended that media content should consciously challenge deep-rooted gender stereotypes by portraying girls as capable, independent, and equal contributors to society.
- Government must continuously work towards upliftment of economically backward families of the society through its schemes. Special focus must be given on female members of the family who plays a crucial role in improving the status of the girl child.
- Targeted health and nutrition interventions for girl children, particularly in rural, tribal, and marginalized communities, should receive sustained policy attention and financial support from government.
- Japan focuses heavily on preventive education and moral responsibility through schools and community institutions. Gender equality, child rights, and legal literacy should be formally integrated into school curricula, similar to Japan's moral education model. Prevention should be legally recognized as a state obligation, not merely a policy goal.
- Japan and Finland promote gender-neutral upbringing, shared domestic responsibilities, and respect-based family structures. India should actively challenge patriarchal family norms through sustained cultural reorientation. Parenting programs promoting gender-neutral values should be institutionalized at community level. Cultural practices harmful to the girl

child must be addressed through law-supported social reform, not moral persuasion alone.

- Finland ensures equal access to quality education irrespective of gender or socio-economic status. Japan uses education to inculcate respect, discipline, and equality from an early age. India should focus on quality and retention, not just enrolment of girl children.

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Gender-Based Discrimination and Violation of Human Rights: A Study on the Status of the Girl Child in India

RESEARCH GUIDE

DR. MAHENDRA SINGH MEENA

ASSISTANT PROFESSOR

GOVERNMENT LAW COLLEGE, KOTA (RAJASTHAN)

RESEARCH SCHOLAR

SUSHMA AGARWAL

UNIVERSITY OF KOTA (RAJASTHAN)

ABSTRACT

India. Despite the presence of constitutional safeguards, protective laws, and numerous welfare schemes, many girls continue to face unequal access to education, poor health facilities, early and forced marriage, gender-based violence, and limited opportunities for growth. Deep-rooted patriarchal values, rigid social traditions, poverty, and cultural stereotypes significantly influence the way families and communities treat girl children. Issues such as sex-selective abortion, malnutrition, trafficking, restricted mobility, and discrimination in household resource allocation further weaken their development and well-being. Using a human rights perspective, this study examines how these factors violate the rights guaranteed to girls under international conventions such as the Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the Universal Declaration of Human Rights (UDHR). Although India has strong legal frameworks in place, the findings show that real and sustainable change requires effective implementation, gender-sensitive education, stronger community engagement, and greater awareness at the grassroots level. The study concludes that a holistic, rights-based approach—supported by strict law enforcement and social transformation—is essential to ensure dignity, protection, and equal opportunities for every girl child in India.

KEYWORDS: Gender-based discrimination, Girl child rights, Human rights violations, Sex-selective abortion, Child marriage, Educational inequality, Gender justice.

INTRODUCTION

Gender-based discrimination in India operates as a deep-rooted social and structural problem that affects girl children from birth to adolescence and beyond. Despite decades of policy interventions, the girl child continues to be disadvantaged in matters of survival, education, health, safety, and social empowerment. The discrimination is rooted in historically established patriarchal norms which assign higher value to boys than girls, often resulting in unequal resource allocation, restricted freedom, and lesser opportunities for personal development. Gender norms, cultural expectations, son preference, dowry practices, and concerns about “family honour” collectively shape social attitudes that marginalize girls. These norms often result in practices such as sex-selective abortion, child marriage, restricted mobility, lower investment in education, nutritional neglect, and exposure to violence.¹

India is a signatory to major international human rights conventions such as the Universal Declaration of Human Rights (1948), the Convention on the Rights of the Child (1989), and CEDAW (1979). These frameworks mandate equality, dignity, and protection for all children irrespective of gender. However, the persistent discrimination faced by girls reveals the gap between legal commitments and ground realities. Within India, constitutional provisions such as Articles 14, 15, 21, and 39(f) guarantee equality, non-discrimination, and protection of childhood, yet the actual status of girl children remains precarious, especially among marginalized communities. The declining child sex ratio—from 927 in 2001 to 919 in 2011 and varying across states in NFHS-5—signals a troubling trend driven by deep-seated biases.

Gender discrimination is not simply a social issue but a direct violation of human rights. Denial of healthcare, nutrition, education, and safety violates Articles 3, 26, and 25 of the UDHR and Articles 6, 19, and 24 of the CRC. This research paper examines the key manifestations of gender-based discrimination against the girl child, analyses constitutional and legal protections, investigates socio-cultural determinants, evaluates government schemes, and proposes a set of rights-based recommendations.²

GENDER-BASED DISCRIMINATION AGAINST THE GIRL CHILD

Gender-based discrimination manifests in multiple intersecting ways in the Indian socio-cultural context. One of the most widely recognized forms is sex-selective abortion, driven by son preference and facilitated by misuse of technological advancements despite the Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT) Act (1994). According to studies by Jha et al. (2011), millions of female foetuses have been selectively aborted over the last few decades due to cultural biases linking sons with economic security and lineage continuation. The declining sex ratio reflects the systematic denial of the right to life—a fundamental human right protected under Article 21.

¹ Azad, R. (2012). *Gender discrimination: An Indian perspective*. Atlantic Publishers. p. 11-15

² Singh, J. P. (2019). *Women and gender issues in India*. Motilal Banarsidass Publishing House. p. 24

Another major manifestation is child marriage, a practice still prevalent across many states despite the Prohibition of Child Marriage Act (2006). UNICEF (2021) estimates that India has one of the highest numbers of child brides globally. Child marriage exposes girls to early pregnancy, malnutrition, maternal mortality, school dropouts, and intimate partner violence. Early marriage directly violates the right to education, health, and bodily autonomy. Girls married early often lack agency and are subjected to lifetime cycles of inequality.

Malnutrition and health neglect constitute another significant dimension of gender-based discrimination. Girls frequently receive smaller food portions, delayed medical care, and lower priority in health expenditure compared to boys. NFHS-5 reveals higher levels of anemia among adolescent girls compared to boys, indicating entrenched household-level discrimination. Malnutrition deprives girls of physical growth, mental development, and the ability to reach their full potential.³

The problem of educational deprivation is widespread. Despite the Right to Education Act (2009), dropout rates among girls remain high, particularly in rural regions. Factors contributing to educational disadvantage include domestic responsibilities, caregiving roles, safety concerns, lack of sanitary facilities, and persistent stereotypes that undervalue girls' education. These constraints limit girls' long-term economic opportunities and reinforce intergenerational poverty.

Another severe manifestation is violence, abuse, and trafficking. NCRB data indicate increasing cases of sexual offences against minors under the Protection of Children from Sexual Offences Act (POCSO, 2012). Trafficking for domestic labour, forced marriages, and sexual exploitation disproportionately targets girls, especially those from economically vulnerable communities (UNODC, 2020). Violence undermines girls' right to dignity, safety, and psychological well-being.

SOCIO-CULTURAL DETERMINANTS OF DISCRIMINATION

Gender-based discrimination in India is deeply rooted in long-standing socio-cultural norms that shape family structures, value systems, and everyday practices. At its core, patriarchy acts as the primary ideological framework that sustains unequal power relations between men and women. Patriarchal socialization establishes men as the principal authority figures—responsible for decision-making, economic control, and inheritance—while women and girls are socialized to accept subordinate roles involving obedience, domesticity, and self-sacrifice. This unequal positioning normalizes gender hierarchy and legitimizes practices that marginalize the girl child at every stage of life.

Son preference continues to be one of the most persistent determinants of discrimination. Rooted in patrilineal traditions, sons are considered bearers of family lineage, performers of last rites, and inheritors of property and social status. In contrast, daughters are perceived as “transient members” who eventually move to their marital homes. This cultural logic is reinforced through ritual obligations, economic calculations, and symbolic meanings attached to masculinity and femininity. As a result, girls face systematic neglect in

³ Newell, K. S., Ross, E., McVicker, C., & Cromwell, J. (2000). *Discrimination against the girl child: Female infanticide, female genital cutting and honor killing*. p. 40-42

nutrition, schooling, healthcare, and emotional investment. The prevalence of sex-selective abortions and skewed sex ratios at birth further reveal how socio-cultural preferences actively shape demographic patterns.⁴

The dowry system adds another oppressive layer to gender discrimination. In many communities, a daughter's birth is equated with financial liability due to the anticipated dowry expenses at marriage. This economic pressure reinforces negative attitudes towards girls, marking them as burdensome. Dowry-based violence, coercive bargaining, and harassment continue to claim the lives of thousands of young women each year. The internalization of such practices contributes not only to sex-selective elimination but also to chronic emotional neglect, limited educational investment, and diminished autonomy for girls within the household.

Moreover, cultural constructions of female purity, honour, and sexuality further restrict the opportunities available to girls. The idea that a family's reputation rests on a girl's behaviour leads to strict monitoring of her mobility, dress, speech, and social interactions. Girls are often denied participation in public spaces, extracurricular activities, and community engagements under the pretext of "safety" or "honour protection." Such restrictions limit their educational access, career aspirations, and confidence building. Early marriage is frequently justified as a mechanism to safeguard honour, despite its devastating effects on health, agency, and life opportunities.

Economic factors also significantly shape gender discrimination. Poverty compounds the vulnerability of young girls, making them more susceptible to child labour, child marriage, trafficking, and hazardous work environments. Families facing economic distress often prioritize boys' education, withdrawing girls from schools to manage household chores, care for siblings, or contribute to income-generating activities. Economic insecurity interacts with patriarchal norms to reinforce the belief that educating girls yields limited returns, perpetuating a cycle of disempowerment and limited upward mobility.⁵

The intersection of gender with caste, religion, ethnicity, region, and disability produces multiple, layered forms of discrimination. Dalit, Adivasi, and minority girls often face triple or quadruple marginalization—stemming from gender, caste, class, and community status. They are disproportionately exposed to violence, trafficking, malnutrition, and school dropout. Dominant-caste families may restrict girls' public visibility in the name of honour, while marginalized-caste girls face exclusion, harassment, and unsafe environments within educational and occupational settings. Similarly, girls with disabilities experience severe neglect, stigma, and limited access to healthcare or schooling.

⁴ Newell, K. S., Ross, E., McVicker, C., & Cromwell, J. (2000). *Discrimination against the girl child: Female infanticide, female genital cutting and honor killing* . p. 65

⁵ Suresh, D. (2020). *Gender issues in India*. Raj Publications. p.76-79

In rural areas, the lack of infrastructure such as separate toilets, safe transportation, and affordable education acts as an additional barrier. Regional disparities, especially in northern and central states, contribute to higher gender gaps in literacy, healthcare access, and workforce participation. Social norms that prioritize household labour over education further widen these gaps.

Taken together, these socio-cultural determinants form a complex and interwoven matrix of discrimination that influences every dimension of a girl child's life—from birth to adulthood. Addressing gender-based discrimination therefore requires structural transformation, critical engagement with cultural norms, and sustained investment in education, economic empowerment, and legal protection for girls across all communities.

HUMAN RIGHTS PERSPECTIVE

From a human rights standpoint, gender-based discrimination violates multiple rights enshrined in global treaties and Indian law. The Universal Declaration of Human Rights (1948) asserts equality, dignity, and the right to life and education. The Convention on the Rights of the Child (1989) mandates protection from violence, exploitation, and discrimination. CEDAW (1979) specifically demands elimination of discrimination against women and girls in social, cultural, and political spheres.

In India, constitutional provisions such as Articles 14, 15, 21, 21A, and 39(f) explicitly guarantee equality, dignity, and protection for children. Statutory frameworks—including the POCSO Act, PCPNDT Act, Prohibition of Child Marriage Act, and the Juvenile Justice Act—collectively aim to secure the rights of girls. Human rights institutions such as the National Human Rights Commission (NHRC) and the National Commission for Protection of Child Rights (NCPCR) play important roles in monitoring violations and ensuring accountability.

Despite these legal safeguards, gaps persist in implementation. Many violations occur due to socio-cultural resistance, corruption, weak institutional mechanisms, and lack of gender awareness among enforcement agencies.⁶

GOVERNMENT SCHEMES AND POLICY INTERVENTIONS

The Government of India has introduced a wide range of policies and welfare interventions aimed at improving the status, safety, and well-being of the girl child. These initiatives are designed to address structural inequalities, enhance educational outcomes, reduce gender-based violence, and counter the deeply entrenched socio-cultural norms that perpetuate discrimination. Despite notable progress, significant implementation gaps and structural barriers continue to limit the transformative potential of these schemes.

⁶ Agarwal, H. O. (2023). *Human rights* (18th ed.). Central Law Publications. P.56

One of the most prominent national initiatives is the Beti Bachao Beti Padhao (BBBP) programme, launched in 2015 in response to declining child sex ratios in several states. The programme uses multi-sectoral strategies—including mass awareness campaigns, community mobilization, improved enforcement of the PCPNDT Act, and focused interventions in districts with low sex ratios—to promote the value of the girl child. BBBP has increased public discourse on gender equality and contributed to a modest rise in school enrolment, though concerns remain about inadequate financial allocation and a disproportionate focus on publicity rather than on-ground implementation.⁷

Financial empowerment schemes for girls play a crucial role in reducing economic vulnerability and reinforcing long-term security. The Sukanya Samridhi Yojana (SSY) encourages families to invest in their daughters' futures by offering high-interest savings accounts specifically for girl children. This addresses cultural anxieties related to dowry and marriage expenses and promotes a shift toward long-term financial planning. Complementing this, several states operate conditional cash-transfer schemes such as the Ladli Scheme (Delhi), Ladli Laxmi (Madhya Pradesh), Kanyashree Prakalpa (West Bengal), and Beti Bachao Scheme (Haryana), which incentivize school enrolment, delay early marriage, and support higher education for girls. Evidence from programme evaluations suggests improvements in retention rates and reduced child marriage in some regions; however, the gains are uneven across states.

Nutritional interventions form another important pillar of government policy. Schemes such as the Kishori Shakti Yojana (KSY) and POSHAN Abhiyaan aim to address chronic malnutrition, anaemia, and micronutrient deficiencies among adolescent girls. By promoting dietary diversification, health check-ups, and nutritional counselling, these schemes seek to break the intergenerational cycle of poor health that affects girls' learning capacity, physical development, and future maternal health. The integration of Anganwadi services ensures outreach to vulnerable and rural communities, though shortages of trained personnel and inconsistent monitoring often weaken outcomes.

Educational schemes have also been central to enhancing girls' capabilities. The Mid-Day Meal Scheme, one of the world's largest school-feeding programmes, has significantly improved attendance and retention among girls, especially in rural and economically disadvantaged areas. Free meals reduce the burden on poor households while simultaneously encouraging regular schooling. Additional initiatives such as Samagra Shiksha Abhiyan, free textbooks, bicycles for school-going girls in several states, and the construction of separate toilets for girls contribute to a more supportive learning environment. Yet, infrastructural gaps, safety concerns, and persistent gender biases among teachers and parents continue to hinder full educational participation.

⁷ Kaur, N. (2023). *Women social status & empowerment schemes in India*. Weser Books. P. 115-118.

In terms of safety and protection, schemes such as the One Stop Centre (OSC) for violence survivors, Childline 1098, and the expansion of women's helplines offer critical support services. While these interventions signal a shift toward rights-based protection, their reach remains limited in remote and marginalized communities due to inadequate funding, lack of awareness, and administrative bottlenecks.⁸

Despite these numerous interventions, the overall impact of government schemes is often diluted by structural challenges. Insufficient budget allocations, uneven regional implementation, bureaucratic delays, lack of gender-sensitive training among frontline workers, and weak monitoring mechanisms restrict the effectiveness of these programmes. Many interventions tend to adopt a welfare-oriented approach, framing girls as passive beneficiaries rather than as rights-bearing individuals who deserve equal opportunities and agency. For sustainable change, policies must transition toward rights-based frameworks that emphasize empowerment, accountability, and community-level transformation.

Furthermore, multi-sectoral collaboration—between education, health, women and child development, panchayati raj institutions, and civil society organizations—is essential for holistic impact. Without challenging underlying patriarchal norms and ensuring community participation, policy interventions alone cannot dismantle entrenched discrimination. In conclusion, while India's government schemes represent significant steps toward gender justice, genuine transformation requires stronger implementation mechanisms, gender-responsive budgeting, intersectional planning, and sustained commitment to recognising girls as equal citizens with inviolable rights.⁹

DISCUSSION

The persistent discrimination against the girl child reflects a complex interplay of cultural, economic, and institutional factors. Despite progressive legal frameworks, implementation remains weak. Social norms and patriarchal values continue to overshadow legal protections. While programmes such as BBBP have increased awareness, they have not fully transformed deep-rooted biases. In many regions, son preference persists despite urbanization and economic development.

Moreover, gender discrimination is often normalized within families, making it difficult to identify and address. Girls' restricted mobility, limited access to healthcare, and reduced educational investment reflect everyday forms of discrimination that rarely enter public discourse. To address these challenges, structural transformation—through gender-sensitive education, economic empowerment, and community engagement—is essential.

⁸<https://www.ncw.gov.in/publications/women-centric-schemes-by-different-ministries-of-government-of-india-goi/>

⁹ http://www.womenstudies.in/elib/girl_child/gc_Discrimination_against_the_Girl_Child.pdf

CONCLUSION

Gender-based discrimination against the girl child in India remains a grave human rights violation. Despite constitutional guarantees, legal protections, and policy initiatives, entrenched patriarchal values and socio-cultural biases continue to deprive girls of their fundamental rights. Comprehensive reform must go beyond laws and schemes to include social transformation, gender awareness, and strict enforcement of existing legislation. The empowerment of the girl child is essential not only for gender equality but also for the overall development of India. A rights-based approach—rooted in dignity, equality, and justice—is imperative for securing a safe, healthy, and equitable future for every girl.

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¹Dr. Mahendra Singh Meena and ²Sushma Agarwal

¹Assistant Professor, Government Law College, Kota (Rajasthan)

²Research Scholar, University of Kota (Rajasthan)

Abstract: In India, the protection of girl children is part of the Constitution's guarantee of equality, dignity and social justice. Since independence, India has built an extensive legal structure to support efforts at eliminating structural discrimination (including against girls), sexual exploitation, child marriage, trafficking and gender-based practices. The Constitution provides guarantees (Articles 14, 15, 21) and supports these guarantees with Directive Principles of State Policy: these articles provide the normative basis on which State intervention for-protecting girl children can be based. Many Acts (including the Protection of Children from Sexual Offences Act, 2012 (POCSO), Prohibition of Child Marriage Act, 2006 (PCMA), Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994 (PCPNDT) and Juvenile Justice (Care and Protection of Children) Act, 2015) implement these Constitutional guarantees. However, there continues to be a large gap between implementation and the law, as shown by inadequate national crime data, demographic surveys, and peer-reviewed socio-legal studies. Although these laws are well designed (by international standards), enforcement is uneven across States and regions. Based on a doctrinal analysis of law and socio-legal examination of national databases and recent academic studies this paper concludes that the main reason for this disparity lies in structural patriarchal systems in India, fragmentation of institutions, delays in procedures, and socio-economic disadvantages that limit enforcement. As such, the study will explore the constitutional philosophy, legislative development, judicial interpretation and obstacles to governance around establishing substantive equality for girl children in India.

Keywords: Girl child, India, constitutional protection, POCSO, child marriage, gender justice, implementation gap

*Corresponding Author

 Sushma Agarwal, Research Scholar, University of Kota (Rajasthan)

 sushmaagarwalaa@gmail.com



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1 | INTRODUCTION

In India, the girl child's status illustrates an inter-relation that is complex; progressive ideals established in the Constitution and immovable socio-cultural norms that have existed for many years. The Constitution of India (1950) is intended to be transformative; it seeks to eliminate the inherent structural inequalities that prevent access to substantive equality for all. Equality before the law is enshrined in article 14 and prohibits discrimination based on sex; article 15 allows for affirmative action to be taken under article 15(3) to address this discrimination. Article 21, which has been expansively interpreted by the judiciary, provides for the right to a life of dignity, bodily autonomy and individual safety¹.

While the lived experience for most girl children continues to be vulnerable, there are also tens of thousands of reported cases each year to the National Crime Records Bureau under the Protection of Children from Sexual Offences Act (POCSO).² The National Family Health Survey (NFHS-5) shows ongoing child marriage rates in multiple states which continue to exist despite existing legal restrictions.³ The district-level studies reveal that various areas progress at different rates because some regions show much slower reduction in child marriage rates than other areas.⁴ The research findings establish that national legal reform efforts fail to achieve equal implementation throughout local areas. The latest empirical research demonstrates that child marriage and gender-based vulnerabilities extend beyond legal matters because they exist within socio-ecological systems which poverty and community norms and gender expectations create⁵ Studies further indicate that gaps in professional awareness and procedural handling weaken effective implementation of child protection statutes.⁶

The paper argues that India's legal system contains complete normative standards yet fails to maintain proper administrative execution. The implementation gap—rather than legislative deficiency—constitutes the central challenge. The study conducts structured objective-wise analysis to assess constitutional foundations and legislative mechanisms and judicial interventions and enforcement barriers and reform strategies.

2 | LITERATURE REVIEW

The implementation gap in girl child protection laws in India shows a continuous divergence between legal standards and actual law enforcement. The existing statutory framework which includes the Protection of Children from Sexual Offences Act and Prohibition of Child Marriage Act and Juvenile Justice (Care and Protection of Children) Act enables ongoing violations against girl children who encounter these protected legal statutes. The process of legal reform in India operates through public outrage which serves as its main driving force according to scholars who describe this process as the main reason for institutional development (Agnes 2013)¹⁶. The research study demonstrates that police departments and forensic facilities and systems designed to protect victims all suffer from inadequate capacity which leads to violations of legal requirements (Jaising 2016)¹⁷. The reporting process and prosecution process face obstacles because of patriarchal norms and caste systems and economic dependency which mostly affect rural communities (Kapur 2012)¹⁸. National Crime Records Bureau data shows the number of registered child protection cases under child protection laws keeps increasing yet the conviction rate stays low because of evidence-related issues and procedural delays (NCRB 2022)¹⁹. Feminist socio-legal scholars assert that implementation failure exists as more than an administrative issue which stems from societal resistance against gender equality (Menon 2019)²⁰. The gap between theoretical law and practical law demonstrates the limitations which formal legal systems have when it comes to altering established gender-based power structures.

3 | OBJECTIVES

1. The study investigates constitutional provisions that safeguard the rights of girl children in India.

2. The study examines legislative changes that protect against discrimination and violence directed toward girl children.
3. The study evaluates system-based judicial actions that have created legal standards for child protection.
4. The study will identify all factors that restrict successful implementation of enforcement procedures.
5. The study presents a set of reforms which will enhance institutional responsibility and equal treatment of all individuals.

4 | RESULTS

Objective 1: Constitutional Foundations of Girl Child Protection

The Indian constitutional framework operates with intentional design to eliminate established social-class systems. The Indian Constitution establishes substantive equality which includes protective discrimination as its primary equality approach. The classification system established by Article 14 enables the creation of classifications which serve to address disadvantage. Article 15(3) provides legal permission for special measures which serve the needs of women and children and establish protective measures through targeted welfare programs and criminal laws.

The legal framework of Article 21 has developed into the main source of dignity-based case law. The Supreme Court extended the term "life and personal liberty" in *Maneka Gandhi v. Union of India* to include fairness and reasonableness along with dignity¹. Article 21 now includes protection against bodily harm and safeguard against exploitation according to subsequent legal decisions. This doctrinal development provides constitutional grounding for statutes such as POCSO and PCMA.

The Directive Principles under Articles 39(e) and 39(f) require the State to protect children from abuse while providing suitable conditions for their dignified development. The rules which lose their legal force nevertheless guide both the legislative body and the judicial system in their decision making. The constitutional framework thus reflects transformative intent.

The practice of constitutional morality in India faces challenges from traditional social standards which uphold patriarchy. The gender inequality research conducted by Sen demonstrates how intra-household discrimination and unequal care and son preference create barriers to achieving equality between genders⁸. The demographic trends of sex ratio imbalances at birth show that systemic discrimination continues to exist within society⁹. Social norms require ongoing institutional enforcement because constitutional protections cannot dismantle them.

Objective 2: Legislative Developments Addressing Girl Child Protection

India's statutory framework addressing girl child vulnerability is extensive and multi-layered.

Protection of Children from Sexual Offences Act, 2012 (POCSO)

The introduction of child-friendly procedures special courts and mandatory reporting requirements defined the new operational structure which POCSO established. The Act addresses aggravated assault, penetrative offences, harassment, and pornography involving minors.

The crime statistics show that POCSO cases have been reported more frequently during the past few years². The increased reporting statistics demonstrate better public understanding but different jurisdictions show varying rates of conviction. The prosecution results suffer from three main factors which include procedural delays, hostile witnesses, and insufficient forensic assistance.

The study results demonstrate that frontline staff members lack necessary knowledge which hinders successful execution of their duties. The recent cross-sectional study found that healthcare providers

showed different levels of understanding regarding mandatory reporting requirements⁶. The judicial system has established legal challenges through its interpretation of adolescent consensual relationships which courts find difficult to match with existing laws and actual social situations¹⁰. The conflicts in this situation demonstrate the requirement for complicated procedural changes that must protect child safety.

Prohibition of Child Marriage Act, 2006 (PCMA)

The PCMA establishes child marriage as a criminal offense and it offers annulment procedures as a remedy. The NFHS-5 study shows that the national prevalence of the disease has decreased but certain states maintain a high concentration of cases³. The study found that district-level research showed which geographic areas had different patterns of development.⁴ Research about social and environmental factors shows that early marriage happens because of three main reasons which include poverty and restricted educational opportunities and established community traditions.⁵ Educational discontinuation leads to a major increase in the risk of students getting married at an early age.¹¹ Legal prohibitions should exist together with educational programs and economic empowerment initiatives to create an effective solution.

PCPNDT Act, 1994

The PCPNDT Act addresses sex-selective practices which lead to unequal sex ratios. The government reports demonstrate monitoring systems which exist but demographic projections show ongoing regional distribution problems⁹. The authorities face two main enforcement difficulties which include both regulatory evasion and their inability to conduct uniform inspection processes.

Juvenile Justice Act, 2015

The JJ Act creates Child Welfare Committees and care institutions which the law establishes. The administrative reports show that organizations face multiple challenges because they lack sufficient staff members and necessary equipment and workspaces¹². The institutional framework needs development because the statutory rights exist as temporary commitments. The collection of these statutes demonstrates complete legislative coverage. The ongoing challenge exists because of difficulties in coordinating administrative tasks and implementing activities at the local level.

Objective 3: Judicial Interventions and Jurisprudential Development

The process of judicial intervention has strengthened constitutional moral principles which govern child protection laws. The Supreme Court interpreted the marital rape exception in *Independent Thought v. Union of India* to exclude its application to minor wives. The Court established that statutory rape protections remain intact despite the existence of child marriage laws. The judgment established child dignity as the superior value which must take precedence over traditional practices.

The Court instructed law enforcement agencies to work together in their efforts to combat human trafficking and exploitation in *Bachpan Bachao Andolan v. Union of India*. Judicial monitoring enhanced accountability mechanisms. The constitutional courts establish advanced legal standards but the lower judiciary systems which face case backlog and evidentiary requirements and limited victim assistance programs reduce their ability to create substantial change. The judicial implementation gap between apex jurisprudence and trial-level implementation results in inconsistent enforcement practices.

Objective 4: Structural and Socio-Cultural Barriers to Effective Enforcement

Despite progressive laws, enforcement is shaped by structural barriers.

Patriarchal Norms

Victim-blaming, stigma, and family honor discourage reporting of abuse.⁸ Community acceptance of early marriage reinforces silence.⁵

Economic Vulnerability

Poverty drives people to marry at young ages because they believe it will help them financially. The research shows that better property rights and inheritance rights for women lead to improved child welfare results therefore economic empowerment acts as a protective measure against vulnerability.¹⁵

Institutional Weaknesses

Forensic delays, inadequate witness protection, and case backlog weaken prosecution.² Resource deficits in child welfare institutions further undermine protective capacity.¹²

Administrative Fragmentation

The three institutions of police and welfare departments and courts face operational difficulties because their collaboration suffers from insufficient coordination. Data fragmentation restricts organizations from tracking their research progress toward policy objectives. The implementation gap exists because these three factors create a gap between expected outcomes and actual results.

Objective 5: Reform Strategies for Strengthening Accountability and Substantive Equality

Structural reform needs to happen because officials need to address implementation gaps through this process. Special POCSO courts need complete staffing while institutional strengthening should include forensic technology upgrades and digital case management system implementation. Judges require ongoing training programs which focus on gender-sensitive judicial decision-making. Police officers and medical staff members and child protection workers need to receive standardized training programs which should become required training in every state.⁶ Protocols that establish standard procedures will help organizations achieve consistent operational standards. Social measures which prevent problems from developing into serious issues need to receive equal importance as preventive programs. Girls who receive conditional cash transfers with secondary education requirements will experience delayed marriage according to research results.⁴ District-level programs should target high-prevalence areas which scientists have identified through geographic analysis⁴. The enforcement of women inheritance rights creates economic opportunities which help women to achieve financial independence from their partners.¹⁵

The public needs to access district performance data which includes case disposal rates and conviction rates together with welfare intervention statistics to improve accountability. These reforms seek to translate constitutional morality into lived equality through actual implementation.

5 | SUGGESTIONS

1. **Adopt District-Specific Targeting** by implement data-driven, district-level intervention strategies in high-prevalence regions to address uneven child marriage and abuse trends.
2. **Mandate Capacity Certification** by introducing compulsory and periodic gender-sensitivity and child protection certification for police, prosecutors, medical professionals, and Child Welfare Committees.
3. **Strengthen Forensic Infrastructure** by establishing integrated child-friendly forensic and victim support units at the district level to improve evidence quality and conviction rates.
4. **Enhance Girls' Secondary Education Retention** by expanding conditional cash transfers and scholarship monitoring systems to reduce early marriage and educational discontinuation.
5. **Enforce Women's Property and Inheritance Rights** by strengthen implementation of inheritance laws to reduce economic dependency that contributes to girl child vulnerability.

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