International Journal of Home Science 2025; 11(2): 75-78

International Journal of Home Science

ISSN: 2395-7476
IJHS 2025; 10(2): 75-78

www.homesciencejournal.com
Received: 09-02-2025
Accepted: 13-03-2025

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Legal rights of children with disabilities

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DOI: https://www.doi.org/10.22271/23957476.2025.v11.i2b.1848

Abstract
This paper examines the legal rights of differentially able children within the framework of international conventions and Indian national legislation. It analyzes the UN Convention on the Rights of Persons with Disabilities (CRPD) and the UN Convention on the Rights of the Child (CRC), highlighting their specific provisions for differentially able children with needs in areas like education, healthcare, and protection. it will focus on the Rights of Persons with Disabilities Act, 2016, the prerogatives of Children to Free and Compulsory Education Act, 2009, and the Juvenile Justice (Care and Protection of Children) Act, 2015 in India, detailing their key provisions aimed at safeguarding the privileges of these children. There are significant challenges in the effective implementation and enforcement of these legal rights in India, including issues of awareness, infrastructure, trained personnel, and societal stigma. Crucial roles are played by both the state and non-state organizations (NGOs) in advocating for and upholding the reforms for these children. It also touches upon recent developments and case laws in India that reflect the evolving legal landscape. These children need continued commitment and collaborative efforts for the redresal of their legal rights and well-being.

Keywords: Adolescent, Rural, Urban, habits, Attitudes, Education

Introduction
Impaired children are a particularly vulnerable group facing unique challenges due to their age and impairments. Ensuring their all round inclusion in society demands robust legal protections addressing their specific needs and fundamental rights. This paper analyzes the legal rights of impaired children with, examining key international conventions and the national legal framework in India. It explores specific provisions protecting these rights, particularly in education, healthcare, and protection from harm, while considering obstacles to their effective implementation. The existence of specific legal frameworks for children with disabilities underscores the global recognition that general child rights and disability rights policies may not take care of their vulnerabilities and other concerns. These children are at multiple disadvantages due to their developmental stage and impairments, necessitating tailored legal safeguards for their complete and equitable enjoyment of all human rights.

International Legal Frameworks
The UN Convention on the Rights of Persons with Disabilities (CRPD) -specific provisions for children
The United Nations Convention on the Rights of Persons with Disabilities (CRPD), adopted in 2006, is a positive step meant for safeguarding of these children. Article 7 focuses on citizens with special needs, outlining key obligations for States Parties. These include ensuring fulfilling their need of fundamental rights and freedoms as other children and guaranteeing them freedom to express their requirements on the matters of their life as per their physical and mental acumen. The CRPD also requires the authorities concerned to provide age-appropriate assistance to children with disabilities.
Article 7 reinforces the international community's commitment to applying the convention's general rights to meet the different needs of these children. This targeted approach recognizes the distinct obstacles children face in exercising their rights due to factors like limited autonomy and reliance on caregivers. The priority on the "best interests of the child" aligns with broader child rights principles, ensuring a holistic approach to their well-being, encompassing physical health, emotional security, social development, and cognitive

growth. The explicit need of impaired kids to freely express their views and receive appropriate assistance underscores the importance of empowering them to actively participate in decisions affecting their lives, fostering autonomy and self-determination.

Revelation of the UN Convention on the Rights of the Child (CRC) in disability

The United Nations Convention on the Rights of the Child (CRC), adopted in 1989, applies to every child. Article 23 specifically lays out the rights of these children. It recognizes their innate prerogative to a full and decent life, ensuring dignity, self-reliance, and active community participation. The CRC acknowledges their prerogatives for special care and encourages the provision of appropriate assistance, subject to available resources, considering the child's condition and the circumstances of their caregivers. Article 23 also promotes international cooperation for the exchange of information in preventive healthcare, medical, psychological, and functional treatment of disabled children, with a focus on developing countries.

The Committee on the Rights of the Child issued General Comment No. 9, focusing on the prerogatives of diffently able children with. This document highlights the CRC's importance in protecting these rights and provides guidelines on applying the Convention's principles to this group. It emphasizes the prerogative of education for impaired children focusing on non-discrimination, the purpose of education is to develop abilities and support societal participation, the prohibition of exclusion from the general education system, and the right to education in their society. It also discusses reasonable accommodations and individual education plans. Article 12 of the CRC guarantees children their entitlement to express themselves in all issues of their concern, with due weight given to their views according to maturity.

National Legal Framework in Our Country

There is remarkable progress in developing the national legal framework to uphold the privilege of individuals with disabilities, including children. The Rights of Persons with Disabilities Act, 2016 (RPWD Act, 2016), is a landmark legislation aligning Indian law with the UNCRPD. The RPWD Act, 2016, expands the preview of disability to recognize 21 conditions, up from seven. Section 4 specifically addresses the prerogatives of women and differently abled children, making sure of their equal enjoyment and their freedom to freely express their views. Chapter II outlines rights like equality, non-discrimination, protection from abuse, and the right to home and family. Chapter VI includes special reforms for citizens with benchmark disabilities, including free education between six and eighteen years.

The RPWD Act, 2016, demonstrates India's commitment to aligning its national legal framework with the UNCRPD, representing a crucial step towards enhanced recognition and protection of the fundamental rights of impaired individuals including children as per international standards. The focus on inclusive education, with special emphasis on implementation, reflects the critical need of education for the emancipation of impaired children, as per Article 24 of the CRPD and General Comment No. 9 of the CRC Committee.

The Right of Children to Free and Compulsory Education Act, 2009

The prerogative of Children to Free and Compulsory Education Act, 2009 (RTE Act, 2009), guarantees education to all children between ages 6 -14 years. It includes differentially able children recognizing them as disadvantaged within the educational system. The RTE Act, 2009, mandates inclusive education, requiring schools to admit impaired children without discrimination and give all facilities including accommodations. The Samagra Shiksha Abhiyan integrates the RTE Act's inclusive education component, aiming to support these children across all schooling levels. The amendment allowing home-based education acknowledges the diverse needs within this population, providing flexibility beyond the traditional school setting.

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

The Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act, 2015), is the primary legislation in India concerning children who have have be taken care of and be protected including those who break the law. It explicitly recognizes children with disabilities as a vulnerable group needing special care and protection. The JJ Act, 2015, mandates increased punishments for offenders against children with disabilities, prescribing twice the penalty for the same offence against a non-disabled child. It includes specific provisions for the care, protection, treatment, and rehabilitation of impaired children in the juvenile justice system, whether as victims or as law breakers. The JJ Act, 2015, recognizes their increased vulnerability in child protection and the juvenile justice system, establishing specific provisions to safeguard their well-being and ensure access to appropriate care and support. This ensures their legal entitlement to the full range of care and support services under the JJ Act. The Mission Vatsalya Scheme supports the JJ Act's objectives by assisting States and Union Territories in establishing specialized units for these children.

Key Legal Rights of Children with Disabilities in India:

The legal framework in India guarantees several key rights to children with disabilities:

- **Right to Equality and Non-Discrimination:** Ensured by Articles 14 and 15 of the Constitution and reinforced by the RPWD Act, 2016.
- **Right to Inclusive Education and Reasonable Accommodation:** Guaranteed by the RTE Act, 2009, and the RPWD Act, 2016, mandating inclusive education and necessary support.
- **Right to Healthcare and Rehabilitation:** Addressed by the RPWD Act, 2016, and supported by schemes like Haryana's Indira Bal Swasthya Yojana.
- **Right to Protection from Abuse, Violence, and Exploitation:** Emphasized by the RPWD Act, 2016, and the JJ Act, 2015, with enhanced penalties for offences against disabled children.
- **Right to Accessibility (physical, informational, communicational):** Mandated by the RPWD Act, 2016, ensuring barrier-free access.
- **Right to Participate in Social, Cultural, and Political Life:** Recognized by the CRPD and the RPWD Act, 2016.
- **Right to Legal Aid and Access to Justice:** Ensured by the Legal Services Authorities Act, 1987, and NALSA schemes.

India's legal rights framework for these children provides comprehensive protections on paper, encompassing fundamental constitutional rights, specific educational

entitlements, access to necessary healthcare services, safeguards against harm, and the right to actively participate in society and access all the systems. This strong legal foundation aims to safeguard their rights and well-being across life domains. The alignment of India's legislation with international conventions like the CRPD and CRC demonstrates a commitment to upholding global standards in protecting these rights.

Challenges in Implementation and Enforcement:

Despite this progressive approach, there are numerous implementation and enforcement challenges. A significant obstacle is the low awareness among parents, teachers, and the wider community regarding existing laws and specific rights. Insufficient infrastructure in schools and public places remains a major barrier, with many institutions lacking basic accessibility features. There is also a persistent shortage of trained special educators and other professionals equipped to provide necessary support in educational, healthcare, and legal settings. Bureaucratic hurdles and delays in obtaining disability certificates and accessing benefits further impede rights realization. Fragmented coordination among government departments often causes service delivery inefficiencies. Access to quality education remains limited in rural areas. Insufficient research and lack of knowledge on the needs of children with diverse disabilities hinder targeted policy formulation.

This implementation gap prevents a substantial number of children from fully realizing their legally guaranteed rights. The disparity arises from systemic issues, societal attitudes, and resource constraints. Lack of awareness and understanding of disability rights among stakeholders hinders enforcement. Inadequate infrastructure and a shortage of trained professionals create practical barriers to inclusion and access to essential services. Societal stigma and discrimination, despite legal protections, continue to impede social inclusion and well-being.

Role of Government and Non-Governmental Organizations (NGOs)

Both the government and non-governmental organizations (NGOs) in India play critical, distinct roles in advocating for and implementing these laws. There are monitoring mechanisms and grievance redress bodies like the Commissioners for Persons with Disabilities. Collaboration with international organizations and NGOs informs policy development. The government also provides healthcare services and supports early intervention programs as the Indira Bal Swasthya Yojana in Haryana.

NGOs strive to make the public aware about their rights and challenge societal stigma. They advocate for stronger laws and monitor their implementation. Many NGOs provide direct support and rehabilitation services, including education, healthcare, and vocational training. They offer legal aid to individuals facing discrimination. NGOs mobilize communities and families to understand and assert their rights. They often fill service gaps and reach marginalized populations. NGOs also conduct research and provide expert recommendations to policymakers. Effective implementation of rights for differentially able children in India requires a strong partnership between the government and NGOs, with each fulfilling complementary roles.

Recent Developments and Case Laws

The legal landscape concerning the prerogatives of impaired children in India has witnessed several recent developments and significant judicial pronouncements. Amendments to the rules under the RPWD Act, 2016, extended the timeframe for disability certificates and UDID cards. The recent judgments of the apex court reaffirms the promise the of right to reasonable accommodation and accessibility. These include cases on compulsory education for kids with ADHD and ensuring accessibility of public spaces and digital platforms. The judiciary has also emphasized their respectful portrayals in media. The Apex Court recently granted them permission to appear in NEET-UG medical education counseling. NALSA launched the Child-Friendly Legal Services for Children Scheme in 2024 to provide legal help to children, especially those with disabilities.

Conclusion

The legal landscape concerning the privileges of impaired children is multifaceted, encompassing international conventions and national legislation in India. The UN CRPD and CRC lay down fundamental principles and specific provisions for the equality, participation, and their well-being. Our country has shown its purpose through laws like the RPWD Act, 2016, the RTE Act, 2009, and provisions within the JJ Act, 2015. These guarantee key rights, including equality, inclusive education, and healthcare, protection from harm, accessibility, participation, and access to justice.

Despite this legal foundation, effective implementation and enforcement in India face challenges such as lack of awareness, infrastructural deficits, a shortage of trained professionals, and societal stigma. Addressing these requires sustained efforts from government and NGOs. The government must strengthen monitoring, allocate resources, and ensure coordination. NGOs are necessary for increasing awareness, fighting for policy improvement, providing support, and ensuring accountability. Recent legal developments offer a promising outlook, but ongoing commitment to effective implementation, systemic reforms, and try to reform the society to take care of these kids to truly ensure the well-being of all children in India.

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