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# CHILD RIGHTS AND THEIR PROBLEMS

## Abstract

The present study conducts a critical analysis of child rights in India, highlighting the many obstacles that hinder their successful implementation. With 370 million children living in India, it is crucial to preserve their rights to identity, health, education, and safety, among other things. Even with legislative protections in place, a significant number of children still lack access to these essential rights.

The paper tries to explain many reasons which fail to protect children's rights, focusing on the obstacles that hinder access to education. It does this by using a wealth of research and empirical data. Remarkably, data show that 50 % of Indian children between the ages of six to eighteen are not enrolled in school, which raises the questions of whether socioeconomic causes and systemic inequalities are at work.

This paper explores the negative effects of violating a child's rights on both physical and mental health. These issues have been made worse by the COVID-19 pandemic, which has increased danger in children and escalated inequality. This study employs a multidisciplinary approach to identify critical issues and provide workable remedies. The report argues for coordinated efforts at local, national, and international levels to protect the rights of every child in India, ranging from policy interventions to grassroots activities.

This study attempts to encourage discussion and promote constructive change in the field of child rights advocacy and protection by giving a thorough analysis of the existing situation and practical suggestions.

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**Keywords:** Child Legislations, Child laws, Children Rights, POCSO

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## Introduction

The right to health is of highest priority for all people on the planet. An unhealthy individual is incapable of living a joyful existence. The condition of being physically, mentally, and socially sound is health. Similarly, child good health include education, Prohibition on child labour, Prohibition on Violence, abuse, Discrimination & on Deprivation.

Right to Equality (Article 14), Right against Exploitation (Article 23), Right to Freedom of Speech and Expression (Article 19), Right to Protection of

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1 THE CONSTITUTION OF INDIA [As on 26th November, 2021

2 CHILDREN RIGHTS AND THEIR SOCIO-LEGAL PROBLEMS

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Children (Article 15(3) and Article 39(e) and (f)), Right to Development and Protection (Directive Principles of State Policy), Right to life, Right to education (Article 21A)<sup>1</sup> these are the few rights which are protected by the constitution of India, but still we face some loopholes if we go in the society in India, approximately 8 crore children do not attend school<sup>2</sup>. Despite India's rising per capita income, millions of children and women suffer from 'hidden hunger'. According to the UN's Food and Agricultural Organisation (FAO) 'The State of Food Security and Nutrition in the World, 2022 Report'<sup>3</sup>, 224.3 million people, or 16% of the Indian population, are malnourished, with 53% of reproductive-age women being anaemic. More than 17.3% of children are malnourished, and more than 30.9% are stunted, exposing them to common childhood infections such as malaria, pneumonia, and diarrhoea, which are primary causes of child mortality in India. Even though India's child death rate declined from 2.5 million per year in 2000 to 1.2 million per year in 2015, it remains the world's highest statistic for mortality for children under the age of five.<sup>4</sup>

Every person has the right to life, which is a very basic and important right. It's also a basic right that all other rights are based on. In the lack of this right to security, all other rights are meaningless. Childhood is a more fragile time for people because their bodies and minds have not fully developed yet. Furthermore, the youngster demands extra care and protection. Every child needs particular.

## Question of Research

Examining the Multifaceted Challenges Faced by Children in Upholding Their Rights: A Comprehensive Analysis of Socioeconomic, Cultural, and Legal Factors?

## Methods of Research

The following Methods are followed to gather relevant information and to analyze the subject matter effectively:

### 01. Literature Review

### 02. Legal Document Analysis

### 03. Case Studies

### 04. Legal Framework Evaluation

## Six major problems and rights that most children face and desire in their lives

- A. Health issues / Right to Survival
- B. Poverty / the right of a child to be protected against poverty.
- C. Lack of education / Right to Education:
- D. Child labour / Right to Development:
- E. Violence and abuse / Right to Protection:
- F. Discrimination & Deprivation / Right to Non-Discrimination:

## A. Health Issues/Right to Survival

What is your understanding of it? We discuss numerous aspects of life, including the need to work, study, and live. However, numerous children are merely struggling for survival. Not only by starvation but also as a result of medical complications. We encounter numerous infections, diseases, and viruses on a daily basis; at the moment, we are occupied with Covid-19. Over the past four years, each individual has been contending with this virus. A considerable number of our loved ones have perished as a result of this pandemic. There are currently a multitude of vaccines on the market. In numerous jurisdictions, the government is providing complimentary vaccinations but still many children, however, had lost their parents, and we can offer only our condolences or make a token effort to assist them, and we remain ignorant to the challenges that these children are currently experiencing or may encounter in the future. It has been reported or observed that certain newborns die as a result of medical complications or other causes. New death rates from UNICEF, the World Health Organisation (WHO), the United Nations Population Division, UNFPA, and the World Bank Group show that about 2.8 million pregnant women and babies die every year, or 1 every 11 seconds<sup>5</sup>.

3 <https://www.fao.org/3/cc0639en/cc0639en.pdf>

4 <https://blogs.lse.ac.uk/southasia/2023/02/27/stuffed-granaries-and-empty-stomachs-hunger-in-india/>

5 <https://www.unicef.org/press-releases/surviving-birth-every-11-seconds-pregnant-woman-or-newborn-dies-somewhere-around#:~:text=FACT%20SHEET,and%20the%20World%20Bank%20Group.>

Indians have significant challenges in the form of poverty, hunger, and inadequate sanitation, which greatly contribute to the high rate of child mortality. Over 40% of youngsters suffer from malnutrition or impaired growth. Kerala has the most minimal child mortality rates among all regions in India. This has been accomplished via the mitigation of poverty, alleviation of hunger, and reduction of disparities. India has higher child death rates compared to its neighbouring countries, Bangladesh and Nepal, despite the fact that both countries are economically weaker and have a lower number of physicians.

After birth, many parents leave their newborn babies in public places due to various reasons. They may not be financially stable, they may have a girl baby, or there could be other factors involved. These circumstances are not new; we are all aware of them. These children are simply fighting for their survival; they don't want anything else except to live.

On the other hand of this paper as we early said there is two part of this paper one is socio and another one is legal. Now we will see some legal aspects of it.

#### Article 14

In terms of the Indian Constitution it's about being equal in front of the law. The Indian constitution says that everyone is equal before the law. So why do so many of us not follow this and break the constitution? We need to follow this, and people who don't should be punished harshly.<sup>6</sup>

#### Article 15

Discrimination based on "place of birth." is prohibited under Article 15 of the Indian Constitution. This implies that people can't be discriminated against depending on where they were born—rural, urban, or elsewhere. Such discrimination violates Constitutional equality and fairness. The constitutional clause guarantees equal treatment regardless of birthplace, although societal biases may remain. Poor and unsanitary individuals may be discriminated against, as you indicated. However, everyone deserves dignity

and respect, regardless of socioeconomic status or living situations.

To counteract birthplace prejudice, awareness, education, and empathy should be promoted. We need a more inclusive society where everyone is appreciated and has equal opportunity to succeed. This involves reducing structural disparities, increasing access to clean water, sanitation, and housing, and confronting discriminatory preconceptions and biases. To guarantee that no one is marginalised or excluded based on birthplace or socioeconomic position, government institutions, civil society organisations, communities, and people must work together to respect Article 15.

**Article 16** The Indian Constitution's Article 16 It discusses equal opportunities in relation to public employment. Bias and corruption can exist in the public employment sector. Although the frequency is decreasing, but still some incidents still occur in some locations nowadays. However, what if the youngster isn't provided with a suitable education and meets their fundamental needs? How can we speak about equal opportunity if they can't get employment in these fields? How will a youngster be able to find employment if they are deprived of their fundamental needs or are not given the chance to further their education? We don't quite know how to solve it. Many schools have been established by the government, yet many kids still choose not to go. The cause is still a mystery.

**Article 21A:** of the Indian constitution. It discusses the right to education. Education, like food and shelter, is critical to our survival; nevertheless, many of us do not get it for a variety of reasons. I have one question for everyone who is reading this. Are we genuinely obeying our Indian constitution? Simply ask yourself if you are or not.

## B. Child Poverty

Children born into poverty face several challenges throughout the day, from sunrise to sunset. They must labour in little spaces to feed themselves and survive on a daily basis. Their family is also

6 THE CONSTITUTION OF INDIA (As on 26th November, 2021)

7 <https://www.unicef.org/india/press-releases/child-labour-rises-160-million-first-increase-two-decades>

8 Section 14 in The Child Labour (Prohibition and Regulation) Act, 1986



suffering because they do not have suitable occupations or a method to generate money, and as a consequence, all of the family members, particularly the youngsters, have to suffer greatly. They lack of food, unsuitable living environment, live in the hut or on the roadside. Their parents worked tirelessly to feed their children twice a day, but some situation is worst-case scenario, and it is very tough for living. In such conditions, the children need work for food or a healthy lifestyle. The most prevalent cause is that their parents do not have a job or labour to perform. In most situations, their parents work for a daily salary, such as labour, cleaning, babysitting, and driving, and so on.

So to overcome from Poverty several strategies should be followed and government should run such type of new programmes

- A. Income Support Programs
- B. Access to Quality Education
- C. Employment Opportunities for Parents
- D. Universal Healthcare Coverage
- E. Addressing Inequality
- F. Affordable Housing
- G. Social Protection Policies
- H. Advocacy and Awareness

It is possible to achieve substantial advancements in the reduction of child poverty and the guarantee of equal opportunities for all children by employing a multisectoral approach that incorporates the aforementioned strategies and combines government agencies, civil society organisations, communities, and international partners.

### C. Education Barriers

01. **Financial constraints:** Families may not be able to afford school fees, travel charges, or school supplies and uniforms.
02. **Child Labour:** In many circumstances, children are compelled to labour to help their families financially, preventing them from attending school.

03. **Distance to Schools:** In rural or isolated places, schools may be distant from children's homes, making it difficult for them to get an education, particularly if transportation is unavailable.
04. **Cultural Beliefs and Practices:** In certain societies, boys' education is prioritised over girls', resulting in gender inequities in access to education. Furthermore, cultural norms may hinder certain groups, such as minorities or marginalised communities, from enrolling their children in school.
05. **Conflict and Instability:** Schools in conflict-affected areas may be destroyed or shuttered, and families may choose their children's safety above education.
06. Children with impairments or special needs may encounter challenges to obtaining an education owing to a lack of proper facilities, experienced instructors, or support services.
07. **Lack of Infrastructure:** Schools in underprivileged regions may lack basic amenities such as classrooms, power, clean water, and sanitation, making it difficult for students to attend consistently.
08. **Discrimination and Exclusion:** Discrimination based on race, religion, language, or socioeconomic background may lead to the exclusion of certain children from educational opportunities.

To address educational hurdles, a multifaceted strategy is required, incorporating government policies, community activities, and international help. This includes providing financial assistance to low-income families, enacting anti-child labour laws, improving infrastructure and transportation networks, promoting gender equality and inclusive education, investing in teacher training and resources, and fostering partnerships between governments, nongovernmental organisations, and communities to ensure that all children have equal access to quality education.

### D. Child Labour

We all know that it is illegal for children to work, but does everyone follow this rule?

No, not all of them. In many workplaces and other places, these kids are working against their will, but everyone has a reason. Some of them have to work even though they don't want to because their people make them. For food, some of the kids work day and night for their families. Some of them work because their parents tell them to. It happens in different places and at different times, but one thing is always the same children work.

They can go to school and have a good time, but for survival they need to work in different workplaces, hotels, and other places. They also want to be happy like other kids, go to school, or study, but they can't.

Child labour still happens and may even get worse because of many complicated reasons:

01. **Poverty:** One of the main reasons kids work is because their families are poor. People who live in great poverty often depend on the money their children can make by working to stay alive. When families are having a hard time meeting their basic needs, putting kids to work is not a choice but a way to stay alive.
02. **Inability to Get an Education:** A lot of the time, kids have to work because they can't get a good education. Children may have to work instead of going to school when schools aren't available, are too expensive, or aren't good enough.
03. **Cultural and social norms:** In some societies, children's ability to help make money for the family is valued more than their right to go to school and be safe from being exploited at work. Gender roles may also play a part, since girls are often expected to do housework or watch their younger brothers instead of going to school.
04. **Lack of Enforcement of Laws against Child Labour:** When laws against child labour are not enforced properly, companies can use kids as cheap labour without getting in trouble. Corruption and weak judicial systems can make this problem even worse.
05. **Conflict and Instability:** Children may be more likely to be exploited and made to work in places where there is conflict, war, or political instability because social systems are broken and there aren't enough protections in place.
06. **Demand for Cheap Labour:** Businesses that need cheap labour may keep using kid labour by taking advantage of weaker groups, especially in areas like farming, manufacturing, mining, and housework.
07. **Movement and Urbanisation:** When kids move from the country to the city to find work, they may be more likely to be abused because they are leaving their towns. In cities, kids may end up working in dangerous places, like the private sector or on the street.

Dealing with child labour needs a multifaceted method that handles its causes, such as poverty, lack of schooling, weak laws, and views in society. Focus should be put on reducing poverty, making it easier for kids to go to school, strengthening child protection systems, making sure labour laws are followed, helping families find stable ways to make a living, and spreading the word about how important it is to protect kids' rights and well-being. To fight child labour successfully and make sure that all children can grow up in a safe and caring setting, states, companies, civil society groups, and foreign bodies must work together.

NEW YORK/GENEVA, 10 June 2021 – The number of children in child labour has risen to 160 million worldwide – an increase of 8.4 million children in the last four years – with millions more at risk due to the impacts of COVID-19, according to a new report by the International Labour Organization (ILO) and UNICEF.<sup>7</sup>

In some industries, like cracker mills, mines, quarries, and child prostitution, kids have to work in dangerous or difficult conditions. These jobs are all against the law. All of these people are given harsh punishments, but they still do this illegal job. There are numerous Loop holes in the system that allows them to do this kind of illegal work

7 <https://www.unicef.org/india/press-releases/child-labour-rises-160-million-first-increase-two-decades>

without fear. We all have to accept this terrible truth. Laws are made for the protection of children and against child labour and exploitation

01. Child Labour Act
02. Child Labour (Prohibition and Regulation)
03. Juvenile Justice (Care and Protection of Children) Act, 2000.

### **Punishment<sup>8</sup>**

01. Whoever employs or permits any child to work in violation of the provisions of section 3 shall be punished by imprisonment for a term of not less than three months but not more than one year, a fine of not less than ten thousand rupees but not more than twenty thousand rupees.

- (2) If a person is convicted of an offence under section 3 and then commits a similar crime, he must be imprisoned for a period of at least six months but up to two years.
- (d) fails to comply with or contravenes any other provisions of this Act or the regulations established thereunder, shall be punished with simple imprisonment for one month, a fine of ten thousand rupees, or both.<sup>9</sup>

In the case of *Jayakumar Nat & Anr v State of NCT of Delhi & Anr* on 4 September 2015. In this instance, the boy stated that he has been working for the past three months at the Vishwakarma Tempo Repairing Centre, Govindpuri Transit Camp, for roughly ten hours per day and earning Rs. 400 per month. Article 24 of the Indian constitution prohibits the employment of minors under the age of 14 in industries and hazardous jobs. The Indian constitution includes Article 24 as one of its essential rights. Children under the age of 14 are not permitted to work in factories or other dangerous environments. If they are compelled to undertake the labour in certain regions, they are subject to penalty.

### **Review of Literature**

Datta & Das (2018), examined India's child

protection laws, including the Juvenile Justice Act, Child Labor Act, and Protection of Children from Sexual Offences Act. It evaluates the legal framework and suggests improvements.

**S. Gupta, M. Kumar (2017)** Mentioned that the Indian Right to Education Act, Juvenile Justice Act, and Prohibition of Child Marriage Act are critically examined in this paper. It examines how these regulations affect child well-being and proposes improvements.

Sharma & Gupta (2019), discussed Indian child protection laws, institutions, and policies. It explains how the National and State Commissions for Protection of Child Rights, Juvenile Justice Boards, and Child Welfare Committees safeguard children and assesses their implementation issues.

Rani & Verma (2018), Mentioned that Child labor, trafficking, marriage, and abuse laws in India are critically examined in this research. It addresses implementation shortcomings and proposes legislative reforms to safeguard children.

Agarwal & Tripathi (2016), examined India's Right to Education Act, Juvenile Justice Act, and Integrated Child Protection Scheme. It addresses implementation gaps, obstacles, and the need for comprehensive child protection.

Das & Chakraborty (2015), Examined India's Child Labor (Prohibition and Regulation) Act its modifications. It evaluates the legislation's impact on child labor and offers ways to improve enforcement and rehabilitation.

### **Conclusion**

This article aims to explore several subjects pertaining to children's rights and the challenges they face. I have engaged in conversations about health concerns, educational matters, poverty, child exploitation, and certain sections of the constitution, including Article 14, 15, 16, and 21A. I have analysed their issues in separate sections and provided my perspective on potential remedies in the form of responses to specific questions outlined in my abstract. Numerous articles and research papers on comparable topics

<sup>8</sup> Section 14 in The Child Labour (Prohibition and Regulation) Act, 1986

<sup>9</sup> <https://www.indianconstitution.in/2021/11/section-14-child-labour-prohibition-and.html>

may be found on various websites. Everyone has spoken their perspective, and I have done the same. However, the challenge is in how individuals handle this situation. While it may be simple to express opinions or engage in discussions, finding a resolution might prove to be challenging. Is it so challenging that we are unable to fix it? The solution is within our control; if we possess the desire to address it, we will indeed resolve it.

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