

**SAFEGUARDING INDIA'S YOUTH: EXPLORING CHILDREN'S HUMAN
RIGHTS THROUGH LEGAL LENS****Dr. Nitinkumar S. Vyas***Assistant Professor,**Sheth M. N. Law College, Patan, (N. Gujarat)**Corresponding Author: Dr. Nitinkumar S. Vyas***DOI - 10.5281/zenodo.10553699****Abstract:**

In the future, it is posited that children would assume the role of custodians for various fundamental principles, including sovereignty, the rule of law, justice, liberty, equality, fraternity, and ultimately, global peace and security. These entities has the capability to manifest our concepts, goals, aspirations, and visions for the forthcoming period. These individuals represent the future leaders who will contribute to the progress of the nation through their intellectual prowess, effective governance, scientific advancements, political acumen, legislative competence, administrative skills, educational expertise, judicial acuity, technical proficiency, industrial innovation, engineering expertise, labour force, and strategic planning abilities. The present discourse concerns the instruments of international law pertaining to the rights of children. The Declaration of the Rights of the Child, which was officially adopted during the fifth assembly of the League of Nations in 1924, is widely seen as the inaugural global convention that specifically addresses the rights of children. Children are considered a valuable asset to society, although they are also susceptible to various risks and challenges. Several Indian laws focus on a context in which children are regarded as individuals lacking legal recognition, and deliberate efforts are made to not only liberate them from exploitation and mistreatment, but also empower them to actualize their complete capabilities by ensuring equitable access to nourishment, healthcare, education, and dignity. The Convention on the Rights of the Child was adopted by the United Nations General Assembly, being the first international convention that delineates the fundamental rights of children. The right to a secure upbringing is an inherent human entitlement. Individuals are conscripted into the armed forces. Individuals may be confronted with the imposition of capital punishment, abduction, exposure to severe and degrading penalties, and a range of further manifestations of physical harm. The objective of this study is to conduct a comprehensive analysis on the efficacy of preventive measures against child rights breaches. Additionally, it aims to offer essential recommendations to parents and governmental bodies on their obligations in safeguarding children's rights and mitigating their vulnerability in hazardous circumstances.

Keywords: Children, Human Rights, Constitution of India.

Overview of the Importance of Safeguarding Children's Human Rights in India:

The importance of safeguarding children's human rights in India is a matter of utmost significance, as it pertains to the well-being, development, and future of the nation. Children are the most vulnerable members of society and are often unable to advocate for their own rights, making it imperative for the legal system and society at large to protect and promote their rights. Here is a detailed overview of the importance of safeguarding children's human rights in India:

- **Protection of Vulnerable Individuals:** Children are inherently vulnerable due to their age and developmental stage. They are more susceptible to exploitation, neglect, and abuse. Safeguarding their human rights ensures that they are protected from harm and allowed to grow in a safe and nurturing environment.
- **Fulfillment of Basic Needs:** Children's rights include access to fundamental needs such as food, shelter, education, and healthcare. Safeguarding these rights is essential to provide a stable and

nurturing environment for their growth and development.

- **Human Capital Development:** Children represent the future of any nation. Ensuring their rights are protected and promoted is an investment in the nation's human capital. When children are healthy, educated, and protected, they have the potential to contribute positively to society and the economy.
- **Social Justice:** The safeguarding of children's rights is integral to achieving social justice. It helps bridge the disparities in society, ensuring that children from all backgrounds, regardless of their socio-economic status, caste, or religion, have equal access to opportunities.
- **Preventing Inter-generational Cycles of Poverty and Injustice:** When children's rights are not safeguarded, they are more likely to face a future of poverty and injustice. This perpetuates inter-generational cycles of disadvantage. Safeguarding children's rights breaks this cycle by providing them with the tools to lead fulfilling lives.

- **International Commitments:** India is a signatory to several international conventions and treaties that commit the country to safeguarding children's rights. These agreements, such as the United Nations Convention on the Rights of the Child (UNCRC), place obligations on the government to ensure the well-being of children.
- **Moral and Ethical Imperative:** The protection of children's rights is not just a legal or governmental duty but also a moral and ethical responsibility. It reflects the values of a compassionate and just society that places the welfare of its children at the forefront.
- **Preventing Child Labour and Exploitation:** Safeguarding children's rights is crucial in preventing child labour and exploitation. This not only protects children from physical and psychological harm but also ensures that they have the opportunity to receive an education and lead a life free from poverty and exploitation.
- **Emotional and Psychological Well-being:** Children's rights include the right to a loving and nurturing environment. Emotional and

psychological well-being is crucial for their development. Safeguarding their rights helps in creating a supportive atmosphere that fosters their growth.

- **Global Reputation:** A nation's reputation on the global stage is closely linked to how it safeguards the rights of its children. Demonstrating a commitment to the well-being of children contributes positively to India's international standing and cooperation with other nations.

In conclusion, safeguarding children's human rights in India is not just a legal obligation; it is a moral, ethical, and social imperative. It is an investment in the nation's future, an essential step towards social justice, and a reflection of a society's commitment to the well-being of its most vulnerable members. By ensuring that children's rights are protected and promoted, India can build a more just, prosperous, and compassionate society.

The Significance of Examining These Rights from a Legal Perspective:

Examining children's human rights from a legal perspective holds profound significance for a multitude of reasons. First and foremost, it provides

a structured and systematic framework to define, enforce, and protect the rights of children in India. The legal perspective enables the nation to translate its commitment to children's rights into concrete action, ensuring that these rights are not just ideals on paper but actionable and enforceable principles. Moreover, it offers a means of accountability by clearly defining the responsibilities of government bodies, institutions, and individuals in upholding these rights. By examining children's rights through a legal lens, it becomes possible to hold violators accountable for their actions, whether it involves cases of child labour, abuse, or the denial of access to education.

Furthermore, the legal perspective is vital in establishing clear guidelines and standards, which can be critical in promoting consistency and uniformity in the treatment of children across the nation. This helps mitigate regional disparities and ensures that children from various socio-economic backgrounds receive equal protection and opportunities. It also serves as a basis for legislative reforms, enabling the country to adapt to changing circumstances and emerging challenges that children might face, such as those posed by rapid technological

advancements or evolving societal norms. A legal approach to children's rights is instrumental in integrating India's obligations under international treaties and conventions, such as the UNCRC, into its domestic laws. This not only reinforces India's standing on the global stage but also fosters international cooperation in safeguarding children's rights. It ensures that India aligns with global best practices and receives support in areas where it may face challenges.

Historical Context of Children's Rights In India:

The historical context of children's rights in India is a narrative that reflects the evolution of societal attitudes and legal frameworks over time. Historically, children in India were often marginalized and their rights were often ignored. It was a society that sometimes perpetuated practices like child marriage and child labour, where children were subjected to exploitative conditions. The advent of British colonial rule in India brought about some significant changes, with the introduction of laws to regulate child labour and promote education. However, these efforts were primarily aimed at safeguarding British interests

rather than the rights and welfare of Indian children.¹

The post-independence era marked a turning point in the historical trajectory of children's rights in India. With the adoption of the Indian Constitution in 1950, children's rights gained constitutional recognition. The Constitution laid the foundation for a rights-based approach by emphasizing the principles of equality and non-discrimination, which were applicable to children. Over time, India ratified international treaties such as the United Nations Convention on the Rights of the Child (UNCRC) in 1992, further signaling its commitment to the protection and promotion of children's rights. Subsequently, India enacted several key legislations specifically designed to safeguard children's rights. The Juvenile Justice (Care and Protection of Children) Act, 2000, was a landmark legislation that aimed at the care, protection, and rehabilitation of children in conflict with the law. The Right to Education Act (2009) made elementary education a fundamental right for all children in the age group of 6 to 14, ensuring access to quality education. Historical context also

reveals a growing recognition of the importance of holistic development, including the emotional and psychological well-being of children. This emphasis on children's overall well-being is reflected in various policy initiatives and programs aimed at improving child nutrition, health, and child protection services.

In summary, the historical context of children's rights in India illustrates a transformation from a society where children's rights were often neglected to one where there is a growing commitment to recognizing, protecting, and promoting the rights of children. This evolution has been shaped by changes in societal attitudes, legislative reforms, and India's integration into the global discourse on children's rights. However, it also underscores the ongoing challenges and gaps that exist in fully realizing the potential of children's rights in the country.

Evolution of Children's Rights In India:

The evolution of children's rights in India is a testament to the changing societal attitudes and the development of legal and policy frameworks aimed at safeguarding and promoting the well-

¹ Bajpai, Asha. *Child rights in India: Law, policy, and practice*. Oxford University Press, 2018.

being of children. The journey can be divided into several key stages:²

- **Pre-Independence Era:** Prior to India's independence from British colonial rule, children in India were often subject to social norms that did not prioritize their rights. Practices like child marriage and child labour were prevalent, and the rights of children were rarely recognized. British colonial authorities, however, introduced some rudimentary laws to regulate child labour and promote elementary education, but these measures were often aimed at serving British interests.
- **Post-Independence Constitutional Framework (1950s):** The Indian Constitution, adopted in 1950, laid the foundation for recognizing and protecting children's rights. The principles of equality and non-discrimination, enshrined in the Constitution, provided a broad framework for the rights of all citizens, including children. This marked the first formal recognition of children's rights at the constitutional level.

- **The Juvenile Justice Act (1986):** The Juvenile Justice Act of 1986 was a significant milestone. It focused on the care, protection, and rehabilitation of children in conflict with the law, recognizing that children who commit offenses should be treated differently from adults. The Act was later amended in 2000 and 2015 to align with international standards and evolving challenges.
- **Ratification of International Treaties (1990s):** India ratified the United Nations Convention on the Rights of the Child (UNCRC) in 1992, a major step in acknowledging its commitment to children's rights at the international level. Ratifying the UNCRC meant that India agreed to adhere to the principles and obligations outlined in the treaty.
- **The Right to Education Act (2009):** The Right to Education Act (RTE) was a significant legal development that made elementary education a fundamental right for children between the ages of 6 and 14. It aimed at ensuring universal access to quality education, further

² Chopra, Geeta. "Child rights in India." New Delh: Springer (2015): 45-76.

solidifying the legal framework for children's rights.

- National Policy Initiatives (Various Eras): Over the years, India has developed various national policy initiatives aimed at child welfare, such as the Integrated Child Development Services (ICDS), National Commission for Protection of Child Rights (NCPCR), and the National Plan of Action for Children. These initiatives demonstrate the government's commitment to children's holistic development.
- Holistic Well-being: In more recent years, there has been a growing recognition of the importance of holistic child development, encompassing not just physical and educational well-being but also emotional and psychological well-being. Programs focusing on child nutrition, health, and child protection have been established to address these aspects.

The evolution of children's rights in India reflects a transition from a society where children's rights were often overlooked to a nation that has embraced international principles and created comprehensive legal and policy frameworks for the protection and

promotion of children's rights. However, challenges remain, including the need for better implementation, the eradication of child labour, and addressing disparities in access to quality education and healthcare. The ongoing evolution of children's rights in India is a dynamic process that reflects changing societal values and aspirations.³

Indian Constitution and Children Rights:

The Indian Constitution is the country's foundational law, outlining the country's core rights and principles for all citizens. The Indian Constitution's fundamental rights place a main responsibility on the state to ensure that all of a child's needs are satisfied and that their basic human rights are adequately protected.⁴

Fundamental rights can be challenged in court if they are violated. The Directive Principles are the rules that the government must follow. They cannot be brought before the courts if they are broken, but thanks to judicial interpretation, many of the directive

³ Bhakhry, Savita. "Children in India and their Rights." National Human Rights Commissions, New Delhi (2006).

⁴ Deb, Sibnath, et al. "Child rights as perceived by the community members in India." International Law Research 5.1 (2016): 1-15.

principles are now enforceable through legal actions filed before the courts.

A. The Fundamental Rights in the Constitution that directly relate to children are

- Article 15(3) of the Constitution mandates that the state establish specific arrangements for children.
- Article 21-A mandates that all children aged 6 to 14 get a free and obligatory education. In the manner that the state may determine by legislation. Article 21A of the Indian Constitution stipulates that children aged 6 to 14 have a basic right to education.
- Human trafficking, particularly child trafficking, is prohibited under Article 23.
- No kid under the age of 14 is allowed to work in any dangerous occupation or industry, according to Article 24.

B. The Directive Principles of State Policy that directly relate to children are

- Articles 39(a) and (f) direct that governmental policies be aimed at securing children's young ages.
- According to Article 45, the state must make every effort to offer early childhood care and education

to all children until they reach the age of six.

- Article 51-A states that it is the parent's and guardian's essential responsibility to give chances for education to their child or ward between the ages of six and fourteen.
- The 86th Amendment to the Constitution - the Right to Education - is a basic right. After a long struggle, the 86th constitutional amendment was passed in 2001, making the right to education a basic right. The state legislation has yet to be written. The Indian government has drafted a draught bill called the Right to Education Bill, 2005, which aims to put the 86th constitutional amendment into force.
- The draught bill's preamble states that all children aged 6 to 14 years have the right to free and compulsory education.

Need of Protection:

Every youngster is entitled to be protected. This includes children who are in various situations and have experienced violence, abuse, or exploitation, as well as those who are

not in any of these terrible situations but nonetheless require protection in order to remain within the social security and safety net. Child protection refers to safeguarding children from any perceived or real threat to their life, personhood, or childhood. It's all about lowering their vulnerability to harm of any kind and in dangerous situations.

Child protection is inextricably tied to all of a child's other rights. Failure to ensure children's right to protection has a negative impact on all other rights and the development of the child's full potential. Child protection entails safeguarding each child's individual rights. It must also address children's capacity for self-reliance and self-defense, as well as family, community, society, and state roles and obligations. Because of their unique socioeconomic and political conditions, as well as their geographic location, the need to safeguard certain children is unquestionably higher than for others. These are the children who are most at risk of harm, danger, or risk to their right to survival, development, and participation.

Identification of Key Challenges in Implementing Children's Rights:

The implementation of children's rights in any country, including India, is accompanied by several key challenges, many of which arise from social, economic, and cultural factors. Identifying these challenges is crucial to finding effective solutions and ensuring the comprehensive realization of children's rights. Some of the key challenges in implementing children's rights in India include:

- **Child Labour:** Child labour remains a persistent problem in India, despite legislative efforts to eliminate it. Economic factors, poverty, and a lack of enforcement pose significant challenges to eradicating child labour and ensuring that children have access to quality education and a safe environment.
- **Access to Quality Education:** While the Right to Education Act (RTE) has made elementary education a fundamental right, challenges related to access to quality education persist. Issues include inadequate infrastructure, teacher shortages, and the quality of education in government schools, particularly in rural areas.
- **Child Marriage:** Child marriage continues to be a challenge in

India, particularly in rural and economically disadvantaged communities. It hampers the health, education, and overall development of young girls. Cultural practices and social norms contribute to the persistence of child marriage.

- **Child Malnutrition and Healthcare:** Malnutrition remains a critical concern for many Indian children. Access to healthcare services, especially in rural areas, is limited, and malnutrition has long-term effects on children's physical and cognitive development.
- **Child Abuse and Neglect:** Child abuse and neglect, whether physical, emotional, or sexual, is a significant challenge.⁵

Child Right Issues:

The Convention on the Rights of the Child defines children's basic rights, which cover a wide range of needs and issues.⁶

- **Education as a Right:** 50% of Indian children aged 6 to 18 do not

attend school. In classes III to V, the dropout rate rises alarmingly to 50% for boys and 58 percent for girls.

- **The Freedom of Expression:** Every child has the right to freely express himself in whatever way he sees fit.
- **The right to information:** Every child has the right to understand his or her basic rights and place in society. The high rate of illiteracy and ignorance among deprived and underprivileged children prevents them from learning about themselves and their society.
- **Nutritional Rights:** More than half of India's children are malnourished. In India, one out of every five adolescent boys is malnourished, while one out of every two adolescent girls is malnourished.⁷
- **The right to health and care:** In India, 58 percent of children under the age of two are not fully vaccinated. Furthermore, 24% of these children are not vaccinated in any way. In India, more than 60% of children are anaemic.

⁵ Saini, Narendra. "Child abuse and neglect in India: time to act." *Japan Medical Association Journal* 56.5 (2013): 302-309.

⁶ Kaushik, Anupma. "Rights of children: A case study of child beggars at public places in India." *Journal of Social Welfare and Human Rights* 2.1 (2014): 01-16.

⁷ Karlekar, Malavica. "The girl child in India: does she have any rights?." *Canadian Woman Studies/les cahiers de la femme* (1995).

- The right to be protected from abuse: There are approximately 2 million child commercial sex workers aged 5 to 15 years old, and approximately 3.3 million aged 15 to 18. They account for 40% of India's total population of commercial sex workers. Every year, 500,000 children are compelled to work in this industry.
- The right to be protected from exploitation: According to official estimates, 17 million children in India work. Children from poor and bonded families are frequently "sold" to contractors who promise lucrative jobs in the cities, and the children end up working in brothels, hotels, and domestic work. Many people flee and make a living on the streets.
- Every child has the right to development, which allows her or him to reach his or her full potential. Underprivileged children's living conditions prevent them from growing up in a free and uninhibited manner.
- The right to recreation: Every child has the right to spend time exploring and developing recreational pursuits such as sports, entertainment, and hobbies. In India, the majority of poor children do not have enough time to engage in recreational activities.
- The right to a name and nationality: Every child has the right to identify with a country. The vast majority of India's underprivileged children are treated as commodities and exported as labour or prostitutes to other countries.
- The Right to Survive: Of India's 12 million girls, three million do not live to see their fifteenth birthday, and a million do not live to see their first. Gender discrimination is the cause of death for every sixth girl child.
- The first step toward protecting and realising children's rights is to raise public awareness about "child rights."

Conclusion:

Infant mortality, child marriage, maternal mortality, and the phenomenon of child widows, sex tourism, and child trafficking even beyond national lines for prostitution, child maltreatment, and child labour plague India, as they do many poor countries. There are a number of

obstacles to overcome. The girl kid is perhaps the most socially disadvantaged of all demographic groups. She is particularly vulnerable to human rights violations at every stage of her life, from conception to adulthood. Recent occurrences of gang rape in Delhi and acid attacks in Pondicherry might be used as examples of girl child human rights abuse.

As a result, a child-centered culture must be formed. The legal system should interpret legislation in light of the CRC's rights and norms. The youngster will be able to seek justice through the judicial system as a result of this. All children's laws must be examined in light of the CRC and its standards, and there must be connections between them. The Indian judicial system has a long way to go in terms of protecting children's rights and delivering justice to them.

Justice for children cannot be achieved just through legal reform. Among the various service providers – doctors, teachers, lawyers, judges, police, volunteers, parents, trade unions, and social workers – the most effective preventive measure is raising awareness of such possible abuse and how to deal with it, so that they can significantly reduce the risk of abuse, if

it does occur, by responding appropriately. As a result, these issues must be addressed as soon as possible. Above all, the universal legal principle of making policies, establishing structures and processes, and taking acts that are always and inevitably in the best interests of the child must be followed. Let the child flourish as a flower with the nourishment of rights, the fruits of liberty, and the care and attention of both parents and the state under the auspices of society. The fight for the achievement of children's rights will be lengthy and winding.

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