

# Access to Justice for Women and Children: Indian and International Standards with a Health Perspective

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Received: 📅 2026 Mar 23

Accepted: 📅 2026 Apr 13

Published: 📅 2026 Apr 28

## Abstract

Access to justice is a fundamental component of the rule of law and an essential element of human dignity. For women and children, it carries added significance due to structural inequalities, social vulnerability, and barriers in accessing legal remedies. This paper examines the constitutional and statutory framework governing access to justice in India, in light of international standards. It further explores the critical intersection between access to justice and health outcomes, particularly in cases involving violence, abuse, and exploitation. Recent developments, including digital justice initiatives and evolving victim-centric approaches, are also discussed. The paper highlights persistent gaps in implementation and emphasizes the need for a more integrated, sensitive, and accessible justice system.

**Keywords:** Access to Justice, Women's Rights, Child Protection, Legal Aid, Health Justice, Victim Rights

## 1. Introduction

Access to justice is increasingly recognized as a substantive right rather than a mere procedural guarantee. It embodies the principle that rights must be enforceable in practice and not remain illusory. For women and children, barriers such as economic dependency, social stigma, lack of awareness, and institutional insensitivity often impede access to legal remedies. In contemporary discourse, access to justice is no longer confined to courts alone but extends to a broader ecosystem involving legal aid, alternative dispute resolution, administrative mechanisms, and support services. More importantly, there is growing recognition that denial of justice has serious implications beyond the legal sphere, particularly affecting physical safety, mental health, and overall well-being.

### 1.1. Constitutional and Legal Framework in India

The Indian Constitution lays a robust foundation for ensuring access to justice.

- Article 14 guarantees equality before the law and equal protection of laws [1].
- Article 21, through expansive judicial interpretation, includes the right to life with dignity, fair procedure, and access to justice.
- Article 39A mandates the State to ensure that justice is not denied due to economic or other disabilities, forming the basis for legal aid services [2].

The judiciary has played a pivotal role in expanding access

to justice. In the Supreme Court interpreted Article 21 to include fairness, reasonableness, and non-arbitrariness in legal procedures [3]. Similarly, in the Court recognized the right to speedy trial as a fundamental right [4]. Recent judicial trends reflect a growing emphasis on victim dignity, privacy, and expeditious disposal of cases involving women and children.

### 1.2. Statutory Framework

India has enacted several laws adopting a victim-centric approach:

- **Protection of Women from Domestic Violence Act, 2005:** Provides immediate civil remedies, including protection orders, residence rights, and maintenance [5].
- **Protection of Children from Sexual Offences Act, 2012 (POCSO):** Introduces child-friendly procedures, in-camera trials, and protection from secondary victimization [6].
- **Juvenile Justice (Care and Protection of Children) Act, 2015:** Focuses on rehabilitation and reintegration based on the best interests of the child [7].

Recent judicial observations have emphasized:

- Dignity and privacy of survivors.
- Time-bound trials in sexual offence cases.
- Sensitivity during recording of evidence.

### 1.3. International Standards

Access to justice is firmly embedded in international human rights law.

- The Universal Declaration of Human Rights recognizes equality before the law and the right to an effective remedy (Articles 7 and 8) [8].
  - The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) obligates States to eliminate discrimination and ensure equal access to justice.
  - The United Nations Convention on the Rights of the Child (UNCRC) emphasizes child-sensitive justice systems and protection from re-traumatization.
- Further, Sustainable Development Goal 16 underscores the importance of promoting peaceful and inclusive societies with equal access to justice.

Globally, justice systems are increasingly adopting:

- Specialized courts.
- Victim assistance programs.
- Trauma-informed judicial processes.

#### 1.4. Intersection of Access to Justice and Health

The relationship between access to justice and health outcomes is both direct and profound. Victims of violence particularly women and children often suffer long-term physical and psychological consequences.

#### 1.5. Mental and Psychological Impact

Delays in justice delivery can aggravate trauma, leading to:

- Anxiety and depression.
- Post-traumatic stress disorder (PTSD).
- Social withdrawal and stigma.

Timely legal intervention, on the other hand, contributes to psychological recovery and a sense of closure.

#### 1.6. Medico-Legal Framework

The medico-legal system plays a crucial role in bridging law and healthcare:

- Proper documentation of injuries.
- Timely medical examination.
- Preservation of forensic evidence.

Hospitals often serve as the first point of contact for victims, making their role critical in ensuring both justice and recovery.

#### 1.7. Institutional Mechanisms

Initiatives such as:

- One Stop Centres.
- Victim compensation schemes.
- Counselling and rehabilitation services.

Have strengthened the interface between legal and healthcare systems. The integration of mental health services within the justice delivery system is gaining importance, particularly in cases involving sexual violence and child abuse [9-12].

#### 1.8. Recent Developments and Emerging Trends

Recent years have witnessed important developments.

#### 1.9. Victim-Centric Justice

Courts have increasingly emphasized:

- Respectful treatment of survivors.
- Avoidance of insensitive cross-examination.

- Recognition of victim participation rights.
- Courts have also increasingly emphasized survivor-centric interpretation of procedural laws and the need to avoid secondary victimization during trial processes.

#### 1.10. Digital Access to Justice

The expansion of:

- E-filing systems.
- Virtual hearings.
- Online legal aid platforms.

Has improved accessibility, particularly for vulnerable groups.

#### 1.11. Cyber Crimes and New Challenges

The rise in cyber offences targeting women and children has necessitated:

- Stronger legal responses.
- Faster investigation mechanisms.
- Protection of digital privacy.

#### 1.12. Strengthening of Compensation Mechanisms

Victim compensation schemes have been expanded to provide financial and rehabilitative support.

#### 1.13. Challenges in Implementation

Despite a strong framework, several issues persist:

- Judicial delays and case backlog.
- Lack of legal awareness.
- Social stigma and fear of retaliation.
- Inadequate infrastructure for child-friendly courts.
- Gaps in coordination between legal and healthcare systems.

#### 1.14. Way Forward

To ensure effective access to justice, the following steps are essential:

- Strengthening legal aid and awareness programs.
- Capacity building of police, judiciary, and medical professionals.
- Expansion of fast-track and special courts.
- Integration of legal, medical, and psychological services.
- Ensuring inclusive and accessible digital justice systems.

## 2. Conclusion

Access to justice for women and children is not merely a legal requirement but a measure of societal progress and institutional credibility. While India has made significant strides in aligning with international standards, the true challenge lies in translating these frameworks into effective ground-level implementation. A responsive, inclusive, and victim-sensitive justice system is essential not only for legal redress but also for restoring dignity, ensuring recovery, and promoting social trust. Strengthening access to justice must therefore remain a continuous and evolving priority.

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