

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES
[ISSN 2581-5369]

Volume 8 | Issue 4
2025

© 2025 International Journal of Law Management & Humanities

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This article is brought to you for free and open access by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of any suggestions or complaints, kindly contact support@vidhiaagaz.com.

To submit your Manuscript for Publication in the International Journal of Law Management & Humanities, kindly email your Manuscript to submission@ijlmh.com.

Role of the Judiciary in the Protection of Digital Rights of Children in India

MONIKA¹

ABSTRACT

In the current era of the digital world, children are increasingly active in the virtual world of education, socialization, and recreation. Exposure to this, however, has associated risks in the form of cyberbullying, grooming, abuse of data, and harmful contents. Safety of the digital rights of children including the right of privacy, safety, access, and participation has become an increasing concern in India. The current research paper takes into account the active intervention by the judiciary of India in the enforcement of the said rights in the process of progressive law interpretation, judicial activism, and system reforms. Referencing key judgments such as that of the Chief of Justice K.S. Puttaswamy v. Union of India (2017) and Just Rights for Children Alliance v. S. Harish (2024), the paper evaluates the expansion of the reach of the fundamental rights under the Constitution by courts in fighting the notion of online harm. It also charts judicial orders to the State and the digital platforms aiming at regulating hurtful contents in the name of child safety. Although much has been accomplished, the study identifies existing legal and institutional loopholes, in specific terms, the nonexistence of child-centric data protection law and delays in implementing the same.

Keywords: Digital rights of children; child online safety; role of judiciary; judicial activism

I. INTRODUCTION

With the rise of the digital era, children are now accessing the internet at an early age, using the medium for education, socialization, and leisure. While the digital sphere presents numerous opportunities, it also exposes children to significant risks, including cyberbullying, online grooming, data breaches, and exposure to harmful content. As such, the protection of children's digital rights encompassing their rights to privacy, safety, access, and participation has emerged as a critical concern in contemporary legal discourse.

The United Nations Convention on the Rights of the Child (UNCRC), through General Comment No. 25 (2021), clearly states that children's rights must be protected and respected

¹ Author is an LL.M. student at University School of Law, Rayat Bahra University, Kharar, SAS Nagar, Mohali, India.

in the digital world just as they are offline. It calls on governments to make strong laws and policies that ensure children's safety, privacy, equal access to technology, and participation in online spaces². The key child rights principles *Protection, Provision, and Participation* should guide digital policies³. This means laws should not only guard children from online risks but also support their freedom to learn, express themselves, and stay mentally healthy in digital spaces.

Dwelling on the international standards, India has enacted various legislative measures, such as the Protection of Children from Sexual Offences (POCSO) Act, 2012, and the Information Technology (IT) Act, 2000, to address online threats. However, the mere existence of legal frameworks is insufficient unless accompanied by robust judicial interpretation and enforcement. In this context, the judiciary plays a pivotal role not only in upholding and interpreting these laws in line with the evolving digital landscape but also in filling legislative gaps through progressive judgments and directions. The courts, particularly the higher judiciary, have often adopted a child-centric approach, emphasizing the need to balance technological advancement with the fundamental rights of children under the Indian Constitution and international human rights norms.

II. OBJECTIVES OF THE STUDY

This paper explores the response of the Indian judiciary to the growing importance of children's digital rights within the constitutional and legal framework. Essential questions that frame the investigation are how courts interpreted and enlarged the notion of the fundamental rights most importantly, the right of privacy and of education, when they are applied to the lives of children in the virtual world. The paper also explores how the landmark judgments influenced legislative and policymaking processes to combat online harm, instituted platform responsibility, and ensured the responsibility of the state to keep its children safe in the digital arena. Lastly, the study attempts to find out how the judiciary works towards the establishment of a safer, inclusive, and rights-sensitive digital environment for children in India.

III. RESEARCH METHODOLOGY

The study adopts a doctrinal research design, analysing constitutional clauses, landmark judgments of the Indian judiciary, enactments like the POCSO Act, 2012 and the IT Act,

² United Nations Committee on the Rights of the Child, *General Comment No. 25 (2021) on children's rights in relation to the digital environment*, UN Doc. CRC/C/GC/25, 2 March 2021.

³ Convention on the Rights of the Child, 1989, United Nations, available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child> (last visited May 17, 2025).

2000. It undertakes analysis of the pertinent secondary sources like the scholarly commentaries and legal opinions in addition to the appropriate international treaties like the UNCRC and General Comment No. 25 (2021) in an attempt to appraise the role of the judiciary in the protection of the digital rights of the children in India.

IV. JUDICIAL ACTIVISM AND EXPANSION OF DIGITAL RIGHTS OF CHILDREN IN INDIA

Judicial activism means that courts take an active role in interpreting and adapting laws to deal with emerging problems, especially when laws are silent or inadequate. To protect children's digital rights, Indian courts have often adopted an activist stance to ensure that constitutional guarantees and statutory protections are meaningfully applied in the digital space. With this regard, the judiciary have played a significant role by interpreting laws like the IT Act, 2000, and the POCSO Act, 2012 in light of evolving technologies and online threats. By doing this, the courts have helped to bridge the legal gaps, pushed the government to take action, and made online platforms more responsible. This has helped create a legal system that better protects children in the digital space.

A. Landmark judgements

The courts have broadened the definition of fundamental rights under the Indian Constitution to include digital spaces in a number of its historic rulings. In this context, *Justice K.S. Puttaswamy (Retd.) v. Union of India (2017)*⁴ is among the most significant cases. The Supreme Court ruled in this case that, in accordance with Article 21 of the Constitution, the right to privacy is a basic right. This implies that everyone has the right to protect their personal data, even on digital platforms, including children. This ruling is particularly crucial for safeguarding children's information on social media, mobile apps, and websites.

The courts have also reminded government organisations, internet companies and schools of their duty to protect children online. This entails preventing digital exploitation, blocking dangerous websites, and guaranteeing safe internet use in classrooms.

In *S. Harish v. Inspector of Police (Madras High Court, 2024)*⁵, the Madras High Court had previously dismissed Harish's complaint, holding that the POCSO Act and IT Act might not apply to simple possession of Child Sexual Exploitation and Abuse Material (CSAM) without sharing or transferring it. The Supreme Court later reversed this ruling in an appeal.

Another case that addresses the ownership and storage of CSAM is *Just Rights for Children*

⁴ (2017) 10 SCC 1.

⁵ 2024 SCC OnLine Mad HC (India).

Alliance v. S. Harish (2024)⁶. The Supreme Court reversed an earlier High Court decision that had quashed charges under the POCSO Act and IT Act, ruling that mere possession of CSAM even without sharing can amount to a crime, especially when the person does not delete or report the material. The Court also emphasized the use of the term “Child Sexual Exploitation and Abuse Material (CSEAM)” over “child pornography” and clarified the responsibilities of tech companies under Indian law. Here are the key issues the supreme court explained in detail:

1. Definition of exploitation

The Court examined whether just viewing child sexual abuse material online—without producing, storing, or distributing it—can still be considered a form of sexual exploitation and cause harm to children.

2. Applicability of laws

The case tested whether Section 14 of the POCSO Act and Section 67B of the IT Act apply to passive actions like viewing, or only to more active roles like publishing or transmitting content.

3. Moral and legal accountability

The Court assessed whether individuals who view CSEAM should be held morally and legally responsible, even if they take no further illegal action. The question was whether this passive consumption supports a harmful ecosystem.

4. Need for evolving legal interpretation

The case highlighted gaps in existing laws, which were drafted before certain digital threats (like encrypted messaging, online grooming, or deepfake content) existed. The judgment called for interpreting current laws in a way that addresses new-age digital exploitation.

The ruling in *Kamlesh Devi v. State of NCT of Delhi & Anr.* (2024)⁷ by the Delhi High Court tackles contemporary issues surrounding child protection in the digital era. Kamlesh Devi, the accused in this case, was denied bail. Devi was involved in the abduction and sexual exploitation of a 16-year-old girl, which started when the victim exchanged messages with the perpetrator on social media. Understanding how electronic interaction contribute to these kinds of offences, the Court developed the idea of "virtual touch," highlighting the need of teaching children about appropriate online conduct, the dangers of digital interactions, and the

⁶ (2024) INSC 716 (S.C.).

⁷ *Kamlesh Devi v. State of NCT of Delhi & Anr.*, Bail Appln. 216/2024, decided on 6 May 2024, Delhi High Court, available at <https://indiankanoon.org/doc/61962935/> (last visited Jul. 2, 2025).

significance of privacy settings. The conventional teachings of "good touch" and "bad touch" are inadequate in the present digital environment, Justice Swarana Kanta Sharma emphasised. In order to better prepare kids for online dangers, the Court ordered stakeholders, including educational institutions and legal organisations, to include "virtual touch" education in their curricula.

In the 2015 case of *Shreya Singhal v. Union of India (2015)*⁸, the Supreme Court declared that Section 66A of the IT Act, 2000 was unconstitutional and ambiguous, violating guaranteed freedom of speech and expression under Article 19 (1) (a) of constitution of India. The case is important for digital child protection even though it did not specifically address children because the Court recognised the difficulties of online communication and emphasised the need for precise, limited legislation in digital settings. By highlighting the significance of legislative clarity, proportionality, and safeguards against misuse, this ruling established a significant precedent for future digital rights regulations, especially those that attempt to protect children from online abuse.

In the case of *State v. Naveen Kumar (2025, Aligarh)*⁹, the convicted person was sentenced to life imprisonment in jail under the POCSO Act for the rape and online exploitation of a minor. The case was founded on digital evidence gathered during a CBI probe; the victim did not directly file a complaint.

V. DIRECTIVES TO GOVERNMENT, SCHOOLS AND TECH COMPANIES

In order to control dangerous online information and safeguard children from digital offences, Indian courts have also used their power to directly order the government and digital agencies like social media and search engines. Through such interventions, the judiciary has emphasized the responsibility of both State and private actors in creating a safer digital ecosystem for minors. For instance, the courts have directed online platforms to promptly remove sexually explicit content involving children and to cooperate with law enforcement agencies in identifying and prosecuting offenders.

In the case of *NCPCR v. Union of India (2016)*¹⁰, the National Commission for Protection of Child Rights (NCPCR) filed a petition before the Supreme Court of India, raising concerns over the government's failure to protect children from escalating online abuse and

⁸ (2015) 5 SCC 1.

⁹ "Man Gets Life Term for Rape of Minor Girl," *The Times of India*, Mar. 26, 2025, available at <https://timesofindia.indiatimes.com/city/lucknow/man-gets-life-term-for-rape-of-minor-girl/articleshow/121421250.cms>

¹⁰ *Juslextra*, "Landmark Case Laws Addressing Digital Child Abuse in India", available at <https://juslextra.in/f/landmark-case-laws-addressing-digital-child-abuse-in-india> (last visited Jul. 2, 2025).

exploitation. The case underscored serious gaps in the monitoring of digital spaces and the enforcement of child protection laws, particularly in the wake of increasing cyber threats targeting minors. The Supreme Court, recognizing the urgency and gravity of the matter, issued directions to the Union government to strengthen digital monitoring mechanisms, ensure better coordination between law enforcement agencies, and adopt advanced technological tools to track and combat digital crimes against children. It also mandated periodic audits of existing child protection systems to ensure accountability and responsiveness. This judgment served as a milestone in India's digital child protection framework, reinforcing the State's constitutional obligation under Article 21 to safeguard children's rights in virtual environments. The case influenced future interagency cooperation, policy changes, and technology advancements aimed at combating child online abuse in India.

In the case *Common Cause (A Regd. Society) v. Union of India (2018)*¹¹, the Supreme Court decided that educational institutions must implement thorough child protection policies in response to concern about student safety in schools, especially in situations involving sexual harassment and cyberbullying. The Court ordered schools to set up grievance redressal mechanisms, run awareness campaigns, and put preventive measures in place. Crucially, the ruling emphasised the necessity of maintaining safety in both digital and physical settings, establishing a significant standard for protecting children from abuse in all situations involving schools.

The Supreme Court of India took *suo motu* (on its own initiative) cognisance in the *Re: Prajwala Letter Case (2018)*¹², after receiving a letter from Ms. Sunitha Krishnan, the founder of Prajwala, an NGO that fights child sexual abuse and human trafficking. Five violent video clips depicting sexual assaults were included with the letter, which brought attention to the rising issue of child sexual abuse material (CSAM) being shared and spread online. In order to address the larger issues of online sexual abuse, particularly against children, the Court recognised the gravity of the situation and regarded the letter as a writ petition, starting a public interest litigation. In its ruling, the court urged digital firms like Google, Facebook, and WhatsApp to improve their methods for swiftly identifying and eliminating CSAM. Additionally, the Court ordered the government to enact stronger regulations and take steps to prevent the dissemination of such damaging content.

In *X v. Union of India (2020)*¹³, the petitioner (referred to as "X" to protect their identity)

¹¹ (2018) 5 SCC 1; AIR 2018 SC 1665.

¹² (2018) 3 SCC 205.

¹³ W.P. (C) 804/2020, decided on February 12, 2020 (Del).

approached the Delhi High Court after learning that pornographic images featuring a youngster were being extensively shared on social media sites like YouTube, Facebook, and WhatsApp. In order to prevent such content from spreading further and to guarantee the preservation of the child's privacy and dignity, the petitioner asked the court to step in immediately. This case highlighted the responsibility of social media entities to work with law enforcement in cybercrime investigations and to stop the internet spread of child sexual abuse material (CSAM).

VI. CHILD-FRIENDLY COURTROOMS AND WITNESS PROTECTION

The Indian judiciary has taken important measures to protect children online and to make sure that the judicial system is considerate of the interests of child victims, especially those who have been sexually abused or subjected to online exploitation. In order to reduce secondary victimisation during trial procedures, the judiciary has adopted a child-centric approach, acknowledging the psychological anguish that children may undergo when retelling their experiences or confronting their abusers in court. Key steps include:

- Permitting video conferencing so that child victims can testify from a distance and avoid the anxiety associated with in-person court appearances.
- Using in-camera procedures, which shield the child's emotional health and dignity by holding trials behind closed doors.
- Creating child-friendly courtrooms with a nurturing atmosphere, including areas with specific design and staff members who are trained to offer consolation and direction during the legal proceedings.

These actions are consistent with Section 36 of the POCSO Act, which addresses safeguarding a child's mental health while they are in court. The judiciary has promoted the constructive use of technology, not only for trials but also to help children's mental health throughout the legal process.¹⁴ Such initiatives demonstrate the judiciary's dedication to protecting children's best interests, which are protected under national as well as international child rights frameworks.

VII. COLLABORATION BETWEEN JUDICIARY AND NGOS

Children's rights in the digital sphere are being protected by the growing collaboration between the Indian judiciary and non-governmental organisations (NGOs). NGOs provide community outreach, emotional support, and grassroots knowledge, while the judiciary

¹⁴ Protection of Children from Sexual Offences Act, 2012, Ss. 33(4), 36 and 37.

protects statutory enforcement and constitutional duties. In the digital era, a comprehensive and adaptable framework for child safety is built on this complimentary partnership.

A. Judicial recognition of NGO contributions

Indian courts have come to acknowledge the critical role NGOs play in combating online threats, especially in Public Interest Litigations (PILs) and cases of digital child abuse. NGOs often present the judiciary with statistics on victim support, field-level perspectives, and evidence-based research, which influences the court's decision-making. For example, the Supreme Court of India used information and studies provided by NGOs in a Public Interest Litigation (PIL) pertaining to children's access to pornographic material to comprehend the psychological harm caused to youngsters. Based on this evidence, the Court ordered the Union Government to improve accountability of online platforms that contain age-inappropriate content, include digital safety modules into school curriculum, and put in place efficient content screening measures. The crucial work of organisations like "Bachpan Bachao Andolan," "Cyber Peace Foundation," and "Childline India Foundation" in areas ranging from digital literacy campaigns to child rescue and helpline services has also been recognised by judicial decisions. Additionally, several NGOs have been designated as expert advisors or amicus curiae in significant cases, guaranteeing that court rulings are based on practical circumstances.¹⁵

B. Court-mandated NGO referrals and support services

In cases under the Protection of Children from Sexual Offences (POCSO) Act, 2012, courts often refer child victims of online exploitation to NGOs for trauma counselling, shelter, and legal assistance. Organizations such as 'Arpan' and 'Childline India Foundation' provide trauma-informed care, assist in filing First Information Reports (FIRs), and liaise with Child Welfare Committees (CWCs) to ensure long-term rehabilitation and protection.

Such court-ordered referrals recognize that justice is not merely punitive but must also be restorative. Particularly in digital abuse cases where trauma may be prolonged and less visible NGO intervention is essential for emotional recovery and reintegration into society.

C. Capacity building through NGO-led training

NGOs have played a transformative role in sensitizing judicial and law enforcement personnel to the emerging challenges of child safety in cyberspace. Many child rights organizations conduct capacity-building workshops for judges, prosecutors, police officials, and CWCs to

¹⁵ UNICEF India, *Child Online Protection in India* (2016), available at https://www.icmec.org/wp-content/uploads/2016/09/UNICEF-Child-Protection-Online-India-pub_doc115-1.pdf (accessed May 18, 2025).

enhance their understanding of:

- Psychological consequences of digital abuse and grooming.
- Proper collection and preservation of digital evidence in cases of child pornography and cyberbullying.
- Recording statements and testimonies in a child-sensitive manner.
- Interpreting provisions of the IT Act, 2000 and POCSO Act in the context of evolving digital threats.

These workshops, often conducted in collaboration with State Judicial Academies and State Legal Services Authorities (SLSAs), have significantly contributed to building a child-sensitive justice delivery system equipped to deal with technology-facilitated crimes.

VIII. GAPS AND CHALLENGES

While the Indian judiciary has taken significant steps to protect children's digital rights, several gaps and challenges still remain. Many court decisions focus on general digital rights but do not clearly address the specific needs of children. There is also a lack of clear legal rules about issues like parental control, children's consent, and their right to be forgotten online. It is more difficult to guarantee children's safety and privacy in India due to the lack of a robust data protection regulation, particularly one that targets children. The actual implementation by authorities or platforms is frequently delayed, even when courts provide clear instructions. Overall, improved enforcement of current regulations in the digital sphere and more child-focused legal measures are required.

IX. CONCLUSION

In today's world, where the internet is a big part of children's lives, protecting their rights online is not just a legal duty but also the right thing to do. The Indian judiciary has played a key role in keeping children safe from online dangers like cyberbullying, grooming, harmful content, and misuse of their personal data. Courts have helped fill the gaps in the law by interpreting existing rules in a way that suits the digital age and pushes both the government and private tech companies to take responsibility. In the famous Puttaswamy case (2017), the Supreme Court said the Right to Privacy is a basic right under the Constitution, which also applies to children and their online data. In another important case in 2024, the court said that even watching child abuse content online is a crime, showing its strong stand against digital abuse. Courts have also told the government and online platforms to take stronger steps to make the internet safer for kids. Through cases like Prajwala (2018) and X v. Union of India

(2020), courts made sure platforms are held accountable and the State does its part. They've even made changes in courtrooms, like video calls and child-friendly settings, to make children feel safer during legal proceedings. The courts also work closely with NGOs, who provide care to victims and help train judges and police. These efforts show that the judiciary is leading the way in building a safer digital world for children. Still, there's a need for ongoing teamwork, better laws, and new tech solutions to make sure kids can enjoy the internet without fear or harm.

X. BIBLIOGRAPHY/REFERENCES

- “Man Gets Life Term for Rape of Minor Girl,” *The Times of India*, Mar. 26, 2025, available at <https://timesofindia.indiatimes.com/city/lucknow/man-gets-life-term-for-rape-of-minor-girl/articleshow/121421250.cms>
- Convention on the Rights of the Child, 1989, United Nations, available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>
- *Juslextra*, "Landmark Case Laws Addressing Digital Child Abuse in India", available at <https://juslextra.in/f/landmark-case-laws-addressing-digital-child-abuse-in-india> (last visited Jul. 2, 2025).
- *Kamlesh Devi v. State of NCT of Delhi & Anr.*, Bail Appln. 216/2024, decided on 6 May 2024, Delhi High Court, available at <https://indiankanoon.org/doc/61962935/> (last visited Jul. 2, 2025).
- UNICEF India, *Child Online Protection in India* (2016) available at https://www.icmec.org/wp-content/uploads/2016/09/UNICEF-Child-Protection-Online-India-pub_doc115-1.pdf accessed 18 May 2025.
- UNICEF, *Children in a Digital World: The State of the World's Children 2017*, (UNICEF, 2017) <https://www.unicef.org/reports/state-worlds-children-2017> accessed 5 July 2025.
- United Nations Committee on the Rights of the Child, *General Comment No. 25 (2021) on Children's Rights in Relation to the Digital Environment*, UN Doc CRC/C/GC/25, 2 March 2021.

Acts:

- The Digital Personal Data Protection Act, 2023, No. 22, Acts of Parliament, 2023 (India).
- The Information Technology Act, 2000, No. 21, Acts of Parliament, 2000 (India).
- The Juvenile Justice (Care and Protection of Children) Act, 2015, No. 2, Acts of Parliament, 2016 (India).
- The Protection of Children from Sexual Offences Act, 2012, No. 32, Acts of Parliament, 2012 (India).
