
CHILD RIGHTS AND PROTECTION IN INDIA: LAW, POLICY AND SOCIAL JUSTICE

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ABSTRACT

Child protection remains a significant concern in India despite the existence of an extensive constitutional and statutory framework aimed at safeguarding children's rights. Vulnerable children continue to face multiple forms of exploitation, including child labour, trafficking, physical, emotional, and sexual abuse, neglect, child marriage, and denial of access to education and healthcare. This article examines the legal and institutional framework governing child protection in India, with particular emphasis on constitutional safeguards, the Juvenile Justice (Care and Protection of Children) Act, 2015, the Protection of Children from Sexual Offences Act, 2012, the Prohibition of Child Marriage Act, 2006, and other child welfare legislations. It further analyzes different forms of child abuse and highlights the legal challenges arising from child marriage and sexual exploitation in light of recent judicial developments. The article argues that legal protection alone is insufficient without effective governance, institutional accountability, and social justice. It emphasizes the need for inclusive public policies that address structural inequalities arising from poverty, gender discrimination, caste-based exclusion, disability, and regional disparities. The study concludes that strengthening implementation mechanisms, improving coordination among child protection institutions, enhancing public awareness, and ensuring equitable access to education, healthcare, nutrition, and social security are essential for creating a child-sensitive governance framework capable of securing the rights and holistic development of every child in India.

Keywords: Child Protection, Child Rights, POCSO Act, Juvenile Justice Act, Child Marriage, Social Justice, Governance, Child Abuse.

INTRODUCTION

Childhood is a crucial stage of human life that shapes an individual's future, personality, and opportunities. However, for many children in India, childhood is often marked by hardship, insecurity, and deprivation instead of care and protection. A large number of children continue to suffer from poverty, child labor, trafficking, abuse, neglect, malnutrition, and lack of access to quality education and healthcare. These problems are more severe among children belonging to marginalized communities, including those living in rural areas, economically weaker families, and socially disadvantaged groups.

India has adopted several constitutional provisions, laws, and welfare schemes to protect children and promote their rights. Despite these efforts, many children remain outside the reach of effective protection due to poor implementation of policies, lack of awareness, social inequality, and weak institutional mechanisms. In this context, the role of governance and social justice becomes highly important. Protecting vulnerable childhoods requires not only strong legal safeguards but also an inclusive and accountable system that ensures every child can live with dignity, safety, and equal opportunity.

PROTECTION OF CHILDREN IN INDIA-AN OVERVIEW

According to the international paradigm, the term “*Child*” implies to every human being below the age of 18 years. The universally adopted definition of “*Child*”¹, evolved from the Convention on the Rights of the Child (UNCRC) has been accredited and ratified by most countries since 1989. India ratified the United Nations Convention on the Rights of the Child (UNCRC) in 1992. However, even before becoming a signatory, the country had taken significant steps to safeguard child rights and promote child welfare. From the very beginning, the Constitution of India has included various provisions aimed at protecting vulnerable sections of society, with a particular emphasis on the well-being of children. Over time, different laws have defined “child” in terms of age, with varying classifications depending on the legal context.

As per the Child and Adolescent Labour (Prohibition and Regulation) Act amended in 2016, child are defined the human being within the age limit 6 to 14 years²; in the Prohibition of

¹ The United Nations Convention on the Rights of the Child, 1989, art. 1.

² The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 (Act 61 of 1986), s. 2(ii).

Child Marriage Act, 2006 the boys with 21 years of age and girls up to 18 years of age considered to be child in respect to their immaturity in sexual life.³ In the Juvenile Justice (Care and Protection of Children), 2015⁴ and in the Protection of Children from Sexual Offences Act, 2012⁵ persons below the age of 18 years have been termed as children.⁶

Child abuse is a significant concern in India, affecting children across all socioeconomic backgrounds, cultures, and regions. Although obtaining accurate prevalence figures is challenging due to underreporting and the hidden nature of the issue, available data sheds light on the extent of the problem. According to the National Crime Records Bureau (NCRB) of India, in 2019, there were 43,426 reported cases of crimes against children, including sexual offences. This figure represents a 13.6% increase compared to the previous year.

DIFFERENT FORMS OF CHILD ABUSE IN INDIA

Physical Abuse

The physical abuses include beating, burning, excessive punishments by parents, manhandling, forcing to work beyond the reasonable standards set up by various legislations, child labor, trafficking, bullying, etc. Physical abuse takes place irrespective of the economic conditions and is faced by children at an early age; it may or may not get detected.⁷

Emotional abuse

This type of abuse faces major challenges when it comes to evidence, it is extremely difficult to prove. It can be defined as the failure of the person responsible to provide a supportive and appropriate environment and it has effects on emotional health. Emotional abuse can be identified in every form of abuse as it hampers the health, wellbeing and development of a child. Emotional abuses take place in the following ways:

- Shouting at children;

³ The Prohibition of Child Marriage Act, 2006 (Act 6 of 2007), s. 2(a).

⁴ The Juvenile Justice (Care and Protection of Children), 2015 (Act 2 of 2016), s. 2(12).

⁵ The Protection of Children from Sexual Offences Act, 2012 (Act 32 of 2012), s. 2(d).

⁶ Jayanta Saha Roy, "Instrument to Protect Rights of Children: Revisiting the Impact of Legislative and Societal Policies for Development and Protection of Children" 8 *Journal of Emerging Technologies and Innovative Research* 748 (2021).

⁷ Child Abuse In India available at <https://thelawdesk.org/child-abuse-in-india/> last visited on (5/07/2024)

- Giving silent treatment;
- Threatening, emotional blackmail; and
- No affirmation or love.

Signs of emotional abuse – antisocial, extreme behaviour, emotionally distant, fear, anxiety, etc.

Sexual abuse

Sexual abuse refers to the involvement of a child in some sexual activity that is not understood by the child. Where a child is not able to comprehend, have no understanding about the act by another person or give his consent. It is between a child and an adult, the adult being a person in power or authority. Sexual abuse can occur even if the child is not touched. Sexual abuse can be divided into two parts,

- Contact: when a child is touched in a sexual manner, intercourse, rape, forced to touch genital or sexual exploitation.
- Non- contact: when a child is exposed to pornography, virtual sex, filthy remark, obscene comments or voyeurism.

Signs of sexual abuse- the behaviour of the child- taking interest in things which are not appropriate for the age or very aggressive behaviour; physical signs such as marks on the body, bruises, swelling, problem in walking or sitting, etc. ⁸

Neglect

This type of abuse affects the child in all aspects. It refers to the act of omission on the part of the person responsible to provide a child with basic necessity, safe living conditions, shelter according to the resources available to the person who is responsible/ caregiver. Neglect takes place when the caregiver fails to:

⁸Child abuse: rare and ambiguous forms available at <https://blog.ipleaders.in/child-abuse-rare-ambiguous-forms/> (last visited on July,312024)

- Protect from any harm;
- Monitor progress, bruises (if any), behaviour; and
- Provide needed attention and care.

Signs of neglect-child not disciplined, bad language, disruptive behaviour, unhygienic, etc.⁹

Child Sexual Abuse and Marital Immunity

Child sexual abuse has been defined as **“the involvement of dependent and immature children in sexual activities they do not fully comprehend, to which they are unable to give informed consent.”**¹⁰ The Protection of Children from Sexual Offences Act, 2012 (POCSO) was enacted to ensure the safety and protection of all children, irrespective of their gender, against sexual abuse, harassment and exploitation. The aim of the POCSO Act is to prioritize the best interests and welfare of children, safeguarding their physical, social, emotional and intellectual growth.¹¹

The POCSO Act criminalizes all sexual offences against a child who is defined as an individual below eighteen years of age.¹² Thus, the consummation of child marriage is an offence under the POCSO Act. All types of sexual activity are criminalized under the POCSO Act, irrespective of the relationship between the individuals involved. This implies that regardless of whether the child is married, the law considers any sexual activity with that minor an offense.¹³ POCSO is a special law that takes precedence over any personal law.¹⁴

The Supreme Court of India in the case of *Independent Thought v Union of India*¹⁵ struck down Section 375 Exception 2 of the Indian Penal Code, 1860 which had granted immunity to a man from prosecution for the act of raping his wife if she was over the age of fifteen years. It was held that the exception infringed upon the rights of minor girls and stated that sexual intercourse of a husband with a wife under eighteen years old would constitute rape. The

⁹Ibid

¹⁰Ruth S. Kempe & C. Henry Kempe, *Child Abuse* 127(Harvard University Press,1978), London

¹¹ *Society for Enlightenment and Voluntary Action v. Union of India* 2024 SCC OnLine SC 2922.

¹² The Protection of Children from Sexual Offences Act, 2012 (Act 32 of 2012), s. 2(d).

¹³ Dr. I. Nagmani, “Protection vs. Tradition: The Clash between Indian Child Marriage Laws and the POCSO Act” 8 *International Journal of Law Management & Humanities* 2166 (2025).

¹⁴ *Aleem Pasha v. State of Karnataka*, 2022 SCC OnLine Kar 1588.

¹⁵ AIR 2017 SC 4904.

Bharatiya Nyaya Sanhita, 2023 has included this; therefore no exemption exists for a man to engage in sexual intercourse with wife under 18 years old.¹⁶

The provisions of the POCSO Act are directly compromised by the occurrence of child marriage. The purpose of the POCSO Act is to safeguard children against sexual abuses. Child marriage, conversely, is a practice that exposes minor girls to immediate danger. The POCSO Act penalizes a man for engaging in sexual acts with his minor wife. The presence of child marriage and its acknowledgment in the law as a valid and voidable union endangers children's dignity. The practice of child marriage facilitates the sexual abuse of child brides by its very nature.

SOCIAL JUSTICE AND INCLUSIVE CHILD PROTECTION:-

Social justice plays an important role in ensuring equality, dignity, and protection for all children. Vulnerability among children is closely associated to poverty, caste discrimination, gender inequality, regional disparities, and social exclusion. Children belonging to marginalized communities frequently experience unequal access to education, healthcare, nutrition, and legal protection.

Girl Child often remain particularly vulnerable to child marriage, trafficking, domestic violence, and denial of equal opportunities. Similarly, children with disabilities often face social discrimination and inadequate institutional support. Street Children, orphaned children, and children living in conflict-affected areas are also exposed to exploitation and neglect.¹⁷

The COVID-19 pandemic further exposed structural inequalities affecting children. Many children from economically weaker backgrounds lost access to education due to lack of internet connectivity and digital devices. Economic hardships during the pandemic also contributed to increased child labour, trafficking and child marriage in several regions

Inclusive governance is essential for addressing these inequalities and ensuring meaningful realization of child rights. Welfare schemes relating to nutrition, education, healthcare, and social protection must effectively reach marginalized communities. Public awareness programmes and community participation are equally important for creating child-sensitive

¹⁶ The Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023), s. 63 Exception 2.

¹⁷Gautam Makwana., & H. Elizabeth, "Challenges for children from the marginalized Indian communities" 15 *VIDYA - A Journal of Gujarat University*, 15-26(2023).

governance structures.

CONCLUSION

Children are among the most vulnerable members of society and deserve a safe, healthy, and nurturing environment to grow and develop. Although India has made significant progress by enacting comprehensive child protection laws and implementing various welfare schemes, many children continue to face abuse, exploitation, child labour, trafficking, neglect, and discrimination. These challenges are closely linked to poverty, lack of awareness, social inequality, and weak implementation of existing laws.

Protecting children cannot be achieved through legislation alone. It requires the active involvement of families, schools, communities, government authorities, and civil society organizations. A child-friendly governance system must ensure that every child, irrespective of gender, caste, religion, disability, or economic background, has equal access to education, healthcare, nutrition, protection, and justice. Greater coordination among institutions, effective implementation of laws, and increased public awareness are essential to creating an environment where children can grow with dignity and security. Ultimately, investing in the protection and well-being of children is an investment in the future of the nation, as a society that safeguards its children lays the foundation for inclusive, equitable, and sustainable development.

RECOMMENDATIONS

To ensure effective protection of vulnerable children in India, there is a need for stronger implementation of child protection laws and welfare policies at the grassroots level. Government institutions, schools, local authorities, and child welfare committees must work in coordinated manner to identify and address issues relating to child labour, trafficking, abuse, and neglect. Awareness programmes should be conducted to educate parents and communities about child rights and legal safeguards. Special attention must be given to marginalized children by improving access to quality education, healthcare, nutrition, and digital resources. Additionally, strengthening accountability mechanisms and increasing community participation can help create a more child-sensitive and inclusive governance system.

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