



## Challenges in Child Rights and Child Protection in India

Dr. Dakshina Saraswathy, Associate Professor, Kerala Law Academy, Thiruvananthapuram

### Article information

Received: 5<sup>th</sup> April 2024

Received in revised form: 10<sup>th</sup> May 2024

Accepted: 13<sup>th</sup> June 2024

Available online: 21<sup>st</sup> August 2024

Volume: 1

Issue: 1

DOI: <https://doi.org/10.5281/zenodo.13986290>

### Abstract

This paper emphasizes the necessity for an extensive approach by providing a consistent examination of the very complicated subject of child abuse, situations, and rights in India. Any nation's human resources are vital, and they can be strengthened through education, particularly by enhancing the foundational curriculum. Education is seen as the path that leads to personal growth and advancement. A child's whole growth depends on their family. A child's physical, psychological, and social development will be hampered by deprivation brought by the absence or carelessness of family during their early years. As the relevance of the nuclear family and communal living declines, kids are becoming more susceptible to the whims of the environment. The focus of policy talks in the sphere of child protection is the need for better alternative care that goes beyond institutional settings. This essay critically examines the laws now in place regarding child labor, adoption-related concerns, and child sexual assault. Notable instances include the Juvenile Justice Act, which offers protection and rehabilitation to children in legal difficulties, the (POCSO) Act, which addresses child's rights and sexual abuse and exploitation, and the Right of Children to Education Act, which affirms that every child has the fundamental right to an education. In conclusion, a comprehensive strategy is needed to handle the intricate problems of children's liberties, status, & abuse in India. The government needs to keep up its efforts to efficiently put current regulations and laws into effect and enforce laws.

**Keywords:** - Right to Education Act, Child, Laws and Regulations, Education, Protection of Children, Child's Rights, Policy, Joint Family System, legislations.

*"Families and children must be protected; they have inherent rights and should be loved, cared for both physically and emotionally, and not brought into the world to suffer."*

Indira Gandhi —

## I. INTRODUCTION

Almost 440 million children live in India, a country known for its distinct and unique cultural history and immersed in a rich history tapestry. Children make up a substantial one-third of the country's population. India has made great leap in recent years in enhancing the lives of children, but there are still many issues that need to be addressed immediately, especially those about harassment, social standing, and fundamental rights. India's legal system, which includes the United Nations Declaration dealing on the Rights of the Children and other treaties between nations, is a staunch defender of children's rights, providing them with several protections all around India. The rights to healthcare, education, safety from violence, and significant involvement with life-affecting decisions are all included in these unalienable liberties. Nonetheless, the stark fact is that many Indian children continue to be unaware of their rights since there are insufficient systems for enforcement in place.

- Empowering children through awareness: Given the circumstances, kids must have a firm grasp of their legal rights and are equipped with the information and resources they need to have an assistance when they are being bullied or mistreated.
- Eradicating discrimination: Discontinuous efforts are needed to destroy the bases of prejudice that support social class differences, caste divisions, and gender biases.

- Upholding the sanctity of justice: The government must strengthen the foundations of justice to protect children's rights. It is crucial to have an unwavering dedication to following the law and making sure that children's rights are protected.

### 1.1 Indian Society's Rights and Protections for Children

In any culture, protecting and defending the rights of children is an essential matter. Children in India is having a group of several issues, such as abuse, exploitation, and bullying. We will say about the status and position of children in Indian society, the occurrence of child labor, child marriages, and sexual abuse of children here. In addition, it examines the laws, regulations, difficulties in implementing them, and other subjects. It also looks at the role that grassroots organizations play in advancing and preserving the rights of children.

### 1.2 Child Molestation in India

Physical, psychological in nature, and sexual abuses from their friends and relatives are among the many kinds of abuse that children in India endure. It is alarming to note that over 100,000 cases of crimes against our young children and small kids have been reported to the National Crime Records Bureau Statistics published in 2019. Sexual abuse is the major kind of abuse that children in India endure and is frequently committed by people they know, like close family members or neighbors.

### 1.3 Problems and Issues Regarding Child Protection

Regarding the high prevalence of assault, battery, and neglect among children worldwide, it is clear that children are susceptible to all forms of maltreatment and exploitation. To put it plainly, child protection is the procedure of shielding young people from neglect, abuse, and sexual or psychological harm. Child protection, according to UNICEF, is a preventative measure and response to all forms of cruelty, exploitation, and exploitation targeted at children. These include child labor, trafficking in sexual minors, female genital mutilation/cutting, and child marriage. The International Covenant on the Rights and Freedoms of the Child's Article 19 requires State parties to,

*when the child is in the care of a parent, legal guardian, or any other person who has the custody of child's care, take all necessary legal, administrative in nature, social, and educational precautions to safeguard the child from all forms of issues like assault, injury, physical or mental assault, or abuse, neglect or wrongful treatment, abuse, or exploitation, which involves sexual misconduct.*

Furthermore, Article 35 addresses trafficking, Article 34 addresses sexual exploitation, and Article 32 affirms children's right to be shielded from economic exploitation and hazardous labor.

### 1.4 India's Problems with Child Protection

According to data from the National Crime Records Bureau, a child in India goes missing every eight minutes, so child security problems require serious attention. Roughly 40% of these children are still missing. Because of the critical scenario in India, lawmakers in the Upper House of the legislature admitted that in 2011 alone, about 60,000 children from 28 states & territories under the union went missing. Of these, almost 22,000 are still left unaccounted for. The problems of disregard for youngsters and their multifaceted disregard, which can extend beyond their immediate surroundings in their households, neighborhoods, society as a whole and society at large, are unique to India.

### 1.5 Current Systems for Protecting Children

The Indian Constitution acknowledges children's fragility and their entitlement to protection. Children will get special attention, as guaranteed by Article 15 of the United States Constitution, through required and unique regulations and programs that protect their rights. Articles in the Constitution like 14, 15, 16, 17, 21, 23, and 24 guarantee an equal opportunity to equality, the preservation of life and individual liberty, and the right against exploitation. The National Policy for the protection of Children in 1974 and 2013, the Juvenile Justice (Care, Protection, and Rehabilitation of Children) Act, 2000, the National Charter for Children, 2003, and the National Plan of Action for Children, 2005, have all been aligned by the Indian government to create a strong structure for safeguarding children. The government launched the Integrating Child Protection Scheme in 2009–10 to combine several child protection initiatives under one roof to improve guidelines and fundamental ideas of "protection of child freedoms" and "best interests and rights of the children".

### 1.6 Child Line: A Significant Advancement in Child Protection

The idea for Child Line came from Jeroo Billimoria, a professor at the Tata Institute of Social Sciences (TISS), in Bombay. In her personal as well as professional role, she used to attend to the requirements of the distraught children living on the streets. TISS Child Line was founded in June 1996 as a part and parcel of the Families and Child Welfare Department's department operation, and it went on to develop into a national network for assisting children in need after a long journey. Child Line began operations in 1999 after the Ministry of Justice, Equity, and Empowerment, part and parcel of the Government of India, decided to provide national funding for the program. As of March 2014, Child Line's network of 540 affiliated organizations throughout India enabled it to operate in 291 cities and districts throughout 31 States and Union Territories.

## 1.7 Child Labor's Prevalence and Effects in India

Millions of youngsters in India have been affected by the widespread problem of child labor. Young people who work in dangerous conditions run the imminent risk of suffering mental, physiological, and psychological harm. Their general well-being, education, and health have all suffered greatly as a result. India's three main problems with labor for children are impoverishment, illiteracy, and a lack of effective legal enforcement. The International Labour Organization, or ILO, estimates that 10 million children between the ages from 5 and 14 are working in India, making it the country with the highest percentage of child laborers globally. Due to their financial status, children from underprivileged communities—such as Dalit's and tribal populations—are more susceptible to being forced into labor. Employers frequently take advantage of these kids and mistreat them physically and psychologically, infringing on their fundamental liberties.

## 1.8 Addressing India's Child Rights Laws, Policies, and Difficulties

In India's rural areas, child marriage is a common custom that is fuelled by poverty, social and cultural standards, and gender imbalance. Early pregnancies, maternal mortality, domestic abuse, restricted access to economic and educational possibilities, and a higher chance of sexual, physical, and psychological abuse are only a few of the negative effects of this terrible practice. In India, 472 million children are vulnerable to child harassment despite efforts to prevent it, mostly because of societal stigma, poverty, and illiteracy

In India, child sexual abuse takes several forms, including child pornography, kidnapping, trafficking in children, and sexual abuse. Sexual offenses were the majority of the notable rise in crime against children and their challenges reported by the National Crime Records Bureau for 2019. In addition to sexual misconduct, children also experience physical and mental abuse, neglect, and other forms of abuse that restrict their access to school and medicine.

## II. LITERATURE REVIEW

(Lupton, D., 2017) Children are increasingly being targeted by a plethora of surveillance devices that produce massive quantities of data about them, and privacy advocates and critical data scientists are starting now only to focus on these practices. We give an overview and analysis of these various forms of child ratification and dataveillance, from in utero to the school years, in this post. Our strategy is exclusively based on calls made recently for an investigation into children's rights in the age of the internet that looks at the factors that lead to children's needs and direct the provision of resources needed for their complete development, the variety of particular harms they may experience, and the importance of and unique opportunities for them to become involved in matters that impact their wellbeing and allow them to engage actively in society.

(Shamrova, D. P., 2017) The trend of including children in social studies has emerged from the growing emphasis on children's rights. The idea of Participatory Action Research (PAR) has been widely adopted by the academic community. Thus, more academics are now discussing and concerned about the simplifying of the participation of kids and the distortion of their voices. This important and present article aims to contribute to the critical discourse surrounding PAR, particularly concerning (1) its methodologies and (2) about the results of genuine children's involvement in PAR for youth and children, social service agencies, and communities. 45 articles were chosen and tagged for examination using the integrative assessment method.

(Bhatia, A., 2017) This study looks at the assurance of comprehensive social protection at the instance of the Aadhaar program in India, a nationwide program that assigns inhabitants of the country a personalized identification number based on biometric data. With over a billion users, Aadhaar promises to close other holes in India's social protection system, increase the availability of basic authentication, enhance enrolment in financial literacy and social protection programs, stop leaks, and lessen corruption. However, the creation of a national identity program does not ensure safety in and of itself.

(Mathews, B., 2019) Leading governmental agencies and academics have acknowledged the issue of defining "Child Sexual Abuse" (CSA) and the necessity of doing so since the 1970s. It is evident from recent demands that a more explicit and theoretically sound definition of CSA is still a pressing concern. In this paper, we delineate issues resulting from differences in CSA formulations across five domains: social norm creation, legal structure and principles, preventive initiatives, policy interventions, and knowledge and research generation. To show the continued use of various concepts of CSA and locate substantial areas of conceptual disagreement, we review and analyze definitions used in major globalization epidemiological analyses, national and international policy statements, social scientific the written word, and juridical systems in the US, Canada, and Australia. Drawing from our review of the literature, we make a theoretical evaluation approach to create a theoretical.

(Ramaswamy, S., 2020) Children who face hardship constitute a high-risk population in the nations like India where the nature of development is still on a slow pace since they do not fit within the broader definition of children, who are typically viewed as vulnerable populations in times of crisis and disaster. In times of crisis, child mental wellness difficulties in the meaning of protection threats and early hardship are often ignored. This article describes the increased protection concerns and psychological dangers that children in adversity are exposed to during and immediately following the COVID-19 crisis and lockdown situation. It also focuses on the financial impact and effect of the pandemic on these children.

(Franchino-Olsen, H. 2021) Too many kids and adolescents in the US are victims of domestic minor sex trafficking issues (DMST) and commercial issues on sexual use of children (CSEC), which violates their rights and well-being. To effectively create programs to stop victimization, adequate preventative efforts should aim to comprehend the elements that leave minors open to being sexually exploited. The critical factors that were found and gathered through a systematic literature evaluation

are discussed in this review. After undergoing full-text examination, 15 studies that satisfied the coming discussed requirements were chosen for inclusion: original either qualitative or quantitative studies with titles and abstracts indicating that they concentrated on the risk factors, vulnerability, or statistical analysis of the CSEC/DMST or a national focus on CSEC/DMST (for United States.-based scientific journals) with outcomes that did not encompass associations between the adolescents and the adults in the studies were published in English language between the January of 2010 and September of 2017.

(Liebel, M. 2023) In our unequal postcolonial international system, social inequality still affects schoolchildren in the global south. The difficulties of advancing children's rights in a decolonizing environment are examined in this book, which focuses especially on working-class children across Latin America. It provides insights into children's political lifestyles and demonstrates how the very concept of children's rights can be given importance at the local level. The book's overarching viewpoint is liberating for kids in the Global South, offering a much-needed redirection of children's rights via the decolonizing of childhoods. The book acknowledges kids as players in a just and free society devoid of prejudice and violence

## 2.1 Objectives of the study

- To analyze the effects of new legislative changes and policy efforts targeted at enhancing India's child protection and rights
- To examine the effectiveness and accessibility of legal channels, such as support services, legal aid, and justice, for children who have been abused, exploited, or neglected.

## 2.2 The Scope of the Study

The field of research concerning problems connected with child rights and protection of our child laws in our India is broad and complex. These are some essential topics that could be covered:

- Legal Framework Analysis: Reviewing the current legal framework within India for the protection and well-being situation of children, including pertinent national and international legislation such as the Convention on the Rights and the Welfare of the Child (CRC), the Juvenile Justice Act of 2015, and the Indian Constitution.
- Access to Justice: Evaluating the availability of justice for kids, especially those from vulnerable and marginalized backgrounds, looking at problems with representation, legal assistance, and the court system's backlog.
- Child Labour and Exploitation: Examining the frequency of child labor, human trafficking, and other types of exploitation and evaluating how well the laws and regulations in place handle these problems.
- Child Marriage: Examining the reasons why child marriage continues to occur despite legislative prohibitions, including poverty, lack of enforcement, and sociocultural norms.
- Child Rights Violations: Investigating the legal framework's shortcomings in handling the many forms of child rights violations, such as discrimination, abuse, and neglect, and evaluating these infractions.
- Child Trafficking and Missing Children: Looking at the difficulties of finding missing children, stopping child trafficking, and making sure they are rehabilitated and reintegrated into society.

## III. METHODOLOGY

A thorough approach would be required to address the issues with India's child protection and rights legislation. This is known as methodical technique:

- Stakeholder Consultation: Communicate with different child welfare stakeholders, such as NGOs, government offices, attorneys, psychologists, social working staff, academicians, and kids themselves. Conduct focus groups, questionnaires, and interviews to acquire a range of viewpoints regarding the difficulties associated with putting child protection legislation into practice and maintaining it.
- Legal Analysis: Examine the legal structures that are in place in India concerning the protection of children's rights and welfare. This includes the Constitution of the Philippines, pertinent laws like the Juvenile Justice Act, 2015, the Protection of Children from Sexual Offenses Act, 2012, and international pacts that India has ratified, like the International Convention on the Protection of the Rights of the Child (3Rs). Determine what needs to be improved or amended, as well as any unclear statements or discrepancies
- Comparative Study: To find the best practices, lessons discovered, and creative solutions that could be modified for the Indian setting, compare the child protection laws and procedures of other nations with comparable socioeconomic backgrounds.
- Case Studies: Analyze particular instances of abuse against children and neglectful care of the children to comprehend the underlying problems and obstacles to implementation. Examine the causes of these events, taking into account of socio - economic issues, cultural norms, institutional shortcomings, and legal gaps.
- Policy Analysis: Analyze the success of current initiatives, programs, and policies targeted at advancing the protection and rights of children. Determine the areas that need improvement in line with resource allocation, government agency coordination, policy implementation, and cooperation with civil society organizations.

## IV. CONCLUSION

To fulfill a child's constitutional right to a safe and healthy upbringing, safeguarding concerns must be handled through a combined strategy that mobilizes a cohesive package of infrastructure and services. Ensuring healthy and happy children in India requires reviving the protective laws & rights guaranteed by the constitution. When child protection systems are in place, all that's necessary for a successful conversion of policy into action is for its many arms—the juvenile justice system Board of Directors, Child Welfare Committees, Child Line, and the police—to be interlinked. If the gaps in institutional and functional connections are not filled, child protection concerns will continue to be as elusive as they are at the moment

There seem to be gaps in achieving the intended goal, included with the recent and noticeable sensitive laws to safeguard and protect the welfare of children. To sum up, India has put laws, regulations, and programs into place to uphold children's rights and deal with problems including discrimination, child marriage, and sexual exploitation. However, issues with compliance, a gap in proper funding, and public perceptions make it difficult to put them into practice effectively. To protect every child's rights in India, these obstacles must be addressed to make a secure and supportive environment for their whole development

## REFERENCES

- O'Kane, C., Claudia, M., Raluca, V. S., & Evelyn, W. (2006). Child rights situation analysis. Rights-based situational analysis of children without parental care and at risk of losing their parental care: Global literature scan. Brigittenauer Lände: SOS-Kinderdorf International
- Kaul Venita & Sankar Deepa (2009). "Early Childhood Care & Education India", National University of Education.
- Imandeep Kaur Grewal & Nandita Shukla Singh (2011) Understanding Child Rights in India, *Early Education and Development*, 22:5, 863-882.
- Mohanty, R.I. (2012, May 25). Trash bin babies: India's female infanticide crisis. Retrieved March 2015.
- Shah, S. (2012). India's missing children, by the numbers. (2012, October 16). Retrieved March 21, 2015.
- Shariff, Abusaleh (2012). "Inclusive Development Paradigm in India: A PostSachar Perspective." US-India Policy Institute (USIPI).
- Shashidhar, R., Maiya, P.S., & Ramakrishna, V. (2012). India's Integrated Child Development Scheme and its Implementation: Performance of Anganwadis and Analysis. *OIDA International Journal of Sustainable Development*, 5(6), 29-38.
- Sathiyaraj, A. and Jayaraman, K. 2013. A Study on Child Rights Awareness among the Primary School Teachers in Tiruchirappalli District of Tamilnadu. *International Journal of Scientific and Research Publications*, 3(6).
- Suresh Lal, B. (2013). Child Marriage in India: Factors and Problems. *International Journal of Science and Research*.
- Devapura, K. (2014). Foster care takes root in India: How does it differ from adoption? *The Christian Science Monitor*.
- Gurjot Singh, India's Hell Holes – Child Sexual Assault in Juvenile Justice Homes (Report released by Delhi's Asian Centre for Human Rights (ACHR), 2013).
- Jamshed, M., & Subhasis, B. (2015). The condition of child labour contributes to the development of delinquent behavior. Unpublished MSW dissertation, Greater Noida: Department of Social Work, Gautam Buddha University
- Lupton, D., & Williamson, B. (2017). The datafied child: The dataveillance of children and implications for their rights. *New media & society*, 19(5), 780-794.
- Bhatia, A., & Bhabha, J. (2017). India's Aadhaar scheme and the promise of inclusive social protection. *Oxford Development Studies*, 45(1), 64-79.
- Shamrova, D. P., & Cummings, C. E. (2017). Participatory action research (PAR) with children and youth: An integrative review of methodology and PAR outcomes for participants, organizations, and communities. *Children and Youth Services Review*, 81, 400-412
- Mathews, B., & Collin-Vézina, D. (2019). Child sexual abuse: Toward a conceptual model and definition. *Trauma, Violence, & Abuse*, 20(2), 131-148
- Ramaswamy, S., & Seshadri, S. (2020). Children on the brink: Risks for child protection, sexual abuse, and related mental health problems in the COVID-19 pandemic. *Indian journal of psychiatry*, 62(Suppl 3), S404-S413.
- Das, R. (2020). Child Marriage in India: A Study of its Determinants and Health Outcomes. *Journal of Health Management*, 22(1), 51-59.
- Bhuyan, R. (2021). Child Labour in India: A Review. *Indian Journal of Labour Economics*, 64(1), 121-134
- Franchino-Olsen, H. (2021). Vulnerabilities relevant for commercial sexual exploitation of children/domestic minor sex trafficking: A systematic review of risk factors. *Trauma, Violence, & Abuse*, 22(1), 99-111.
- Liebel, M. (2023). Children's rights from below. In *Childhoods of the Global South* (pp. 23-24). Policy Press