

Prevalence of Child Maltreatment in India: A Persistent Threat to Children's Rights and Fundamental Freedom

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"Our Children are our greatest Treasure. They are our Future. Those who abuse them tear at the fabric of our Society and Weaken our Nation". NELSON MANDELA

ABSTRACT

Child abuse/ maltreatment constitutes a grave violation of the fundamental rights and inherent dignity as well as freedom of children in the Indian society. Child abuse and maltreatment take various forms, including physical violence, emotional abuse, sexual exploitation, neglect, and inadequate supervision or care by parents and caregivers. Although recognised globally, child abuse in India is a deeply under-researched issue, largely due to cultural stigma, underreporting, and systemic apathy. This paper critically examines child maltreatment in India through the constitutional framework protecting children's rights, while also analysing the relevant statutory framework, judicial developments, and institutional challenges. The paper examines the legal framework, the role of the judiciary, and relevant statutes protecting children, while identifying implementation challenges and proposing practical reforms at the legal, institutional, and societal levels.

KEYWORDS

Child Abuse, Child Protection, Child Sexual Abuse; Fundamental Rights; Child Neglect; POCSO Act.

INTRODUCTION

"Children are like Buds in a garden and should be carefully and lovingly nurtured".

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Childhood is a formative stage of human development during which individuals are particularly dependent on adults and institutions for protection, care, and security. The protection of children from abuse and maltreatment is therefore not merely a matter of social welfare but also a constitutional and human-rights obligation.

The manner in which a State safeguards and promotes the well-being of children within its territory reflects its commitment to justice, equality, and the protection of human rights. But if a country fails to protect children from Child abuse/maltreatment, therefore, such failure not only amounts to grave violations of fundamental rights but also reflects a profound failure of societal and institutional safeguard mechanisms entrusted with safeguarding children. This obligation finds one of its oldest expressions in the common law doctrine of “*Parens Patriae*,” under which the State stands as the ultimate Parents for those who cannot Protect Themselves.”

At the international level, the United Nations Convention on the Rights of the Child (UNCRC), 1989, provides a foundational framework for the protection of children from violence, abuse, exploitation, and neglect. It requires States to adopt appropriate legislative, administrative, social, and educational measures to protect children and promote their welfare. As a country with one of the world’s largest child populations, India bears a significant responsibility to protect the rights, dignity, development, and well-being of children. Thus, Indian government had enacted several specialized legislations such as the Juvenile Justice (Care and Protection of Children) Act, 2015, the Protection of Children from Sexual Offences Act, 2012, the Right of Children to Free and Compulsory Education Act, 2009, the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986, and provisions under the Indian Penal Code, 1860 now to be replaced by the Bharatiya Nyaya Sanhita, 2023. These statutory protections are complemented by constitutional guarantees under Articles 14, 15(3), 21, 21A, 23, and 24, together with the Directive Principles of State Policy, particularly Articles 39(e) and 39(f).⁴ Collectively, all these legal & constitutional frameworks seek to prevent children from abuse, ensures punishment to the offenders, rehabilitation facilities for the victims, and create child-friendly justice mechanisms environment in India.

Despite the existence of extensive Indian and international legal frameworks, child abuse and maltreatment remain persistent concerns in India. Gaps in implementation, awareness, reporting mechanisms, investigation, and enforcement continue to impede effective child protection. Moreover, a substantial number of cases remain underreported due to fear of social

⁴ INDIA CONST. arts. 14, 15(3), 21, 21A, 23, 24, 39(e), 39(f).

stigma, loss of familial reputation, and deeply entrenched societal norms which have become barrier in the path that hinder the access to justice for many victims. And, as a result of that, child maltreatment is frequently overlooked in official records, which consequently perpetuates cycles of abuse that are backed by inadequate accountability. This absence of recognition, not only exacerbates the suffering of individual victims but also weakens the authority of the law and disturbs public faith in the institutions that are meant to protect the citizens (child).

Child maltreatment is not merely a social or developmental concern; it also constitutes an infringement of children's rights to life, dignity, equality, education, and protection from exploitation. When children are subjected to any kind of abuse/maltreatment or neglect, the Constitution of India guarantees to provide an equal protection and substantive justice which are effectively undermined. The long-term consequences of maltreatment, including psychological trauma, health impairment, educational deprivation, and social marginalisation, can adversely affect individual development and have wider implications for social and national development. Thus, every nation throughout the Globe must protect its children from abusers/offenders, because they are the future of a nation who must be nurtured with due care, affection & love.

WHO IS A CHILD?

According to UNCRC (United Nations Convention on the Rights of the Child) is "every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier" shall come under the definition of Child. This definition is generally acknowledged explanation of a child which had been accepted by all the Countries in the world as it comes from an international legal organization.⁵

According to Section 3(1)⁶ of Child Abuse Prevention & Treatment Act, 2010 (CAPTA, 2010), the term 'Child' means "a person who has not attained the lesser of, A. the age of 18; or B. except in the case of sexual abuse, the age specified by the child protection law of the State in which the child resides."⁷

In India, there has historically been considerable ambiguity and divergence of opinion regarding the age at which a person is to be regarded as a child. To address and eliminate such

⁵ Convention on the Rights of the Child art. 1, Nov. 20, 1989, 1577 U.N.T.S. 3.

⁶ Child Abuse Prevention and Treatment Act of 2010, 42 U.S.C. § 5106g(1) (2018).

⁷ Child Abuse Prevention and Treatment Act of 2010, 42 U.S.C. § 5106g(1) (2010).

ambiguity, Indian statutes have expressly defined the age of a child in most of the statutes, as set out below:

1. Child Labour (Prohibition & Regulation) Act, 1986 [Sec- 2(ii)]: 14 y/o for both Boys & Girls
2. The Prohibition of Child Marriage Act, 2006 [Sec- 2(a) & (b)]: 21 y/o for Boys & 18 y/o for Girls
3. The Juvenile Justice Act, 2015 [Sec- 2(12)]: 18 y/o for both Boys & Girls
4. POCSO Act, 2012 [Sec- 2(1) (d)]: Below 18 y/o for both Boys & Girls
5. IPC, 1860/ BNS, 2023 [Sec- 375]: NIL y/o for Boys & Below 18 y/o for Girls
6. Indian Majority Act, 1875 [Sec- 3]: 18 y/o for both Boys & Girls
7. RTE Act, 2009 [Sec- 3]: 6- 14 y/o for both Boys & Girls
8. Hindu Minority & Guardianship Act, 1956 [Sec- 4(a)]: Below 18 y/o for both Boys & Girls

WHAT IS ABUSE/ MALTREATMENT?

The terms “abuse” and “maltreatment” are sometimes used interchangeably. However, abuse is generally understood as a narrower concept, whereas maltreatment is broader and encompasses both abuse and neglect. The term “abuse” generally refers to conduct through which a person exercises power or authority to control, intimidate, manipulate, or exploit another person, particularly a child. But on the other hand, “Maltreatment” refers to the improper treatment of a person especially a child through abuse, neglect, cruelty or exploitation which result in physical, emotional or psychological harm on such child.

Types of Abuse:

1. Contact: Refers to any kind of abuse in which there is a direct physical contact between the abuser and the victim. It involves touching or physical interaction that causes harm, discomfort and violation of victim’s basic rights or dignity. This includes sexual touching of any part of the victim’s body, physical assault, beating or hitting, physical restraint or confinement, rape or penetrative sexual assault.
2. Non- Contact: Refers to abusive activity that occurs without any physical contact b/w the abuser & the victim but still causes serious emotional discomfort, physical harm, or harms the sexual dignity of the victim. This includes verbal abuse, threat or

intimidation, showing pornography to a child, online grooming or extortion, online or offline stalking.

Typical Dynamics in instances of Abuse/Harassment encompass:

1. Perpetrators may include parents, relatives, teachers, caregivers, acquaintances, or strangers. The relationship between the perpetrator and child may significantly influence the nature, reporting, and detection of abuse.
2. Individual: Male or Female, any Child who had not attained the age of Majority (18 y/o), basically any Child who is dependent on someone for his/ her daily need, who he/ she had trust over.
3. Location: Workplace, Educational Institute, Living Place (Home) or any alternate setting.
4. Gender: dynamics reveal that both Perpetrators & Victims can belong to any gender, and the perpetrator is not exclusively of the opposite gender.⁸

In contemporary society, “Child Abuse transcends gender binaries, victimizing male, female, and intersex or LGBTQ+ children through distinct yet intersecting systemic failures. Recognizing these diverse experiences is essential to dismantling the pervasive culture of silence and ensuring that protection frameworks address the unique socio-cultural dilemmas faced by every child, regardless of biological sex.”

The Impact of Abuse/ Maltreatment:

The impact of Child Abuse/ Maltreatment is not only on the victim but also on Society as well.

1. On the Victim: Child abuse and maltreatment can have profound and long-lasting consequences for victims. Physical, emotional, and sexual abuse may contribute to fear, anxiety, depression, post-traumatic stress, difficulties in forming relationships, impaired academic performance, social withdrawal, and adverse physical and psychological outcomes. Some effects may persist into adulthood.
2. On the Parents & Relatives: Parents and relatives of an abused or maltreated child often experience intense emotional distress including helplessness, shame, anger and guilt. They usually blame themselves for not able to protect their child, which may strain family relationships and disrupt household stability. Caring of such traumatized child,

⁸ Anjanee Goel, Jatin Kumar Verma & Zulbab Haider, Sexual Harassment at the Workplace: A Persistent Threat to Women’s Rights and Equality, 2 IJLRA 1, 8–9 (2024).

may also rise financial and emotional burdens as need counselling, medical treatment and legal assistance to support their child.

3. On the Society: Child abuse or maltreatment has a serious impact on society as well in the way it weakens social values, norms and undermines the sense of safety within community. Long term societal impacts include reduction in productivity, increase in crime rate and the perpetuity in cycle of violence. Such kind of abuse on places are heavy burden healthcare facilities, welfare and criminal justice system of the nation.⁹

One of the Doctrine as recognised under Indian Tort Law, through its Legal Maxim “Injuria Sine Damno (Or Damnum) - Infringement of Legal Rights without Damage” which basically states here that the violation of a legal right is itself actionable even where no measurable damage can be shown. Emotional and Psychological injury are the kind described above rarely leaves physical proof, yet it constitutes exactly this sort of legal injury. Treating it as compensable in its own, rather than waiting for any kind of visible injury/ harm before the law intervenes, is consistent with how Indian Courts already approach injury in other areas of law, and there is little reason for child protection laws to demand a stricter standard of proof than Tort Law generally requires.

THE BACHPAN BACHAO ANDOLAN

Association for Voluntary Action (AVA) popularly known as Bachpan Bachao Andolan (BBA) is India’s largest anti-trafficking and anti-slavery grassroots movement. It was founded by Nobel Peace Laureate Kailash Satyarthi in 1980. BBA works with the Law Enforcement Agencies (LEAs) and the community to protect and prevent vulnerable children and their families from trafficking for labour, marriage and child sexual abuse among others. BBA uses a multi-pronged approach to create a society that is vigilant towards exploitation of its children and strengthen the justice delivery system to ensure creation of deterrence for the crime.

It works on a vision to protect and prevent children from all forms of exploitation & abuse as well as to make a child friendly world for them. & The main aim of BBA 1980 is to identify, release, rehabilitate and educate children in servitude through prevention, direct intervention, coalition-building, mass mobilization and legal action to create a child friendly society.¹⁰

⁹ Id.

¹⁰ Bachpan Bachao Andolan, About Us, <https://bba.org.in/about-us/> (last visited Sept. 17, 2026).

Even in the case of *Bachpan Bachao Andolan v. Union Of India*, filed before Supreme Court of India due to an increase in the missing complaints of Children, were Supreme Court treated such sudden disappearance of Children as presumptively connected to Trafficking or Kidnapping rather than as a routine missing-persons matter, and directed the police to register and investigate every such complaint without delay. Three years later, in a further round of the same litigation, the Court turned its attention to Child Labour and Rescue Operations, directing stronger enforcement of the Labour Statutes as well.¹¹

The lesson the BBA's history taught every person of the nation a lesson based on Legal Maxim i.e. "Fiat Justitia Ruat Caelum - Let Justice be done, even if the Heavens fall" states here that rescuing a trafficked or Child working as labour in any Factory, Business or Occupation may create problematic situation for the employer, the broker, or sometimes even the family involved, and however, these difficulties should never stop the Authorities from rescuing the Child. The law gives the highest priority to protecting the child's freedom, dignity, and rights, even if doing so causes inconvenience or opposition from others.

NCRB [NATIONAL CRIME RECORDS BUREAU]

The National Crime Records Bureau (NCRB), is the Central Nodal Agency, Headquartered in New Delhi established in the Year January, 1986 by Ministry of Home Affairs, Government of India which has been formed by merging the Inter-State Criminals Data Branch, Directorate of Coordination and Police Computer (DCPC), and Central Finger Print Bureau of CBI. NCRB had been established with an aim & responsibility to collect and analyse data regarding all the Criminal Offence as defined under Indian Statutes i.e. Indian Penal Code, 1860 (IPC)/ Bharatiya Nyaya Sanhita, 2023 (BNS) and other Special & Local Laws (SLL).¹²

RECORDED DATA BY NCRB ON CHILD ABUSE FROM 2008-2026

NCRB was established in 1986, but still it started publishing the dedicated Nationwide Statistics on Crime Against Children" from 2008 because, the Crime and Criminal Tracking Networking System (CCTNS) was approved in 2008 as the part of the evolution of NCRB along with the Digital Police Portal was launched in 2017.¹³

¹¹ *Bachpan Bachao Andolan v. Union of India*, (2014) 16 SCC 616.

¹² BYJU'S, National Crime Records Bureau (NCRB), <https://byjus.com/free-ias-prep/national-crime-records-bureau-ncrb/> (last visited Sept. 17, 2026).

¹³ National Crime Records Bureau, National Crime Records Bureau, <https://www.ncrb.gov.in/> (last visited Sept. 17, 2026).

The data represented by NCRB regarding Child-Abuse from the year 2008 to 2026 demonstrates a persistent predominance of physical abuse, accompanied by a substantial increase in the proportion attributed to sexual abuse and a corresponding decline in the proportions represented by emotional abuse and neglect.

By data, physical abuse remained the largest category throughout the period, accounting for approximately 45% in 2008 and 2014, declining marginally to approximately 42.5% in 2020, and subsequently increasing to approximately 46% for 2024–2026. Sexual Abuse, by contrast, exhibited the most pronounced upward movement, increasing from 25% in 2008 and 2014 to 30% in 2017, approximately 35% in 2018, 39% in 2020, and approximately 39% for 2024–2026. Emotional Abuse & Neglect demonstrates an overall declining trajectory, decreasing from 15% in 2008 and 2014 to approximately 8% by 2023 and remaining at approximately 8% for 2024–2026. The overall distribution therefore reflects a substantial relative increase in sexual abuse alongside the continued predominance of physical abuse, while emotional abuse and neglect constitute progressively smaller proportions of the categories represented.

It is pertinent and cautious to note here that the database from Year 2024–2026 are projections/ estimates. Values represent category-wise percentage distribution based on the data supplied by the NCRB on Online Platforms. Pre-2008 data are unavailable due to absence of systematic Nationwide Reporting.

WHAT CAN ONE DO WHEN THEY WITNESS ABUSE/ MALTREATMENT?

One may have heard the term Bystander Intervention¹⁴, to describe, stepping in to help if one sees any child who might be in danger of any kind of maltreatment/ abuse or at risk for sexual abuse. Bystander intervention can also be a helpful strategy if one witnesses sexual abuse with a person under age of 18 years. One doesn't have to be a hero to make a positive impact in someone's life, but one can intervene in a way that fits their comfort level and is appropriate for the situation. If they choose to step in, they may be able to give the person/ child being abused/ maltreated a chance to get to a safe place or leave the situation. Abuse/ Maltreatment can be prevented through the following:

¹⁴ American Psychological Association, Bystander Intervention, <https://www.apa.org/pi/health-equity/bystander-intervention>.

- a. Make a diversion: One should try their best to stop the abuse or divert the attention of the sexual abusers/harassers. However, keep in mind that one should never do something, that could endanger themselves. Do not confront someone if they appear to be on the verge of becoming aggressive.
- b. Make a straight inquiry: Have a direct conversation with the maltreated individual. Offer to go with them whenever they have to meet with the abuser if they are experiencing harassment at school or at any other place. If they are worried about walking alone at night, offer to go with them as a friend.
- c. Refer to an authority: Referring an abused or maltreated person to an appropriate authority plays a crucial role in the recovery process, as it ensures immediate protection, professional support and legal intervention. Authorities such as the police, Child Welfare Committees, ChildLine services, or parents of such person can take immediate steps to remove the victim from a harmful environment and prevent further abuse.¹⁵

A bystander's intervention leads to hesitation while before intervening in any kind of police matter is often defended on the ground that intervention is not legally compulsory, but framing such situation against the legal maxim "Qui Non Prohibet Quod Prohibere Potest Assentire Videtur-He who does not prohibit when he is able to prohibit, is considered as committing the thing." which states here that any person who does not prevent what he is able to prevent is considered as committing such thing or offence under the eye of law. For example, as provided "u/s section 21¹⁶ of the POCSO Act, 2012 if a person fails to report a known or suspected case of child sexual abuse will be considered as a punishable offence under POCSO Act, 2012", which means the bystander principle here is not merely aspirational.

Even when a child is unable or too frightened to testify about abuse, courts can rely on circumstantial evidence as mentioned under maxim "Res Ipsa Loquitur - The Thing Speaks for Itself," means clear signs of trauma such as unexplained injuries, behavioural changes, or grooming are enough to build a legal case on their own.

WHAT IS CHILD ABUSE/ MALTREATMENT?

The word "Child Abuse" has been defined by the World Health Organisation (WHO, 1999) as all forms of physical and/or emotional ill-treatment, sexual abuse, neglect or negligent

¹⁵ Id. at 8.

¹⁶ The Protection of Children from Sexual Offences Act, No. 32 of 2012, § 21, India Code (2012).

treatment or commercial or other exploitation, resulting in actual or potential harm to the child's health, survival, development or dignity in the context of a relationship of responsibility, trust or power.¹⁷

The term "Child Abuse" is also given under Section 3(2) of Child Abuse Prevention & Treatment Act, 2010 (CAPTA, 2010) as at a minimum, any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation (including sexual abuse as determined under section 111), or an act or failure to act which presents an imminent risk of serious harm.¹⁸

The word "Child Maltreatment" has been defined by the World Health Organisation (WHO, 2002) as the abuse and neglect that occurs to children under 18 years of age. It includes all types of physical and/or emotional ill-treatment, sexual abuse, neglect, negligence and commercial or other exploitation, which results in actual or potential harm to the child's health, survival, development or dignity in the context of a relationship of responsibility, trust or power.¹⁹

Classification of Child Abuse/ Maltreatment:

Abusive or offensive behaviours or activities come in various forms, but there are mainly four forms of child abuse that have been defined, i.e. Physical Abuse, Neglect, Emotional Abuse or Sexual Abuse, which are being discussed below:

1. Physical Abuse: Refers to any non-accidental use of physical force by a parent or person in authority and position of power and trust that causes or is likely to cause physical harm to a person below the age of 18 years.²⁰ Injuries may range from minor bruises to severe fractures and are considered abuse or maltreatment regardless of intent. Corporal punishment and excessive or cruel physical discipline also fall within physical abuse. Physical Abuse rests on two elements familiar to everyone who is a Law Graduate & practicing under Criminal law, i.e. "Actus Reus - the Guilty Act" like Beating, Burning, Forced Confinement, or the deliberate withholding of Food under the category of guilty acts in themselves, and the second is "Mens Rea, the Guilty Mind" and the fact is that

¹⁷ Office of Safeguarding, Office of Safeguarding, <https://www.officeofsafeguarding.org.au> (last visited Mar. 27, 2026).

¹⁸ Child Abuse Prevention and Treatment Act of 2010, 42 U.S.C. § 5106g(2) (2010).

¹⁹ World Health Organization, Child Maltreatment, <https://www.who.int/news-room/fact-sheets/detail/child-maltreatment> (last visited Mar. 27, 2026).

²⁰ Amisha U. Pathak, Child Abuse in India – An Analysis, INDIATHINK.ORG (Feb. 20, 2026), <https://indiathink.org/Child-Abuse-in-India-An-Analysis-by-Amisha-u-Pathak.pdf>.

they are inflicted knowingly, and often habitually, comes under the guilty mind that Indian Criminal law ordinarily requires during proceedings. Indian law recognises physical abuse as a punishable offence under multiple Indian legal statutes, including the Juvenile Justice (Care and Protection of Children) Act, 2015, which punishes abusers/ offenders by imprisonment and fines based on the severity of the offence. In the case of *Jai Prakash @ Prakash v. State of Rajasthan*, the court reiterated the need for stringent action in cases involving bodily harm to people who hadn't attained the age of 18 years.²¹ Physical Child Abuse primarily comprises the actions/incidents of excessive punishments, beating/Hitting a child, leaving a child in an undignified posture, forced Work Conditions, bullying etc.

2. Sexual Abuse: Refers to the forceful involvement of a dependent child in any kind of sexual activity that they may not fully comprehend & can't give their consent.²² It mainly occurs when an adult or older adolescent in a position of power, trust, or authority uses a child for sexual gratification. Injuries may range from minor bruises to major bruises on the hidden & private parts of a person below the age of 18 years. Sexual abuse also depends upon legal maxim "*Volanti Non- Fit Injuria - To a willing Person, no Injury is done*" which states here that in case if a child gives his/her consent for a sexual intercourse, it doesn't mean that he/she does not face injury, but in case of rape as under Section 375²³ of IPC, 1860 or Section 63²⁴ of BNS, 2023 even if the child gives consent, then such consent will not be considered under law & the activity of sexual intercourse will come under the punishment of either rape or sexual abuse. Indian law recognises sexual abuse as a punishable offence under multiple number of Indian legal statutes, including the Protection of Children from Sexual Offences (POCSO) Act, 2012, which punishes abusers/ offenders by rigorous/ life imprisonment or a penalty or death penalty based on the severity of the offence. In the case of *Sakshi v. Union of India*, the NGO Sakshi filed a petition seeking broader legal recognition of various forms of sexual abuse beyond the narrow definitions under Sections 375 and 376²⁵ of the Indian Penal Code. The Supreme Court acknowledged the limitations in the law and referred the matter to the Law Commission of India. This case played a

²¹ *Jai Prakash @ Prakash v. State of Rajasthan*, RLW 2006 (2) Raj. 1548 (India).

²² Amisha U. Pathak, *Child Abuse in India – An Analysis*, INDIATHINK.ORG (Feb. 20, 2026, 7:30 PM), <https://indiathink.org/Child-Abuse-in-India-An-Analysis-by-Amisha-u-Pathak.pdf>

²³ The Indian Penal Code, No. 45 of 1860, § 375, India Code (1860).

²⁴ The Bharatiya Nyaya Sanhita, No. 45 of 2023, § 63, India Code (2023).

²⁵ The Indian Penal Code, No. 45 of 1860, § 376, India Code (1860).

pivotal role in the later formulation and enactment of the Protection of Children from Sexual Offences (POCSO) Act, 2012, which comprehensively addresses child sexual abuse in a gender-neutral and child-sensitive manner.²⁶ Sexual Child Abuse primarily comprises the actions/incidents of rape, voyeurism, kissing or holding in a sexual manner, touching on private parts of a child, showing Pornography to a Child forcefully, sexual comments on any Girl Child etc.

3. Psychological/ Emotional Abuse: Refers to the Chronic mistreatment of a child True behaviour such as verbal threats, humiliation, rejection, etc.²⁷ Although emotional abuse does not cause any visible or physical injury, it seriously harms a child's emotional and mental health, which remains till his or her adulthood. This kind of abuse typically reflects a caregiver's or parent's failure to provide a supportive environment to the child irrespective of their gender. Section 17²⁸ of the Right of Children to Free and Compulsory Education Act, 2009 prohibits corporal punishment and mental harassment in schools. The National Commission for Protection of Child Rights mandates prompt departmental inquiry into every reported incident. In cases of Emotional/ Psychological Abuse, the maxim "Res Ipsa Loquitur- the thing speaks for itself" is particularly relevant, as behavioural changes, declining academic performance, and signs of fear may themselves constitute compelling indicators of abuse requiring immediate attention. Emotional Child Abuse primarily comprises the actions/incidents of isolation or Exclusion of a Child, stigmatising a Child, failure to provide a supportive environment, caregivers not responding to a child's emotional needs, blackmailing a Child, etc.
4. Neglect: Last but not least kind of Child Maltreatment is Neglect. Neglect refers to a form of child abuse arising from omission rather than any active harm, which involves the failure to provide basic needs to a child such as food, clothing, medical care, education etc.²⁹ It reflects a caregiver's or parent's inattention to a child's overall growth despite of available resources. Neglect poses a significant risk to a child's physical, mental, emotional and moral well-being, and it may cause a serious threat to their health and safety. Indian law recognises neglect as a punishable offence whether it has been committed by caretaker or by parents or by any of the relatives as well.

²⁶ Sakshi v. Union of India, 2004 (5) SCC 518.

²⁷ Amisha U. Pathak, Child Abuse in India – An Analysis, INDIATHINK.ORG (Feb. 20, 2026, 7:30 PM), <https://indiathink.org/Child-Abuse-in-India-An-Analysis-by-Amisha-u-Pathak.pdf>

²⁸ The Right of Children to Free and Compulsory Education Act, No. 35 of 2009, § 17, India Code (2009).

²⁹ Id. at 27.

Thus, to protect the rights of a child from Neglect, there are numerous Indian legal frameworks, including the Right to Education, 2009. In the case of *Goodricke Group Ltd. v. Centre of West Bengal*, the Supreme Court examined the denial of basic education to children of workers in tea plantations. The Court held that education is a fundamental right under Article 21A and cannot be denied on the pretext of financial hardship or administrative constraints. It emphasised that the State must ensure the provision of infrastructure, teaching facilities, and access to education for all children. This judgment reinforced the idea that education is not a luxury but a constitutional guarantee that safeguards children against exploitation and neglect.³⁰ Neglect primarily comprises the actions/incidents of failure to protect from harm, inattention to care, failure to monitor child's progress, failure to report bruising, failure to provide nutrition, failure to monitor child's progress.

LEGAL & STATUTORY FRAMEWORK FOR PROTECTION OF CHILDREN IN INDIA

Based on constitutional values, various statutory enactments and international obligations, India had developed a robust legal framework for the protection, development, as well as welfare of children. These legislative frameworks ensure various methods to redress, recover, prevent and address various aspects of child maltreatment, which mainly includes physical, emotional, sexual abuse & neglect. There are various legal frameworks or statutes which have been established for the protection of children from various kind abuse/ maltreatment, out of which some are mentioned below:³¹

1. Constitution Of India: The Constitution of India recognize children as the most vulnerable group of the nation, which may be entitled to special attention as well as protection. It incorporates both Fundamental Rights and DPSPs to uphold the best interests of the child. Some of the key provisions include Article 14 (Ensures Equality before Law & Equal protection of Law)³², Article 15(3)³³ (states that Nothing in this article shall prevent the State from making any special provision for women and children), Article 21A (Right to free & compulsory Education for all children between

³⁰ *Goodricke Group Ltd. v. Centre of West Bengal*, AIR 1995 SC 1950.

³¹ Amisha U. Pathak, *Child Abuse in India – An Analysis*, INDIATHINK.ORG (Feb. 20, 2026, 7:30 PM), <https://indiathink.org/Child-Abuse-in-India-An-Analysis-by-Amisha-u-Pathak.pdf>

³² The Constitution of India, art. 14 (1950).

³³ The Constitution of India, art. 15(3) (1950).

the age of 6-14)³⁴, Article 23 (Forbids the trafficking of individuals, coerced labour, and various forms of bonded labour that frequently include minors)³⁵, Article 24 (which prohibits the employment of Children in factories, etc. under the age of 14 years)³⁶, DPSPs/ Directive Principles of State Policy, particularly Article 39(e) and 39(f) direct the State to ensure that children are not forced by economic necessity to enter avocations unsuited to their age or strength and that their childhood and youth are protected against exploitation and against moral and material abandonment. Additionally, Article 45 creates an obligation on the State to provide early Childhood Care and Education for children below 6 Yrs of age & Article 47 obliges the State to raise the level of nutrition and public health, both directly relevant to child survival as well as development.³⁷

These Constitutional provisions form the basis for the legal protection of children in India & empower the legislative body & judiciary to enact and enforce child-centric laws as well as policies.

2. National Statutes For Protection Of Children From Child Abuse/ Maltreatment: India

has enacted numerous Statutes/ Laws which address different aspects of child care, justice and protection. Statutes addressing the aspects of physical abuse are:

- a. The Child & Adolescent Labour (Prohibition & Regulation) Act, 1986: This statute has been enacted to prohibit the employment of children below the age of 14 in any occupation which is hazardous to their health and regulates the working condition Adolescents (14-18 y/o). Section 3 prohibits employment of children in certain occupations and processes. Section 14 provides for penalties for employing children.³⁸
- b. Indian Penal Code, 1860/ BNS, 2023: The Bharatiya Nyaya Sanhita, 2023, which replaces the Indian Penal Code, has introduced a more focused and consolidated framework for addressing offences against children. Unlike the IPC, where child-related offences were dispersed across various sections, the BNS dedicates Chapter V (Sections 93 to 99) exclusively to crimes involving children. Section 93 (Exposure and abandonment of a child under twelve years,

³⁴ The Constitution of India, art. 21A (1950).

³⁵ The Constitution of India, art. 23 (1950).

³⁶ The Constitution of India, art. 24 (1950).

³⁷ The Constitution of India, arts. 39(e), 39(f), 45, 46 (1950).

³⁸ The Child & Adolescent Labour (Prohibition & Regulation) Act, No. 61 of 1986, § 3 & §14, India Code (1986).

by a parent or person having care of it), Section 94 (Concealment of birth by secret disposal of dead body), Section 95 (Hiring, employing or engaging a child to commit an offence), Section 96 (Procuration of child), Section 97 (Kidnapping or abducting a child under ten years with intent to steal from its person), Section 98 (Selling a child for purposes of prostitution, etc.), Section 99 (Buying a child for purposes of prostitution, etc.)³⁹

- c. Juvenile Justice (Care And Protection Of Children) Act, 2015: This statute has been enacted because it serves as the fundamental law in India regarding the safeguarding, rehabilitation, and legal processing of minors in Chapter IX (from Section 74 to 89). Some of them are: Section 75 (Punishment for cruelty to child), Section 76 (Employment of child for begging), Section 77 (Penalty for giving intoxicating liquor or narcotic drug or psychotropic substance to a child), Section 79 (Exploitation of a child employee), Section 85 (Offences committed on disabled children.)⁴⁰

There are many other Indian Statutes which protect Children from Physical Child Abuse.

3. Sexual Abuse:

- a. Protection Of Children From Sexual Offences Act, 2012: The POCSO Act of 2012 was established with the main aim of protecting children from different types of sexual exploitation, such as sexual aggression, harassment, and sexually explicit material. Although this whole Act protects Children from Sexual Abuse disregard of their Gender but Chapter II, III & IV (from Section 3 to 18) mainly talk about punishment for the Offender. Some of the important sections are Section 4 (Punishment for penetrative sexual assault), Section 6 (Punishment for aggravated penetrative sexual assault), Section 8 (Punishment for sexual assault), Section 14 (Punishment for using a child for pornographic purposes), Section 15 (Punishment for storage of pornographic material involving a child.)⁴¹
- b. Indian Penal Code, 1860/ BNS, 2023: The Bharatiya Nyaya Sanhita, 2023, which replaces the Indian Penal Code, has introduced a more focused and consolidated framework for addressing offences against children. There are

³⁹ The Bharatiya Nyaya Sanhita, No. 45 of 2023, §§ 93–99, India Code (2023).

⁴⁰ The Juvenile Justice (Care and Protection of Children) Act, No. 2 of 2016, §§ 75–79, 85, India Code (2016).

⁴¹ The Protection of Children from Sexual Offences Act, No. 32 of 2012, §§ 4, 6, 8, 14–15, India Code (2012).

numerous sections mentioned under the IPC, 1860/ BNS, 2023 for the protection of Children from Sexual Abuse. Some of them are Section 63 to 71 (Rape & Punishment of Rape), Section 74 to 79 (Protection from Sexual Assault & Outraging Modesty of a girl child), Section 98 & 99 (Selling or buying of children for Prostitution.)⁴²

- c. Information Technology Act, 2000: IT Act also helps in protection of children from any kind of sexual abuse/ maltreatment as mentioned under Chapter XI, Section 67B. Section 67B lays down the punishment for publishing or transmitting of material depicting children in sexually explicit act, etc., in electronic form.⁴³
- d. Immoral Traffic (Prevention) Act, 1956: This Statute had been enacted with an aim to protect people above the age of or below the age of 18 years from Immoral Trafficking for the purpose of Prostitution. There are numerous sections mentioned under Immoral Traffic (prevention) Act, 1956 for protection of Children from Sexual Abuse. Some of them are Section 5 (Procuring, inducing or taking a [person including a child] for the sake of prostitution), Section 6 (Detaining a [person including a child] in premises where prostitution is carried on).⁴⁴

4. Emotional Abuse:

- a. The Right Of Children To Free And Compulsory Education Act, 2009: plays a direct and enforceable role in protecting children from emotional and psychological abuse, especially within the school environment, where such abuse is most frequent in nature as mention in Chapter IV Section 17 which prohibits physical punishment and mental harassment to child.⁴⁵
- b. Information Technology Act, 2000: IT Act also helps in protection of children from any kind of emotional/ psychological abuse/ maltreatment as mentioned under Chapter XI, Section 67B which provides for punishment for publishing or transmitting of material depicting children in sexually explicit act, etc., in electronic form.⁴⁶

⁴² The Bharatiya Nyaya Sanhita, No. 45 of 2023, §§ 63–71, 74–79, 98–99, India Code (2023).

⁴³ Information Technology Act, No. 21 of 2000, § 67B, India Code (2000).

⁴⁴ Immortal Traffic (Prevention) Act, No. 104 of 1956, § 5 & 6, India Code (1956).

⁴⁵ The Right of Children to Free and Compulsory Education Act, No. 35 2009, § 17, India Code (2023).

⁴⁶ Information Technology Act, No. 21 of 2000, § 67B, India Code (2000).

- c. Indian Penal Code, 1860/ BNS, 2023: The Bharatiya Nyaya Sanhita, 2023, which replaces the Indian Penal Code, has introduced a more focused and consolidated framework for addressing offences against children. There are few sections mentioned under IPC, 1860/ BNS, 2023 for protection of Children from Emotional/ Psychological Abuse. Some of them are Section 79 (Words, gesture or act intended to insult modesty of a women or female child), Section 107 (Abatement of suicide of a child or person of unsound mind).⁴⁷

There are many other Indian Statutes which protect Children from Emotional Child Abuse.

5. Neglect:

- a. Juvenile Justice (Care And Protection Of Children) Act, 2015: This statute has been enacted because it serves as the fundamental law in India regarding the safeguarding, rehabilitation, and legal processing of neglected minors as well. There are several sections given under this Act which deals with neglected children out of which some are Section 14 (Child in need of care and protection), Section 53 (Rehabilitation and re-integration services in institutions registered under this Act and management thereof).⁴⁸
- b. Indian Penal Code, 1860/ BNS, 2023: The Bharatiya Nyaya Sanhita, 2023, which replaces the Indian Penal Code, has introduced a more focused and consolidated framework for addressing offences against children. There are few sections mentioned under IPC, 1860/ BNS, 2023 for protection of Children from Neglect. Some of them are Section 93 (Exposure and abandonment of a child under twelve years by a parent or a person having care of it). There are various Negligent act done by any person which endanger the life of a human being (including a child) covered from Sections 286-291.⁴⁹
- c. The Right Of Children To Free And Compulsory Education Act, 2009: plays a direct and enforceable role in protecting children from getting neglected in society, especially within the school environment, where such abuse is most frequent in nature as mentioned in this Act. Some of the important provisions are Section 3 (Right of child to free and compulsory education), Section 10

⁴⁷ The Bharatiya Nyaya Sanhita, No. 45 of 2023, §§ 79 & 107, India Code (2023).

⁴⁸ Juvenile Justice Act, No. 2 of 2015, § 14 & 53, India Code (2015).

⁴⁹ The Bharatiya Nyaya Sanhita, No. 45 of 2023, § 99 & 286- 291, India Code (2023).

(Duty of parents and guardians), Section 16 (Prohibition of holding back and expulsion).⁵⁰

- d. The Guardians And Wards Act, 1890: plays a vital role in protecting children from getting neglected in this society. This whole statute is basically enacted for the welfare of children, but there are some sections which basically address children who are facing neglect are Section 7 (Power of the Court to make order as to guardianship), which basically talks about appointment of guardian for a minor child, Section 17 (matters to be considered by the Court in appointing guardian), which basically talks about welfare of minor, Section 25 (title of guardian to custody of ward) which basically talks about guardianship of a neglected child.⁵¹

ROLE OF JUDICIARY IN THE PROTECTION OF CHILDREN AGAINST CHILD ABUSE/ MALTREATMENT

The Indian Judicial system has played and is playing a crucial role in safeguarding the fundamental rights of children through progressive interpretations of the Constitution and supporting statutory laws. It has acted not only as a protector of individual rights but also as a catalyst for legal and institutional reforms in matters involving the welfare and protection & also ensures due care of children in society. The following landmark judgments highlight the contribution of the Indian Judicial system in shaping the jurisprudence on the child protection legal framework in India:

1. In the case of *People's Union for Democratic Rights v. Union of India*, during preparations for the Asian Games, children were found working in hazardous construction sites in Delhi. The Court held that such employment of children under the age of 14 was violative of Article 24 of the Constitution, even though construction work was not listed in the schedule of the Employment of Children Act, 1938. It recognised construction as hazardous and directed strict enforcement of constitutional provisions. The judgment marked a critical judicial intervention by applying constitutional morality over statutory silence.⁵²

⁵⁰ The Right of Children to Free and Compulsory Education Act, No. 35 2009, § 3, 10 & 16, India Code (2009).

⁵¹ The Guardian & Wards Act, No. 8 of 1890, § 3, 10 & 16, India Code (1890).

⁵² *People's Union for Democratic Rights v. Union of India & Ors.*, 1982 (1) SCR 456.

2. Further, in the case of *Sheela Barse v. Union of India*, Social activist Sheela Barse filed a Public Interest Litigation highlighting the unlawful detention of children in jails. The Supreme Court held that no child should be lodged in police lockups or adult prisons and directed the establishment of juvenile homes and observation facilities. The Court mandated that District Judges regularly inspect jails and ensure humane treatment of minors. This case contributed significantly to reforming juvenile justice procedures and institutional care in India.⁵³
3. Then, in the landmark case of *M.C. Mehta v. State of Tamil Nadu*, the case involved children working in hazardous matchstick and fireworks industries in Sivakasi, Tamil Nadu. The Court directed that such employment must be immediately discontinued and that the affected children be rehabilitated and provided free education. It further directed the creation of a child labour rehabilitation fund and emphasised the State's responsibility to prevent such exploitation. The judgment linked the right to education and rehabilitation with the prohibition of child labour.⁵⁴
4. In the case of *Lakshmi Kant Pandey v. Union of India*, the landmark decision laid down comprehensive guidelines for regulating inter-country adoptions. The Court emphasised the need to ensure that the adoption process serves the best interests of the child and does not become a cover for trafficking. It mandated detailed scrutiny of adoptive parents, monitoring by child welfare agencies, and a mandatory legal procedure before courts. The judgment remains the cornerstone of adoption law and policy in India.⁵⁵
5. In the case of *Bandhua Mukti Morcha v. Union of India*, discussed earlier in the context of neglect, the Court went further and treated bonded child labourers as children denied their most basic entitlements, ordering their identification, release and rehabilitation and placing a continuing obligation on the State to prevent bonded labour from recurring.⁵⁶

Collectively, all these judgments demonstrate that the Indian judiciary has adopted a proactive step towards the protection of FRs & freedom of children. It hasn't only enforced constitutional safeguards but also provided interpretative clarity, as well as direct policy reforms, and ensured accountability of the executive authorities. The judiciary's commitment towards the welfare of

⁵³ *Sheela Barse & Anr. v. Union of India & Ors.*, 1986 AIR 1773.

⁵⁴ *M.C. Mehta v. State of Tamil Nadu and Ors.*, AIR 1997 SC 699.

⁵⁵ *Lakshmi Kant Pandey v. Union of India*, 1984 AIR 469.

⁵⁶ *Bandhua Mukti Morcha v. Union of India & Ors.*, AIR 1997 SC 2218.

children has significantly contributed to the development of legal framework that is more legally responsive, inclusive, and sensitive in accordance to the evolving needs of the children in India.

PREVENTIVE MEASURES FOR PROTECTION OF CHILDREN AGAINST CHILD ABUSE/ MALTREATMENT

In India, a developing nation, and in any other developed nation, Children are emphasised as the foundation of the future. Nevertheless, countless young lives continue to suffer under the shadow of abuse/ maltreatment and neglect silently. Protecting children from any such kind of maltreatment is not merely a legal obligation but also a moral imperative. It therefore demands collective action, vigilant institutions, and compassionate intervention to ensure their safety, dignity, and holistic development. Some of the preventive measures include:

1. Strengthening Family Support and Parenting Education: Families & caretakers are the first line of protection for their children. Parenting education programmes should focus on positive discipline, emotional bonding, stress management, and awareness of children's rights. Parents must be sensitised to identify early signs of distress, behavioural changes, and vulnerability in children. Community-based counselling services and helplines can assist families facing economic hardship, addiction, or domestic conflict, thereby reducing risk factors that often lead to neglect, emotional abuse, or physical maltreatment.
2. Creating Safe and Child-Friendly School Environments: Schools play a vital role in preventing child abuse by establishing clear child protection policies and zero-tolerance mechanisms against corporal punishment, bullying, and harassment. Teachers should receive regular training to recognise indicators of abuse and report cases promptly. Installation of complaint redressal systems, presence of counsellors, and inclusion of life-skills education help children understand personal boundaries, encourage them to speak up, and ensure a secure learning atmosphere.
3. Legal Awareness and Strengthening Reporting Mechanisms: Awareness of child protection laws such as the POCSO Act, Juvenile Justice Act, and Child Labour laws must be promoted among parents, teachers, and children. Easy access to reporting platforms like Childline 1098, police helplines, and school grievance cells ensures timely intervention. Confidential and child-friendly reporting procedures reduce fear

and stigma, encouraging victims and witnesses to report abuse, which plays a crucial role in prevention and early rescue.

4. Community Vigilance and Social Responsibility: Communities must actively participate in protecting children by remaining vigilant and responsive to suspicious behaviour, neglect, or exploitation. Local bodies, NGOs, and resident welfare associations can organise awareness drives, child safety workshops, and monitoring committees. When society collectively treats child protection as a shared responsibility, it becomes easier to detect abuse early, intervene promptly, and create an environment where exploitation is neither ignored nor tolerated.
5. Educating Children on Personal Safety and Rights: Children should be educated from an early age about personal safety, good touch and bad touch, body autonomy, and how to seek help. Age-appropriate sex education and rights-based awareness programs empower children to recognise inappropriate behaviour and resist exploitation. Encouraging open communication with trusted adults and providing access to counsellors builds confidence and reduces silence, which is often the biggest barrier to preventing abuse.
6. Effective Role of Institutions and Child Protection Agencies: Institutions such as Child Welfare Committees, Juvenile Justice Boards, and Protection Officers must function efficiently and sensitively. Regular inspections of childcare institutions, strict background verification of caregivers, and mandatory reporting of suspected abuse are essential. Coordinated efforts among police, judiciary, healthcare professionals, and social workers ensure early detection, rehabilitation, and long-term protection, thereby strengthening the overall child protection framework.

CONCLUSION

The matter of maltreatment of children in society culminates in a conclusion that underscores the urgent need for systemic reforms to foster a respectful and secure atmosphere in the society in which they reside. Effective laws and regulations must be enacted and strictly adhered to. This involves the establishment of precise protocols for the reported cases of abuse and maltreatment and ensuring accountability of the offenders. The primary focus of this research paper is to examine the assistance provided to victims.

The maxims examine through this paper are not just decorative Latin but each of them possesses a specific point at which Indian law has had to decide whether a family's privacy, and institution's reputation, or an offender's social standing should be allowed to outweigh a Child's Freedom, FRs, Harmony safety, and each have, in the cases discussed above, come down on the side of the child.

India's own older jurisprudential and cultural instincts, from the dharmic duty of upbringing to the enduring cultural memory of a protected childhood, point in the same direction as the modern constitutional text. What remains is the harder, less glamorous work of enforcement: adequately staffed Child Welfare Committees, functioning Special Courts that can clear a rising backlog of POCSO trials, and a reporting culture in which a child's disclosure is met with belief and support rather than suspicion or silence. Confronting these gaps decisively is the only way the promise this paper has traced on paper becomes a fact of a child's daily life.

It is imperative to ensure that victims have access to an effective & robust support network. This encompasses counselling, legal assistance, and ensuring that the act of reporting abuse/ maltreatment, including sexual abuse, does not result in any form of retaliation. Consistent awareness initiatives can effectively enlighten parents/ caregivers and children regarding the parameters of various kinds of abuse and the strategies for its prevention. Legislative & Judicial institutions must implement stringent measures to eradicate all forms of maltreatment and foster more secure and inclusive living conditions for each & every child in society by confronting these challenges decisively.