
CHILDREN'S PROTECTION IN HISTORICAL INDIA

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"There can be no keener revelation of a society's soul than the way in which it treats its children".

- Nelson Mandela

ABSTRACT

This study explores the historical evolution of children's protection in India, examining developments across the ancient, medieval, and pre-constitutional modern periods. In ancient India, child welfare was rooted in cultural and religious principles outlined in texts like the *Vedas* and *Manusmriti*, emphasizing familial duty and the moral responsibility of society. The joint family system and educational frameworks like the Gurukul provided foundational protection, though gender and caste hierarchies often influenced the treatment of children. The medieval period, shaped by Islamic rule, introduced legal mechanisms such as guardianship under *Sharia* law and institutional interventions like orphanages, alongside challenges like child labor and slavery. The colonial period marked the beginning of legislative frameworks, including the Factory Act of 1881 and the Child Marriage Restraint Act of 1929, addressing exploitation and societal issues. Social reformers like Raja Ram Mohan Roy and Mahatma Gandhi played pivotal roles in advocating for child welfare. Despite progress, systemic inequalities persisted, highlighting the need for comprehensive reforms. This historical analysis underscores the cultural and legal legacies shaping child protection in India, offering insights into contemporary policy development.

Keywords: child protection, ancient India, medieval India, modern India, child welfare, guardianship, child labor, legislative reforms, social reformers, Indian history.

Introduction

The protection and welfare of children have been an integral part of society's progression, and their significance has only grown over time. Children are not just individuals within a family but are seen as the bearers of cultural, social, and economic progress. The adage “Child is the father of man” aptly captures the profound role that children play in shaping the future of humanity. In India, the recognition of children as invaluable resources dates back centuries and is deeply rooted in the nation’s historical, cultural, and religious ethos. Over time, the importance of children has transitioned from a familial focus to one that encompasses societal and state responsibility. This transformation reflects a broader understanding of children’s rights and their indispensable role in societal development.¹

In ancient India, the child’s role was primarily defined within the framework of family and community. Ancient scriptures like the *Vedas* and *Upanishads* portrayed children as divine blessings and the future of family lineage. The emphasis was on nurturing their moral and spiritual growth through systems like the Gurukul, where education was holistic and aimed at building strong moral foundations. While these traditional systems provided a protective structure, the importance of children was largely confined to their roles within the family.²

As society evolved, so did the perception of children and their rights. The medieval period marked a significant shift with the introduction of Islamic jurisprudence, which added a more structured approach to child welfare through concepts like guardianship (*Wilayat*). While the joint family system continued to play a central role, state mechanisms began to emerge, signaling the growth of external interventions in child welfare. Despite these advancements, children from marginalized communities or those born into poverty often faced exploitation, highlighting the uneven application of protective measures.³

The colonial period in India brought about profound changes in the socio-political landscape. With the advent of industrialization, children were thrust into labor-intensive jobs, often under inhumane conditions. This stark reality prompted the introduction of legislative frameworks to address exploitation, marking the first formal recognition of children’s rights in modern India. Laws like the Factory Act of 1881 and the Child Marriage Restraint Act of 1929 reflected the growing awareness of the need to protect children from societal ills. Additionally, social reform

1 M.K. Gandhi, *The Moral and Social Philosophy of Gandhi* 35 (1970)

2 *Rigveda*, translated by Ralph T.H. Griffith, *The Hymns of the Rigveda* (2d ed. 1896)

3 Uma Chakravarti, *Gendering Caste Through a Feminist Lens* 24 (2003)

movements led by visionaries like Raja Ram Mohan Roy and Ishwar Chandra Vidyasagar emphasized the importance of education, gender equality, and the abolition of exploitative practices like child marriage.⁴

While legislative and social reforms laid the groundwork for modern child protection policies, the understanding of children's importance also grew in philosophical and nationalistic contexts. Mahatma Gandhi, for instance, viewed children as symbols of purity and potential, advocating for their education and moral development as crucial elements of nation-building. The emergence of the Indian independence movement further amplified the discourse on children's rights, linking their well-being to the broader goals of societal progress and self-reliance.⁵

There is an old saying that "child is the father of man" may eventually be stretched up to the fact that "child is the father of humanity". The most vital efficacy of a governmental system can be gauged by its response towards their children.

"The significance and importance of the child lie in the fact that the child is the universe. If there was no child, there would be no humanity and there cannot be a universe without humanity.⁶ Therefore, mankind owes to the child the best that it has to be given."

Children are the ones who will determine the nation's future, therefore, everyone must contribute to their welfare and protection. A child is a gift to both— the family and the nation. In India, children are viewed as a form of long-term care insurance. In order to acquire basic life skills and healthy emotions, every child requires love, care, and safety. "Such a step would run opposed to the notion of swift integration and may often stand in the way of the needs of the early cementing of the adopted kid into adoptive family", is well observed.⁷

Today, the importance of children is universally acknowledged, and their protection is enshrined in legal frameworks, policy initiatives, and international conventions. However, the historical journey leading to this recognition is pivotal in understanding the cultural, social, and legal legacies that continue to shape child welfare policies in India. From being seen as family assets to being regarded as the future of the nation, the evolving significance of children mirrors India's transformation as a society and a state.

4 ushila Nayar, *Social Reform in India* 45–49 (1964)

5 M.K. Gandhi, *Young India*, Aug. 6, 1925, at 276

6 Miss Y. Vishnupriya, "International Concern for the Protection of Rights of the Child," *Supreme Court Journal*, May/June, 1992, Vol. 2 (Part 1 & 2), p. 16.

7 Lakshmi Kant Pandey v. Union of India, AIR 1984 SC 469

Children's Protection in Ancient India

The foundations of child protection in India lie deeply embedded in the cultural, religious, and social practices of ancient times. The Vedic period, widely regarded as the cornerstone of India's cultural and intellectual legacy, offered a unique perspective on the role and status of children. The familial and communal approach to child welfare was governed by Hindu philosophy, which emphasized duty (*dharma*), familial bonds, and the moral responsibility of society to care for its younger members.

Cultural and Religious Ideologies

Ancient Indian texts such as the *Vedas*, *Upanishads*, and *Manusmriti* played a crucial role in defining the status of children within the family and society. These texts emphasized the sacred duty of parents to care for their children, often framing the child as a gift from the divine and a carrier of familial legacy.⁸

- **Manusmriti and Child Welfare**

The *Manusmriti*, a foundational text of Hindu law, detailed obligations toward children. While it reinforced patriarchal norms by placing fathers in positions of authority, it also highlighted the need to provide for and protect children, particularly during their formative years. The king, as the upholder of *dharma*, was entrusted with safeguarding children, reflecting an early form of state responsibility in child welfare⁹.

- **Role of the Joint Family System**

The joint family system, prevalent in ancient India, acted as a protective framework for children. It ensured that orphaned or destitute children were cared for by extended family members. This collective approach not only offered emotional security but also social stability, mitigating the vulnerabilities of children in the absence of parental care.¹⁰

- **Education and Moral Development**

Education was an essential component of child protection in ancient India. The Gurukul system, a residential form of education, emphasized moral, spiritual, and intellectual development under the guidance of a teacher (*guru*). Children were taught to uphold values

8 *Rigveda*, translated by Ralph T.H. Griffith, *The Hymns of the Rigveda* (2d ed. 1896)

9 *Manusmriti* 9:10 (Patrick Olivelle trans., 2005)

10 *Manusmriti* 9:10 (Patrick Olivelle trans., 2005)

such as discipline, respect, and empathy, ensuring their holistic development in a nurturing environment.¹¹

Gender and Social Inequalities

Despite the protective measures outlined in ancient Hindu law, gender and social hierarchies often influenced the treatment of children. Boys were generally accorded greater importance due to their role in perpetuating lineage and religious duties, while girls were seen as burdens owing to the dowry system and societal norms. Additionally, caste-based discrimination further stratified the experiences of children, with those from marginalized communities receiving minimal protection or care.¹²

Children's Protection in Medieval India

The medieval period in India, spanning approximately the 8th to 18th centuries CE, brought significant shifts in governance, societal structures, and cultural norms due to the advent of Islamic rule and later the Mughal Empire. These changes impacted the status and protection of children, as Islamic jurisprudence introduced new legal frameworks and societal practices.

Islamic Legal Principles and Guardianship

Islamic law (*Sharia*) recognized the rights of children to care, maintenance, and education. The concept of *Wilayat* (guardianship) established clear guidelines for the welfare of minors, emphasizing the responsibilities of parents and guardians.¹³

- **Role of the Kazi**

The *Kazi* (Islamic judge) played a pivotal role in child protection during this era. Empowered to oversee the welfare of minors, the Kazi could intervene in cases of neglect, abuse, or disputes over guardianship. This marked a shift from familial control to a more structured, state-backed approach to child welfare.¹⁴

- **Education and Moral Welfare**

The establishment of *madrassas* (Islamic schools) provided a systematized approach to the education and moral upbringing of children. These institutions not only imparted religious

11 Satish Chandra, *History of Medieval India* 91 (2007)

12 Uma Chakravarti, *Gendering Caste Through a Feminist Lens* 24 (2003)

13 *Quran*, Surah Al-Baqarah 2:233 (stating parents' responsibilities for the maintenance and care of children); see also Hedayetul Islam, *The Principles of Islamic Law* 45 (1895).

14 Hamid Haroon, *Islamic Institutions in Medieval India* 78–79 (1993)

knowledge but also emphasized ethics, social responsibilities, and intellectual growth.¹⁵

Child Exploitation and Vulnerabilities

The medieval period was also marked by instances of exploitation, particularly in the form of child labor and slavery. Children were often employed in households, royal courts, and artisanal workshops, with little regard for their well-being. The commodification of children during this period highlights the stark contrasts in their treatment, with some enjoying privileged upbringings and others enduring significant hardships.¹⁶

Reforms by Prominent Rulers

Certain medieval rulers recognized the importance of protecting vulnerable children and initiated reforms to improve their status.

- **Akbar's Policies**

Emperor Akbar (1542–1605) implemented policies that discouraged exploitative practices affecting children. His administration emphasized the moral and social responsibilities of parents and guardians, reflecting a progressive stance on child welfare.¹⁷

- **Orphanages and Foster Care**

The establishment of orphanages during the Mughal era provided a safety net for abandoned or destitute children. These institutions, though limited in scope, marked an important step in formalizing child protection mechanisms.¹⁸

Children's Protection in Modern India (Pre-Constitutional Era)

The modern period, under British colonial rule, witnessed profound changes in the socio-political landscape of India. While colonial policies often prioritized economic exploitation, they also introduced legal frameworks aimed at addressing social issues, including child protection.

Industrialization and Child Labor

The Industrial Revolution brought about widespread exploitation of children as cheap labor. Factories, mines, and plantations employed children under inhumane conditions, prompting

15 Syed Habibul Haq Nadvi, *Islamic Education and Its Role in Society* 102–05 (1984)

16 Irfan Habib, *The Agrarian System of Mughal India, 1556–1707* 231 (2d ed. 1999)

17 Satish Chandra, *Medieval India: From Sultanate to the Mughals Part II: Mughal Empire (1526–1748)* 86 (1999)

18 John F. Richards, *The Mughal Empire* 120 (1993)

early legislative interventions.¹⁹

- **Factory Act of 1881**

The Factory Act was one of the first legislative attempts to regulate child labor. It prohibited the employment of children under the age of seven and restricted working hours for older children. However, enforcement remained weak, and the law's impact was limited.²⁰

- **Subsequent Reforms**

The Factory Act of 1891 and other similar legislations gradually expanded protections for working children, reducing the hours they could work and mandating basic health and safety measures.²¹

Legal Recognition of Child Rights

The colonial period saw the introduction of laws that recognized the rights of children in specific contexts.

- **Guardians and Wards Act of 1890**

This act provided a legal framework for the appointment of guardians to protect the welfare and property of minors. It marked a significant step toward acknowledging the state's role in safeguarding children.²²

- **Child Marriage Restraint Act of 1929**

Commonly known as the Sarda Act, this legislation prohibited the marriage of girls below 14 years and boys below 18 years. It was a landmark step in addressing the issue of child marriage, which had long been a societal challenge.²³

Role of Social Reform Movements

Indian social reformers played a critical role in advocating for child welfare during this period.

- **Efforts by Raja Ram Mohan Roy and Ishwar Chandra Vidyasagar**

These reformers championed causes such as child marriage abolition, widow remarriage, and access to education for girls. Their efforts laid the groundwork for subsequent legal and social

19 Tirthankar Roy, *The Economic History of India, 1857–1947* 196 (2d ed. 2006)

20 Factory Act, No. 15 of 1881, India Code, vol. 5, 481–82 (1881)

21 Factory Act, No. 12 of 1891, India Code, vol. 6, 571–73 (1891)

22 Guardians and Wards Act, No. 8 of 1890, India Code, vol. 5, 721–23 (1890).

23 Child Marriage Restraint Act, No. 19 of 1929, India Code, vol. 6, 1001–02 (1929); see also Aparna Basu, *Women's Struggle: A History of the All-India Women's Conference, 1927–1990* 55 (1992)

reforms.²⁴

- **Mahatma Gandhi's Advocacy**

Gandhi emphasized the moral and spiritual development of children, advocating for their education and protection as a cornerstone of national progress.²⁵

Education and Healthcare Initiatives

The British administration introduced policies to improve education and healthcare for children, although these measures primarily benefited urban elites. The Indian Education Commission of 1882 emphasized primary education, while missionary schools provided basic education and care for destitute children.²⁶

Comparative Analysis and Historical Insights

A comparative analysis of these historical periods reveals a gradual but uneven progression in the protection of children.

- **Ancient India** emphasized moral and familial responsibilities, with limited legal recognition of children's rights.
- **Medieval India** introduced state-backed mechanisms such as guardianship and orphanages but was also marked by exploitation.
- **Modern India**, under colonial rule, saw the emergence of legislative frameworks and social reforms, laying the foundation for contemporary child protection laws.

Conclusion

The history of child protection in India reflects an evolving understanding of children's rights and welfare. From the familial safeguards of ancient times to the legislative measures of the modern era, each period contributed to shaping the concept of child welfare in its unique context. Despite the progress made, significant gaps remained, particularly in addressing systemic inequalities and ensuring comprehensive protection for all children.²⁷

The enactment of the Indian Constitution in 1950 marked a transformative moment, enshrining the rights of children within a robust legal framework. Article 39(e) and (f) of the Constitution

24 Sushila Nayar, *Social Reform in India* 45–49 (1964)

25 M.K. Gandhi, *Young India*, Aug. 6, 1925, at 276

26 Education Commission of India, Report of the Indian Education Commission 1882

27 Uma Chakravarti, *Gendering Caste Through a Feminist Lens* 18–20 (2003)

explicitly direct the State to ensure that children are not abused or forced into economic activities that are unsuitable for their age and development²⁸. However, the historical journey outlined here provides invaluable insights into the cultural and legal legacies that continue to inform child protection policies in contemporary India.

From ancient scriptures advocating familial care to colonial-era laws addressing systemic exploitation, the trajectory of child welfare in India highlights the interplay of tradition, governance, and reform in safeguarding the rights and dignity of children. This legacy underscores the necessity of continuous advocacy and progressive policies to build on the historical foundation and ensure a safe and equitable future for all children.²⁹

28 India Const. art. 39(e)–(f)

29 Tirthankar Roy, *The Economic History of India, 1857–1947* 215–16 (2d ed. 2006)