



# Legal Rights of Children with Intellectual Disabilities in India

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## Abstract

*This paper examines the legal framework in India that safeguards the rights of children with intellectual disabilities. Drawing upon constitutional provisions, national legislations, international conventions, and judicial precedents, the study explores how India has moved from a medical model to a rights-based approach in dealing with disability. Despite substantial progress in legal reform, implementation remains a key challenge. The paper highlights historical marginalization, the influence of global treaties, enforcement barriers, and the role of the judiciary in advocating for dignity and inclusion. It concludes with actionable recommendations to strengthen legal enforcement, promote inclusive education, and create a truly equitable society.*

## Keywords

*Children with Disabilities, Intellectual Disability, Legal Rights, RPWD Act, Inclusive Education, Judicial Precedents*

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## I. Introduction

Intellectual disability is recognized as a developmental condition involving significant impairments in intellectual functioning and adaptive behavior. These limitations generally appear during the developmental period, affecting an individual's ability to perform everyday tasks and engage in social interactions. The World Health Organization (WHO) estimates that about 15% of the global population lives with some form of disability, with the vast majority residing in economically developing countries such as India.

This paper is based on secondary research using a doctrinal methodology. It draws from national and international legal documents, policy reports, and judicial rulings relevant to the rights of children with intellectual disabilities in India.

In India, children with intellectual disabilities encounter compounded challenges due to societal stigma, lack of public awareness, and systemic neglect. These children often face obstacles in accessing inclusive education, appropriate healthcare, legal protections, and community participation. Historically, they were marginalized frequently placed in institutions, excluded from mainstream schooling, and denied opportunities for development.

Over time, the narrative around disability has evolved from a purely medical framework to a rights-based perspective. This shift has influenced policy development and legal reforms aimed at promoting equality and inclusion for persons with disabilities. Despite such progressive shifts, implementation remains weak, and children with intellectual disabilities continue to be among the most underserved.

This study examines the legal rights of children with intellectual disabilities in India by reviewing constitutional guarantees, national laws, international conventions, and landmark judicial rulings. It underscores the importance of robust legal implementation, inclusive policy frameworks, and awareness to secure a dignified life for every child with an intellectual disability.

## II. Historical Disadvantages Faced By Children With Intellectual Disabilities

Historically, children with intellectual disabilities have experienced severe forms of neglect, exclusion, and marginalization, both within the family and broader society. For much of the 19th and 20th centuries, the prevailing approach to intellectual disability was one of institutionalization. Children with cognitive impairments were often removed from their homes and placed in asylums or special institutions, where they lived under conditions that lacked adequate medical care, educational opportunities, and emotional support. In India, these patterns mirrored global trends. The early legal system failed to differentiate between mental illness and intellectual disability, leading to the wrongful classification and treatment of individuals. The Indian Lunacy Act of 1912, for instance, did not acknowledge intellectual disability as distinct from mental illness, which resulted in inappropriate custodial care. Children with such disabilities were frequently seen as incapable of education or productivity, and hence were hidden by families or institutionalized.

The stigma attached to intellectual disability was pervasive. Parents, especially in rural or conservative communities, often faced social shame for having a child with special needs. This stigma extended to the children, who were labeled as burdens or liabilities. Without legal safeguards or inclusive services, many such children were denied access to even the most basic rights, such as education, play, and community life.

While some reforms began in the late 20th century, including shifts toward special education and community-based rehabilitation, the change was slow. The disability rights movement gradually began to advocate for deinstitutionalization and the right to be raised in a family environment. However, even today, echoes of this historical neglect persist in the form of poor implementation of rights, lack of support services, and minimal societal awareness. Kumari (2024) provides a sociological understanding of disability by showing how social, cultural and economic structures shape the lived experiences of persons with disabilities. Her study challenges the medical model by framing disability as a social construct shaped by power relations, stigma and exclusion. She highlights the intersecting vulnerabilities of women and children with disabilities, especially in marginalized or conflict-affected regions, and identifies major gaps in access to education, healthcare, vocational training, family support and political participation. The study also critiques the implementation of the Rights of Persons with Disabilities Act, 2016, and calls for an intersectional, rights-based and transformative approach to dismantle attitudinal, environmental and institutional barriers, positioning disability as a product of unequal social arrangements rather than individual limitations.

### **III. Influence Of United Nations On India's Disability Laws**

The role of the United Nations has been pivotal in shaping global discourse on the rights of persons with disabilities, including children with intellectual disabilities. Various international treaties, declarations, and conventions have provided the foundation for nations like India to develop more inclusive and rights-based legal frameworks.

One of the most influential documents is the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), adopted in 2006. India was among the first countries to sign and ratify this convention in 2007. Article 7 of the UNCRPD specifically addresses children with disabilities, affirming that they have the right to enjoy all human rights and fundamental freedoms on an equal basis with other children. The article also mandates that all decisions concerning children with disabilities must prioritize their best interests and ensure their full participation in society.

Additionally, other UN initiatives such as the Convention on the Rights of the Child (CRC), the Incheon Strategy (2012–2022), and the Sustainable Development Goals (SDGs) have reinforced the principle of inclusive education, healthcare, and protection for children with disabilities. These frameworks promote a social model of disability, shifting the responsibility from individuals to society and governments to remove barriers to inclusion.

The influence of these conventions has led India to amend and strengthen its domestic laws. For instance, the Rights of Persons with Disabilities Act, 2016 reflects many of the principles outlined in the UNCRPD, including legal capacity, inclusive education, and protection from abuse and exploitation. These changes signify a movement towards aligning national laws with international human rights standards, especially in the context of children.

### **IV. Constitutional Safeguards In India**

The Constitution of India serves as the supreme legal framework that guarantees fundamental rights to all citizens, including children with intellectual disabilities. Although the Constitution does not explicitly mention persons with disabilities in its original text, several articles have been interpreted to extend protection and support to them under broader principles of equality, justice, and dignity.

One of the most significant provisions is Article 15(2), which prohibits discrimination on various grounds, including disability. This ensures that children with intellectual disabilities cannot be denied access to public spaces, services, or institutions. Article 21 guarantees the right to life and personal liberty, which has been judicially expanded to include the right to live with dignity and access to health care.

Article 21A, inserted through the 86th Amendment, provides for free and compulsory education for all children between the ages of 6 and 14. This article forms the foundation for inclusive education in India and places an obligation on the state to ensure that children with intellectual disabilities are not left out of the mainstream schooling system.

Furthermore, Article 41, under the Directive Principles of State Policy, directs the state to make effective provisions for securing the right to work, education, and public assistance in cases of unemployment, old age, sickness, and disablement. Though not enforceable in a court of law, these principles guide the creation of policies and laws that support the welfare of children with disabilities.

Together, these constitutional safeguards form the legal bedrock for protecting the rights of children with intellectual disabilities and ensuring their integration into the broader framework of Indian society.

## **V. National Legislations And Policies Relevant To Children With Intellectual Disabilities**

India has made considerable progress in formulating laws and policies to protect the rights of persons with disabilities, including children with intellectual disabilities. Over time, the legal framework has evolved from viewing disability as a medical issue to adopting a rights-based approach that emphasizes dignity, inclusion, and non-discrimination.

The following legislations are significant in shaping the legal rights and entitlements of children with intellectual disabilities:

### **1. Mental Health Act, 1988:**

This Act was important for distinguishing mental illness from intellectual disability. Although it primarily focused on treatment and institutional care, it acknowledged that intellectual disability required a different approach.

### **2. Rehabilitation Council of India (RCI) Act, 1992**

This Act established standards for training professionals who work with people with disabilities. It emphasized the need for qualified personnel to support children with intellectual disabilities in education and rehabilitation.

### **3. Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995**

This law marked a major shift in disability rights in India. It mandated free education up to the age of 18 and introduced 3% reservation in government jobs. It laid the groundwork for inclusive education and special facilities for children with intellectual disabilities.

### **4. The National Trust Act, 1999**

A critical legislation for children with intellectual and developmental disabilities, including autism, cerebral palsy, and mental retardation. It provides for legal guardianship, local level committees, and welfare schemes specifically targeted at this group.

### **5. Rights of Persons with Disabilities Act, 2016 (RPWD Act)**

This is the most comprehensive legislation till date. It replaced the term 'mental retardation' with 'intellectual disability' and expanded the number of recognized disabilities from 7 to 21. Key provisions include:

- Inclusive education and 5% reservation in educational institution
- Early identification and intervention
- Protection from abuse, violence, and exploitation
- Right to legal capacity and support in decision-making
- Accessibility to buildings, transport, and information systems

The Act mandates state governments to establish special schools, hostels, and other support mechanisms for children with intellectual disabilities.

Together, these laws provide a framework for the protection, development, and empowerment of children with intellectual disabilities. However, effective implementation remains a key challenge.

## **VI. Judicial Pronouncements And Legal Precedents**

The Indian judiciary has played a significant role in upholding and interpreting the rights of persons with disabilities, including children with intellectual disabilities. Through various landmark judgments, the courts have reinforced the constitutional and legal protections meant to safeguard the dignity, autonomy, and welfare of this vulnerable population.

### **1. Suchita Srivastava v. Chandigarh Administration (2009)**

This case involved a woman with intellectual disability who became pregnant due to sexual abuse in a state-run institution. The Supreme Court ruled that the reproductive rights of individuals with disabilities must be respected, and that forced sterilization or abortion without consent violates Article 21 of the Constitution (right to life and personal liberty). The court emphasized that intellectually disabled individuals possess the right to bodily autonomy and dignity.

### **2. Reena Banerjee v. Union of India (2016)**

The case highlighted the inhumane and negligent conditions in state-run homes for girls with intellectual disabilities. Following the death of several inmates, the Supreme Court directed central and state

authorities to take immediate remedial measures and strengthen monitoring through coordination committees under the Persons with Disabilities Act, 1995.

### **3. Chandan Kumar Banik v. State of West Bengal (2010)**

A PIL was filed against the poor conditions in mental hospitals. The Supreme Court condemned the practice of chaining intellectually disabled patients, especially children, and emphasized the need for humane treatment, improved infrastructure, and professionally trained staff.

### **4. Legal Aid Committee v. State of Madhya Pradesh (1994)**

This case exposed the degrading conditions in the Gwalior Mental Asylum, where inmates, including children, were shackled. The court called for systemic reforms and better implementation of disability welfare measures.

These rulings collectively underscore the judiciary's acknowledgment of the fundamental rights of children with intellectual disabilities and their right to live with dignity, autonomy, and equal protection under the law. They have also catalyzed institutional reforms and contributed to the evolution of disability law in India.

## **VII. Implementation Gaps And Current Challenges**

Despite a comprehensive legal framework for protecting the rights of children with intellectual disabilities, the implementation of these laws remains a significant challenge in India. Several systemic issues continue to obstruct the realization of rights enshrined in constitutional provisions and disability-specific legislations.

### **1. Lack of Awareness and Sensitization**

Many stakeholders including parents, teachers, healthcare workers, and government officials remain unaware of the rights and services available for children with intellectual disabilities. This leads to underutilization of schemes and discrimination in schools and communities.

### **2 Inadequate Infrastructure and Resources**

Most government-run schools, anganwadis, and health centers lack trained staff, special educators, and disability-friendly infrastructure. This makes it difficult for children with intellectual disabilities to access inclusive education or therapy services.

### **3. Poor Enforcement of Legal Provisions**

Although the RPWD Act, 2016 mandates inclusive education and legal capacity, many of its clauses are not effectively enforced. Monitoring mechanisms are either weak or absent, especially in rural and underdeveloped areas.

### **4. Stigma and Social Discrimination**

Societal attitudes continue to be shaped by stigma and misinformation. Children with intellectual disabilities often face exclusion from peer groups, community events, and even from within their own families.

### **5. Insufficient Data and Research**

There is a lack of accurate and disaggregated data on the number and condition of children with intellectual disabilities in India. This hinders policy planning and resource allocation.

### **6. Gender and Rural-Urban Divide**

Girls with disabilities face double discrimination based on gender and disability. Similarly, children in rural areas face far more barriers in accessing their legal rights compared to their urban counterparts. Addressing these challenges requires a multi-stakeholder approach involving government departments, civil society, media, and community networks. It is essential to focus not only on creating laws but also on building robust systems for their implementation, monitoring, and public engagement.

## **VIII. Conclusion And Recommendations**

The legal framework in India for protecting the rights of children with intellectual disabilities has witnessed significant progress over the past few decades. From early institutional laws to comprehensive rights-based legislations like the Rights of Persons with Disabilities Act, 2016, India has demonstrated its commitment to inclusion and equality. Constitutional guarantees, national legislations, and international conventions provide a robust foundation for safeguarding the dignity, autonomy, and development of these children.

However, despite the legal provisions in place, the actual realization of these rights remains limited due to poor implementation, lack of awareness, and deep-rooted social stigma. Many children with intellectual disabilities continue to be excluded from education, healthcare, and community life. The absence of trained professionals, disability-friendly infrastructure, and accurate data further weakens the delivery of support services. To bridge these gaps and ensure that the rights of children with intellectual disabilities are not only recognized but also implemented effectively, the following recommendations are proposed:

- Ensure that all provisions of the RPWD Act, 2016 are properly enforced at state and district levels with strong monitoring and accountability
- Train teachers, health workers, police officials, and judicial staff on the rights and needs of children with intellectual disabilities.
- Establish accessible schools with trained special educators and assistive technologies to promote inclusive learning environments.
- Run public awareness campaigns to reduce stigma and promote social inclusion at family and community levels.
- Strengthen free legal aid services and establish fast-track courts for cases involving disability rights violations.
- Collect disaggregated data on children with intellectual disabilities for better policy planning and implementation.

In conclusion, achieving full inclusion and equality for children with intellectual disabilities requires more than just laws. It demands a societal shift towards empathy, understanding, and action. With strong political will, community participation, and a sustained focus on rights-based implementation, India can move closer to a truly inclusive society for all its children.

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