



INDIAN JOURNAL OF
LEGAL REVIEW

VOLUME 4 AND ISSUE 3 OF 2024

INSTITUTE OF LEGAL EDUCATION



INDIAN JOURNAL OF LEGAL REVIEW

APIS – 3920 – 0001 | ISSN – 2583-2344

(Free and Open Access Journal)

Journal's Home Page – <https://ijlr.iledu.in/>

Journal's Editorial Page – <https://ijlr.iledu.in/editorial-board/>

Volume 4 and Issue 3 of 2024 (Access Full Issue on – <https://ijlr.iledu.in/volume-4-and-issue-3-of-2024/>)

Publisher

Prasanna S,

Chairman of Institute of Legal Education (Established by I.L.E. Educational Trust)

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 94896 71437 – info@iledu.in / Chairman@iledu.in



© Institute of Legal Education

Copyright Disclaimer: All rights are reserve with Institute of Legal Education. No part of the material published on this website (Articles or Research Papers including those published in this journal) may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission of the publisher. For more details refer <https://ijlr.iledu.in/terms-and-condition/>

PROTECTION OF HUMAN RIGHTS OF WOMEN, CHILDREN AND VULNERABLE GROUPS

AUTHOR – SOUNDARIYA PANDI S, STUDENT AT SCHOOL OF EXCELLENCE IN LAW, CHENNAI

BEST CITATION – SOUNDARIYA PANDI S, PROTECTION OF HUMAN RIGHTS OF WOMEN, CHILDREN AND VULNERABLE GROUPS, INDIAN JOURNAL OF LEGAL REVIEW (IJLR), 4 (3) OF 2024, PG. 659-667, APIS – 3920 – 0001 & ISSN – 2583-2344.

ABSTRACT

Administrative law plays a pivotal role in the protection and promotion of human rights, particularly for women, children, and vulnerable groups. These laws regulate the actions of public authorities, ensuring accountability, fairness, and non-discrimination in decision-making processes that directly affect these populations. For women, administrative law addresses genderbased issues such as equality in the workplace, access to social services, and protection from violence. For children, it ensures rights related to education, healthcare, and protection from abuse or exploitation. Vulnerable groups, including the elderly, disabled individuals, and marginalized communities, are safeguarded by administrative frameworks that prevent social exclusion and promote equal access to public resources. Administrative bodies, such as human rights commissions and ombudsmen, provide accessible mechanisms for challenging government actions that may violate these rights. By aligning domestic regulations with constitutional and international human rights standards, administrative law helps uphold the dignity, rights, and welfare of women, children, and other vulnerable groups, ensuring justice and protection from abuses of power.

INTRODUCTION

Human rights are universal, inherent, and inalienable rights to which all individuals are entitled, regardless of their gender, age, social status, or background. However, women, children, and other vulnerable groups often face systemic discrimination, marginalization, and abuse, necessitating specific legal frameworks and protection mechanisms. These frameworks seek to address the particular challenges these groups encounter and ensure that they can enjoy the full range of human rights, as enshrined in international treaties and national laws.

Focusing on Women, Children, and Vulnerable Groups:

PROTECTION OF WOMENS RIGHT

Women's rights have been a focal point of human rights advocacy for decades. While women make up half of the global population, they often face gender-based discrimination

and violence, impeding their ability to exercise their full rights. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), adopted by the United Nations in 1979, remains one of the primary international instruments aimed at eliminating gender discrimination. CEDAW calls for the eradication of discriminatory laws, customs, and practices, ensuring that women enjoy equal rights in all aspects of life, including education, health, employment, and politics⁹⁷⁷.

Despite legal advancements, gender inequalities persist globally. Women are disproportionately affected by violence, including domestic violence, trafficking, and harmful traditional practices such as female genital mutilation (FGM). Legal protections alone are insufficient without strong enforcement mechanisms, education, and cultural shifts toward gender equality.

⁹⁷⁷ Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), United Nations, adopted in 1979

PROTECTION OF CHILDRENS RIGHTS

Children, due to their developmental stage and dependence on adults, are a particularly vulnerable group. Their rights are comprehensively outlined in the United Nations Convention on the Rights of the Child (CRC), adopted in 1989. The CRC emphasizes four main principles: nondiscrimination, the best interests of the child, the right to life, survival and development, and respect for the views of the child⁹⁷⁸. Children around the world continue to face numerous challenges, including child labor, exploitation, poverty, and lack of access to quality education and healthcare. In conflict zones, children are often the most affected by violence, displacement, and recruitment into armed groups.

PROTECTION OF VULNERABLE GROUPS

Vulnerable groups include individuals and communities who are at a higher risk of suffering human rights violations due to factors such as disability, poverty, ethnicity, refugee status, or sexual orientation. These groups often experience systemic discrimination and exclusion, which impede their ability to access fundamental rights.

The Convention on the Rights of Persons with Disabilities (CRPD), adopted in 2006, is a key international framework that protects the rights of persons with disabilities and promotes their full inclusion in society⁹⁷⁹. Similarly, various other international and regional instruments seek to protect the rights of ethnic minorities, refugees, Indigenous peoples, and LGBTQ+ individuals, recognizing their heightened vulnerability to abuse and marginalization.

HUMAN RIGHTS

Human rights are a set of universal principles that apply to everyone, regardless of their background, location, or beliefs. They are based on the idea that all people have inherent value and should be treated fairly. Human rights

law includes international treaties and other instruments that expand the body of human rights law. Here are some examples of human rights:

- Right to life and liberty: Everyone has the right to life and liberty, and to be free from slavery and torture.
- Right to health: Everyone has the right to the highest attainable standard of physical and mental health.
- Right to education: Everyone has the right to education.
- Right to work: Everyone has the right to work.
- Freedom of opinion and expression: Everyone has the freedom of opinion and expression.
- Collective rights: Groups of people who have been disadvantaged or marginalized have collective rights. For example, Aboriginal and Torres Strait Islander peoples have collective rights to their ancestral lands.

The idea of natural rights, which preceded the modern concept of human rights, was a key part of the struggles against political absolutism in the late 18th and early 19th centuries.⁹⁸⁰

RIGHTS OF WOMEN IN INDIA

Following the implementation of the constitution, numerous initiatives were undertaken to enhance the status of women through various laws and judicial interpretations.

- Right to Abortion: This right was detailed when the Medical Termination of Pregnancy Act was enacted in 1971. Legally a pregnancy may now be terminated for health reasons if it poses a threat to the life or mental or physical well-being of the woman, particularly in

⁹⁷⁸ United Nations Convention on the Rights of the Child (CRC), adopted in 1989, <https://www.unicef.org/childrights-convention>.

⁹⁷⁹ Convention on the Rights of Persons with Disabilities (CRPD), United Nations, adopted in 2006

⁹⁸⁰ Constitution of India, 1950, <https://www.india.gov.in/my-government/constitution-india>

cases of pregnancy due to sexual assault or when there exists a significant chance that the child might be born with disabilities or illnesses.

- Education Rights : The Right of Children to Free and Compulsory Education Act, 2009 (RTE Act): This law ensures free and compulsory education for all children aged 6 to 14, benefiting girls by providing equal opportunities for education⁹⁸¹.
- Women Karta: A Karta is responsible for the family's overall welfare. The Hindu Succession Amendment Act of 2005 granted daughters equal rights to inherit property. Previously, women were excluded from being coparceners, which prevented them from becoming Karta.
- The Protection of Women from Domestic Violence Act, 2005: The term domestic violence has been broadened to encompass all potential forms of abuse. A key development for women's rights includes the legal acknowledgment of marital rape as a form of sexual abuse under this Act's definition. This definition also addresses claims for compensation due to domestic violence and includes provisions for maintenance akin to those found in Section 125 of the Code of Criminal Procedure, 1973. Furthermore, the Act recognizes emotional abuse as a type of domestic violence.⁹⁸²
- Equal Remuneration Act, 1976: This Act was established to ensure that men and women receive equal pay for equal work and aims to prevent discrimination against women in employment and related matters.
- Maternity Benefit Act, 1961: This Act governs the employment of women in specific workplaces during certain periods before and after childbirth, providing maternity benefits

and other relevant support. It safeguards the health of pregnant women and protects against any interference that could adversely affect the development of the unborn child⁹⁸³.

RIGHTS FOR CHILDREN:

In India, children's rights are recognized and protected through a combination of constitutional provisions, legislative frameworks, and international commitments. The

Constitution of India and various laws aim to ensure the protection, development, and well-being of children.

□ The Right of Children to Free and Compulsory Education Act, 2009: This Act provides for free and compulsory education to all children aged 6 to 14 years. It mandates that no child shall be denied admission to school and establishes a framework for the quality of education⁹⁸⁴.

□ The Protection of Children from Sexual Offences (POCSO) Act, 2012: This Act provides a legal framework for the protection of children from sexual abuse and exploitation. It establishes procedures for reporting, recording, and investigating offenses against children⁹

□ The Juvenile Justice (Care and Protection of Children) Act, 2015: This Act aims to provide care, protection, and rehabilitation for children in conflict with the law and those in need of care and protection. It emphasizes the principle of rehabilitation over punishment⁹⁸⁵.

□ The Child Labour (Prohibition and Regulation) Amendment Act, 2016: This Act prohibits the employment of children below 14 years in any occupation and regulates the working conditions of adolescents aged 14 to 18 years in non-hazardous occupations⁹⁸⁶. The National Food Security Act, 2013: This Act aims to provide subsidized food grains to ensure food security

⁹⁸¹ The Right of Children to Free and Compulsory Education Act, 2009, <https://legislative.gov.in/actsofparliamentfromtheyear/right-children-free-and-compulsory-education-act-2009>.

⁹⁸² The Protection of Women from Domestic Violence Act, 2005, <https://wcd.nic.in/act/2314>.

⁹⁸³ The Maternity Benefit Act, 1961 (Amended 2017),

⁹⁸⁴ The Right of Children to Free and Compulsory Education Act, 2009, <https://mhrd.gov.in/rte>. ⁹ The Protection of Children from Sexual Offences (POCSO) Act, 2012.

⁹⁸⁵ The Juvenile Justice (Care and Protection of Children) Act, 2015,

⁹⁸⁶ The Child Labour (Prohibition and Regulation) Amendment Act, 2016

for children and mothers. It includes provisions for nutritious meals for children aged 6 months to 14 years and pregnant and lactating women⁹⁸⁷.

VULNERABLE GROUPS

In administrative law, "vulnerable groups" refer to segments of the population that are at a higher risk of marginalization, discrimination, and exploitation. These groups often face barriers that hinder their access to basic rights and services, necessitating protective measures within legal and administrative frameworks. Below are some key categories of vulnerable groups:

○ Minority Communities

Minority communities encompass ethnic, racial, and religious groups that differ from the majority population in a given society. These communities may experience systemic discrimination, social exclusion, and limited access to resources. Legal protections aim to safeguard their rights and promote social inclusion⁹⁸⁸.

Refugees are individuals who have fled their home countries due to persecution, conflict, or violence, while asylum seekers are those who seek international protection from such threats.

Both groups face unique vulnerabilities, including legal insecurity and limited access to essential services. International and domestic laws are designed to protect their rights and provide necessary support.

○ Disabled Persons

Individuals with disabilities face significant barriers that can limit their participation in society. These barriers may be physical, social, or attitudinal, affecting their access to education, employment, and healthcare. Legal frameworks that protect the rights of

disabled persons are essential for promoting inclusivity and accessibility⁹⁸⁹.

○ Elderly Individuals

The elderly population often experiences vulnerabilities related to health issues, financial insecurity, and social isolation. Administrative measures must ensure that older adults have access to healthcare, social services, and protection against age discrimination, thereby promoting their well-being and dignity.

○ Women and Gender Minorities

Women and individuals identifying as gender minorities, such as transgender and nonbinary persons, often face systemic inequalities and violence. Legal protections are crucial to addressing gender-based discrimination and promoting equality across all spheres of life.

○ Indigenous Peoples

Indigenous communities frequently face historical injustices, land dispossession, and cultural erasure. Protecting the rights of indigenous peoples requires legal recognition of their sovereignty, cultural practices, and unique needs within administrative frameworks.

○ Low-Income Individuals and Families

Economic vulnerability can significantly impact access to education, healthcare, and housing. Legal protections aimed at supporting low-income individuals and families are vital for ensuring their basic rights and improving their living conditions.⁷ by defining these vulnerable groups, administrative law can establish specific protections and resources to promote their rights, foster social justice, and ensure

⁹⁸⁷ The National Food Security Act, 2013

⁹⁸⁸ United Nations. (2018). *Minority Rights: An Introductory Guide*.

⁹⁸⁹ World Health Organization (WHO). (2021). *World Report on Disability*.

equitable access to services and opportunities⁹⁹⁰.

PROTECTION OF HUMAN RIGHTS OF WOMEN, CHILDRENS AND VULNERABLE GROUPS

The protection of human rights for women, children, and vulnerable groups is fundamental to achieving social justice and equality. However, many of these groups continue to face systemic challenges and rights violations. Addressing these issues requires robust legal frameworks, effective enforcement, and socio-economic reforms. Below is an overview of key areas of concern in protecting their rights, with footnotes for further reference.

1. Legal Protections and International Frameworks

- **Impact:** International conventions such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC) provide legal frameworks for protecting the rights of women and children. Additionally, the Universal Declaration of Human Rights underscores the rights of all vulnerable groups.
- **Challenge:** Despite international laws, many countries fail to fully implement or enforce these protections, leaving significant gaps in justice for women, children, and vulnerable groups. In many cases, cultural norms and legal loopholes undermine these protections⁹⁹¹.

2. Gender-Based Violence (GBV)

- **Impact:** Women, girls, and LGBTQ+ individuals are particularly vulnerable to gender-based violence,

including domestic violence, sexual violence, and harmful traditional practices like child marriage and female genital mutilation (FGM).

- **Challenge:** In many countries, laws against gender-based violence are either insufficient or not properly enforced. An estimated 1 in 3 women worldwide experience physical or sexual violence in their lifetime⁹⁹².
- **Solution:** Strengthening legal responses, improving access to justice, and addressing cultural norms are critical to reducing GBV.

3. Child Protection and Rights

- **Impact:** Children face a range of abuses, including exploitation through child labor, trafficking, and recruitment into armed conflicts. Millions of children are denied access to education, healthcare, and a safe living environment.
- **Challenge:** The COVID-19 pandemic has exacerbated child vulnerability, with an increase in child labor and exploitation due to economic hardship¹⁸.
- **Solution:** Countries need to prioritize child welfare by ensuring access to education, healthcare, and protective services for all children.

4. Access to Healthcare

- **Impact:** Women, children, and other vulnerable groups often face challenges in accessing healthcare, particularly in low-income regions. Lack of maternal healthcare results in high maternal mortality rates, especially in sub-Saharan Africa and South Asia.
- **Challenge:** Approximately 810 women die every day from preventable

⁹⁹⁰ United Nations Development Programme (UNDP). (2020). *Human Development Report 2020: The Next Frontier - Human Development and the Anthropocene*

⁹⁹¹ United Nations (2021), Convention on the Rights of the Child; United Nations (2020), Convention on the Elimination of All Forms of Discrimination against Women.

⁹⁹² WHO (2021), Violence Against Women Prevalence Estimates ¹⁸ UNICEF (2021), Impact of COVID-19 on Child Protection ¹⁹ WHO (2021), Maternal Mortality.

causes related to pregnancy and childbirth, with 94% of these deaths occurring in low-resource settings¹⁹. Vulnerable populations, including those with disabilities and refugees, often face discrimination in accessing healthcare.

- Solution: Strengthening healthcare systems, improving maternal healthcare, and ensuring that vulnerable groups have access to affordable care are crucial.

5. Discrimination and Social Exclusion

- Impact: Vulnerable groups, including ethnic minorities, indigenous peoples, migrants, and LGBTQ+ individuals, often face systemic discrimination, marginalizing them from accessing education, employment, and social services.
- Challenge: Discrimination based on race, gender, disability, or migration status contributes to economic inequality and limits opportunities for participation in society⁹⁹³
- Solution: Anti-discrimination laws and policies, along with educational programs promoting inclusion, are necessary to reduce social exclusion and foster equal rights.

6. Human Trafficking and Exploitation

- Impact: Human trafficking disproportionately affects women, children, and marginalized groups. Victims are trafficked for forced labor, sexual exploitation, and even organ trafficking.
- Challenge: Efforts to combat trafficking are hindered by weak law enforcement, corruption, and lack of victim support systems. The International Labor Organization estimates that nearly

25 million people are in forced labor situations, many of them trafficked⁹⁹⁴.

- Solution: Strengthening international cooperation, improving law enforcement, and enhancing victim protection are key to addressing human trafficking.

7. Access to Education

- Impact: Education is a key tool in reducing poverty and inequality. However, girls, children with disabilities, and children from marginalized communities often face significant barriers to education.
- Challenge: In many countries, cultural norms, early marriages, and lack of infrastructure prevent girls from attending school. The COVID-19 pandemic further exacerbated this issue, with 244 million children out of school globally in 2022.
- Solution: Governments must focus on creating inclusive education systems that ensure access for all, especially for girls and vulnerable children.

8. Economic Inequality and Labor Rights

- Impact: Women, children, and vulnerable groups often bear the brunt of economic inequality, with limited access to decent work and fair wages. Women are overrepresented in informal employment, and children from poor families are more likely to be engaged in child labor.
- Challenge: The global gender pay gap remains significant, with women earning on average 20% less than men⁹⁹⁵.

⁹⁹³ UNHRC (2020), Discrimination and Human Rights of Vulnerable Group

⁹⁹⁴ International Labour Organization (2021), Global Estimates of Modern Slavery

⁹⁹⁵ International Labour Organization (2020), World Employment Social Outlook: Trends for Women

- Solution: Enforcing labor rights, closing the gender pay gap, and creating economic opportunities for vulnerable groups are essential for reducing inequality.

CASE STUDY

Case 1: Protection of Women's Rights in India – The Nirbhaya Case

Overview:

The 2012 Delhi gang-rape case, commonly known as the Nirbhaya case, sparked nationwide outrage in India and led to significant legal reforms in the protection of women's rights. On December 16, 2012, a 23-year-old medical student was brutally gang-raped on a bus in Delhi and later died from her injuries. The brutality of the case brought attention to the widespread issue of gender-based violence in India.

- Human Rights Violations: The incident highlighted the lack of safety for women in public spaces, systemic failures in law enforcement, and inadequate legal protection for victims of sexual violence⁹⁹⁶.
- Legal Reforms: Following public protests, the Indian government passed the Criminal Law (Amendment) Act, 2013, which expanded the definition of rape, introduced harsher penalties, and established fast-track courts for rape cases⁹⁹⁷.
- Challenges: Despite legal reforms, cases of sexual violence in India remain high, with issues such as delayed justice, societal stigma, and underreporting still pervasive.

Case 2: Vishaka v. State of Rajasthan (1997) – Protection of Women from Sexual Harassment at the Workplace

Overview:

⁹⁹⁶ BBC (2013), India's Nirbhaya Case and Its Aftermath.

⁹⁹⁷ Indian Ministry of Law and Justice (2013), The Criminal Law (Amendment) Act, 2013.

The Vishaka case is one of the landmark cases in India concerning the protection of women's rights, particularly regarding sexual harassment at the workplace. The case arose after Bhanwari Devi, a grassroots worker in Rajasthan, was gang-raped for attempting to stop a child marriage. Her attackers were acquitted, and her plight sparked nationwide protests, leading to legal action.

- Human Rights Violations: Bhanwari Devi's case underscored the lack of legal safeguards for women facing sexual harassment in the workplace, violating their right to dignity, equality, and safety⁹⁹⁸.
- Legal Reforms: The Supreme Court, in its judgment, laid down guidelines to address sexual harassment at the workplace, which came to be known as the Vishaka Guidelines. These guidelines mandated that all workplaces must have committees to handle complaints of sexual harassment. This later culminated in the passing of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013⁹⁹⁹.
- Impact: This case has been pivotal in empowering women and bringing attention to workplace harassment issues, although challenges in implementation and awareness persist¹⁰⁰⁰.

Case 3: PUCL v. Union of India (2001) – Right to Food and Protection of Vulnerable Groups

Overview:

This Public Interest Litigation (PIL), filed by the People's Union for Civil Liberties (PUCL), focused on the right to food, particularly for vulnerable groups such as women, children,

⁹⁹⁸ Supreme Court of India (1997), Vishaka & Ors v. State of Rajasthan & Ors

⁹⁹⁹ Government of India (2013), Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

¹⁰⁰⁰ Human Rights Watch (2018), Progress and Barriers in Implementation of Workplace Harassment Laws in India ²⁸ Government of India (2013), National Food Security Act

and marginalized communities, in the wake of widespread hunger and poverty. The petition was filed during a time when millions were suffering from starvation despite surplus food stocks in government warehouses.

- **Human Rights Violations:** The case highlighted the violation of the right to life under Article 21 of the Indian Constitution due to hunger and malnutrition, which disproportionately affected women and children in rural and impoverished areas.
- **Legal Reforms:** The Supreme Court passed several interim orders recognizing the right to food as part of the fundamental right to life. It mandated the implementation of various government food schemes, including the Mid-Day Meal Scheme, Public Distribution System (PDS), and Integrated Child Development Services (ICDS) to combat malnutrition and hunger²⁸.
- **Impact:** This case has been a significant step toward ensuring food security for vulnerable populations. It laid the groundwork for the National Food Security Act, 2013, which guarantees food grains to nearly two-thirds of India's population. Case 4: Sheela Barse v. Union of India (1986) – Protection of Children's Rights

Overview:

This case was initiated by journalist and human rights activist Sheela Barse, who filed a petition after discovering that children in Maharashtra's prisons were being subjected to ill-treatment. She sought legal action to protect children's rights and to address the systemic issues in juvenile justice in India.

- **Human Rights Violations:** The case highlighted the gross human rights violations against children in prisons, including ill-treatment, lack of basic

healthcare, and failure to separate juveniles from adult criminals.

- **Legal Reforms:** The Supreme Court, in this case, laid down a framework for ensuring that children's rights were protected in the criminal justice system. It led to a directive to establish separate juvenile homes and emphasized the need for juvenile justice reform in India.
- **Impact:** The case was instrumental in bringing about changes to the Juvenile Justice Act, 1986, which has been further revised in subsequent years to improve protection for children in conflict with the law.

CONCLUSION:

In conclusion, the protection of human rights for women, children, and vulnerable groups is a fundamental duty of administrative law. By implementing policies that prevent discrimination, abuse, and exploitation, administrative agencies play a vital role in upholding these rights. International frameworks such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC) guide national governments in ensuring legal protections. Despite progress, many challenges persist, including systemic barriers and unequal access to justice. Strengthening administrative oversight, enhancing accountability, and ensuring inclusivity are essential to guaranteeing the continued protection of these vulnerable populations.

REFERENCE:

1. Constitution of India, 1950, <https://www.india.gov.in/mygovernment/constitution-india>
2. Annual Report 2016–2017, National Human Rights Commission, India

3. Annual Report 2018–2019, Ministry of Women and Child Development, Government of India
4. The Protection of Women from Domestic Violence Act, 2005
5. https://www.legalserviceindia.com/legal/article-1788-nirbhaya-case-history-andpresent.html#google_vignette
6. <https://blog.ipleaders.in/peoples-union-for-civil-liberty-vs-union-of-india/>

