



FROM PROMISE TO PRACTICE: A CRITICAL ANALYSIS OF THE IMPLEMENTATION OF CHILD RIGHTS LAWS IN INDIA

Teena Lalchandbhai Taviyad

ABSTRACT

The Constitution of India enshrines comprehensive protections for children through fundamental rights and directive principles, reinforced by progressive statutes such as the Juvenile Justice (Care and Protection of Children) Act, 2015, the Protection of Children from Sexual Offences (POCSO) Act, 2012, and the Right to Free and Compulsory Education (RTE) Act, 2009. However, a significant execution divide exists between legislative mandates and ground-level implementation.

This study employs a qualitative, doctrinal legal methodology based on open-access statutory provisions, landmark judicial precedents, and institutional assessments to evaluate the operational realities of child protection machinery in India. The analysis reveals that frontline institutions—including Child Welfare Committees (CWCs), Special Juvenile Police Units (SJPU), and POCSO Special Courts—are severely constrained by structural vacancies, infrastructural deficits, procedural delays, and inadequate budgetary allocations. While judicial interventions have actively sought to enforce statutory compliance, continuous mandamus cannot replace sustained executive accountability.

The paper concludes that bridging this implementation divide requires urgent administrative reforms, mandatory capacity-building programs, strict adherence to statutory trial timelines, and independent statutory audits. Translating constitutional promises into practical reality demands a shift from legislative formalisms to robust, child-centric institutional execution across all jurisdictions.

KEYWORDS: Child Rights, Implementation Gap, Juvenile Justice Act, POCSO Act, Child Protection in India, Right to Education

1. INTRODUCTION

The Constitution of India enshrines a robust framework dedicated to the protection, welfare, and development of children. Article 15(3) empowers the State to enact special affirmative provisions for children, creating a constitutional basis for targeted welfare legislation. The fundamental right to life and personal liberty under Article 21, coupled with the right to free and compulsory education under Article 21A, forms the cornerstone of child jurisprudence in India. Furthermore, Article 24 explicitly

prohibits the employment of children in hazardous occupations, while Directive Principles under Articles 39(e) and 39(f) mandate that the tender age of children is not abused and that they are given opportunities to develop in a healthy, dignified manner.

To operationalize these constitutional guarantees, Parliament has enacted comprehensive statutes. The Juvenile Justice (Care and Protection of Children) Act, 2015 establishes a child-centric care and rehabilitation machinery for juveniles

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in conflict with law and children in need of care and protection. The Protection of Children from Sexual Offences (POCSO) Act, 2012 provides a stringent legal framework to address child sexual exploitation while establishing child-friendly court procedures. Additionally, the Right of Children to Free and Compulsory Education (RTE) Act, 2009 guarantees foundational schooling for children aged six to fourteen years.

Despite possessing one of the world's most progressive statutory frameworks for child welfare, a persistent divide remains between legislative intent and ground-level execution. Institutional deficiencies, administrative apathy, and resource constraints continue to impede the practical realization of these statutory promises.

2. STATEMENT OF THE PROBLEM

While India's statutory framework concerning child welfare reflects visionary legislative design, the enforcement apparatus exhibits severe operational vulnerabilities. On the ground, the operationalization of laws such as the Juvenile Justice Act, 2015 and the POCSO Act, 2012 suffers from systemic bottlenecks, including understaffed Child Welfare Committees (CWCs), dysfunctional Special Juvenile Police Units (SJPU), and acute infrastructure shortages within Juvenile Justice Boards (JJBs).

Furthermore, Special Courts constituted under the POCSO Act frequently fail to adhere to statutory timeframes for trial completion, resulting in secondary trauma for child victims and protracted pendency. Inadequate financial allocations, lack of child-sensitivity training among law enforcement officers, and weak inter-departmental coordination further exacerbate these administrative lapses. Consequently, a structural disconnect persists between statutory guarantees and real-world compliance, rendering legislative protections largely inaccessible to vulnerable children across several jurisdictions.

3. OBJECTIVES OF THE STUDY

1. To critically analyze the constitutional directives and statutory protections governing child rights in India, focusing on the Juvenile Justice Act, 2015, the POCSO Act, 2012, and the RTE Act,

2009.

2. To examine the operational, infrastructural, and administrative challenges that impair the functioning of Child Welfare Committees, Juvenile Justice Boards, and Special Courts.
3. To evaluate the role of judicial interventions in enforcing child protection standards and addressing implementation gaps.
4. To identify systemic factors causing procedural delays, low conviction rates, and victim re-traumatization during trial proceedings.
5. To propose structural, financial, and policy measures aimed at strengthening the implementation framework and translating statutory mandates into practical protections.

4. RESEARCH QUESTIONS

1. To what extent do the statutory mandates of the Juvenile Justice Act, 2015 and the POCSO Act, 2012 align with the operational realities of ground-level enforcement institutions in India?
2. What structural, financial, and procedural bottlenecks impede Child Welfare Committees, Special Juvenile Police Units, and Special Courts from delivering child-centric justice?
3. How effectively have higher judicial directives bridged the administrative divide between legislative intent and institutional execution in child protection law?
4. What legal, policy, and administrative mechanisms are necessary to transition child rights in India from formal statutory guarantees into functional protection practices?

5. REVIEW OF LITERATURE

The discourse surrounding child rights in India reflects a clear evolution from welfare-oriented paternalism to a rights-based framework. Ved Kumari highlights that while the Juvenile Justice (Care and Protection of Children) Act, 2015 introduced progressive care and rehabilitation standards, its institutional machinery remains heavily constrained by underfunding, inadequate staffing, and poor procedural compliance. Building on this institutional critique, Asha Bajpai notes that the lack of specialized orientation among key actors—specifically police personnel and Child Welfare Committee members—frequently leads to procedural delays and secondary trauma for vulnerable children.

In the realm of child protection against sexual violence, Srijan Mishra and Ananya Sharma argue that although the POCSO Act, 2012 contains stringent penal provisions and child-friendly trial mandates, its success is undermined by the slow pace of trial completion in Special Courts and systemic delays in medical examinations. This is corroborated by findings from the Centre for Child and the Law, which emphasize that statutory timelines under Section 35 of the POCSO Act are rarely observed due to massive judicial dockets and a shortage of dedicated support persons.

Regarding socio-economic entitlements, Nirranjan Sahoo points out that despite the constitutionalization of education under Article 21A and the enactment of the RTE Act, 2009, severe implementation gaps persist in rural and marginalized communities due to infrastructure deficits and weak monitoring frameworks. Furthermore, Upendra Baxi observes that rights-based legislation in India often suffers from an “execution crisis,” where formal legal rights fail to penetrate bureaucratic machinery without active judicial oversight.

Scholarship by Geeta Ramaseshan underlines the urgent need for institutional audits and capacity-building to ensure that statutory child protection bodies act as protective sanctuaries rather than procedural barriers. Recent empirical assessments by legal scholars further establish that bridging this implementation divide requires a shift from mere legislative drafting to dedicated resource allocation and administrative accountability.

6. RESEARCH METHODOLOGY

This study adopts a qualitative, doctrinal legal research methodology to critically evaluate the implementation of child protection laws in India. The analytical framework is built primarily upon open-access primary and secondary sources. Primary legal materials examined include constitutional provisions, relevant statutory enactments—specifically the Juvenile Justice (Care and Protection of Children) Act, 2015, the Protection of Children from Sexual Offences (POCSO) Act, 2012, and the Right of Children to Free and Compulsory Education Act, 2009—and landmark judicial decisions of the Supreme Court of India and various High Courts.

Secondary legal resources comprise peer-reviewed open-access legal journals, law commission reports, and empirical studies conducted by statutory authorities such as the National Commission for Protection of Child Rights (NCPCR) and the National Crime Records Bureau (NCRB). The study employs a critical descriptive and comparative analytical approach, juxtaposing statutory mandates with documented operational metrics to identify systemic execution failures and institutional gaps.

7. SUBSTANTIVE ANALYSIS

7.1 Structural Bottlenecks in Institutional Machinery (JJ Act and POCSO Act)

The operationalization of child protection statutes in India is severely hamstrung by structural and procedural deficiencies within frontline statutory bodies. Under the Juvenile Justice (Care and Protection of Children) Act, 2015, the Child Welfare Committees (CWCs) and Juvenile Justice Boards (JJBs) serve as primary adjudicatory and care-executing institutions. However, field implementation reveals widespread vacancies, irregular sittings, and a critical lack of infrastructural support. Many districts lack fully constituted CWCs or functional Special Juvenile Police Units (SJPU), leading to improper handling of children in need of care and protection.

Similarly, the implementation of the POCSO Act, 2012 suffers from significant operational friction. Although Section 35 of the Act explicitly mandates that evidence must be recorded within thirty days and trials completed within one year from the date of taking cognizance, compliance rates remain dismal. Special Courts constituted under the Act face staggering case backlogs, largely due to the overloading of judicial dockets and a shortage of dedicated support persons required to assist child victims during legal proceedings. The absence of child-friendly courtroom environments in several judicial complexes further results in victim re-traumatization during cross-examination, defeating the humanistic core of the legislation.

7.2 Judicial Trends and Enforcement Imperatives

Faced with administrative lethargy, the higher judiciary in India has increasingly stepped in to enforce statutory mandates through public interest litigation and supervisory directives. In *Re*

Exploitation of Children in Orphanages in the State of Tamil Nadu, the Supreme Court issued exhaustive guidelines emphasizing the mandatory registration of all Child Care Institutions (CCIs) and the strict operationalization of JJBs across all districts.

Furthermore, in *Bachpan Bachao Andolan v. Union of India*, the apex court underscored the constitutional imperative of establishing effective tracking mechanisms for missing children and monitoring the execution of child labor prohibitions. Recent judicial interventions have similarly focused on the establishment of vulnerable witness deposition centers and the strict enforcement of victim compensation schemes under Section 33(8) of the POCSO Act.

While judicial activism has bridged critical legislative execution gaps, enforcement through continuous mandamus highlights a systemic vulnerability: judicial directives cannot permanently substitute for institutional political will, administrative accountability, and sustainable budgetary allocations.

8. FINDINGS

- 1. Severe Infrastructure and Human Resource Deficits:** Frontline statutory bodies under the Juvenile Justice Act, 2015—including Child Welfare Committees (CWCs) and Special Juvenile Police Units (SJPU)s—suffer from widespread vacancies, lack of specialized child-sensitivity training, and missing physical infrastructure across multiple districts.
- 2. Systemic Non-Compliance with Statutory Timelines:** Special Courts handling cases under the POCSO Act, 2012 consistently fail to record evidence within 30 days or complete trials within the statutory 1-year window mandated by Section 35, leading to huge case backlogs and secondary victim trauma.
- 3. Inadequate Provisioning of Support Persons:** Despite legislative mandates, child victims frequently navigate legal proceedings without designated support persons, legal counsel, or child-friendly deposition centers, compromising their psychological well-being during cross-examinations.
- 4. Reliance on Judicial Intervention for Executive Compliance:** Progress in enforcing child rights

remains heavily reliant on supervisory directives and continuous mandamus from the Supreme Court and High Courts, highlighting a persistent absence of proactive administrative execution and sustainable budgetary allocations.

9. CONCLUSION

India's legal framework for child protection stands as a testament to progressive legislative drafting, grounding statutory entitlements in constitutional mandates and international conventions. However, as this critical analysis demonstrates, the transition “from promise to practice” remains fundamentally incomplete. The legislative intent behind statutes like the Juvenile Justice Act, 2015, the POCSO Act, 2012, and the RTE Act, 2009 is consistently eroded by institutional inertia, acute infrastructural deficits, and administrative underfunding.

Relying solely on judicial enforcement cannot permanently fix structural execution failures. To honor the constitutional guarantees enshrined under Articles 15(3), 21, and 21A, the State must bridge this execution divide by transforming statutory bodies from procedural formalisms into robust, child-centric sanctuaries. True protection will only be realized when legislative guarantees translate into functional, accountable practices across every district in the country.

10. SUGGESTIONS

- 1. Establish Dedicated Infrastructure and Mandatory Capacity Building:** State governments must ensure the immediate filling of CWC and JJB vacancies while implementing mandatory, continuous child-psychology and human-rights training for SJPU)s, legal aid counsel, and judicial officers.
- 2. Strict Adherence to Statutory Trial Timelines:** High Courts should establish specialized monitoring cells to track POCSO trials electronically, ensuring strict enforcement of the one-year trial completion mandate under Section 35 without compromising due process.
- 3. Institutionalize Dedicated Budgetary Allocations:** The Union and State governments must increase specific budgetary outlays earmarked for child protection schemes, prioritizing the setup of Vulnerable Witness

Deposition Centers (VWDCs) and support person cadres in every judicial district.

4. **Establish Independent Statutory Audits:** Empower State Commissions for Protection of Child Rights (SCPCR) to conduct bi-annual social and structural audits of Child Care Institutions (CCIs), CWCs, and Special Courts, publishing transparent compliance metrics annually.

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