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# JOURNAL ON THE RIGHTS OF THE CHILD OF NATIONAL LAW UNIVERSITY ODISHA

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# **JOURNAL ON THE RIGHTS OF THE CHILD OF NATIONAL LAW UNIVERSITY ODISHA**

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The *Journal on the Rights of the Child of National Law University Odisha*, is the flagship journal of Centre for Child Rights (CCR) – National Law University Odisha (NLUO) initiated in the year 2016.

Since inception up to 2020, the journal was published in print form and this year the centre is relaunching it in April 2025 after a post pandemic hiatus. This journal is now a digital-only publication, open access mode. It is double-blind peer reviewed, biannual publication published under the aegis of the Registrar, National Law University Odisha.

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*All enquiries regarding the journal should be addressed to:*

## **The Editor-in-Chief**

Journal on the Rights of the Child of National Law University Odisha  
National Law University Odisha  
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Pin Code: 753015  
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State: Odisha (India)  
Email: registrar@nluo.ac.in,  
Contact No. +91-671-2338018  
Website – www.nluo.ac.in

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# **JOURNAL ON THE RIGHTS OF THE CHILD OF NATIONAL LAW UNIVERSITY ODISHA**

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# NATIONAL LAW UNIVERSITY ODISHA

## CENTRE FOR CHILD RIGHTS

### ABOUT THE CENTRE

Centre for Child Rights (CCR) is the oldest specialized research centre of the National Law University Odisha (NLUO), Cuttack founded on April 12, 2015 with ceremonial inauguration by Hon'ble Justice Dipak Misra, former Chief Justice of India and Visitor, NLUO in the august presence of the Hon'ble Chief Justice and Judges of Orissa High Court, and Secretary, Department of Women and Child Development, Government of Odisha. The Centre aims at building a rights temper amongst the children and the society, strengthening law and justice for children and child wellbeing by supporting and initiating research, policy advocacy and community action on children's issues. The Centre aims to provide integrated support and consultancy to different layers of institutional governance for protection and insurance of child rights, child protection, understand and reform enabling and disabling factors to furthering child rights and the inter-sectionalities.

The Centre is led by the Chief Minister's Chair Professor, which is the first ever Chair Professor on Child Rights amongst any Law University in India. It has been harnessed by the **Hon'ble Vice Chancellor of NLUO, Prof Ved Kumari**, one of the most important chroniclers of Child Rights and Juvenile Justice in the world. She is also the Patron-in-chief of the CCR at the NLUO.

The Hon'ble Chief Minister of Odisha sanctioned the Chair Professor in June 2023 which has a sanctioned strength of five (the Chair Professor, two senior researchers, one office assistant and one support staff). While the CCR is the oldest research centre at the NLUO, like other NLUs hosted CCRs, it was limited to juvenile justice mandate only. Prof Ved Kumari recognised the importance of having a centre dedicated to the comprehensive agenda of child rights, from the concept of childhood, child well-being, child rights (child participation, civil and political rights, economic, social and cultural rights), inequalities and externalities that affect children's life chances and how children and their issues were reported in the media. The mainstream discourse and children, their parents, educators, society's stake and engagement in the same bore an important stake for Prof. Ved Kumari too. And this vision shaped the Chief Minister's Chair Professor for Child Rights.

## CCR's journey so far:

The Centre has been actively engaged in research, capacity-building training, and policy advocacy since its establishment in 2015. In collaboration with UNICEF, the Ministry of Women and Child Development (W&CD), Government of Odisha, and other organizations, CCR has undertaken several initiatives under the leadership of the respective Director and Co-directors.

Over the years, CCR has conducted significant programs and consultations aimed at strengthening child rights and juvenile justice systems. In 2025, CCR's initiatives deepened community, academic, and policy engagements by organizing key events such as *re-launch of its flagship Journal on the Rights of the Child of National Law University Odisha* on the eve of 10th Anniversary Celebration of the Centre for Child Rights in April. The Centre also facilitated the *launch and orientation of Community Level Child Welfare and Protection Committees (CLCWPCs)* in three urban settlements of Cuttack-Brajbehariapur, Balmiki Nagar and Baba Tilkanagar of Ward no. 3, Cuttack Municipal Corporation in May, promoting child protection at the grassroots. In June 2025, CCR hosted the *Official Satellite Event of the 5th World Congress on Justice with Children* in partnership with Child Rights and You (CRY), and by July 2025, the *Journal on the Rights of the Child of National Law University Odisha* received *international indexation*, marking CCR's growing leadership in global child rights research and advocacy. The Centre also launched the *Child Protection Mentorship Programme* - a first-of-its-kind initiative in Odisha designed to build the knowledge, skills, and leadership capacities of frontline child protection professionals across state and non-state sectors, strengthening the overall child protection ecosystem. The year 2024 began with the operationalisation of the Chair Professor team in January. The Centre hosted the *9th International Society for Child Indicators (ISCI) Conference 2024-India's* first-bringing together delegates from 24 countries. It also conducted activities, including financial literacy and child vulnerability mapping programmes in adopted communities in Cuttack under NLUO's flagship Programme - *Project KUTUMB*, and published creative "Fun Books" on the UN Convention on the Rights of the Child. The first *CCR Bi-monthly Newsletter* was also launched on *World Human Rights Day, December 10, 2024*.

In 2023, the Centre held a consultation on the Juvenile Justice (Care and Protection) Amendment Bill, 2021. An awareness program on the UN Convention on the Rights of the Child, 1989, was conducted in 2022 for students of The Kalinga English Medium School. Earlier, in 2019, CCR organized a symposium

on Legal Education and Policy Research on Child Rights. The year 2018 saw the training of newly appointed chairpersons and members of Child Welfare Committees in Odisha, along with a Judicial Colloquium on Juvenile Justice. In 2017, a sensitization workshop on human rights awareness was conducted for police personnel from the Human Rights Protection Cell across various districts in Odisha. Similarly, in 2016, CCR provided training for district-level officers of the Special Juvenile Police Units in Odisha, focusing on the Juvenile Justice Act, 2015, and its model rules. Additionally, capacity-building workshops were conducted on the roles and accountability of public prosecutors in ensuring justice for children, and a consultation meeting was held on the Draft Model Rules 2016 for the Juvenile Justice Act. In its foundational year, 2015, the Centre organized an orientation program on child rights and juvenile justice for district-level officials, non-judicial members of Juvenile Justice Boards, and Legal cum Probation Officers.

Alongside these initiatives, CCR has contributed significantly to research and publication in the field of child rights and juvenile justice. One of its key studies assessed the implementation of the Juvenile Justice (Care and Protection of Children) Act, 2000, in Odisha, supported by UNICEF under the project 'Effective Implementation of Children's Laws in Odisha.' Another study examined the pendency of juvenile cases in Odisha with support from UNICEF, Bhubaneswar. Furthermore, CCR explored the practice of preliminary assessment under the Juvenile Justice (Care and Protection of Children) Act, 2015, through research on the functioning of Juvenile Justice Boards in Odisha. With the support of the Indian Council for Social Science Research (ICSSR), New Delhi, the Centre undertook a study on the changing dynamics of children's laws in India in the post-liberalization era. Another important project involved social mapping of migrant workers in Odisha, conducted in collaboration with the Labour Department, Government of Odisha.

The Centre has also made substantial contributions to academic literature. A notable publication is the booklet series on the United Nations Convention on the Rights of the Child (UNCRC), consisting of 44 books, each dedicated to an article of the UNCRC, creatively illustrated and drafted by NLUO students. Additionally, CCR published the Journal on the Rights of the Child, releasing the Volume-I, Issue 1 in 2016. Other notable publications include a booklet on the role of district administration in preventing and combating human trafficking and a booklet on frequently asked questions regarding the Juvenile Justice (Care and Protection of Children) Act, 2015.

Through its extensive research, training, and publications, CCR has played a significant role in strengthening child rights jurisprudence, raising legal awareness, and influencing policy advocacy in Odisha and beyond. The Centre continues to be a driving force in child rights protection and juvenile justice reform.

The CM's Chair Professor on child rights at the CCR-NLUO from 2024 onwards has expanded and transformed the mandate that other universities and all child rights' related stake-holders can learn in lexis and praxis. The current mandates are:

- **Expansion of remit and definitions:** The CM's Chair Professor has expanded the remit of the centre from merely "juvenile justice" to comprehensive child rights, and child wellbeing with focus on intersectionalities
- **Inter-disciplinary and diverse POV (Point on View):** Diverse disciplines of Sociology, Social Work, Economics, Journalism and Political Science and diverse sectoral experience is now integrating with law to foreground and optimise the child rights' discourse, policy, practise and law
- **Deepening citizens action and state responsiveness to establish Child-Friendly Communities:** KUTUMB, the flagship outreach programme of NLUO dedicated to creating active citizens and effective State, is also focussing on building child friendly communities and habitats, as per the United Nations' Sustainable Development Goals (UN SDGs) commitment and NITI Ayog mandates. The CM's Chair Professor team brought the interdisciplinary expertise of Social Work, Sociology, Economics, Public Administration and Citizens' Action to deepen the intervention and make child-friendly communities a reality
- **Fit-for-purpose, innovative courses being curated with expanded mandate, praxis and lexis focus, experiential learning, industry-ready skills and career growth prospects:** The courses curated i.e. *Child Rights Paper* has evolved into a comprehensive agenda of the child rights and child well-being and determinants and not just on Juvenile Justice, as it is practiced in most of the Universities (law and non-law). Similarly, the *Food and Nutrition Justice Paper* is first of its kind in any legal university of India. These papers are now offered at senior classes i.e. 7<sup>th</sup> Semester and 10<sup>th</sup> semester respectively. These papers focus on praxis and lexis and on career growth with experiential learning.

*Additionally, a mentorship programme is being curated and (will hopefully be regularised) to build the child protection capacities of early career professionals on everything child protection comprehensively*

- **Deepening engagements with existent and new stakeholders (State and non-state actors):** Historically the Juvenile Justice Committee and the Women and Child Department has been the only nodal of the child rights centres and child rights practitioners, but this Chair Professorship has started deepening engagement with the Women and Child Development Department (W&CD), School & Mass Education Department (SME), Social Security and Empowerment of Persons with Disability (SSEPD) and International NGOs dedicated to child rights and well-being, UN agencies (UNICEF and other UN and multi-government agencies) etc
- **Furthering child rights' agenda through expansion of stakeholders:** Now the stakeholders are not just the usual Juvenile Justice Boards and Child Welfare Committees, but everyone including parents, schools, media, JJBs, CWCs, State and its instruments represented through bureaucrats, protection officers and other officials, Judges, academics and researchers
- **Public education and shaping the discourse:** The CM's Chair Professor is attempting to shape the discourse, build public awareness via media engagement like Opinion pieces, think pieces, awareness programming etc
- **Building media literacy and demanding better journalism on children's issues:** Building capacities of budding law and justice professionals to demand and consume better journalism around children, their rights and well-being and the determinant sectors
- **Creating a range of knowledge products and aggressively working to make them accessible to one and all:**
  - Non-fiction, text-book co-authored by faculty and students which is an outcome of a classroom project focussed on seeing and empathy and building resolution via legal lens
  - Funbooks i.e. an explainer series on UNCRC article for non-law literate children and adults

- Scanning the media for “children in news” using the Unicef-Presswise lens and the AK Asthana judgement
- Starting the first ever newsletter of the centre
- Reviving the flagship journal on the rights of the child etc
- Making every publication open source, digital and amplifying them through social media handles to outreach and access
- **Foraying into new areas examination/recruitment of apt personnel in the child protection space:** Via recruitment paper setting for the Public Service Commission’s exams for the Bihar CWC and JJB cadre
- **The CM’s Chair Professor team is an inherently diverse team with diverse disciplinary trainings and diverse worldview to further the agenda of child rights**

## VISION

To build a child rights’ temper, ensure rights, justice to the children anywhere and everywhere (irrespective of caste, class, creed, race, economic status) and promote effective implementation of children’s laws and governance in the State of Odisha, forge national and global collaborations, research and understand enabling and disabling externalities and inter-sectionalities and recommend/support reforms. The Centre will endeavour to create pro-children discourse and mechanisms and promotion of child rights practices.

## MISSION

To support and strengthen child rights discourse, child protection structures by leveraging knowledge change and policy reforms at various levels of institutional governance to make child rights access a reality, juvenile justice system more accountable, efficient and effective for protecting and promoting child rights.

## OBJECTIVES

The objectives of the centre are dynamic, and evolving in a dynamic world. Currently the objectives of the CM’s Chair Professor led CCR are:

- Spread and enhance legal literacy and building a rights-based temper
- Periodic studies/assessment of core laws/policies/legal provisions and flagship programmes translating the laws on ground with reference to the institutional preparedness i.e. ‘Juvenile Justice (Care and Protection) Act, 2015’ (JJ (C and P) Act 2015), Juvenile Justice Board (JJB), ‘Protection of Children from Sexual Offences Act, 2012’ (POCSO Act, 2012), Children

in conflict with Law (CiCL), Children in Need of Care and Protection (CNC), State Commission for Protection of Child Rights (SCPCR), District Child Protection Unit (DCPU), Village Level Child Protection Committee (VLCPC) etc.

- Capacity building on everything juvenile justice and child rights
- Collaboration with other National Law Universities, Law Universities, Centre for Child Rights and other Universities, agencies and organisations, locally, nationally and globally on the issues of child rights
- Guidance and consultancy to strengthen law, policy and governance to improve child rights, child well-being and welfare
- Advocacy and collaboration with State and non-state actors w.r.t. emergent reforms
- Curating and running the NLUO Child Rights Course, Food and Nutrition Justice Course.
- Enhance experiential learning by conducting research for evidence-based advocacy
- Research dissemination via conferences and public advocacy
- Improve access to justice for children in areas of juvenile justice, child labour, children's health, education, etc.
- Collaborate with and building journalistic perspective for better and more coverage of child rights and their determinant issues

**Chief Minister's Chair Professor  
cum Director, CCR-NLUO:**

Prof Biraj Swain

**Researcher, CCR Team Member:**

Dr Swagatika Samal

**Researcher, CCR Team Member:**

Dr Pradipta Kumar Sarangi

**UNICEF Consultant, CCR-NLUO:**

Mr Ankit Kumar Keshri

**Co-Director, CCR-NLUO:**

Mr Vijay M Bhaskar

**Co-Director, CCR-NLUO:**

Ms Akanksha Yadav

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Mr T S Swaraj

**Office Assistant:**

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## **ABOUT NATIONAL LAW UNIVERSITY ODISHA**

The National Law University Odisha (NLUO) was established in the year 2009 under The National Law University Orissa Act, 2008 (Act 4 of 2008) passed by the Odisha State Legislature and commenced its academic activities in the academic year 2009-10. The University has received recognition from the University Grants Commission (UGC) under Section 12(B) of the UGC Act, 1956, and has been receiving grants under the XIIth Plan. The degrees offered are recognised by the Bar Council of India. It is also an associate member of the UGC-INFLIBNET, and a participant in the National Knowledge Network under the Ministry of Information Technology and Communication, Government of India.

In the 1970s, the Bar Council of India envisioned a premier institute for legal education, culminating in India's first National Law School in Bangalore. This model revolutionized legal education, producing skilled transactional lawyers. However, it fell short in enriching the Bench and Bar, with issues like outdated curricula and limited encouragement for litigation careers. Recognizing these gaps, NLU Odisha was established to provide socially relevant legal education, integrating interdisciplinary learning and practical training. Its goal was to bridge the divide between legal academia and practice, fostering a new generation of lawyers committed to justice, policy-making, and transformative legal scholarship. In words of the founding Vice Chancellor, Prof. Dr. Faizan Mustafa, NLUO doesn't aim to provide only 'legal education' but also provide 'justice education'. It is in view of these specific objectives, that the academic programme and curriculum at NLUO is designed.

Within a short span of time, NLUO has made its mark as a University engaged in imparting socially relevant education. NLUO is ideally placed to learn from other law schools both in terms of their strengths and drawbacks. Drawing from these experiences, it has embarked upon a well-structured course of action to achieve levels of excellence.

Students at NLUO are trained by a group of experienced, dynamic, young and most significantly committed teachers. The curriculum development and framing process offers academic flexibility and promotes an environment which allows exchange of intellectual thought process.

The amicable environment hones not just the students' intelligence, but also their emotional quotient. The level of academic rigour has ensured that most of our alumni excel in their profession. Beyond academics, NLUO promotes leadership skills and the wholesome life experience of our students by encouraging them to take part in various co-curricular and extra-curricular activities like literary, debating, cultural, entrepreneurial and recreational activities.

In its attempt to make the learning process contemporary and relevant, every stakeholder is encouraged to make optimum use of technology. Students are prompted to think out of the box and there exists a dedicated team of students and faculties to discuss and nurture start-up and other entrepreneurial ideas.

## FROM THE DESK OF THE EDITOR-IN-CHIEF

This issue is a special one, after re-launching the *Journal on the Rights of the Child of National Law University Odisha*, six months ago in April 2025, this is the first issue post indexation. The Journal has been assigned the e-ISSN number 3107-4030. In current times, academic publishing done right, with all the due diligence, is an onerous task. Ours is a journal with intensive editorial review, high level double blind peer review, plagiarism check, AI check and fact-check. We took a leap of faith and committed to bi-annual issue. We are delighted to offer our readers, authors and the world, the second issue after six months.

This journal believes in data-analysis, re-analysis and visualization in the most accessible and impactful format. Hence we have an info-graphic on one essential theme of child rights in every issue. In this issue, it is schools at a glance, in India and Odisha.

This issue of our journal is an intentional reminder that child rights is essentially an intersectional issue, it is everyone's business. Just as the saying goes, justice is too important to be left to lawyers alone, public health too important to be left to doctors alone, similarly child rights, or for that matter human rights, is too important to be left to the legal professionals and the legal discipline alone. Hence our inter-disciplinary journal.

We are proud to state that in the Centre for Child Rights (CCR) of the National Law University Odisha (NLUO), we have always been clear to cover the entire spectrum of child rights and their determinants. In this issue we have original submissions with the lens of public finance, education, nutrition, consent, role of social work in rehabilitation and reintegration of children in conflict with law, decriminalizing young love, digital safety of children and advancing child-centred justice etc.

We, at the NLUO's CCR, are aware of academia's essential role in fostering a pro-child rights, progressive, inclusive temper, culture of centering, protecting and promoting child rights from conception to adolescence and beyond. Our perspective is optimal life chance for every child, everywhere and this issue of the journal is a reiteration of that commitment.

In spite of recent significant strides through policy, legislative and judicial interventions, there are still substantial challenges that needs to be addressed. Issues like education, have improved by the virtue of the Right To Education Act, 2009, but ensuring the retention of students in senior secondary school along with quality, transformational learning and access to marginalised sections remains a concern. Child budgeting is gaining ground in theory and practise but budgetary allocations are still less for the ideal childhood. Nutrition has caught the public imagination thanks to the National Food Security Act, 2013, yet its operationalization in letter and spirit demands constant public engagement and scrutiny. Child poverty still continues to be an enabler of child labour. Child marriage and child trafficking still continues to exist. And in this digital age children are extremely vulnerable to cyber bullying, online exploitation, harassment and sextortion. The dichotomy in young love and application of Protection of Children from Sexual Offences (POCSO) Act, 2012, continues as does the inadequate justiciability of many economic, social and cultural rights of children. All these challenges calls for granular research, new rules, new roles and new perspectives and our journal is committed to plat-forming just that.

In our last two calls for submissions for both the issues of the journal, pre and post indexation, we have received an over-whelming submissions. Yet we continue to see an over-presence of submissions around the Juvenile Justice Care and Protection of Children Act, 2015 and POCSO Act, 2012. We call upon the authors i.e. practitioners, academics, researchers and students, alike, to expand their world view of child rights and cover the entire spectrum.

I sincerely believe that this current issue touching on several key themes would bring before its readers, child rights perspectives rarely explored before. Each contribution of this issue calls for a greater need for urgent discourse on the evolving nature of child rights in a dynamic world.

I would also like to thank all the contributors to this issue and would encourage them to keep contributing as it reiterates the CCR's commitment to promotion of research, scholarship and plat-forming of new perspectives. I also thank the authors who have not been published yet. We hope to publish some of the submissions in our future issues as we make fresh calls for submissions.

The authors contributing to this volume include practising academics from law and humanities disciplines, researchers, students and practising advocates.

The journal has benefited from the expertise and guidance of an esteemed editorial advisory board comprising eminent scholars and jurists dedicated to advancing justice and child rights. We are privileged to have the guidance of Hon'ble Justice Madan B Lokur, Hon'ble Justice Gita Mittal, Professor Bernard Dieter Meier, Professor Christopher Birbeck and Professor Bhabani Panda whose collective wisdom has greatly contributed to the academic integrity of this issue. Their insights have not only strengthened the scholarly rigor of our journal but have also served as a northern star, guiding light in child rights discourse in India and the world.

I would also like to thank my co-members in the Editorial Board i.e. Professor Ravinder Barn, Professor Frederick de Moll, Professor Damanjit Sandhu, Dr Asha Bajpai, Dr Kalpana Purushottaman and Professor Biraj Swain for their engagement and commitment. I thank and appreciate the tireless efforts of our team of Associate Editors comprising Dr Swagatika Samal, Dr Pradipta K Sarangi, Mr Ankit K Keshri, Dr Rashmi Rekha Baug, and Dr Shubhanginee Singh led by our Editor Professor Biraj Swain and the student editor Madhulika Tripathy.

We cannot discuss the journal without discussing the parent centre i.e. the CCR. Since our last issue, much has been achieved by the CCR too. It hosted one of the official satellite events of the 5<sup>th</sup> World Congress on “Children’s Access to Justice” in partnership with Child Rights and You (CRY). The Editor-in-Chief of this journal cum Patron-in-Chief of CCR, also attended the 5<sup>th</sup> World Congress in Madrid and spoke in various plenary sessions. As its commitment to the NLUO’s flagship outreach programme Project KUTUMB, CCR launched and facilitated the operationalization of the Community Level Child Welfare Protection Committee (CLCWPC) in the neighbouring vulnerable settlements of Brajabeharipur, Baba Tilka Nagar, Valmiki Nagar per the Sustainable Development Goals (SDGs) and Niti Ayog mandate. The CCR won an Indian Council of Social Sciences Research (ICSSR) grant led by the Editor-in-Chief of this journal cum Patron-in-Chief of CCR. The CCR launched the child protection mentorship programme for frontline cadre, first responders in child protection space in the state of Odisha. CCR re-constituted the student body

after an open and inclusive call for applications and rigorous interview process. The Director of CCR, who is also the Chief Minister's Chair Professor, has taught 234 students "Child Rights Course" in the 7<sup>th</sup> semester and "Food and Nutrition Justice Course" in the 10<sup>th</sup> semester and the Chief Minister's Chair Professor team has evaluated, will be evaluating, as many students across both the semesters in a single calendar year. The speaking engagements in various important, consequential events, consultations on child rights are too many to list here. In summary, it has been a busy and enriching time for CCR and the journal gets intentionally more topical and relevant for these engagements and activities too. Additionally the student committee members of CCR have conceptualised, curated and produced three bi-monthly newsletters on child rights. These newsletters are a global and local scan of important developments in the space. The student body of CCR has managed and run two active social media handles on LinkedIn and Instagram with explainers and posts, making child rights and various articles of the United Nations' Convention on the Rights of the Child (UNCRC) accessible to one and all.

Just like child rights is everyone's business, knowledge needs to be accessible to all. Hence we have intentionally transformed this journal from fully physical mode to fully digital mode. This journal is freely and fully accessible to individuals and institutions alike. I invite one and all to engage with this journal, this issue and future issues.

**Prof Ved Kumari**  
**Vice Chancellor, National Law University Odisha**  
**Patron-in-Chief, Centre for Child Rights**  
**Editor-in-Chief, Journal on the Rights of the Child of National Law**  
**University Odisha**

## EDITORIAL NOTE

India stands at an inflection point in the advancement of children's rights and welfare. Over the years, legal frameworks, policy interventions, and institutional mechanisms have evolved considerably, reflecting a growing recognition that children are rights-bearing individuals. Yet, despite these reforms, systemic gaps persist in translating these rights into tangible, lived realities. Children today navigate a complex landscape where socio-economic disparities, diluted/injusticiable economic-social-cultural rights and evolving digital environments and legal ambiguities intersect with questions of autonomy, protection, and well-being. Ensuring their holistic development requires a nuanced understanding of these multidimensional challenges, combining rigorous studies of inter-sectionalities, legal interpretation, evidence-based policymaking and sustained public financed interventions.

The eleven papers featured in this volume collectively offer a comprehensive examination of these issues, analysing the intersections of fiscal planning, child protection, education, nutrition, digital safety, and adolescent agency. These studies do not treat children merely as beneficiaries of law or policy; instead, they highlight children as active participants in the shaping of their lives, emphasising that legal, social and economic interventions must respond to their evolving needs. By interrogating structural challenges alongside emerging issues, this collection underscores the urgent need for integrated, context-sensitive and evidence-based approaches to child welfare in India, ensuring that the promise of rights translates into practical, meaningful outcomes.

India's public finance landscape for children is a critical area of concern. Vishal Anand, in *Pennies for Progress? Evaluating the Adequacy and Imagination of Public Finance for Children in India* identifies a paradox where impressive national economic growth has not translated into proportional investment in child welfare. Anand highlights how shrinking budgetary allocations to child-focused sectors, especially child protection and early childhood services, have created a persistent gap. He distinguishes between "adequacy" (ensuring enough funds are consistently allocated) and "imagination" (the innovative and strategic use of those funds). Drawing on budget analysis and scheme evaluations, Anand shows that flagship programs such as *Samagra Shiksha Abhiyaan* and *PM POSHAN* expand access but fall short of improving outcomes due to an input-driven, siloed

approach. The paper argues for outcome-oriented financing, catalytic philanthropy, and stronger local governance as pathways to transform limited fiscal resources into real developmental progress for children.

Turning to the emerging challenges of the digital age, Nimisha Menon and Udbhav Sinha focus on sextortion in *Between Exploitation and Criminalisation: Towards Child-Centred Responses to Sextortion in India*. They argue that sextortion, where children are coerced into sexual acts or image-sharing under threat, remains a glaring blind spot in Indian law, as there is no stand-alone penal provision addressing it. Their study shows how children can be both victims and, in some cases, groomed into being offenders, which complicates legal and protective responses. With the rise in online exploitation during the COVID-19 pandemic, the authors call for legal recognition of sextortion as a specific offence, coupled with preventive strategies such as digital literacy, cyber-patrol mechanisms, and victim-sensitive enforcement frameworks. This analysis underscores the urgent need to extend child protection into the rapidly evolving digital ecosystem.

The question of access to education in the face of economic inequality is examined in *Economic Inequality and Child Education: A Study of School Dropouts in Odisha* by Savitribala Dash and Prof. Mrutyunjay Swain. Using both quantitative and qualitative methods across Ganjam and Nabarangpur districts, the study identifies financial hardship as the dominant driver of dropouts, particularly in upper primary and secondary schooling. Children often leave school to engage in paid work, while irregular parental employment patterns exacerbate educational instability. The research also reveals behavioural and psychological challenges: in Ganjam, social media distractions were significant, while in Nabarangpur, school phobia was widespread. Structural gaps such as weak infrastructure, poor teacher-student communication, and low-quality teaching further aggravated the problem. The authors propose solutions such as mother-tongue-based teaching, targeted remedial education, community participation, and improved teacher training to create an inclusive and supportive educational ecosystem.

Adolescent sexuality and the rigidity of existing legal frameworks are explored through multiple papers. Shalini Shukla, in *The Grey Area of Consent: Judicial Inconsistency and Adolescent Rights under the POCSO Act*, shows how the Protection of Children from Sexual Offences Act (POCSO) is inconsistently applied by courts in cases involving consensual teenage relationships. The mandatory reporting clause

often conflicts with adolescents' access to sexual and reproductive health services, leading to outcomes that compromise both protection and autonomy. Similarly, Apoorva Bhardwaj and Anjana Kumari, in *Between Consent and Crime: Rethinking Legal Boundaries for Consensual Teenage Relationships*, examine whether India's fixed age of consent at 18 adequately balances adolescent welfare with their developing autonomy. Their paper stresses that a purely protectionist approach risks criminalising normal adolescent behaviour, and instead calls for reforms such as differentiated treatment of consensual peer relationships, evidence-based sex education, and policy frameworks that acknowledge adolescents' evolving capacities. Together, these works highlight the urgent need for legal reform that respects both protection and autonomy.

Roshni Laskar and Zigisha Pujari, in their empirical study *Rehabilitation and reintegration of a Child in Conflict with Law: Issues and challenges with special reference to the state of Tripura*, take a close look at the rehabilitation and social reintegration challenges in the juvenile justice system. They highlight the issue of lack of trained professionals, inadequate infrastructure, vocational training and psychological counselling which de facto dilutes the rehabilitation and reintegration component of the Juvenile Justice (Care and Protection) Act, 2015, on ground. Additionally, they spotlight the lack of family support, community acceptance and after release care as other cognitive reasons in undermining a successful social reintegration. Based on their findings in the observational homes in Tripura the authors recommend mechanisms such as preparation of individual care plans, gender based plans and community based services to ensure the child's rights' protection and intentional creation of opportunities for sustainable reintegration.

Hritwik Ravi in *Childhood, Consent and Privacy: A Case Comment on In Re: Right to Privacy of Adolescents* analyses a landmark Supreme Court decision where the Court balanced statutory rigidity with restorative justice by suspending sentencing under Article 142. Ravi highlights how this case exposed systemic failures, police hostility, institutional neglect, and financial exploitation, which caused more trauma than the alleged offence. The judgment, though non-precedential, underscores the potential of judicial creativity in reconciling child protection laws with lived adolescent realities.

Beyond issues of sexuality, the scope of child welfare also encompasses children in conflict with the law. In *Children in Conflict with Law and Scope of Social Work*

*Interventions at Observation Homes: Channelising Energy for a Better Future*, Dr Shashi Rani Dev and Dr Shubham Kumar explore how observation homes under the Juvenile Justice (Care and Protection) Act, 2015, function as spaces for reformation and reintegration. Their empirical study highlights systemic challenges, including inadequate rehabilitation programs, weak coordination among stakeholders, and insufficient psychosocial support. The authors emphasise that observation homes must go beyond custodial care to provide holistic education, counselling, and mentorship, thereby transforming vulnerable children's trajectories towards constructive futures.

The foundational role of nutrition in child welfare is examined by Ms Manika Gupta and Ms Vanshika Yadav in *The Economics of Early Nutrition: Why the First 1000 Days Matter*. Drawing on global evidence and Indian programmatic shortcomings, they show that inadequate nutrition during the first 1000 days, from conception to age two, creates irreversible developmental deficits, including stunting and cognitive impairment. Despite constitutional guarantees and multiple government schemes, India's expenditure on child nutrition remains below international standards. The authors present a cost-benefit argument for scaling up early nutrition investments, linking them to long-term economic productivity and alignment with Sustainable Development Goals. They call for systemic reforms to budgeting, monitoring, and accountability mechanisms to ensure that nutrition is treated not as welfare spending but as a strategic investment in human capital.

Institutional and data-driven insights are provided by Dr Pradipta Kumar Sarangi and Dr Swagatika Samal in *Schools at a Glance: India & Odisha*, an infographic-based analysis that presents trends in school management, enrolment, teacher availability, and infrastructure between the years 2018-19 till 2024-25. The study highlights a decline in government schools and enrolment, contrasted with a rise in private schools, raising questions of equity and access. By visualising critical gaps, the paper situates the broader educational challenges identified in micro-level studies such as Dash and Swain's, offering a macro perspective that informs policy and planning.

Finally, Madhulika Tripathy's *Proceedings of the 5th World Congress' Official Satellite Event hosted by National Law University Odisha – Centre for Child Rights and CRY (Child Rights and You): Advancing Child-Centred Justice* underscores the importance of multi-stakeholder collaboration. Documenting deliberations at

this global forum, the paper highlights the necessity of cross-sectoral partnerships between the judiciary, policymakers, child rights advocates, and communities to prevent and respond to violence against children in justice systems. It demonstrates that advancing child-centred justice requires integrating evidence-based reforms, strengthening institutional accountability, and ensuring children's voices are central in shaping justice mechanisms.

Collectively, these eleven papers present a nuanced, multidimensional understanding of the contemporary challenges in India's child rights discourse. They reveal that progress cannot rely solely on legislation or policy statements but must be reinforced through responsive institutions, accountable governance, and participatory frameworks that centre children's experiences and aspirations. From fiscal adequacy and early nutrition to education, digital safety, adolescent autonomy, and institutional reforms, the studies demonstrate how gaps in one area can reverberate across multiple dimensions of child welfare. The insights offered highlight a clear pathway forward: integrating legal reforms, social policy, and ethical considerations to create an environment where every child can thrive. Ultimately, these original papers underscore that ensuring equitable and durable child rights requires vigilant interdisciplinary collaboration, sustained commitment, and the constant centring of children's voices in all policy, programmatic, and judicial decisions.

Building a temper of child rights not just in the children and their parents and teachers but also across the society and state and its instruments is central. Children are not merely beneficiaries but active participants in shaping their own future and acknowledging this principle and practising it, is essential for building a society grounded in justice, dignity, and opportunity for all. We hope this Volume VI, Issue II will be a step closer to achieving that.

**Prof Biraj Swain**  
**Chief Minister's Chair Professor cum Director, Centre for Child Rights**  
**Editor, Journal on the Rights of the Child of National Law**  
**University Odisha**

# JOURNAL ON THE RIGHTS OF THE CHILD OF NATIONAL LAW UNIVERSITY ODISHA

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# PENNIES FOR PROGRESS? EVALUATING THE ADEQUACY AND IMAGINATION OF PUBLIC FINANCE FOR CHILDREN IN INDIA

*Vishal Anand*<sup>1</sup>

## Abstract

*India's public finance for children is defined by a paradox of declining fiscal priority amidst significant economic growth. This paper argues that, this stems from a dual failure of adequacy-evidenced by shrinking budgetary shares and the chronic underfunding of critical sectors like child protection-and imagination, reflected in an over-reliance on input-driven, inefficient flagship schemes. Adequacy refers to the sufficiency of funds allocated for children's services, focusing on the scale and consistency of budgetary support, while imagination captures the innovative and strategic use of those funds-whether they are deployed effectively through outcome-driven, flexible financing mechanisms rather than conventional, input-focused schemes. Analyzing Union Budget data, scheme evaluations, and case studies of innovative financing, the paper finds that while schemes like Samagra Shiksha and PM POSHAN have expanded access to services, they have struggled to meaningfully improve outcomes. The analysis reveals a systemic attachment to conventional, siloed budgeting that hampers efficiency and innovation. The paper concludes by advocating for a paradigm shift from conventional budgeting towards a strategic, outcome-oriented ecosystem that leverages innovative financing, catalytic philanthropy, and strengthened local governance to transform "pennies" into genuine "progress" for India's children. This requires moving beyond mere accounting to strategically investing in the nation's human capital as a core driver of sustainable development.*

**Keywords:** child budgeting, child rights, India, public finance, social policy

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<sup>1</sup>Vishal Anand is a Ph.D. Scholar at the Department of Law, Patna University

## **Introduction: The Paradox of India's Investment in its Future**

India stands at a critical juncture, poised to leverage a significant demographic dividend with a population of over 440 million children and adolescents under the age of 18. This demographic potential presents an unparalleled opportunity for sustained economic growth and social progress. However, this potential is contingent upon the nation's willingness and ability to invest adequately and intelligently in its youngest citizens. The well-being of children is not merely a matter of social welfare; it is a fundamental prerequisite for national development, shaping the future workforce, the stability of society, and the trajectory of the economy. In this context, the state's fiscal policy becomes the most potent instrument for translating constitutional guarantees and policy commitments into tangible realities for children.

Budgeting for Children (hereinafter referred as B4C), or Public Finance for Children (hereinafter referred as PF4C), has emerged globally as an essential Public Financial Management (PFM) tool to analyse, track, and influence government spending on children. It serves as a mechanism for accountability, allowing civil society, policymakers, and citizens to assess whether public resources align with the needs and rights of children. India's ratification of the United Nations Convention on the Rights of the Child (UNCRC) in 1992 legally obligates the state to allocate the "maximum available resources" towards the realisation of children's rights. Child budget analysis is the primary method for verifying this commitment, moving beyond policy rhetoric to the hard evidence of financial allocation.

The genesis of child budgeting in India offers a revealing insight into the state's approach to child rights. The practice was not a proactive government innovation but was pioneered by civil society organisations, most notably HAQ: Centre for Child Rights, which began its decadal analysis of the Union Budget in 2000. The Government of India only began publishing a formal 'Statement on Allocations for the Welfare of Children' in the Union Budget from 2008-09, acknowledging the foundational work of these civil society actors. This history suggests that the state's adoption of child budgeting has been more reactive than visionary, a procedural compliance rather than a deep-seated strategic reorientation. This reactive posture may explain the persistent gaps between budgetary outlays and developmental outcomes.

This paper argues that India's public finance for children is characterised by a profound and damaging paradox. Despite a growing economy, investment

in children suffers from a dual failure. The first is a failure of adequacy, marked by a quantifiable and persistent decline in the share of national resources allocated to children, coupled with severe sectoral imbalances that leave the most vulnerable unprotected. The second, and arguably more critical, is a failure of imagination, demonstrated by a systemic adherence to outdated, input-focused financing models that are inefficient, resist innovation, and fail to deliver quality outcomes.

To substantiate this, the paper will first conduct a quantitative diagnosis of the erosion of child-centric budgets at the Union level. It will then critically appraise the performance of major flagship programmes in education, nutrition, and protection, linking their design flaws to disappointing outcomes. Finally, it will explore pathways toward a reimagined future, examining innovative financing models, the role of catalytic philanthropy, and promising governance reforms at the state and local levels. The analysis concludes with a call for a systemic overhaul of India's approach—a shift from merely accounting for pennies to strategically investing for progress.

## **Research Gap**

This paper advances B4C/PF4C research by moving beyond measuring funding adequacy to critically examining how financing is structured and used. Unlike prior studies that focus mainly on budget shares or compliance, it highlights a systemic failure of imagination—rigid, input-driven budgeting that stifles innovation and outcomes. Its novel contribution is framing India's public finance for children as a dual challenge of insufficient resources and outdated financing models, and proposing a shift toward an integrated, outcome-oriented ecosystem leveraging innovation and local governance.

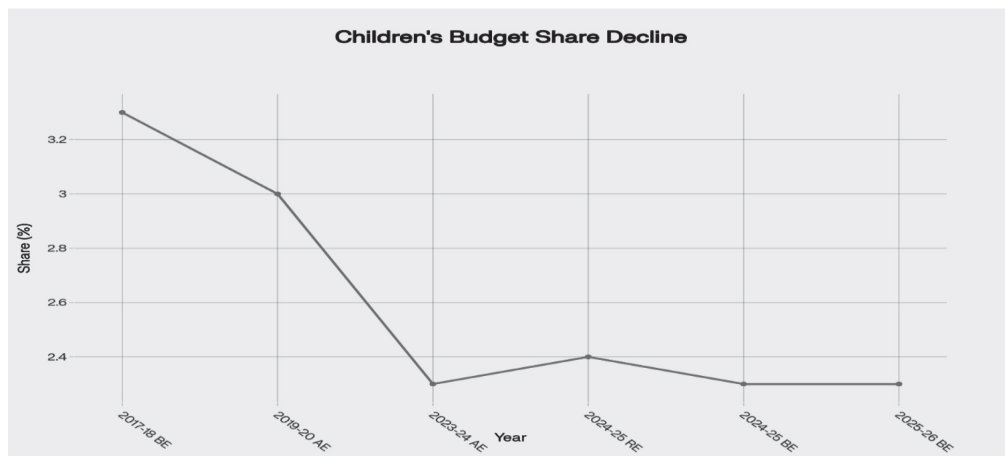
## **The Architecture and Erosion of Child Budgeting: A Quantitative Diagnosis**

A rigorous examination of India's Union Budget over the past decade reveals a clear and disconcerting trend: a systematic erosion of the fiscal priority accorded to children. While absolute allocations may have nominally increased, the share of the national budget dedicated to children has shrunk, sectoral priorities have become dangerously skewed, and the gap between planned expenditure and actual spending has widened. This quantitative evidence forms the bedrock of the critique that public finance for children in India is fundamentally inadequate.

## Declining Share in the National Pie

The most telling indicator of a government's priorities is the proportion of its total expenditure allocated to a specific sector. For India's children, this indicator points to a steady decline. Analysis of the Union Budget's 'Allocation for the Welfare of Children' statement shows that the share for children fell from 3.3% in the 2017-18 budget to a mere 2.3% in the Budget Estimate (BE) for 2023-24. This marks the lowest share in over a decade and reverses the modest gains made in the mid-2000s. This decline is particularly alarming when viewed against the backdrop of a rapidly growing economy, suggesting that children have not been proportionate beneficiaries of India's economic progress. In fact, for a period, spending on children as a percentage of Gross Domestic Product (GDP) was declining even as spending on women was increasing, highlighting a specific and serious fiscal concern regarding children's welfare. This trend signals a political de-prioritisation that contradicts the narrative of leveraging a demographic dividend.

Below is a data visualization showing the declining share of the Union Budget allocated to children from 2017-18 to 2025-26, combining Budget Estimates, Revised Estimates, and Actual Expenditures for comparative clarity:-



Declining Share of Union Budget Allocated to Children (2017-18 to 2025-26)

## Sectoral Imbalance: The Dominance of Education and Neglect of Protection

Beneath the headline numbers, the composition of the child budget reveals a deep-seated and problematic imbalance in policy priorities. The budget is overwhelmingly dominated by the education sector, which consistently

consumes the largest share of child-centric allocations. While investment in education is undeniably critical, its dominance comes at the expense of other vital areas, most notably child protection.

The child protection sector—which encompasses services for children in need of care and protection, victims of trafficking and abuse, and those in conflict with the law—is chronically and critically underfunded. Its share in the total Union Budget has consistently remained negligible, often falling below 0.05%. This paltry allocation is grossly inadequate to build a robust protective environment for the vast number of children at risk in India. This fiscal neglect reflects a policy orientation that favours universal, visible services like schools over the complex, targeted, and often politically ‘invisible’ interventions required to protect the most vulnerable children from harm.

### **The Chasm Between Allocation and Expenditure**

The inadequacy of allocations is further compounded by a systemic failure to spend the money that is budgeted. Across key schemes, there is a significant and persistent deviation between the Budget Estimates (BE), the Revised Estimates (RE), and the Actual Expenditure (AE). This problem, termed poor “fiscal marksmanship,” indicates deep-rooted inefficiencies in the public financial management system.

Nowhere is this more evident than in the flagship *Samagra Shiksha* scheme for school education. Year after year, states and Union Territories report large unspent balances of the central share of funds. In some years, the unutilised funds have amounted to 15% of the total allocation for the scheme. This is not merely an administrative lapse but a symptom of a flawed financial architecture. The release of central funds is conditional upon states providing their matching share and submitting utilisation certificates for previously released funds. Many states, particularly those with weaker fiscal capacity, struggle to meet these requirements, leading to delays and the non-release of central grants. This creates a perverse cycle: low expenditure due to systemic bottlenecks is misinterpreted as low absorption capacity, which in turn is used to justify stagnant or reduced allocations in subsequent budgets. This dynamic systematically penalises the poorest states with the greatest need, trapping them in a feedback loop of under-resourcing and underperformance.

Here is a table summarizing the trends in Union Budget allocations for the welfare of children in India from 2019-20 (AE) to 2023-24 (AE), 2024-25 (RE), and 2025-26 (BE) based on official expenditure profiles and recent budget analyses:

Year	Expenditure on Children (Rs crore)	Share of Total Union Budget (%)	Share of GDP (%)	Notes/Highlights
2019-20 (AE)	Approx. 95,000*	~3.0	~0.4	Around 3% of total budget, mainly education-focused
2020-21 (AE)	Not precisely available	Declined	Declined	Declining share of child-focused expenditure continues
2021-22 (AE)	About 83,000*	1.9 (lowest recorded)	Declining trend	Declining prioritization of children's needs
2022-23 (AE)	Data varies; declining trend	Further decline	Further decline	Increase in schemes but not proportionate budget increase
2023-24 (AE)	65,000+ (Ministry of WCD specifically)*	2.3-2.4 approx.	~0.32	Education gets 75%+ budget; child protection underfunded
2024-25 (RE)	1,09,921 (all child-related budget)**	2.3 (estimated)	0.32	Rising total allocation but declining relative share
2025-26 (BE)	1,16,132.5 (total child budget)***	Around 2.3	0.33	Marginal increase; Ministry of Women and Child Development Rs 26,890 Cr; underutilization persists

\*Estimates combining expenditure from Ministry of Women and Child Development along with other child-related scheme budgets from official statements and budget documents.

\*\*As per detailed expenditure profiles for multiple ministries with child-focused schemes.

\*\*\*Includes WCD Ministry allocations and other ministries' schemes with children focus.

## Conclusions on Trends and Adequacy of Public Financing for Children in India

- i. The absolute budget allocation for children has increased over recent years but at a slow pace relative to the rapidly expanding total Union Budget and GDP.

- ii. The share of child-focused expenditure as a percentage of the total budget has steadily declined from around 3% in 2019-20 to about 2.3% in 2025-26 BE, indicating reduced prioritization.
- iii. Child-related expenditure as a share of GDP is below 0.5%, stagnating around 0.32-0.33% in recent years, which is low given India's large child population and developmental challenges.
- iv. The budget is heavily skewed towards education, accounting for about 75% of child expenditure, leaving critical sectors like health, nutrition, and child protection relatively underfunded.
- v. There is a persistent pattern of budget underutilization especially in child nutrition and protection programs, reflecting implementation and fund flow challenges.
- vi. The marginal growth seen in budget allocation for 2025-26 does not appear sufficient to address the diverse and growing needs of India's children, thereby showing the declining adequacy of public finance for children.

### **A Critical Appraisal of Flagship Programmes: More Outlay, Less Outcome?**

The failure of public finance for children in India extends beyond the quantum of funding to the very imagination-or lack thereof in its application. The nation's strategy has been dominated by a few large-scale centrally sponsored flagship programmes. While these schemes command massive budgetary outlays and have succeeded in expanding the reach of services, their design is fundamentally input-centric. They prioritise expenditure on infrastructure, enrolment numbers, and service delivery targets over the actual developmental outcomes for children. This section critically evaluates the performance of these key schemes, arguing that they represent a systemic failure to translate financial outlays into meaningful progress in learning, nutrition, and protection. While flagship programmes like Samagra Shiksha, PM POSHAN, and Integrated Child Protection Scheme dominate centrally sponsored spending, their outcomes vary significantly across states.

#### **Education: The Right to Education (RTE) Act and Samagra Shiksha**

The Right of Children to Free and Compulsory Education (RTE) Act, 2009, was a watershed moment for India, enshrining education as a fundamental right

for every child between 6 and 14 years. The Samagra Shiksha, an integrated scheme subsuming previous programmes, serves as the primary financial vehicle for implementing the Act's mandates.

On the surface, these initiatives have achieved considerable success. They have dramatically improved access to schooling, with evaluations showing that over 98% of rural habitations now have an elementary school within a 3 km radius. Enrolment rates have soared, gender gaps have narrowed, and school infrastructure, such as the availability of girls' toilets, has tangibly improved. However, these are largely input-based victories. The ultimate goal of education-learning-has remained elusive. Multiple assessments have shown that learning outcomes have either stagnated at alarmingly low levels or, in some cases, even declined post RTE implementation. This paradox highlights the scheme's core flaw: an overwhelming focus on getting children into schools rather than ensuring they learn once they are there.

This outcome failure is rooted in financial and design issues. First, the funding for RTE has never been adequate. The government's total expenditure on education has consistently hovered around 3% of GDP, far short of the 6% target recommended by numerous policy commissions and the National Education Policy 2020. Initial estimates for implementing the Act ran into trillions of rupees, a financial commitment that has never been fully met. Second, as noted earlier, the funds that are allocated are often not spent efficiently, with significant underutilisation plaguing the *Samagra Shiksha* scheme. This combination of inadequate funding and inefficient expenditure has crippled the potential of what should have been a transformative policy.

### **Nutrition: Pradhan Mantri Poshan Shakti Nirman (PM POSHAN)**

The Pradhan Mantri Poshan Shakti Nirman (PM POSHAN), formerly the Mid-Day Meal Scheme, is one of the world's largest school feeding programmes. It has the dual objectives of enhancing child nutrition and using the meal as an incentive to improve school enrolment, attendance, and retention.

The scheme has been remarkably successful in its secondary objective. Studies consistently show that it boosts attendance, particularly for girls and children from disadvantaged communities, and effectively addresses "classroom hunger," which improves concentration. However, its primary objective of improving nutritional status is frequently compromised. Numerous reports

highlight significant gaps in meeting the prescribed nutritional standards, with meals often failing to provide the mandated levels of calories and protein. Issues of poor food quality, lack of variety, and inadequate hygiene in preparation are persistent challenges that undermine the scheme's health benefits.

The financial model of PM POSHAN is a key driver of this nutritional failure. The scheme operates on a fixed material cost per child per day, which is shared between the Centre and states. While this cost is periodically revised to account for inflation, the revisions are often insufficient to keep pace with rising food prices, and the base rate itself is too low to procure a genuinely nutritious and diverse meal. Consequently, the budget, though substantial in aggregate, remains stagnant in real terms, forcing schools and states to cut corners on quality and quantity. This reveals an implicit policy choice: the scheme is funded and managed more as an educational incentive to drive enrolment than as a critical public health intervention to combat malnutrition.

PM POSHAN has improved school attendance and addressed immediate classroom hunger but falls short on nutritional quality. NFHS-5 reveals modest improvements in malnutrition indicators-stunting reduced from 38.4% to 35.5%, wasting from 21.0% to 19.3%, and underweight prevalence from 35.8% to 32.1%-but large regional disparities persist. Poshan 2.0 aims to holistically address malnutrition through better monitoring (e.g., Poshan Tracker) and integration of early childhood care, but states like Rajasthan and Bihar face challenges due to bureaucratic delays, weak infrastructure, and lack of skilled workforce. In contrast, states with stronger community participation like Odisha and Maharashtra report better nutrition outcomes.

### **Protection: The Systemic Neglect under Mission Vatsalya**

The child protection architecture in India represents the most acute failure of both adequacy and imagination. As established, this sector receives a tragically small fraction of the Union Budget, reflecting a profound policy neglect of the state's most vulnerable children. The recent consolidation of various child protection schemes, including the flagship Integrated Child Protection Scheme (ICPS), into a new umbrella scheme called "Mission Vatsalya" has exacerbated this crisis.

This restructuring, presented as a move towards efficiency, was accompanied by a severe reduction in financial allocation. In the 2021-22 budget, the total outlay for Mission Vatsalya was a mere INR 900 crore, a drastic cut from the

INR 1500 crore allocated for the ICPS alone from the previous year. This deprioritisation has devastating consequences, weakening the entire statutory framework for child protection. It starves essential bodies like Child Welfare Committees and Juvenile Justice Boards of resources, undermines the capacity of institutional care homes, and stifles the development of non-institutional, family-based care alternatives like foster care and sponsorship, which are proven to be in the best interest of the child but remain poorly implemented due to financial constraints.

The siloed nature of these massive schemes constitutes a fundamental failure of policy imagination. For a child, education, nutrition, health, and safety are not separate domains but deeply interconnected aspects of their development. A malnourished child cannot achieve learning outcomes; a child engaged in labour or facing abuse at home cannot attend school regularly. Yet, India's public finance framework treats these as discrete issues, managed by different ministries with separate budgets and uncoordinated implementation mechanisms. This siloed approach is inherently inefficient, as it pours vast sums of money into one area without addressing the cross-cutting vulnerabilities that undermine progress in another. A truly imaginative fiscal policy would require integrated planning and convergent budgeting that addresses the holistic needs of the child, ensuring that investments are mutually reinforcing rather than isolated and ineffective.

Child protection remains critically underfunded despite the launch of Mission Vatsalya, which consolidates earlier schemes. The budget cut from INR 1500 crore (ICPS) to around INR 900 crore under Mission Vatsalya reflects policy neglect. While the scheme has improved coordination among Child Welfare Committees and Juvenile Justice Boards, expanded family-centered non-institutional care, and enhanced rehabilitation services, gaps remain in reaching street children and improving institutional care quality. Regions with better governance and NGO collaboration have achieved more success, underscoring uneven implementation across states.

Overall, despite large budgetary footprints for flagship programmes, learning and nutrition outcomes remain stagnant or unevenly distributed, and child protection is grossly neglected. This underscores a systemic failure rooted in input-focused, siloed financing rather than integrated, outcome-driven policy design. The data from ASER, NFHS-5, and scheme evaluations reinforce the

urgent need for innovation and convergence in programming and financing to address interlinked vulnerabilities holistically.

### **Reimagining the Future: Pathways to Innovative and Effective Financing**

The dual challenge of adequacy and imagination in India's public finance for children demands a strategic rethinking grounded in contemporary B4C/PF4C theory. Traditional child budgeting frameworks have predominantly focused on tracking inputs and allocations as indicators of commitment. However, emerging scholarship advocates a shift towards outcome-oriented budgeting, which prioritizes measurable developmental impacts over mere expenditure compliance. This shift involves enhancing fiscal space-the capacity of governments to mobilize, allocate, and utilize resources efficiently in favor of children's rights without compromising macroeconomic stability.

Innovative financing mechanisms such as social impact bonds, outcome-based grants, and blended finance introduce catalytic philanthropy and private capital partnerships to supplement constrained public resources, aligning with the PF4C emphasis on diversified and sustainable funding sources. Moreover, the growing discourse in public finance highlights the imperative of decentralized fiscal governance, empowering state and local bodies with flexible financing instruments and accountability frameworks to tailor interventions effectively to diverse socio-economic contexts.

Embedding these theoretical principles into India's child finance system requires transcending siloed, input-driven budgeting toward an integrated ecosystem marked by strategic resource mobilization, collaborative governance, and rigorous impact evaluation-thereby transforming budgetary commitments from symbolic accounting exercises into genuine investments in the nation's human capital.

### **The Promise and Perils of Outcome Based Financing (OBF)**

A significant shift in global development finance is the move towards Outcome-Based Financing (OBF), a model where payments are contingent on the achievement of pre-defined, verified social outcomes rather than on inputs or activities. Instruments like Social Impact Bonds (SIBs) and Development Impact Bonds (DIBs) embody this approach. In a typical DIB, private impact investors

provide upfront working capital to service providers (often non-profits) to deliver an intervention. An independent evaluator rigorously measures the results, and if the agreed-upon outcomes are met, an “outcome funder” (such as a government or a philanthropic foundation) repays the investors their principal plus a return.

India has become a global laboratory for testing these models in the education sector. The world’s first DIB, the *Educate Girls DIB* in Rajasthan, was a landmark experiment. It successfully surpassed its targets for both enrolling out-of-school girls and improving learning outcomes for all children, leading to the outcome funder (the Children’s Investment Fund Foundation) fully repaying the investor (UBS Optimus Foundation) with a 15% return. Building on this success, the *Quality Education India (QEI) DIB* scaled the model to impact 200,000 children across four states, involving multiple service providers. It also outperformed its targets, achieving significant learning gains at a 46% lower cost per outcome than initially projected, demonstrating the potential for both impact and efficiency.

However, OBF is not a panacea. These instruments are notoriously complex and costly to design and manage, requiring sophisticated stakeholders, robust data collection, and credible evaluation frameworks-conditions that are not always present. The real value of impact bonds may not lie in their widespread replication but in their catalytic effect. They force a rigorous focus on outcomes, promote adaptive management, and build a strong evidence base for what works. This fosters a culture of performance and innovation that can, and should, be absorbed into mainstream public sector contracting and grant-making.

### **The Role of Catalytic Philanthropy and Strategic Partnerships**

Parallel to the rise of innovative finance is the evolution of philanthropy in India. A discernible shift is underway from traditional charity, often described as “giving back,” to a more strategic and disruptive “catalytic philanthropy” aimed at solving complex social problems at a systemic level. This new breed of philanthropists and foundations-such as Dasra, The Convergence Foundation, and the Children’s Investment Fund Foundation (CIFF)-operate not just as funders but as ecosystem orchestrators.

They play a crucial role in bridging the gap between innovative non-profits and diverse capital providers, including government. They invest in building the capacity of non-profits, promote collaborative action among stakeholders,

and fund the research and advocacy needed to drive policy change. This approach is particularly vital for incubating and de-risking the very innovations that the public sector is often too cautious to support directly. A powerful synergy emerges when catalytic philanthropy underwrites the risk of an OBF project. The philanthropic capital funds the high risk, experimental phase of an intervention. If the DIB or SIB proves successful, it generates robust, independently verified evidence of impact and cost effectiveness. This evidence then de-risks the intervention for the government, providing a strong rationale for adopting the proven model and scaling it with public funds. This creates a clear, structured pathway from private innovation to public policy, representing a truly imaginative use of blended finance to achieve scale and sustainability.

### **Strengthening Governance from the Ground Up: State and Local Innovations**

While federal policy sets the broad framework, genuine progress often emanates from sub-national innovation. Several Indian states have moved beyond the Union government's basic reporting requirements to develop more sophisticated child budgeting practices. Currently, eight states prepare their own child budget statements. Odisha, for example, has developed a comprehensive Child Budget that explicitly links financial allocations to its State SDG Indicator Framework, making it a powerful tool for monitoring progress and ensuring accountability. Detailed ex-post analyses in states like Karnataka and Telangana have used computational methods to disaggregate spending by age group, revealing hidden biases in allocation and providing evidence for more equitable future planning.

### **Justification and Broader Context of State-Level Divergences**

Odisha has gained recognition for explicitly aligning its Child Budget with its State Sustainable Development Goals (SDG) Indicator Framework, creating a rigorous mechanism to link fiscal allocations with measurable outcomes. This integration facilitates transparent monitoring and accountability and is well documented in government reports and civil society analyses.

Telangana and Karnataka have advanced data-driven child budgeting through disaggregated analyses, using computational and GIS based tools to reveal demographic and spatial spending disparities that inform more equitable fiscal planning. These approaches are backed by independent research and state policy papers.

Other states such as Kerala, Maharashtra, and Rajasthan have also experimented with state-level child budgeting, including efforts to track child centric allocations and develop outcome driven frameworks. However, these tend to be nascent or less systematically integrated compared to Odisha or Telangana. For example, Kerala blends extensive social sector spending with decentralized governance strategies that indirectly support child welfare budget efficiency, and Maharashtra has pilot projects leveraging technology for child health budget tracking.

Therefore, while Odisha, Telangana, and Karnataka represent the leading edge of state innovations, the broader landscape includes other states with emerging or partial models. Mentioning this wider diversity, even briefly, contextualizes these examples and underscores that child budgeting practices are evolving unevenly across the country.

Ultimately, the most impactful innovations are those that empower governance at the grassroots level. The concept of Child-Friendly Local Governance (CFLG) is pivotal. It involves institutionalising processes where local government bodies, such as Gram Panchayats, actively integrate children's needs and voices into their statutory development plans and budgets. This ensures that resource allocation is not a top-down, one-size-fits-all exercise but is instead deeply responsive to the specific, lived realities of children in every community. By creating platforms for children's participation and strengthening the capacity of local officials to plan and budget with a child-centric lens, CFLG transforms public finance from an abstract administrative process into a dynamic tool for local democracy and development.

### **Conclusion: Beyond Accounting for Pennies, Investing for Progress**

This analysis reveals a stark reality: India's public finance for children is marked by a dual failure-both in the quantity of resources allocated and the strategic imagination applied. The declining share of the national budget devoted to children, coupled with the overreliance on large, input-focused flagship schemes, has resulted in minimal gains in learning, nutrition, and protection outcomes. This approach not only shortchanges children but also risks the broader developmental ambitions for the nation.

Moving beyond merely counting the pennies allotted to children, India must urgently transform its fiscal approach into one that invests for measurable progress. This requires a fundamental shift from input-driven spending to outcome-oriented financing that prioritizes effectiveness and impact.

To catalyze this transformation, three key policy actions are essential:

- i. Adopt Outcome-Based Financing:* Embed mechanisms that link budget allocations to demonstrable results, including flexible financing models that incentivize innovation and adaptive implementation at state and local levels.
- ii. Integrate and Converge Sectoral Budgets:* Break down artificial silos among education, health, nutrition, and protection budgets, fostering coordinated and child-centric financial planning and programme execution.
- iii. Empower Sub-National Governance:* Increase fiscal and administrative autonomy for states, Panchayati Raj Institutions, and Urban Local Bodies, enabling tailored, context-sensitive investments responsive to diverse child welfare needs.

India stands at a crossroads: either continue underfunding and underimagining its children's future or invest strategically to unlock the full potential of its demographic dividend. To move from mere penny-counting to genuine progress is to recognize that investing wisely in children today is the most certain pathway to a prosperous, equitable, and sustainable tomorrow.

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## **BETWEEN EXPLOITATION AND CRIMINALISATION: TOWARDS CHILD-CENTRED RESPONSES TO SEXTORTION IN INDIA**

*Nimisha Menon<sup>1</sup> & Udbhav Sinha<sup>2</sup>*

### **Abstract**

*Currently in the midst of a digital revolution, which has brought world access to our fingertips, however, the flipside of the same is the rise in instances of corruption and exploitation, especially sexual exploitation targeting children. A form of this exploitation, sextortion, often disproportionately affects vulnerable children and despite its prevalence, there is a significant vacuum in acknowledging and defining it in Indian legislation: there is no penal provision for the crime. This legal blind spot, which fails to recognise the vulnerabilities of children who are either victims of exploitation or in some cases, groomed into becoming perpetrators, weakens preventive and punitive responses to this crime. This note comprehensively takes a child-focused view of the offence and analyses the current legal safeguards. It will also aim to show the unfortunate involvement of children, both as victims and offenders and the amplified prevalence of sextortion during the outbreak of the COVID-19 pandemic. It will argue for the recognition of sextortion as a standalone offence with child protections built into law and enforcement frameworks to ensure the digital safety and dignity of every child.*

*Keywords:* sextortion, digital safety, online grooming, child exploitation, legal vacuum

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<sup>1</sup>Nimisha Menon, criminal lawyer practicing in the Supreme Court of India and Delhi High Court

<sup>2</sup>Udbhav Sinha, criminal lawyer practicing in the Supreme Court of India

## Sextortion in India: A Crime Without Definition

Sextortion, ‘*the practice of forcing someone to do something, particularly to perform sexual acts, by threatening to publish naked pictures of them or sexual information about them*’ (Cambridge University Press, n.d.) is not a standalone crime in the Bharatiya Nyaya Sanhita, 2023 (BNS) (formerly the Indian Penal Code, 1860 (IPC)). The offence is instead prosecuted under provisions of extortion (Section 308), Criminal Intimidation (Section 351) and Sexual Harassment (Section 75) along with certain sections of the Information Technology Act, 2000 (IT Act, 2000) creating a ‘patchwork framework’ such as Section 66E (violation of privacy), Section 67 (publication or transmission of obscene material), Section 67A (sexually explicit content), and, when minors are involved, Section 67B(c) (prohibiting online enticement of children). The Delhi High Court in *Soukin v. NCT of Delhi* (2024), the Delhi High Court denied bail to individuals who coerced a girl into a video call, recorded it, and threatened online dissemination. Charged under Sections 419, 420, 388, and 170 of the IPC (equivalent to Sections 111, 316, 308, and 184 of the BNS), the Court described sextortion as “*a profound violation of privacy*” and a “*significant social menace*.”

Furthermore, the IT Act partially addresses sextortion related behaviours which still highlight significant gaps. Threats to leak intimate images are covered under Sections 66E, 67, and 67A, which criminalise privacy violations and transmission of obscene or sexually explicit content, but these provisions do not capture the coercive or extortionate element of sextortion. The circulation of child sexual abuse material (CSAM) is criminalised under Sections 67B(a) and (b), yet blackmail or extortion using such material is not directly addressed. Similarly, online grooming and enticement of children fall under Section 67B(c), but sustained coercion or threats involving intimate content are not covered. Demands for sexual favours in exchange for silence are indirectly addressed under these provisions, highlighting the absence of a dedicated legal recognition of sextortion as a form of extortion coupled with sexual exploitation.

While these provisions allow for the offence to be prosecuted, there is yet no formal recognition of the crime or its psychological impact on a victim, especially a child. This gap further highlights the urgent need for a codified provision on “online grooming of a child” offence, which would not only

acknowledge threats posed by grooming but further enhance protections for minors before they fall victims to sextortion. The closest legislative step came through the Ranbir Penal Code (RPC) which explicitly introduced, named and criminalised sextortion.

Prior to the abrogation of Article 370 of the Constitution of India in 2019, The RPC, Jammu & Kashmir's own legal code, explicitly criminalised 'Sextortion' (Section 354E), a provision which was introduced through the Jammu and Kashmir Criminal Laws (Sexual Offences) (Amendment) Act, 2018. Section 354 E, a section applicable to persons of authority, fiduciary relationships or persons in public service who misused their position to demand sexual favours in exchange for benefits was both a unique and significant attempt to categorise the crime however, it narrowly focused only on abuse of power and did not include other forms of sextortion, such as threats arising out of misuse of intimate data and hacking to extort sexual favours.

The Protection of Children from Sexual Offences (POCSO) Act, 2012, a special legislation drafted for child victims of sexual abuse also extends penal provisions for children in digital settings. Offences such as sexual harassment (Section 11), use of a child for pornographic purposes (Section 13), and possession or circulation of child sexual abuse material (Sections 14 & 15) are criminalised as per the act. However, the Act does not address situations where the solicitation of children through the use of Information and Communication Technology (ICT) leads to in-person meetings (Manoj et al., 2025), leaving many cases unreported. In July 2025, a 17-year old rape survivor, who approached a police station to register her complaint, alleged that a sub-inspector (SI) in Uttar Pradesh's Rampur district demanded sexual favours in exchange for registering an FIR. The officer was later suspended (Times of India, 2025). While judicial action might have been partially possible under Section 199 of the BNS or Section 21(1) of the POCSO Act for failing to record a complaint, the coercive sexual conduct itself could not be prosecuted directly in the absence of a dedicated sextortion offence.

The National Crime Records Bureau (NCRB) has identified the increase in cases of online grooming, pornography, and circulation of sexually explicit material of minors. A 400% increase in cybercrimes involving children: from 164 in 2019 to 842 cases in 2020 (NCRB, 2021, Table 14A.2; NCRB, 2023, Table 14A.2) and 1,823 cases by 2021 (32% increase), with the majority

classified under cyber pornography (1,171 cases) and cyberstalking or bullying (158 cases) (NCRB, 2023). This analysis has been drawn from the NCRB data, which is likely to under-represent the true scale due to under reporting and inconsistent recording. Sextortion occurs in mostly two forms, first, involving individuals in positions of power who abuse their authority and secondly through image based techniques where threats are made to release intimate images or videos to obtain money, sexual favors, or other benefits. Both forms use power imbalances and cause psychological harm, but the ways they work are different, highlighting the need for child-focused legal protections that address the unique risks of each form.

This definitional vacuum has serious consequences: inconsistent charges, uneven sentencing, and lack of recognition of the psychological trauma specific to sextortion victims. Courts often stretch existing provisions, but the absence of a codified offence reduces deterrence. Recognising sextortion explicitly would ensure uniformity in law, improve reporting, and clarify intermediary obligations for takedown. India's failure to harmonise laws with realities of digital exploitation also undermines global commitments to combat online child sexual abuse material (CSAM), putting vulnerable children at risk both online and offline.

### **From Victims to Offenders: The Dual Victimisation of Children**

As of January 2023, India had 692 million internet users, with approximately 30.4% being children' (Kemp, 2023). The absence of explicit legal recognition of sextortion in India creates a space where children may be coerced into sharing intimate images and, in some cases, drawn into exploitative acts themselves. In 2022, in Delhi, a bogus profile posing as a modelling agency groomed and forced a young girl into providing graphic photos, becoming a classic case of unfiltered content (Kumari, 2025), whereas in 2023 in Orissa, the police detained four minors and one adult accomplice, who allegedly lured victims into a sextortion ring through dating apps. They recorded intimate videos of the victims to extort money and valuables (Press Trust of India, 2023). These cases show children can be both victims and offenders in digital exploitation, either through direct participation or adult manipulation. This is further supported by NCRB data which documents minors as alleged offenders in categories such as non-consensual image sharing, online harassment, and digitally facilitated blackmail (NCRB, 2023, Table 14A.2). Common reasons why children, who by nature are curious, slide into cybercrime are due to lack of sex education

and the discomfort in talking about sex with their caregivers. Factors including gullibility, emotional instability, family neglect, peer group pressure and being motivated by money or fame are some of the common factors involved in children getting more attracted to cybercrime (Upadhaya, 2024).

In June 2025, the Karnataka State Commission for Protection of Child Rights (KSCPCR) in partnership with ChildFund India, released a report in which 900 children aged 8–18 years across five Karnataka districts- Bengaluru, Chamaraajanagar, Raichur, Chikkamagaluru and Belagavi were surveyed and 31 children reported meeting strangers they initially interacted with online. Alarminglly, 44 reported online sexual exploitation or abuse (OSEA), with only 15 cases reported to law enforcement (Khanna, 2025). The findings reveal children's exposure to online sexual harm and potential involvement in offending, highlighting the urgency of child-centred interventions.

In an attempt to safeguard children, some noteworthy initiatives have emerged as a response like Aarambh India's CSAM reporting portal- the 1st Internet Hotline in India for Reporting Online Child Sexual Abuse Imagery (Aarambh India, 2025) and UNICEF-supported police awareness trainings on how to be more trauma-informed for victims of cybersexual assault in Uttar Pradesh, India (UNICEF India, 2024). To make the system more child-friendly, it is important to have a justice system with statutorily clear legal provisions, well-trained and sensitised investigation officers and the adaptation of a child-centric approach. It is also important to begin conversations with children at an early age about internet safety, introducing digital literacy programs in schools and creating rehabilitative frameworks for victims who fall prey to sextortion.

### **Lockdowns, Online Exploitation, And The Rise of Sextortion Cases Involving Minors**

The outbreak of the COVID-19 pandemic and its consequent lockdowns left children exposed to increased vulnerability to OSEA, including sextortion. With children being restricted to their homes and online platforms becoming essential for education, socialisation, and recreation, it parallelly exposed children to several digitally mitigated risks. In fact, the Maharashtra Cyber Cell registered over 100 First Information Reports (FIRs) related to CSAM during the pandemic, however, none of these cases resulted in convictions (Express News Service, 2020). The escalated cases of sextortion involving minors during

the pandemic exposed the inadequate digital safety infrastructure and lack of effectiveness of child protection mechanisms in India.

In a study carried out in 2023 by Child Rights and You (CRY) and Chanakya National Law University, Patna, parents across Maharashtra, Karnataka, West Bengal, and Madhya Pradesh were surveyed, and only 16 % of parents claimed to be familiar with any OSEA related laws. Just 30 % of the parents said they would go to the police station and file a complaint, while 70 % ruled out that possibility (DTE Staff, 2023). Several parents were unable to identify warning signs which led to cases of sextortion going unreported and unaddressed further weakening the child protection systems.

Beyond the lack of legal awareness, the pandemic period further weakened the mechanisms in place that offered support or protection. Many minors were unable to report abuse due to the bleak functioning of courts and law enforcement agencies being diverted towards pandemic control. These disruptions left several cases unreported and allowed perpetrators to continue to carry out the abuse. Addressing these gaps requires not only a clear legal definition of sextortion but also child-centred, structural interventions. Measures including in-camera proceedings for minors during court proceedings, rapid takedown orders for intimate content via intermediaries and amplify the usage of helplines and the Aarambh CSAM reporting portal. Also, Child Welfare Committees (CWCs) can provide critical support to children both as victims and as minors involved in offences, while restorative justice mechanisms offer pathways for rehabilitation rather than criminalisation. Integrating these legal, procedural, and support-based interventions strengthens prevention, protection, and redress, ensuring that vulnerable children are safeguarded while promoting survivor-centred justice is the only plausible solution.

The pandemic demonstrated how quickly vulnerabilities multiply in digital spaces when social structures collapse. Disrupted law enforcement, overwhelmed courts, and increased online exposure created a perfect storm for sextortion. It underscores the need for resilience planning within child protection frameworks: ensuring continuity of online reporting portals, fast-track virtual court hearings, and emergency psychosocial support. Future crises whether pandemics or natural disasters must integrate digital child safety as an essential service, rather than an afterthought, to prevent repeat patterns of widespread online abuse.

## Conclusion

Sextortion, an insidious form of OSEA which disproportionately impacts minors, lacks an explicit statutory definition which coupled with reliance placed on provisions under the BNS, IT Act and POCSO Act, leaves a critical gap in both enforcement and prevention. This leaves children in a dual position of being positioned as victims and at times, as offenders, exposing deep failures in the current child protection and cybercrime framework. Recognition of sextortion as a standalone offence, incorporating child centric safeguards is a plausible solution. Furthermore, preventive measures such as promotion of digital literacy, rehabilitative support and parental awareness are equally important to ensure children are protected rather than criminalised in this digital era. Sextortion against minors is not merely a cybercrime but a violation that destabilises the very foundation of child rights in India.

The evidence from rising NCRB data, pandemic-era vulnerabilities, and disturbing cases of authority misuse confirms that India's present patchwork framework is insufficient. Addressing sextortion demands legislative clarity through a standalone provision, codification of online grooming, and aggravated penalties where children are targeted. It also requires trauma-informed policing, in-camera proceedings, and intermediary obligations for swift takedown of CSAM and extortion content. Parallely, CWCs must play a central role in ensuring psychosocial care for victims and restorative pathways for minors drawn into offending. Integrating legal reform with systemic child-centred protections through schools, parents, and civil society campaigns like Aarambh's hotline will ensure children's dignity, safety, and rights remain paramount in an increasingly digital society.

Ultimately, sextortion should be situated not just as a criminal law problem but as a challenge to India's constitutional promise of dignity, equality, and protection of children. A child-centred approach calls for harmonising domestic laws with international standards, investing in preventive education, and creating robust mechanisms of accountability for digital platforms. The way forward lies in combining legislative reform with systemic interventions that strengthen trust in institutions, encourage reporting, and ensure that children are rehabilitated, safeguarded, and empowered in the digital era.

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# ECONOMIC INEQUALITY AND CHILD EDUCATION: A STUDY OF SCHOOL DROPOUTS IN ODISHA

*Sabitribala Dash<sup>1</sup> and Mrutyunjay Swain<sup>2</sup>*

## Abstract

*The problem of school dropouts continues to obstruct the goal of universal education in India, especially among children from socially and economically disadvantaged communities. This study examines the multiple and interconnected reasons for school dropouts in two districts of Odisha—Ganjam and Nabarangpur using both primary and secondary data. The main objectives are to (i) assess the status and the socio-economic factors contributing to dropouts among disadvantaged groups of children, (ii) examine the differences in dropout reasons across educational levels, and (iii) analyse the dropout engagement with a focus on gender differences. The analysis based on descriptive statistics and regression methods, shows, that financial hardship is the main reasons for dropouts, especially at the upper primary and secondary levels. Many children leave school to engage in income-generating activities, which disrupts their regular attendance and eventually pushes them out of school. Low family income and irregular employment patterns make the situation worse. Behavioural factors such as lack of interest in learning, school phobia, and social media addiction also add to the problem. School related issues like poor teacher-student communication, weak infrastructure, and low quality teaching are also major concerns, with communication problems affecting over 30 percent of students in Nabarangpur. The study suggests the need for targeted and localized policies. Key measures include mother tongue-based teaching at the primary level, improved school infrastructure, better teacher training, and greater community participation. Early remedial education and counselling are also important to address learning difficulties and psychological barriers. In conclusion, school dropout is a multifaceted issue influenced by the interplay of poverty, school environment, and child-specific factors. A holistic, inclusive, and context-sensitive approach is essential to ensure equal access to quality education for all children.*

**Keywords:** disadvantaged, economic inequality, gender, school dropout

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<sup>1</sup>Ms Sabitribala Dash, PhD Scholar, Department of Economics, Berhampur University, Bhanja Bihar, Berhampur-760007, [Email-sabitribala1988@gmail.com](mailto:Email-sabitribala1988@gmail.com)

<sup>2</sup>Dr. Mrutyunjay Swain, Professor, Department of Economics, Berhampur University, Bhanja Bihar, Berhampur-760007, Email- [mrutyunjay77@gmail.com](mailto:mrutyunjay77@gmail.com)

## **Introduction**

Education is a key driver of economic growth, social transformation, and individual empowerment. In India, the Universalisation of Elementary Education (UEE) aims to provide free and compulsory education to all children up to age 14, as mandated by the Right to Education Act under Article 21A of the Constitution. Despite these efforts, achieving 100 percent literacy and universal enrolment remains challenging, largely due to high dropout rates and grade repetition caused by poor-quality education (TNS Report, 2013; Basumatary, 2012). To address these challenges, the Government of India launched initiatives like the Sarva Shiksha Abhiyan (SSA) in 2001 and introduced tracking systems such as U-DISE, the Child Tracking System (CTS), and Household Surveys (HHS) to monitor enrolment and retention. However, many children are particularly from disadvantaged backgrounds continue to leave school prematurely, highlighting the need for more targeted interventions.

Kasturba Gandhi Balika Vidyalaya (KGBV) scheme, launched in 2004, provides residential education facilities for girls from Scheduled Castes (SC), Scheduled Tribes (ST), Other Backward Classes (OBC), minorities, and Below Poverty Line (BPL) families in educationally backward blocks. By reserving 75% of the seats (as per KGBV guideline) for marginalized girls and promoting vocational skills like such as candle-making, sewing, and handicrafts, KGBVs have contributed to girls' self-confidence, skill development, and aspirations for self-employment. Despite these efforts, access to education in states like Odisha remains unequal. Structural factors like gender, caste, class, and religion create significant barriers to school retention. Girls often face early marriage, domestic responsibilities, and safety concerns, while children from SC, ST, and minority communities struggle with poverty, discrimination, and limited access to quality schooling. These issues reflect deeper systemic inequalities and gaps in policy implementation. This study aims to explore the social barriers to education in Odisha, focusing on how intersecting factors of gender and social disadvantage contribute to school dropout. It also seeks to evaluate the impact of existing schemes and propose inclusive strategies to ensure equitable and sustained access to education for all children.

## **Review of Literature**

School dropout is a critical challenge for India's education system, with 12.6 percent of students discontinuing education, especially at the secondary (19.8%) and upper primary (17.5%) levels, as reported by National Statistical Office (NSO, 2017-18). According to the Unified DISE (U-DISE) report, 2021-

22, India's dropout rates were 1.5 per cent, 3 per cent, and 12.6 per cent at primary, upper primary, and secondary levels, respectively, while in Odisha, the rates were 0 per cent, 7.3 per cent, and 27.3 per cent at the same levels.

Several studies highlight key factors influencing dropout. Financial instability, parental illiteracy, and low awareness about education are strongly contribute to school dropout (Khan & Samadder, 2010; Moreira et al., 2018; Prakash et al., 2017; Mishra et al., 2014). Similarly, lack of supervision, weak parental involvement, and poor educational infrastructure further are also worsening the problem of dropout (Mukherjee, 2011; Govindaraju & Venkatesan, 2010). Gender disparities are evident: boys are often pushed into the work, while girls involve in domestic chores and sibling care causing discontinuation in education (Amirtham & Kundupuzhakkal, 2013). Other factors include high educational costs, family conflicts, and lack of parental supervision on children's activities are also played a significant role in creation of dropout problem (Hussain, 2011; Teneva, 2017). Specifically, Singh (2021) observed that poverty, lack of interest, security concerns, long distances to school, household factors and parental death are major reasons for girls' dropping out. However. equal treatment by parents, special care and positive parental attitudes towards girls can reduce dropout rates. Lenka (2020) highlights that financial constraints, children's engagement in work, and psychological issues cause dropout among tribal students before high school completion. Vishishtha & Jain (2022) point out family and individual issues, gender-based discrimination, financial instability, poor curriculum quality, and resource scarcity is act as major causes, while increased education budgets and counselling programmes can mitigate the dropout issue.

Overall, school dropout is a multidimensional issue driven by socio-economic challenges, migration, weak parental engagement, and gender roles with poverty acting as a central factor, influencing nearly all other causes.

### **Objectives of the Study**

The key objectives of the research study are;

- i. To assess the status and socio-economic factors contributing to school dropouts among disadvantaged groups of children.
- ii. To examine the variations in reasons for school dropouts across different levels of education.
- iii. To analyse the post dropout engagement of children with a focus on gender differences.

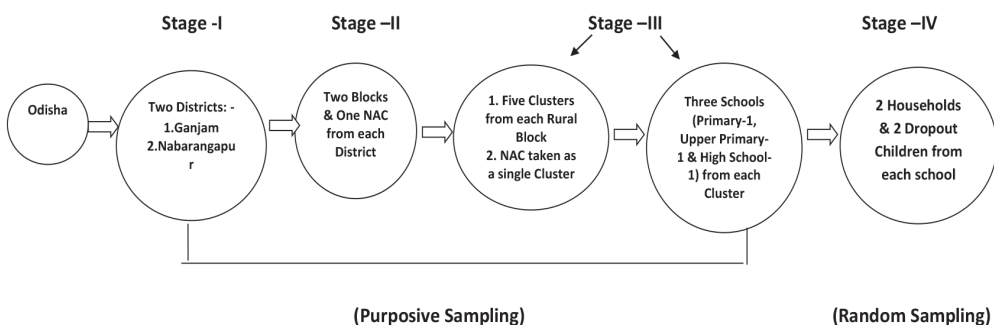
## Methodology

The methodology is designed to provide a comprehensive understanding of the problem, using a systematic and structured approach. It outlines the research design, including the selection of study areas, sampling techniques, data sources and methods of analysis to obtain the study's outcome.

### Selection of Study Area & Sampling Technique

The present study compares two districts of Odisha: Nabarangpur, representing the highest dropout rate (10.01%), and Ganjam, representing a moderate rate (5.08%), selected from rankings of all 30 districts based on dropout rates at primary, upper primary, and secondary levels for three years from 2015-16 to 2017-18 (OSEPA). From each district, two rural blocks and one urban block were selected based on relatively higher dropout rates, totalling four rural blocks and two urban areas. From each rural block, five clusters were chosen, making 20 rural clusters per district, along with two selected urban areas. A total of 66 schools (primary, upper primary, and secondary) were covered, 33 from each district (3 schools from each cluster). From each school, two dropout children and their households were surveyed, resulting in 132 households and 132 dropout students interviewed to explore the actual reasons for school dropouts. The sample distribution is shown in Figure-1.

Figure 1: Multi Stage Random Sampling Technique



## **Sources of Data and Analysis**

As mentioned earlier, both primary and secondary data were used for the study. Secondary data were obtained from the Odisha School Education Programme Authority (OSEPA), Govt. of Odisha and Ministry of Education, Govt. of India to select sample districts for the primary survey in rural and urban areas. Household survey report of the sample districts was used to select blocks, clusters and schools for the survey. Primary data were collected through field surveys using personal interviews and questionnaires, covering socio-economic characteristics, dropout rates by gender and location, causes of dropout, and consequences of school dropouts.

Data analysis was conducted using descriptive statistics to examine socio-economic, school and student related factors contributing to dropout and children's engagement after leaving school. Additionally, a regression model was used to study the relationship between socio-economic factors and school dropouts.

## **Result and Discussion**

The objective-wise analysis is carried out to identify the actual reasons for school dropout and the engagement of children after school leaving, which is the major focus of the research paper. Based on this, necessary suggestions have been placed in the conclusion section for policy making, which can help eradicate the issues causing dropout situation.

### **Status and Socio-Economic Factors Leading to School Dropouts**

The study examines the socio-economic factors leading to school dropouts, focusing on gender and disadvantaged social groups such as SC, ST, OBC, general and minority. The key factors are educational standard of mother, annual income of family, family size etc. The detail factor wise relationship with dropout is discussed below for better conceptual clarity of the present research study.

#### ***Caste and Religion***

Gender differences shows: girls' dropout more due to social norms, safety concerns, sibling care, and household duties, while boys are pushed into wage

labour because of financial constraints. Table 1 shows higher dropout rates among marginalized groups-OBC (48.48%) and SC (39.39%) in Ganjam, and ST (66.66%) and SC (18.18%) in Nabarangpur. In contrast, dropout rates are low among General category children (below 10%) in both districts. Similarly, only 7.57% children among Christians in Ganjam and rest of the dropouts are belonging to Hindu religion in both districts. These trends highlight illiteracy, low parental awareness, and poor educational standards as the main reasons for school dropout among disadvantaged groups.

### ***Mothers' Educational Status***

Table 1 shows that 71.21% of mothers in Ganjam and only 34.84% in Nabarangpur have received school education, mostly up to the primary level, with less than 10% completing upper primary or higher education in both districts. Illiteracy is much higher in Nabarangpur (65.15%) than in Ganjam (28.78%). The overall low education of mothers, especially in Nabarangpur, negatively impacts children's schooling, leading to higher dropout rates among tribal children due to parental ignorance, community influence, and lack of awareness.

### ***Annual Income of Family & Income Group***

Children's education is closely linked to family income, as all 66 dropouts belong to households earning less than Rs. 1 lakh per year. In Ganjam, 28.78 percent of families are BPL and 34.84 percent are AAY, while in Nabarangpur, 65.15 percent are BPL but none fall under AAY. Ration card holders are nearly the same in both districts (about 35%). The study shows that dropouts are concentrated among economically weaker families, especially in Nabarangpur, due to poverty, low awareness and limited attention to education (Table 1).

### ***Family Size***

Table 1 shows that most dropout children come from large families, with over 65 percent of households in both Ganjam and Nabarangpur having more than six members. Medium-sized families (5–6 members) make up about 29 percent in Ganjam and 30 percent in Nabarangpur, while small families are very few. The majority of dropout children belong to joint family's 93.92 percent in Ganjam and 98.46 percent in Nabarangpur showing the strong presence of extended family structures among these households.

Table-1: Distribution of school dropouts of sample districts

Particular	Category	Ganjam	Nabarangpur
Caste	SC	26 (39.39%)	12 (18.18%)
	ST	6 (9.09%)	44 (66.66%)
	OBC	32(48.48%)	10 (15.15%)
	General	2 (3.03%)	-
Religion	Hindu	61(92.42%)	66 (100%)
	Christian	5(7.57%)	-
Mothers' Educational Status	Primary grade	40(60.59%)	23(34.84%)
	Upper Primary grade	6 (9.09%)	-
	Above Upper Primary grade	1(1.51%)	-
	No education	19(28.78%)	43(65.15%)
Annual Income of family	Below Rs.1 lakh	65 (98.48)%	66(100%)
	Rs. 1 Lakh -Rs. 2 Lakhs	1(1.51%)	-
Household Size of the family	Up to 4 Members	4( 6.06%)	1(1.51%)
	5 to 6 Members	19(28.78%)	20(30.29%)
	More than 6 Members	43(65.14%)	45(68.17%)
Family type	Joint family	62(93.92%)	65(98.46%)
	Nuclear family	4( 6.06%)	1(1.51%)

Source: Field survey.

### ***Property Holding Status of Parents***

The property status of dropout households highlights economic disparities between Ganjam and Nabarangpur. However, in Nabarangpur, 81.8 percent of families own land worth less Rs. 1 lakh and 84.84 percent live in low-value houses. In contrast, Ganjam shows higher assets, with 86.36 percent owning property above Rs. 2 lakhs and 93.93 percent having cattle or jewellery. Limited assets and weaker financial stability in Nabarangpur reduce family support for children's education, leading to higher dropout rates.

### ***Borrowing Status of Family***

Family debt is a major cause of school dropouts, affecting more children in Nabarangpur (45 nos.) than in Ganjam (26 nos.). Fathers often migrate to

repay loans, while in Ganjam, children also contribute to family income. In Nabarangpur, parental absence and lack of interest in studies lead to neglect in education and remain dropouts. Debt burdens limit families' ability to afford education and push children into labour work in various sector for financial support.

### ***Bearing of Educational Expenses by Parents***

The survey shows that financial burden is a major reason for dropouts, reported by 60.59 percent of families in Ganjam and 81.8 percent in Nabarangpur. About one-third of families in both districts paid school fees, but Ganjam spent more on tuition 24.24 percent and on books/uniforms (75.75% compared to 46.96% in Nabarangpur). Most families spent up to Rs. 2,000 per child each month, though 30.32 percent in Nabarangpur had no expenses due to government aid. These financial pressures force children from poorer families to leave school before completing their education.

Several socio-economic factors lead children to drop out of school to provide physical and financial support to their families. This study examines the relationship between the class at which a child drops out and other relevant variables, district-wise, using sample data to show the different impacts of these factors. The analysis also justifies the inclusion or exclusion of variables based on their level of correlation. Primary data on these variables have been used for this analysis.

The variables are as follows:

- i. Dependent variable (Y): Child's dropout level.
- ii. Independent variables (Xi): There are 6 independent variables, i.e., education of mother ( $X_1$ ), annual income of father ( $X_2$ ), value of asset holding ( $X_3$ ), family size ( $X_4$ ), debt amount ( $X_5$ ), school fees ( $X_6$ ).

The fitted regression equation is given below.

$$Y = \alpha + \beta_1(X_1) + \beta_2(X_2) + \beta_3(X_3) + \beta_4(X_4) + \beta_5(X_5) + \beta_6(X_6) + U_i$$

Table 2 shows that regression analysis identifies X6 as the strongest positive predictor of dropout class ( $\beta = 0.646$ ,  $p = 0.000$ ), followed by X4 ( $\beta = 0.223$ ,  $p = 0.018$ ). X1, X2, and X3 have small but significant negative effects ( $p < 0.05$ ), while X5 is not significant ( $p = 0.120$ ). The constant is significant ( $p = 0.017$ ),

and VIF values near 1 confirm no multicollinearity. Overall, 5 out of 6 variables significantly influence school dropouts among economical poorer families.

Table-2: Determinants of school dropouts (Ganjam)- Results of the regression model

Variables	Unstandardized Coefficients		Standardized Coefficients	Sig.	Collinearity Statistics
	B	Std. Error	Beta		VIF
(Constant)	8.738	3.556		.017	
X1	-.084	.101	-.080	.010	1.159
X2	-0.00002	.000	-.086	.020	1.072
X3	-0.000002	.000	-.098	.030	1.161
X4	.482	.198	.223	.018	1.038
X5	0.00001	.000	.090	.120	1.084
X6	.001	.000	.646	.000	1.223

- Dependent Variable:  $Y_1$  (Child's dropout class)
- R Square value: 0.72
- F-value of 11.71
- Durbin-Watson statistic- 1.52

The regression model, with  $Y_1$  (child's dropout class) as the dependent variable, shows a strong fit ( $R^2 = 0.72$ ), explaining 72 percent of the variation. The F-value of 11.71 confirms overall significance, and the Durbin-Watson statistic (1.52) shows no serious autocorrelation. Overall, the model is robust and reliable in explaining the factors influencing children's dropout levels.

Table 3 shows that the regression model is statistically sound, with an intercept of 6.939. Among the predictors, X6 has the strongest positive and highly significant effect ( $B = 0.001$ ,  $\text{Sig.} = 0.000$ ), while X4 and X5 also have smaller but significant positive impacts. X1, X2, and X3 show negative effects, with X2 and X3 significant at the 0.05 level, and X1 slightly negative but still significant. All variables have  $\text{Sig.} \leq 0.05$  and VIF values below 2, confirming no multicollinearity. Overall, X6 is the most influential factor explaining dropouts from economical poorer families.

The model explains 77 percent of the variation in dropout class ( $R^2 = 0.77$ ), indicating a strong fit. The F-value of 13.71 confirms overall significance, and the Durbin-Watson statistic (1.52) shows no serious autocorrelation. Thus, the model is reliable, statistically valid, and a good fit.

Table-3: Determinants of school dropouts (Nabarangpur)- Results of the regression model

Variables	Unstandardized Coefficients		Standardized Coefficients	Sig.	Collinearity Statistics
	B	Std. Error	Beta		VIF
(Constant)	6.939	.919		.000	
X1	-.030	.235	-.013	.000	1.039
X2	-0.000020	.000	-.215	.040	1.306
X3	-0.000002	.000	-.249	.050	1.559
X4	.234	.108	.225	.030	1.050
X5	0.00002	.000	.131	.000	1.093
X6	.001	.000	.687	.000	1.358

- Dependent Variable:  $Y_1$  (Child's dropout class)
- R-Square value: 0.77
- F-value of 13.71
- Durbin-Watson statistic- 1.52

### Variations in Reasons for School Dropouts across Different Levels of Education

The analysis of this objective focuses on student and school related issues that cause children to dropout at different levels before completing formal education. The activity-wise reasons are described below:

#### Student Related Issues

##### *Lack of Supervision of Children's Activity*

Table 4 shows that parental supervision among school dropouts is very low, declining from primary to secondary levels 28.78 percent to 18.19 percent in Ganjam and 15.15 percent to 16.66 percent in Nabarangpur. Most parents spent only 1–2 hours per week with their children and over 20 percent provided no supervision at the different stages of schooling. Supervision was limited to

physical well-being, with no attention to emotional support (0% at all levels). Mothers were the main caregivers, fathers rarely took sole responsibility, and joint caregiving by both parents was reported in only 15–22% of households. Care by others was negligible.

### ***Health Issues***

Health issues play only a minor role in school dropouts across both districts. In Ganjam, 9.09 percent of secondary-level students dropped out due to health problems, while in Nabarangpur, no students at this level cited health as a reason. The number of children affected was small, indicating that although health concerns exist, they are not a major cause of dropout (Table 4).

### ***Disinterest of Child***

Table 4 shows that disinterest in studies is a major reason for school dropout, and this tendency increases with the level of education. In Ganjam, it rose from 21.21 percent at the primary level to 31.85 percent at the secondary level, while in Nabarangpur, it reached 34.84 percent at secondary level. This reflects growing disengagement with academics as students' progress, possibly due to uninspiring teaching methods or an irrelevant curriculum.

### ***Involvement in Extra-curricular Activities***

Table 4 shows that involvement in extra-curricular activities is another significant reason for school dropout, especially at the upper primary and secondary levels. In Ganjam, 27.27 percent of primary-level students and over 30 percent at higher levels left school for this reason. In Nabarangpur, the rate was lower at the primary stage (15.15%) but rose at upper levels. This suggests that for some students, non-academic activities such as sports, arts, or household responsibilities became more attractive or necessary, pulling them away from formal schooling.

### ***School Adjustment Failure***

Table 4 shows that school adjustment problems were particularly noticeable in Nabarangpur, where about 25–27 percent of students at all levels reported difficulty adapting to the school environment. In Ganjam, the rate was constant at 15.15 percent across levels. These problems may include coping with peer pressure, unfamiliar language of instruction, or teacher attitudes, especially for students from tribal or minority backgrounds.

### ***Poor Academic Performance***

Table 4 shows that poor academic performance is the most common and consistent reason for dropout in both districts. Over 30 percent of children at all levels cited academic difficulties as the major cause of leaving school. This highlights gaps in classroom teaching, availability of remedial support, and parents' ability to assist with learning especially for children from disadvantaged groups.

### ***Security Concerns,***

Security concerns, while not the main reason, became more prominent at the secondary level, especially in Nabarangpur, where 16.66 percent of dropouts cited safety issues. In Ganjam, the percentage increased moderately from primary to secondary level. These concerns are often greater for girls, including fear of harassment during travel or at school, lack of secure infrastructure, or family restrictions due to perceived safety risks (Table 4).

### ***Substance Abuse***

Use of narcotic substances emerged as a serious cause of school dropout among secondary-level students. In Ganjam, 10.61 percent of secondary school dropouts were linked to use, while in Nabarangpur, the figure was higher at 13.63 percent. This highlights a growing social issue affecting adolescents, particularly boys, leading to disengagement from studies and early dropout (Table 4).

### ***Attitude of Children as a Cause of Dropout***

Table 4 shows that attitudinal factors such as lack of interest, unwillingness to attend school, or resistance are major causes of dropout in both districts. In Ganjam, this was highest at the upper primary level (33.33%) but declined at secondary (16.66%), while in Nabarangpur it was more evenly distributed, with the highest at primary (31.81%) and secondary (28.78%). This suggests that many rural and tribal children lose motivation or resist formal schooling due to low engagement or understanding.

### ***Involvement in Social-media***

Table 4 shows that social media is an emerging cause of dropout, especially among older children. In Ganjam, 13.63 percent of upper primary dropouts were linked to social media, while in Nabarangpur the impact was higher-19.69 percent at upper primary and 18.18 percent at secondary level, with no effect

at primary. These indicates growing digital distractions that reduce academic focus and increase absenteeism.

### ***School Phobia***

Table 4 shows that school phobia means anxiety, fear of teachers, exams, or the school environment is a major cause of dropout. In Nabarangpur, it remained consistently high across all levels (33.33%), while in Ganjam it declined from 30.30 percent at upper primary to 13.63 percent at secondary. These patterns suggest that psychological stress and lack of emotional or mental health support significantly contribute to children's disengagement from school.

Table-4: Differences in reasons for school dropouts (in %)

Sl. No.	Particular	Ganjam			Nabarangpur		
		Primary	Upper primary	Secondary	Primary	Upper primary	Secondary
1	Parental supervision	28.78	18.18	18.19	15.15	12.12	16.66
2	Health issue	4.54	1.51	9.09	4.54	4.54	0.00
3	Dislike/disinterest in study	21.21	26.26	31.85	25.75	31.45	34.84
4	Involvement in extra co-curricular activities	27.27	31.81	28.79	15.15	31.81	28.79
5	School adjustment failure	15.15	15.15	15.15	27.27	27.27	25.75
6	Poor academic and comprehension	30.30	33.33	31.81	33.33	33.33	33.33
7	Security problem	4.54	3.03	6.06	3.03	7.57	16.66
8	Using narcotic things/substance	1.51	3.03	10.61	4.54	4.54	13.63
9	Attitude of children	30.30	33.33	16.66	31.81	25.75	28.78
10	Involvement in social media	4.54	13.63	7.57	0.00	19.69	18.18
11	School phobia	25.75	30.30	13.63	33.33	33.33	33.33

Source: Field Survey

## **School Related Issues**

### ***Distance to Schools***

Table 5 shows that distance to school is an important factor in dropouts, becoming more significant at higher levels. At the primary stage, it affected 3.03 percent of households in Ganjam and 6.06 percent in Nabarangpur. At upper primary, 9.09 percent in both districts reported schools over 3 km away, while at secondary level, 6.06 percent in Ganjam and 12.12 percent in Nabarangpur had high schools beyond 5 km. These findings highlight that school accessibility is a major barrier, especially in remote areas like Nabarangpur.

### ***Communication Problems Among Children***

Table 5 shows that communication difficulties such as understanding the language of instruction, self-expression, or interacting with teachers are a major cause of dropout. In Nabarangpur, this issue is consistently high across levels (31.81% at primary, 32.32% at upper primary, 33.33% at secondary), reflecting challenges related to tribal districts and weak early language skills. In Ganjam, it is also significant, peaking at 30.30 percent at upper primary. Overall, language and communication barriers strongly contribute to student disengagement, especially in multilingual or tribal areas.

### ***Non-availability of Infrastructural Facilities***

Table 5 shows that lack of basic infrastructure-classrooms, toilets, drinking water, and electricity-is a key factor in school dropout, affecting 18–21 percent of households at primary and upper primary levels, but only 9.09 percent at secondary in both districts. This indicates that poor facilities in early schooling years discourage attendance and retention, especially in rural and underdeveloped areas.

### ***Poor Quality of Teaching***

Low teaching standard including untrained or irregular teachers and lack of educational methods are another notable cause of dropout. In Nabarangpur, this was highest at the primary level (25.25%), indicating early disinterest or disengagement among young learners. Ganjam shows a similar pattern, though with slightly lower figures. As students' progress to higher grades, this factor becomes less prominent, suggesting that those who continue may adapt or benefit from better teaching quality (Table 5).

Table-5: School related reasons for school dropouts (in %)

Sl. No.	Activities	Ganjam			Nabarangpur		
		Primary	Upper primary	Secondary	Primary	Upper primary	Secondary
1	Distance of schools	3.03	9.09	6.06	6.06	9.09	12.12
2	Children having communication problem	18.18	30.30	22.72	31.81	32.32	33.33
3	Non availability of infrastructural facilities	19.69	18.18	9.09	21.21	18.18	9.09
4	Poor quality of teaching	21.21	15.15	9.09	25.25	15.15	9.09

Source: Field survey

### Engagement of School Dropouts with a Focus on Gender Differences.

Table 6 and Figure 2 highlight that engagement in various activities is a major cause of school dropouts, with 71.2 percent (47 children) in Ganjam and 49.99 percent (33 children) in Nabarangpur left school for this reason. In both districts, girls are more involved in sibling care 16.66 percent in Ganjam and 21.2 percent in Nabarangpur and also take on more household responsibilities, leading 13.63 percent in Ganjam and 7.56 percent in Nabarangpur to dropout due to household work.

Boys are more likely to be engaged in child labour-12.12 percent in Ganjam and 10.6 percent in Nabarangpur with no cases among girls. They also work in shops (15.15% in Ganjam and 18.17% in Nabarangpur) and,

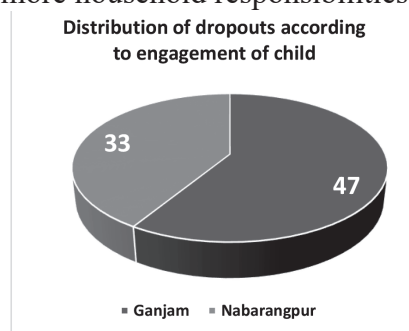


Figure 2 Distribution of dropouts due to engagement of child

in Ganjam, in agriculture, brick kilns, and other tasks. Overall, dropout rates are higher among girls in Nabarangpur district.

**Table-6: Engagement of school dropouts in different sector**

Sl. No.	Particular	Ganjam				Nabarangpur			
		Boy (26)		Girls (21)		Boy (14)		Girls (19)	
		No	%	No	%	No	%	No	%
1	Sibling care	0	0	11	16.66	0	0	14	21.2
2	Home work	1	1.51	9	13.63	0	0	5	7.56
3	Child labour	8	12.12	0	0	5	10.6	0	0
4	Work in shop	10	15.15	0	0	9	18.17	0	0
5	Agricultural work	1	1.51	0	0	0	0	0	0
6	Brick kiln	3	4.53	0	0	0	0	0	0
7	Any Other	3	4.54	1	1.51	0	0	0	0

Source: Field survey

Table 7 shows that financial constraints are a major cause of school dropouts, especially at the upper primary and secondary levels. In Ganjam, 21.21 percent of secondary-level students and in Nabarangpur 18.18 percent left school due to economic hardship, often engaging in income-generating activities to support their families. About 18.18 percent of secondary level dropouts in Ganjam and 11.11 percent in Nabarangpur were involved in wage labour and agriculture, with no participation in skilled or service sectors.

Table-7: Role of financial constraint in school dropouts (in %)

Sl. No.	Particular	Category	Ganjam			Nabarangpur		
			Pri- mary	Upper prima- ry	Sec- ond- ary	Prima- ry	Upper primary	Second- ary
1	Financial constraint a cause of dropout		6.06	19.69	21.21	6.06	15.15	18.18
2	Engaged in various sector for financial support to the family	Primary	0	3.03	3.03	6.06	3.03	7.07
		Secondary	6.06	16.66	18.18	0	12.12	11.11
		Tertiary	0	0	0	0	0	0
3	Nature of employment	Temporary	6.06	19.69	21.21	6.06	15.15	18.18
		Permanent	0	0	0	0	0	0
4	Annual Income	Upto Rs.5000	0	4.54	3.03	6.06	3.03	7.07
		Rs.5000-10000	6.06	15.15	11.11	0	12.12	11.11
		More than Rs.10000	0	0	7.07	0	0	0

Source: Field survey

All working children were in temporary, informal jobs, indicating a lack of job security. Most children were earned below Rs.10,000 per month, with 15.15 percent of upper primary and 11.11 percent of secondary dropouts in Ganjam, and about 11.11 percent in Nabarangpur, earning in the Rs.5,000-10,000 income range. Very few children were earned above Rs.10,000 income. This shows that low household income strongly correlates with higher dropout rates, forcing children into low-paid, unstable work and perpetuating cycles of poverty. However, scholarships, income support, and community-based interventions are essential to help retain disadvantaged students in school (Table 7).

## **Conclusion**

The study highlights that school-related issues particularly communication challenges, poor infrastructure, and ineffective teaching significantly contribute to dropout rates, especially among children from disadvantaged groups. These problems are more severe in tribal-dominated and rural areas like Nabarangpur. Targeted, inclusive, and localized policy interventions are therefore essential to ensure all children remain in school and receive quality education.

To address communication barriers, local language-specific textbooks should be provided up to the primary level and teachers proficient in tribal languages should be engaged. Odia should be promoted for higher-level studies. Improving teaching quality and making classrooms more engaging can help reduce academic disengagement among students. Residential and seasonal hostels should be expanded, especially for children from migrant or financially constrained families. Scholarships such as NMMS, NRTS, PSMTS, and SMSHKY, along with free educational materials, fee exemptions, and supplementary learning resources, can ensure continuity in education.

Strict enforcement of child labour laws and the ban on early marriage, supported by village-level awareness programmes is essential. Employment opportunities through schemes like MGNREGS, PMRY, ABRY, and PMRPY should be provided for poor families to reduce economic pressures that push children out of school. Parental involvement can be strengthened through monthly parent-teacher meetings, counselling, and awareness drives. Female literacy should be promoted through initiatives like NILP. Motivational programmes highlighting the benefits of education, along with hostels, transport, or escort facilities for children in remote areas and improved road connectivity, can further reduce dropout rates particularly in inaccessible areas.

Collectively, these measures addressing language barriers, teaching quality, residential and financial support, child protection, livelihood support, and community engagement can significantly reduce dropout rates and ensure sustained education for economically and socially disadvantaged groups of children.

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# THE GREY AREA OF CONSENT: JUDICIAL INCONSISTENCY AND ADOLESCENT RIGHTS UNDER THE POCSO ACT

*Shalini Shukla*<sup>1</sup>

## Abstract

*India's Protection of Children from Sexual Offences Act (POCSO), 2012, while designed to protect minors from sexual exploitation has created significant legal and social complications regarding consensual teenage relationships. This research paper addresses critical gaps in its implementation, and analyses how courts have developed inconsistent approach, while dealing with issue of consent in romantic relationships involving adolescents. This leads to some courts rigidly applying the age-based rule, while other courts, take into consideration circumstances of the case. The study identifies serious conflict between mandatory reporting provision under POCSO and adolescents' access to reproductive health services. This research paper examines how POCSO's implementation conflicts with international children's rights standards, particularly the Convention on the Rights of the Child principle of evolving capacities. The study proposes comprehensive reforms including abolishing mandatory sentencing for consensual relationships, implementing evidence-based sex education, and coordinating policy frameworks to balance protection with recognition of adolescent's developing autonomy and fundamental rights.*

**Keywords:** adolescent sexuality, age of consent, judicial interpretation, children's rights, POCSO Act

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<sup>1</sup>Research Scholar, Dr Ram Manohar Lohiya National Law University, Lucknow

## **Introduction**

The use of criminal law as a tool to control teenage sexual relationships raises socio-political issues. As teenagers mature toward adulthood, it becomes challenging to balance granting them personal autonomy with protecting them from potentially harmful activities, including those they willingly chose to participate in. Thus, anyone who tries to solve this dilemma often finds himself entangled between two perspectives on the one hand are child rights advocates, who argue for expanding the teenagers decision-making power and call for a complete reconsideration of how society regulates adolescent sexuality (Hartman, 2000). Similarly criminal law scholars oppose the idea of criminalizing behaviour based purely on moral considerations.

On the other hand, policymakers are hesitant to decriminalize consensual sex between teenagers because they fear that by decriminalizing, they might be appearing to approve of teenage sexuality (Beinen, 1998). Policymakers also worry that by giving adolescents adult level decision making authority over sexual matters might invite further complications. The logical progression, they argue, would be granting teenagers control over their health care decisions (such as abortion), right to choose their own religion regardless of their parent's views.

This scholarly gap is present in the Indian context, where the Protection of Children from Sexual Offences Act (hereinafter referred as POCSO) (POCSO, 2012) was enacted to address the Indian Penal Code's inadequacy in curbing sexual abuse. The already existing criminal law statutes were not dealing adequately with the sexual exploitation and abuse of children. This led to the enactment of POCSO Act. By defining any person under 18 years as a "child" (POCSO, 2012 § 2(d)), POCSO creates a "fix age" consent rule that criminalizes all sexual interactions involving minors without exception, regardless of circumstances or voluntariness. This approach has resulted in legal ambiguity regarding the validity of minor's consent, with conflicting judicial interpretations leading to problematic outcomes. While already existing literature has addressed the POCSO's over criminalization (Raha & Ramakrishnan, 2025) of even consensual sexual relationships and its impact on young adults' autonomy (CCL-NLSIU, 2025), it fails to provide a legal framework that protects minors from exploitation while recognizing their evolving capacity for meaningful consent. This paper critiques this critical gap

in POCSO by analysing, how courts have interpreted consent under POCSO and the undesirable consequences of these inconsistent approaches.

### **The Age of Consent**

The historical evolution of India's age of consent laws shows a shift from colonial patriarchal control to modern over criminalization of adolescent sexuality. The age of consent has undergone multiple revisions since colonial times, beginning at 10 years (GOI, 2029) in the Indian Penal Code, 1860. The tragic death of 10-year-old *Phulmoni Dossee* (Queen-Empress vs Hurree Mohun Mythee, 1891) after forced marital consummation by her 35 years old husband led to the first major reform, raising the age of consent from 10 to 12 years (Ghosh, 2014). The husband was held guilty only for causing grievous hurt by doing a rash or negligent act dangerous to life and was sentenced to one-year rigorous imprisonment. Thereafter age of consent was raised from 12 years to 14 years in 1925, from 14 years to 16 years in 1940 and finally to 18 years in the POCSO Act, 2012 (283<sup>rd</sup> LCR, 2023).

The 2012 POCSO Act marked a watershed moment by adopting United Nation Convention on the Rights of Child's (CRC, 1989) definition of childhood as 18 years. This created an absolute barrier where all sexual activity involving anyone under 18 became criminal, termed as "statutory rape" regardless of consent or context. The National Commission for Protection of Child Rights (NCPCR), prepared the Protection of Children from Sexual Offences Bill in 2010, wherein, it recognized the possibility of consensual romantic relationship between two children. The said bill had an exception, according to which, *any consensual non penetrative sexual act penalized by this chapter (except for sections 23, 25, 27 and 31), is not an offence, when engaged in between two children, who are both over 12 years of age, or are either of same age or whose ages are within 2 years of each other*, with similar protection for those over 14 years, within a 3 year age gap (283<sup>rd</sup> LCR, 2023).

The original 2011 Bill had the legislative awareness of this issue, it included a proviso to that effect in section 3 and 7 of the proposed 2011 bill, for consensual sexual relationships between 16-18 years old children. It required the courts to examine, whether consent was obtained against the will of the child, or, consent has been obtained by use of violence, force, threat to use force, intoxicants, drug, impersonation, fraud, deceit, coercion, undue influence, threat, when the

child is sleeping or unconscious or where the child does not have the capacity to understand the nature of the act or to resist it (283<sup>rd</sup> LCR, 2023). The Ministry of Women and Child Development supported this proviso and argued that law cannot ignore social realities and criminalizing adolescent would be only counterproductive (Department-related Parliamentary Standing Committee on Human Resource Development, 2011). However, the parliamentary standing committee recommended removal of these exceptions. The committee argued that, once a child is defined as any person below 18 years, the element of consent becomes irrelevant (283<sup>rd</sup> LCR, 2023). By allowing such a provision in POCSO, would only shift the entire trial process central to the conduct of victim rather than accused. This decision to not include the proposed proviso, which acknowledged the possibility of consensual romantic relationship among adolescents, went on to prioritise the procedural protection of child rather than recognition of adolescent normal development.

The current legal framework has its own paradoxes. The Criminal Law (Amendment) Act and the subsequent 283<sup>rd</sup> report of law commission have shaped and reinforced India's rigid approach to adolescent sexuality, and it indicates both legislative overreach and institutional resistance to reform. The Criminal Law (Amendment) Act, 2013, increased the age of consent for sexual intercourse from 16 to 18 years creating complete alignment between section 375 of IPC and the POCSO Act. This brought a unified but problematic rule, where any sexual activity irrespective of presence of consent with a woman below age of 18 years constitutes statutory rape. This amendment, enacted in response to the Delhi gang rape case, extended protective framework beyond its intended scope, criminalizing consensual adolescent relationship that pose no exploitative risk. The act created internal contradictions, particularly exception 2 to section 375 of the IPC according to which, the age of consent as 15 years (for married couples), due to which there was a huge gap of 3 years in the age of consent for a married girl versus an unmarried girl.

The Justice J. S. Verma Committee, in its report in 2013, proposed to lower the age of consent in POCSO, from 18 to 16 years, in line with section 375 of IPC. The committee argued that, UNCRC aimed to protect children from sexual abuse and exploitation, and not to criminalise the normal adolescent behaviour (283<sup>RD</sup> LCR, 2023). However, these proposals were ignored and age of consent was increased to 18 years in IPC.

The 283<sup>rd</sup> law commission report of 2023, acknowledged the stakeholder's concern and judicial discomfort with criminalizing consensual teenage relationships, still it recommended retaining the 18-year age of consent. Three possible solutions were before the law commission, first, being the lowering of age of consent from 18 years to 16 years, second being the inclusion of an exception clause in provision of POCSO, thereby decriminalizing cases involving romantic relationship among adolescents and last being that some judicial discretion should be given to courts while dealing with cases of such nature (283<sup>rd</sup> LCR, 2023). The commission found the third solution, most appropriate for the current scenario. The commission recommended inclusions of subsection in sections 4 and 8 of the POCSO Act, to make it more compliant while dealing with cases of such nature (283<sup>rd</sup> LCR, 2023). The commission considered it necessary that the POCSO Act needed amendments to address cases involving 16-18-year-olds where there is practical agreement but no legal consent. The report recommended that consensual sexual activities in this age group should not be treated with the same harshness as typical POCSO cases.

More recently, the new Bhartiya Nyaya Sanhita has retained the marital rape exception under section 63, while continuing to treat sexual activity differently based on the marital status rather than consent or the harm caused (The Bharatiya Nyaya Sanhita, 2023). It shows that despite claims of “decolonizing” the criminal law, the Bharatiya Nyaya Sanhita has failed to decolonise India's rape laws. This legislative trajectory is a pattern where lawmakers acknowledge the problems of over-criminalization but lack the political will to implement meaningful reform. This results in a legal system, that criminalizes normal adolescent development and maintains archaic exceptions based on marital status.

### **Judiciary's Take on Consensual Romantic Relationships Involving Adolescents**

The judicial interpretation of India's POCSO Act has created a problematic “grey area” regarding consent involving minors and it has resulted in inconsistent legal outcomes undermine the law's coherent application. The judiciary has applied two fundamentally different approaches, while interpreting consent under POCSO. The first approach is formalistic and rigid and based on strict reading of provisions, wherein the courts apply the fixed age rule without considering individual circumstances, capacity or voluntariness (Parwani, 2023). Courts following this approach automatically criminalize sexual activity

involving minors regardless of apparent consent, recognizing POCSO as overriding legislation that supersedes even personal laws that permit marriages between minors. This approach assumes that minor under 18 categorically lack the mental capacity to understand the consequences of sexual acts (Parwani, 2023). The landmark case of *Independent Thought vs Union of India*, which primarily dealt with marital rape, the court dealt with the case of whether sexual intercourse, with a 15- 18-year-old married girl should be criminalised or not. The court held that *children's minds are not fully developed to fully comprehend the consequences of such actions*, and therefore it would amount to violation under POCSO Act (*Independent Thought vs UOI*).

In contrast the second judicial approach is more circumstantial and context based, with courts attempting to recognize minor's capacity for meaningful consent within certain situations (Parwani, 2023). These courts consider factors such as voluntary relationships, particularly those leading to marriage, and acknowledge "biosocial dynamics" in young-adult relationships. They show reluctance to criminalize acts that lack "overriding public interest" concerns or are deemed "purely individual in nature." In the case of *R Parthiben vs State*, this approach was taken, where a court declined to apply POCSO provisions to a consensual relationship between a 24-year-old man and 17-year-old woman who later got married, noting the absence of coercion and recognised the voluntary nature of relationship. Again, the Calcutta High Court in *Ranjit Rajbanshi vs State of West Bengal*, questioned the arbitrary nature of age -based consent, and raised the critical question, of how consent is irrelevant, when the girl is 17 years and 364 days, but on 17 years and 365 days, she is capable of giving consent.

Further, Karnataka High Court's decision in *State of Karnataka vs Basavraj s/o Yellapa Madar*, shows the judicial discomfort with POCSO's inability to distinguish between exploitation and normal adolescent behaviour. The court observed that, many cases involve teenagers, who are closely related to each other or are very well known to each other (being classmates), who engage in sexual activity, without knowing the applicability of the POCSO Act. The court noted that, while lack of knowledge of law is no excuse, can minors be presumed to have knowledge of the applicable law, when such relations only stem from natural adolescent behaviour rather than predatory intent.

In *State vs Suman Dass*, the judge took a controversial approach by interpreting "penetrative sexual assault" through the lens of the Indian Penal

Code's definition of assault, focusing on the element of force rather than consent. The court acquitted the accused, reasoning that "if they are happy about it, why put obstacles on their path... the girl child knew what she was doing" and finding that the physical relationship was not "in the nature of assault or consequent to use of any criminal force." The judge argued that POCSO aims to prevent acts that harm mental and physical health, freedom, and dignity, but rejected the interpretation that it criminalizes all adolescent sexual activity. The court held that "law cannot and should not prohibit teens from experimentation of such nature," arguing that criminalizing such conduct would essentially make "the human body of every individual under 18 years of age the property of State" and deny minors "the pleasures associated with one's body." The Delhi High Court subsequently upheld this judgment, effectively legitimizing a framework that prioritizes individual autonomy over POCSO's age-based protections.

The Bombay High Court's ruling in *Ashik Ramjan Ansari vs State of Maharashtra* is a significant development from the rigid age-based consent laws under India's POCSO Act. In this case, a 25-year-old man was convicted for engaging in romantic relationship with a 17-year-old girl who was merely 5 months away from turning 18. The court acquitted the appellant and noted that the evidence in present case is sufficient to show that, there was consensual sexual relationship between the accused and the victim. The court made a distinction between chronological age and actual capacity to consent and noted that the girl child had clear understanding of consequences of her actions, and not once did she try to run away from the company of accused during their elopement period. Even she had already addressed two letters to the police station to make it clear that the nature of their relationship was consensual and there was no force or inducement of any kind. Her unshakable stand on the consensual nature of their relationship was proved again and again at every stage of this case. The court observed that criminalizing such relationships due to victim's minority status without taking into consideration the voluntary nature of such relationship would result in young man carrying "a severe dent, which he'll have to carry lifelong."

This judicial difficulty with capacity assessment is not unique to contemporary India. Historical analysis of British age of consent cases from 1918-1950 reveals that how courts struggled with objective capacity determinations, often applying gender and class biases that assumed working-

class girls possessed sexual maturity while denying boys any capacity for consent in homosexual encounters (Lammasniemi, 2024). This historical pattern is an example of how protective legal frameworks frequently serve social control rather than genuine welfare, a tendency that persists in POCSO's inconsistent judicial application today.

The Supreme Court's decision in *In Re: Right to Privacy of Adolescents* shows the judicial contradictions present in POCSO's application. The case involved a consensual relationship that resulted in marriage and childbirth, where the victim clearly stated that relationship was consensual and she had married "out of her own volition." The Calcutta High Court reversed the trial court's conviction for rape and kidnapping under the POCSO Act, with a rigorous imprisonment of 20 years. The High Court made problematic comments that consensual sex among adolescent's was due to "peer pressure, influence by social media, free availability of porn materials and free mixing with friends of opposite sex" and imposed a "duty/obligation for every female adolescent" to protect their dignity, integrity and "control" their sexual urges. This is an example of how POCSO becomes a tool for moral policing rather than child protection.

The Supreme Court took suo moto cognizance of the case, described these comments as "objectionable" and restored the conviction, clarifying that "consent is not an exception to rape under the POCSO Act." However, it simultaneously used Article 142 powers to exempt the convict from mandatory 20-year imprisonment.

The Court's expert committee's finding that, "it was not the legal crime, but the subsequent legal battle that traumatised the victim." The report mentioned that, the victim had spent over 2 lac rupees in defending her husband, she had fallen into debt, suffered more from the criminal justice process than from the original incident, which she never perceived as victimization. In this particular case, the society, the family of the victim and the legal system failed her. The court observed that, the victim could not make an informed choice due to shortcomings of our society, our legal system and her family, at the age of 14, and further imprisoning her husband would now cause her greater harm than protection. However, court went on to say that, this decision should not be treated as a precedent, and rather it is an illustration of the complete failure of our society and our legal system, and to prevent further revictimization of the victim, the accused was spared from the 20-year imprisonment.

Consent to sexual intercourse is seen as the most fundamental element of personal autonomy (Pandey, 2022). However, under POCSO act, all sexual activity involving minors is penalized. From the above discussion of various judicial decisions dealing with consensual romantic relationship involving minors, it is clear that, there is no uniform rule, that is applied in such cases, and thereby this over criminalization process results in further revictimization of the victim as well as accused.

### **Impact of Criminalization on Adolescent's Rights**

The POCSO Act in India, while intended to safeguard children from sexual exploitation, has resulted in many unintended consequences that undermine the fundamental rights of adolescents and burden the justice system. The Act's blanket criminalization of all sexual activity involving person under 18 years, regardless of consent or context, conflicts with established understanding of adolescent development and creates a troubling disconnect between legal framework and biological reality.

India has a dubious distinction of two criminal law statutes, which speak different languages for same set of stakeholders, i.e., children. On the one hand is the POCSO Act, which assumes a child as asexual. On the other hand, is the Juvenile Justice (Care and Protection of Children), Act, 2015, under which, a child, may be tried as an adult for a heinous crime of rape (The Juvenile Justice (Care & Protection of Children) Act, 2015 § 15 & 18(3)). While one assumes complete agency of the child and may require him to be tried as an adult, the other statute completely negates his/her agency and refuses to recognise consent.

This approach violates adolescent dignity and privacy rights. Sexual behaviour among adolescent, particularly from onset of puberty, is widely recognized by developmental psychologists as natural, normative and integral to the transition into adulthood. However, POCSO's approach equates consensual, age-appropriate relationships with serious crimes like rape and penetrative sexual assault, criminalizing normal developmental behaviour. The Kerala High Court in *Anoop vs State of Kerala* observed that the statute fails to distinguish between "conservative concepts of rape and sexual interactions arising out of pure affection and biological changes," and criticized the law for not contemplating "the biological inquisitiveness of adolescence."

In a landmark decision in *Teddy Bear Clinic for Abused Children vs Minister of Justice and Constitutional Development*, the constitutional court of South Africa, held that, criminalizing consensual sexual activity between adolescents, violates their dignity even if such laws are rarely enforced. The court observed that, when society fails to respect consensual sexual choices and rather criminalizes such acts, it inevitably diminishes young people's innate sense of self worth and subjects a state of disgrace on adolescents, only because of their normal developmental behaviour. In Indian context, POCSO Act, by criminalizing all sexual activity between adolescents, regardless of consent of circumstances, negates the right of adolescents to make personal choices, it renders adolescent girls voiceless and it has become rather a tool for harassment in hands of parents and society, who disapprove of such normal adolescent behaviour. The children who engage in such consensual act, face harassment and mental trauma, only because they fell in love. POCSO act, by criminalizing all sexual interaction below 18 years, fails to distinguish between sexual exploitation and abuse of children and normal adolescent behaviour.

The Act's implementation has led to widespread deprivation of liberty, particularly affecting young males who find themselves charged with non-bailable offenses for consensual relationships. Statistical analysis reveals that in 15.2% of romantic cases, accused individuals remain in judicial custody throughout the trial period, with some spending extensive periods incarcerated before trial. The case of *Rama @ Bande Rama vs State* is an example of this injustice, where a 20-year-old spent 18 months in judicial custody for a consensual relationship, leading the Karnataka High Court to observe that the criminal process itself inflicted pain and that "the sword of crime would have torn the soul of the accused." The 2019 amendments have worsened this situation by increasing minimum sentences to 20 years for cases involving repeated consensual sex or resulting pregnancy, creating disproportionately harsh penalties for what is fundamentally normal human behaviour.

The implementation of POCSO, in cases involving two minors, creates a legal dilemma, especially in its interaction with the best interest principle (CRC, 1989, Art. 3). This principle states that, in all actions concerning children, best interest of child shall be a primary consideration. However, the implementation of POCSO Act, in consensual romantic relationship between two minors, leads to problematic gender bias. In cases involving romantic relationship between

two minors, POCSO's default stance is, to categorize the male as accused and the female as victim. It completely fails to take account of cases, wherein, there is a possibility of mutual consent, or, in some cases, there may be female initiation, or coercion. Such a rigid approach, not only promotes harmful gender stereotypes, but also criminalizes the very individuals the law aims to protect. Adolescent girls are cast as "victims" without agency, denying their autonomy to make relationship choices or express their sexuality. When these girls refuse to return to their families and insist on staying with their partners, they are institutionalized in Children's Homes, often remaining there even after reaching the age of majority due to administrative confusion between court and Child Welfare Committee jurisdictions. Meanwhile, adolescent boys face discriminatory treatment as "children in conflict with the law" and may even be tried as adults, creating a system that victimizes both parties while claiming to protect them. Perhaps most concerning is how the Act has become a tool for enforcing social control rather than protecting children from genuine abuse.

Statistical analysis show that 80.2% of romantic cases in POCSO are filed by parents or relative of the girl child, after finding out about, elopement or her pregnancy. This pattern shows that POCSO has become a tool to enforce patriarchal control over adolescent sexuality, to target inter caste and inter faith relationships (CCL-NLSIU, 2017).

The criminalization approach undermines the best interest principle and evolving autonomy concepts that should guide adolescent policy. Rather than striking a balance between protection and recognition of developing capacity, POCSO lumps all persons under 18 together without consideration for their sexual development or individual circumstances.

One of the most damaging consequences of this criminalization is its severe impact on adolescents' access to sexual and reproductive health services. Despite policy initiatives like the Rashtriya Kishor Swasthya Karyakram (hereinafter referred as RKSK) that aim to provide confidential, barrier-free health services to adolescents, POCSO's mandatory reporting requirements (POCSO, 2012, § 19) create insurmountable obstacles. Healthcare providers become reluctant to serve adolescents due to fear of triggering criminal proceedings, with WHO reviews revealing that service providers are "inclined to deny SRH services to young people in some states." This creates a hostile environment where

adolescents cannot access essential health services, contraception, or safe abortion services, inadvertently pushing them toward unsafe alternatives. Evidence shows that abortion-related death rates are highest among 15-19-year-olds in India, partly due to these access barriers that force young women toward dangerous procedures.

This healthcare crisis directly conflicts with India's Adolescent Reproductive and Sexual Health (ARSH) program, launched in 2005 under WHO guidelines to provide reproductive health services to adolescents. The ARSH policy was built on confidentiality, creating safe spaces where adolescents could access healthcare without fear of legal consequences. However, POCSO's mandatory reporting provisions have changed healthcare providers from confidential counsellors into potential initiators of criminal cases.

The Supreme Court has attempted to address some of these healthcare access issues in *X vs Principal Secretary, Health & Family Welfare Department*, gave guidelines to ensure that unmarried and single women, including adolescents, are not deprived of access to safe abortions. The court exempted the *Registered Medical Practitioner from disclosing identity of the victim, who has approached the medical practitioner for termination of pregnancy, at the request of minor and her guardian*. However, this limited exception does not address the systemic barriers, and cases where adolescents wish to continue pregnancies will still trigger mandatory reporting, perpetuating the fundamental conflict between health access and criminalization.

The Prohibition of Child Marriage Act, as noble as it seems in its goal, is a weak law. It does not automatically declare a child marriage void but only voidable (PCMA, 2006, § 3) and while there are penal provisions against solemnising such marriages, the law is silent on the issue of sexual relations with a minor spouse. The POCSO Act, on the other hand, criminalises all sexual activity among adolescents. Now this becomes a paradoxical situation, where a practice not automatically void under one law, leads to criminal liability under another.

The broader impact on India's justice system has been substantial, with courts overwhelmed by cases that involve consensual relationships rather than genuine child abuse. This misallocation of judicial resources diverts attention and funding from cases involving actual predatory behaviour and child exploitation. The administrative confusion between different legal systems -

criminal courts, Child Welfare Committees, and family courts - has created prolonged detention periods and unclear jurisdictional boundaries that further harm the young people the system claims to protect.

### **Convention on The Rights of The Child and Adolescent Rights**

The Convention on the Rights of Child, 1989 (hereinafter refereed as CRC), recognizes principles about evolving decision-making capacity of children. It requires countries to recognize that parents, family members and guardians have the responsibility to guide and direct children, but this guidance must adapt to the child's evolving capacity (CRC, 1989, art. 5). CRC was the first legal document that for the first time talked about participation rights of children. It requires states to ensure that children who can form opinions have the right to express their views in matters directly affecting them and their views must be given weightage according to child's age and maturity level (CRC, 1989, art. 12). Together, these articles create a system that recognize child's agency and decision-making abilities as they mature.

The United Nations Committee on the rights of child, in 2014, in its concluding observation to India, welcomed India's adoption of POCSO in 2012, as strengthening protection against sexual exploitation and abuse of children (UN Committee on Rights of Child, 2014). The committee expressed its concern over inadequate protection of boys and intersex children, from sexual abuse and exploitation (UN Committee on Rights of Child, 2014). It called for a need for a prevention strategy that, incorporate key actions, to address protection of all children. More importantly, it stressed on the fact that child protection measures must ensure that adolescents have access to confidential medical counselling without parental consent, regardless of their age.

The United Nations Committee on Rights of Child, in its general comment no. 20, urged the states to maintain a balance between children from sexual abuse and exploitation, and respect for their evolving capacity (Committee on the Rights of Child, 2016). It recommended that, states should avoid criminalizing "factually consensual and non-exploitative sexual activity" between adolescents of similar ages. The Comment take into consideration, that adolescents occupy a special position and thus require distinct consideration, so approaches for realizing adolescents' rights differ from those for younger children. It characterizes adolescence as inherently a positive developmental stage during

which States must introduce measures to help adolescents explore their evolving sexualities in healthy, supported ways. The Comment requires States to introduce legislation to recognize adolescents' right to take responsibility for decisions affecting their lives, ensuring that age limits for various rights remain consistent with protection requirements, best interest principles, and respect for evolving capacities, particularly regarding healthcare decisions.

Further, in 2019's General Comment No. 24, the CRC recommended removing status offenses that criminalize consensual sexual acts between adolescents, and stressed on the need for age-appropriate policies that protect rights while acknowledging adolescents' evolving capacities (Committee on the Rights of Child, 2019).

Regarding age of consent specifically, the General Comments establish that States must balance protection with evolving capacities and should avoid criminalizing adolescents of similar ages for consensual, non-exploitative sexual acts. General Comment 4, states that adolescents need special protections for their evolving capacities and they can progressively exercise their rights (Committee on the Rights of Child, 2003, Art. 5). It further states that while determining minimum age of sexual consent for adolescents, they should be recognised as right holders keeping in mind their evolving capacity, age and maturity (Committee on the Rights of Child, 2003, Art. 5 & 12-17). General Comment 13, gave clear definition, that sexual abuse means activities imposed by adults on children or by significantly older children using power, threats or pressure, distinguishing this from consensual peer sexual activity (Committee on the Rights of Child, 2011). Consequently, criminalizing all adolescent sexual activity before age 18, as occurs under the POCSO Act, directly contravenes India's obligation to the Convention, and it fails to recognize these important distinctions between abuse and normal adolescent development.

The framework established by the CRC and its General Comments is an example that the POCSO Act's blanket criminalization approach and mandatory reporting requirements fundamentally conflict with international children's rights standards. These standards recognize adolescents as developing autonomous individuals whose evolving capacities must be respected, particularly in healthcare contexts where confidentiality is essential for ensuring access to necessary services.

## **Conclusion and Way Forward**

Love is the most fundamental human experience and even children should not be deprived of the kind of love that is pure, genuine and most importantly CONSENSUAL. India's consent law, despite being enacted with the noble intention of protecting children from sexual assault, has created significant unintended consequences for minors engaged in consensual sexual relationships. The main problem is more than merely criminalizing consensual sexual between adolescent; it includes rigid mandatory sentencing that strips judges of their ability to consider mitigating circumstances during the sentencing process. The law has become a convenient weapon for conservative elements within society who seek to restrict youth sexual autonomy under the guise of protecting traditional social and cultural values. More troubling is how these consistent provisions have been applied without consideration for the unique socio-cultural context.

The blanket criminalization of all sexual interactions involving a child, though in intention, was to safeguard children, but in reality, is denying the children the right to liberty and dignity, by criminalizing normal adolescent behaviour of sexual experimentation and curiosity. POCSO was enacted to safeguard and protect children from sexual exploitation and abuse, but criminalization of normal adolescent behaviour has led to a negative impact on physical and mental health of children as well as it has increased burden upon judiciary. Simply lowering the age of consent would not address the core issue of judicial inflexibility in sentencing decisions. This limitation is evident in many judgements wherein judges find themselves constrained while prosecuting individuals under these provisions. While other countries have implemented flexible approaches that consider factors such as authority dynamic and age proximity, this system may prove challenging to implement effectively in a nation as large and culturally diverse as India.

The automatic decriminalisation of consensual sexual acts by person above 16 years will reduce the POCSO Act to only a 'paper law'. We can not ignore the direct and negative effect; it will have on fight against child marriage and child trafficking. At present, there cannot and should not be automatic decriminalisation of sexual activity between 16-18-year-olds. The most urgent

reform that is needed is, amending POCSO to eliminate mandatory minimum sentencing for cases involving consensual relationships between adolescents and limited judicial discretion can be given to judges while dealing with cases of such nature. However, it has to be kept in mind that such discretion should be “guided judicial discretion” so as to prevent any potential misuse, whatsoever. It is a very genuine problem that such judicial discretion can be exercised arbitrarily and based on gender stereotypes (*Aparna Bhatt & Ors. vs State of M.P. & Anr.*). Therefore, it is essential to keep in mind that if discretionary power is to be exercised by special court in determining consent, then it should be limited and guided.

Simultaneously, mandatory reporting requirements under Section 19 must be refined to focus on cases involving clear exploitation, rather than all adolescent sexual activity. Healthcare providers should be granted professional discretion to maintain confidentiality when treating adolescents in consensual relationships, particularly for reproductive health services. This requires creating explicit exceptions for cases where healthcare professionals determine that reporting would cause more harm than protection, aligned with international standards emphasizing confidential adolescent healthcare access. Along with this, children should also be provided with sex education, that can give them an opportunity to give informed consent, because there is a difference between act of consent and competence to consent. Before consenting to such sexual relationships, children should have knowledge about consequences of such acts.

It should be kept in mind that adolescent love cannot be controlled and should not be controlled. To make an offence the ‘criminal intent’ should be there, however in consensual romantic relationships among children, usually such intent is not present and POCSO still criminalises such acts. The ultimate objective is to create a framework that protects children from exploitation while also recognizing adolescent developmental capacity. This requires moving beyond the false dichotomy between rigid criminalization and unprotected vulnerability toward nuanced approaches that serve genuine protection. Without such reforms, POCSO will continue haunting the normal development behaviour of a child, while failing to address actual child abuse, and thereby will undermine both adolescent rights and effective child protection.

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# CHILDREN IN CONFLICT WITH LAW AND SCOPE OF SOCIAL WORK INTERVENTIONS AT OBSERVATION HOMES: CHANNELISING ENERGY FOR A BETTER FUTURE

*Dr. Shashi Rani Dev<sup>1</sup> & Dr. Shubham Kumar<sup>2</sup>*

## **Abstract**

*Children are the future of nation-building, provided they get customized care and a holistic environment for their overall development. In childhood and adolescence, they are considered the most vulnerable and can be easily molded in any direction due to their tender age and malleable minds. Due to this vulnerability of children, regardless of their socio-economic background, they are more prone to getting into difficult circumstances. Further, it may be possible that without any proper guidance, mentorship, guardianship, and parenting, they end up in conflict with the law. In such a situation, CICL are to be treated in accordance with the established laws and policies of the land. In India, the terms 'juvenile' and 'Child in Conflict with Law' (CICL) are two different terminologies referring to the same concept, as stated in the Juvenile Justice (Care and Protection) Act, 2015. In modern times, the term "Juvenile" has been replaced with the term 'Child in Conflict with Law'. In view of this, the question arises whether the purpose of establishing observation homes for the CICLs for their reformation, restoration and reintegration as per the principles of the JJ Act is being served or not? The JJ Act guided the institutions to not only provide care and protection to the children but also to secure the rights of CICLs in difficult circumstances. The mandate is to provide a child-friendly environment through observation homes and the Juvenile Justice Board. The JJ Act aims at the legislative framework to ensure the best interests of the child are served. It is being done through psycho-social and legal care, security and rehabilitation under the arrangements of observation homes. In this context, the researcher aimed to look at systemic legal, social, and psychological arrangements under the provisions of the JJ Act. Also, the focus of the paper is on the process of reformation, restoration and reintegration of the CICL and the challenges of observation homes while providing care and protection to such children. The paper is based on empirical data and uses qualitative methodology to conduct the academic enquiry into the issue. The findings suggest that the professionals and stakeholders who are working with CICL in the observation homes understand the ground realities in a better manner. The need of the hour is to have the proper coordination and collaboration among all possible stakeholders under the purview of the JJ Act, so that the best interests of the child can be served.*

**Keywords:** children in conflict with law, observation homes, Juvenile Justice Act, reformation, restoration, reintegration

<sup>1</sup>Associate Professor, Department of Social Work, University of Delhi. Email: [shashi.social-work@gmail.com](mailto:shashi.social-work@gmail.com)

<sup>2</sup>Assistant Professor, Ambedkar University, Delhi. Email: [shubhamdssw@gmail.com](mailto:shubhamdssw@gmail.com)

## **Introduction**

Children are the most valuable asset for any country (Kennedy, 1963), and they are the best hope for a nation's future development. They are like buds in a garden which should be carefully nurtured (Nehru, 1958). When these statements were made by the two renowned world leaders of America and India, that was the time the world started recognizing the importance of children for their nations' development and future. Before this, the domain of child rights was a neglected area worldwide, but 1924 was the year when the Geneva Declaration of Child Rights came into existence and was recognized by most countries. Later, the United Nations Declaration of the Rights of the Child (UNDRC, 1959) expanded upon the Geneva Declaration (1924) and recognized the rights of children to protection, education, health, food and shelter. The Constitution of India also acknowledges the investment in the best interest of the child and therefore the fundamental rights of the children are secured and the state is also guided to frame child-friendly and appropriate policies, programmes and laws to secure their future. Following a sequence of these declarations, 20th November 1989 marked the time when India officially ratified the United Nations Convention on the Rights of the Child, thereby upholding the rights of children in four categories: survival, protection, development, and participation. These major declarations by different agencies shaped much-needed laws in India by formulating various legislations for children over time, for children who are in need of care and protection, and for children who are in conflict with the law. This not only gives a vision to the stakeholders to provide an accurate and important child-friendly environment for the overall development of the children, but also gives directions to the Government of India to implement the act like the Prevention of Children from Sexual Offences (POCSO) Act, 2012 and the Juvenile Justice (Care and Protection) Act, 2015.

The children who are sexually abused can be protected with the help of the POCSO Act 2012, but if the children commit any crime, they will be treated under the existing legal system. They are kept in observation homes until the legal formalities are completed. Once the Juvenile Justice Board furnishes the inquiry, the decision to place the children is made by the board for further legal procedure. The term observation home under the Child Care Institutions (CCIs) refers to a place where a child in conflict with the law is placed for a particular period until the completion of an inquiry against them. Therefore, to

protect children from external threats and prevent them through a regular trial process, the JJ Act 2015 protect and reforms the CICL through observation homes (Tiwari et al., 2019). The process ensures a fair chance to the CICL, gets rehabilitative services from child rights professionals and restores them to society as responsible citizens.

### **Historical Background of the Need and Relevance of the Observation Homes**

The origin of observation homes can be found back in the 1920s at Borstal School. Borstal Schools were not part of the JJ Act, but they were set up under a separate legislation, which was known as the Borstal Schools Act 1925, influenced by the British model. The first dedicated school was established in Punjab in 1926 to separate young offenders aged 16 to 21 from adult criminals and reform them through education and training. In some cases, the age may be considered from 15 to 25. Gradually, other states such as Tamil Nadu (1926), Madhya Pradesh, Bengal (1928), Mumbai (1929), Kerala, Karnataka (1934), and Uttar Pradesh (1938) enacted their own Borstal School Acts, and by 1991, these schools had already been established in nine states (Tiwari et al., 2019).

Mukundan (2023) writes that the primary aim of these schools was to provide structural reformation and rehabilitation to the young offenders who were convicted of criminal offences. The goal of the Borstal school was to promote the comprehensive rehabilitation of young offenders through education and vocational training, and enable them to become productive members of society. This was a period when the focus of these schools shifted towards reform rather than solely punishing young offenders.

Followed by this, the Children Act, 1960, came into existence, which emphasises the care, protection, maintenance, rehabilitation, welfare, training and education of the neglected children and for delinquent children who face trial in the Union Territories. At this point, the present Child Welfare Committees (CWC) were known as Child Welfare Boards, and Juvenile Justice Boards (JJB) as Children's Court. The concept of Children's Homes, Observation Homes, Special Homes and After Care Organisations was clearly mentioned in the Act and also exists in the present legislation of CICL and CNCP.

Then, the first ever Juvenile Justice Act, 1986, came with a comprehensive perspective which provides a uniform system for the care, protection, treatment, development and rehabilitation of juveniles throughout the country. This specific

Act was exactly a copy of the 1960s Children Act, with minor changes, which replaced various state-level laws and practices and provided uniformity at the national level. This particular Act first talked about child-friendly approaches and kept the children away from the punitive model of the criminal justice system (Chaturvedi, 2022).

Later, this Act was further replaced as the Juvenile Justice (Care and Protection) Act, 2000, and this time, the major focus was on the rehabilitation and social integration of juveniles and children in need of care and protection. The base of this Act was influenced and aligned with the UNCRC (1989), which India ratified in 1992. The major areas highlighted in this Act were a child-friendly approach, rehabilitation and social integration, differentiation between CICL and CnCP, establishing child care institutions like observation homes, special homes, CWCs, and creating a mechanism for adoption of children who are orphaned, abandoned or surrendered. The concept of observation home was defined for the first time in this Act to provide temporary or short-term shelter to juveniles while their legal inquiries are pending.

In 2015, this Act was further amended and came with a clear definition of child, child in conflict with law, child in need of care and protection and observation homes. The Amended JJ Act further classifies the offences into three categories, i.e. petty, serious and heinous and for the first time, the Act allows children between the ages of 16-18 to be treated as adults who committed heinous crimes under certain circumstances. This time, the concept of observation home was redefined in Section 47 of the Act. The focus of the 2015 JJ Act is primarily on the rehabilitation and social integration of CICL, even when they are treated as adults. The highlight of this JJ Act is adopting a child-friendly approach and the best interest of the child in all the legal proceedings that ensure the child's overall well-being and minimise trauma.

The last amendment to the JJ Act was made in 2021. The present amendment streamlines the provisions related to adoption, addresses issues related to abandoned or lost children, empowers the District Magistrate to issue orders related to adoption and categorises certain offences with imprisonment terms between three and seven years as non-cognizable and non-bailable. Another highlight of this JJ Act is the Principle of Diversion, which emphasises using alternative mechanisms to deal with the cases of CICL through counselling, restorative justice programmes and practices and community service. This

principle is already there in the 2015 JJAct, but it has been observed that the child rights practitioners and professionals are now giving more attention to this principle in the 2021 amendment. The prime objective of this principle is to keep the CICLs away from formal criminal proceedings and dispose of the matter in the earliest possible way through alternative measures for their rehabilitation and reintegration.

### **Discourse on the Matter of Institutionalisation of Children**

The data reveal that the present population of children under the age of 18 in India is approximately 480 million, which accounts for around 19% of the total population (Chandrakant 2008). A similar report published by the India Alternative Care Network (2022) highlighted that nearly 40% of the children (172 million) in India are vulnerable and experiencing difficult circumstances. The UNICEF Report (2016) also stated that the global population of orphans is 29 million. In India, the Ministry of Women and Child Development (2007) report reveals that there are 7422 children in conflict with the law who are already part of the legal system, and 3,70,277 children fall under the category of children in need of care and protection across shelter homes and child care institutions.

During the Rajya Sabha session on 6th December 2023, the Minister of State in the Ministry of Home Affairs stated that, according to the NCRB annual publication “Prison Statistics India”, the total number of young offenders (undertrial inmates) aged 18 to 21 in India was 4,34,302 as of 31st December 2022. The Minister also pointed out that, according to the Model Prison Manual 2016, inmates involved in any petty offence or minor violation should not be kept in police custody; rather, they should be placed with their family members, guardians, or an approved competent authority. The Manual further ensures that the educational needs of these young inmates/offenders/undertrials must be fulfilled, and prison authorities must collaborate with open schools for developing educational curricula for young offenders. Regarding operational Borstals schools in India, he informed the House that as of 31st December 2022, only 10 schools are operational in 7 states out of 36. These states are Himachal Pradesh, Jharkhand, Kerala, Maharashtra, Punjab, Rajasthan, and 3 in Tamil Nadu.

Our Indian judicial system believes that institutionalisation should be the last resort, but seeing the figure of 4.3 lakh young offenders in trial gives us an alarming picture. This highlights the persistent need for effective observation

homes that go beyond just holding children in custody. These facilities should focus on rehabilitation, education, and emotional well-being by adopting restorative practices and alternative mechanisms. In today's context, child rights and restorative justice are important mechanisms to shift these institutions from being seen as punitive measures to child-friendly environments that respect, support, and nurture the needs of CICL while going through the legal remedies.

The Supreme Court of India, in its judgment *Sampurna Behura v. Union of India*, 2018, strongly emphasised that children should not be institutionalised for a long period in the juvenile justice system, and institutionalisation should be the last resort. During the legal course of actions, social workers are directed to design individual care plans, provide education and skill-building sessions, in-depth mental health assessments, recreation and sports activities to ensure physical health, and monitor living conditions of the space with a grievance mechanism (*Sampurna Behura v. Union of India*, 2018).

### **Importance of Observation Home (OH) and the Modern Discussion**

With the recent changes and amendments in the JJ Acts from 1986 to 2021, it has been clear that observation homes are an integral and essential part of the juvenile justice system in India while addressing the cases of children in conflict with the law. These homes are established by the state government to facilitate them during the pendency of a legal inquiry related to their cases. These observation homes ensure a safe space for CICL, even for a temporary reception, and provide a holistic environment for their development, rehabilitation and social integration when the legal proceedings are going on. A similar definition of Observation Home (OH) is already given in Section 47 of the JJ Act, 2015.

Despite these developments, the legitimate question keeps arising among various criminal justice professionals and child rights practitioners: Is our criminal justice system (CJS) doing enough following the enactment of the JJ Act over the past 29 years?

According to the data shared in the Rajya Sabha, the upper house of the parliament in India, as of March 2021, the country has 305 observation homes with 9157 CICL residents. Maharashtra has the highest number of OHs, i.e., 55, followed by Rajasthan, with 34, and then Uttar Pradesh, with 26. However, when it comes to the number of CICLs as residents, Uttar Pradesh has the highest number, with 2,260 CICLs, followed by Maharashtra, with 1,932, and

Bihar, which has 1,019 CICLs in OHs. Similarly, the number of observation homes has increased from 305 to 316 by March 2022 and from 316 to 332 by March 2023 under the Mission Vatsalya Scheme.

The data reveals that there is a rising shift in the number of OHs from 2021 to 2023, which can be further interpreted in multiple ways. The increase in numbers indicates that the government is showing commitment to strengthening the juvenile justice mechanisms. As directed by the Ministry of Women and Child Development in 2022, the states and UTs must implement the centrally sponsored scheme “Mission Vatsalya” for the welfare and rehabilitation of children in difficult circumstances. It means more OHs help in reducing the overcrowding problem and can improve regional accessibility for the CICLs. This also complies with the UNCRC, as the shift is focusing on rehabilitation over punishment.

On the other hand, there has been a significant rise in the number of CICLs apprehended for violent crimes. In 2016, 32.5% of all CICLs were caught for committing violent offences, a figure that increased to 49.5% by 2022. Among the states, Jharkhand has the highest proportion, with 67% of violent crimes committed by CICLs between 2017 and 2022. This is followed by Tripura, West Bengal, Madhya Pradesh and Chhattisgarh, which collectively account for 60% of violent crimes during the same period (Parthasarathy, 2025). This means half of the CICLs were apprehended for committing violent crimes and signifies an alarming increase in juvenile delinquency. Another aspect of increasing OHs could be the non-implementation of diversion and alternate community-based practices, which are already recommended in the juvenile justice mechanism.

The JJ Act laid down the important powers and functions of JJBs in relation to children in conflict with the law which further includes the provisions of *Services of Rehabilitation and Reintegration* under the sections 53(1) of the act for the children resides in institutional care mechanisms such as standards of food, adequate shelter, appropriate clothing, medical services, skill learning, occupational training, recreational activities including sports & cultural activities, and mental health and counselling services (Tiwari et al., 2019).

The recent reports on observation homes also highlight that there is a dire need to upgrade the child care services, like infrastructure, hygiene, education and health care. In 2018, the National Commission for Protection of Child Rights (NCPCR) recommended that tutorial services must be provided to the CICL in

homes for their mainstream education. NCPCR said that the OHs are not seeing education as a priority; hence, these homes must appoint teachers to help the CICL with their education. Another study conducted by Kadam, Bhume, and Jagtap (2023) in Maharashtra highlights that there was no proper space to play outdoor games, there was no segregation between CICL and other age children, washrooms and bathrooms were in poor hygienic conditions, and the CCTV system was not functional. There was no wheelchair facility for differently able children, and they had free and open access to the common kitchen area. These examples are just the tip of the iceberg and clearly show that the observation homes have failed to provide a safe, secure and adequate environment.

In the case of *Naisul Khatun v. State of Assam (2010)*, the judiciary critically examined the inadequate engagement of social workers in judicial proceedings, which raised significant concerns regarding the integrity of the juvenile justice process. This case highlighted the necessity for active engagement of social workers to uphold the principles of justice and rehabilitation for juveniles, by emphasising the crucial area for reform within the juvenile justice system.

Another important discussion is the *Sampurna Behura vs. Union of India (2018)* that talks about children in conflict with the law and social work interventions in observation homes. This writ petition is an important example of how the state government's non-adherence attitude towards the provisions of the act results in "horrific conditions" for the children under institutional care. These states were Faridkot in Punjab, Darbhanga and Muzaffarpur in Bihar, and Beed in Maharashtra, where lack of basic amenities, poor infrastructure and inadequate living conditions were observed by the Supreme Court of India. To address this problem, the Supreme Court in this petition gave directions to the States that are specifically relevant to social work interventions. These directions summarise the inclusion and functionality of the Juvenile Justice Board and Child Welfare Committees in every district, training and sensitisation of every JJB and CWC staff, including probation officers, police officials under the Special Juvenile Police Unit (SJPU), social workers, and other child care professionals, regular reporting and monitoring of the JJBs and CWCs, registration of child care institutions under the JJ Act, comply with prescribed standard and basic amenities, setup of SJPU in every police station/district with trained social workers, emphasise on Social Investigation Report (SIR) and after care rehabilitation for the reintegration, reformation and restoration of the child once the legal course of action is over.

In modern times, the discussion has already shifted to Mission Vatsalya and diversion programmes to deal with all sorts of challenges under one umbrella. Mission Vatsalya is a flagship programme of MWCD launched in 2021-22 across India with an objective to support child care and infrastructure with a motto to ‘*leave no child behind*’. The objectives of the programme are also aligned with the Sustainable Development Goals (SDGs). This programme is formerly known as the Integrated Child Protection Scheme (ICPS). The prime focus of this programme is to promote institutional and non-institutional care, advocacy and funds to implement the JJ Act for the establishment and maintenance of observation homes, children’s homes, special homes and aftercare programmes under one roof (PIB, 2023). The programme further ensures that child care institutions should not only focus on facilities but also promote rehabilitation, skill building, counselling and reintegration through diversion programmes like family-based care in the best interest of the child.

With this background, the present study provides insights into the functioning of observation homes and the expected social outcome to ensure the best interests of the child. Based on the field experience of working with CICL and CCIs, the study came up with some crucial findings which required serious attention.

### **Working with CICLs and Scope of Social Work Interventions: Insights and Reflections from the Field**

The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules, 1985), Rule No. 19, emphasises restricting the institutionalisation of CICL. Further, it is also suggesting that institutionalisation “*facilities should be of a correctional or educational rather than of a prison type*”. The General Principles of the Administration of Juvenile Justice, i.e., The Beijing Rules, 1985 under its general principles to adopt fundamental perspectives laid down the strong action points for the well-being of CICL, these rules clearly directing the administrative agencies for, “*Sufficient attention shall be given to positive measures that involve the full mobilization of all possible resources, including the family, volunteers and other community groups, as well as schools and other community institutions, for the purpose of promoting the well-being of the juvenile, with a view to reducing the need for intervention under the law, and of effectively, fairly and humanely dealing with the juvenile in conflict with the law*”.

The JJ Act also adheres to these UN Standards for the Administration of Juvenile Justice for the least use of institutionalisation for children in conflict with the law. Further, these rules advocate for social reintegration with the follow-up of due processes of reformation and restoration. In this context, the children of the CCIs, for their growth and development, are placed in closed supervision at the observation home. The expectations during their stay in the OH are to create a positive and child-friendly environment, keeping in view their timely reformation, restoration and reintegration. The OHs are supposed to engage children in different development activities and tasks for their rehabilitation and reformation. Also, different stakeholders such as counsellors, welfare officers, social workers and other staff of OHs need to work in coordination with each other. To serve this purpose, the regular motivational, developmental, and recreational sessions are being organized at OHs under the direction and supervision of JJBs. The authors are regularly invited based on their expertise to get engaged with the children for their psycho-social development and reformation through the official order of JJB. The names and personal details of the institutions and CICL are being kept confidential by following ethical considerations. The regular interaction and exclusive workshop was organized based on the need of the CICL to channelize the energy of CICL through reflective and insightful engagements. The learning out of this workshop are crucial to share and disseminate for the purpose of larger academic discourse on the subject of reformation, restoration and reintegration.

### **Methodology**

The study is qualitative in nature, and purposive sampling is used in order to maintain the focus of the workshop. The OHs are regularly conducting sessions and workshops for the growth and development of the children of CCIs. As mentioned above, the Supreme Court of India also gave directions to the States to promote social work interventions. In this context, the authors of the paper are regularly engaged in training programmes for skill and capacity building of the CICL and children of different CCIs. This present site of intervention, OH, is allocated under the author for social work practice and supervision under the component of field work in post graduate social work education. The social work field action practices are a crucial aspect of social work education and practice. Under this arrangement, the qualitative research method with a major focus on the field action practice is used for the study. The present paper is based on the social work field intervention method employed by the authors. The

authors are engaged in social work practice in an official capacity; therefore, they utilised the opportunity to design and plan for an exclusive workshop with consultations and the approval of JJB. The workshop was organised with the assistance of the selected OH staff. The planned workshop is based on field observation, research and the needs of the institutions JJB, CCIs and OHs. The qualitative research and field action project in social work education and practice is important in the context of responding to the field realities, complex social structures, in promoting and protecting individual, group and community rights, enhancing the well-being of vulnerable groups and communities through a participatory approach (Devadass, 2020)

### **The Aim and Objectives of the Fieldwork Research, Intervention and Workshop**

The aim of the intervention was to understand psychosocial issues and challenges faced by children (CICL) and enhance their skills and capacity to deal with these challenges. The major focus of the workshop was to bring positive insights, reflections and to enhance the overall well-being of the children during their stay at OH with a sense of responsibility towards themselves, their family, society, nation or the world out there. The legal case assessment of each and every participant was done before the workshop. Based on the data provided by the OH's staff, the workshop was designed to address the immediate need for intervention. To meet this purpose, the objectives of the workshop were -

- To bring purposeful reflections and insights on the act committed by CICL.
- To explore the capability of CICL to express their emotions in a healthy manner.
- To understand their perception about the importance of the family and the relations with family members.
- To learn CICL understanding of restoration and reintegration in society and the sense of responsible behaviour towards themselves, family and society at large.

### **Sampling**

The purposive sampling method was used to identify and select the participants (children of OH). The observation home was selected on the recommendation of the JJB. The participants were from the CICL category. The CICL, especially

from a heinous crime category and a few cases of other serious offences on the recommendations of OH were selected for this field action practice/intervention and workshop. The age group of the participants (Boys) ranged from 16 to 21 years. The total number of participants was 30; these participants were divided into 6 groups, and each group comprised 5 participants. This has been done to provide them a safe group environment to share and discuss reflective insights.

### **Sources of Data Collection**

The data is based on both primary and secondary sources. The primary data was collected with the use of a structured interview schedule with open-ended questions. The interview and focus group discussion were carried out by the social workers team. To maintain the confidentiality of the participants, no personal details were asked from any of the participants. The information given/shared by the participants was written by them on a writing sheet where they could freely express their desires and inhibitions about their conduct. While conducting this activity, no personal information was shared with other participants. While holding this reflective workshop at observation home, the authors ensured that each group had one counsellor or a social worker present during the sharing and reflections of participants. This is done to support the children (CICL) to have purposeful sharing and to facilitate the process of genuine expression of emotion and thoughts. The secondary data was collected through OHs records, legal files and progress reports of the welfare officers. National and international data sources, research studies and policy papers are reviewed to generate understanding about Children in Conflict with Law, Observation Homes, Juvenile Justice Act, Reformation, Restoration, and Reintegration.

### **The Process of Data Collection and Analysis**

The data was collected systematically with the use of quality time within the permitted time frame provided by OH. The first round of meetings with the participants was done in advance to get clarity on the issues to be addressed. The regular visits of OH with the team of social work interns were done to establish a good rapport with the participants. Based on the professional relationship, the author conceptualises the idea of a workshop to facilitate the need-based intervention. The authors attempt to create a therapeutic space with the use of values and principles of social work practice. The reflections and insights shared by the researchers in the paper are based on data collected through individual interactions, focus group discussion and participatory activities.

The areas of research inquiry included the age of the children, which may have a direct and indirect linkage with their personality and thoughts. Also, a reflective discussion was held about the mistake or wrongdoing due to which they are in the observation homes. Along with this, the team of social workers also focused on bringing insights from the children on how they can correct the wrongdoing or mistakes. To bring the real insights among the children, the questions related to their liking attachments, etc, were explored along with questions related to knowing whether they are aware or not that how personal likings and attachments can be accepted by society. The importance of the relations in their life was explored to know with whom they feel attached and safe to express their emotions. And to conclude the session, the CICL were asked to reflect on how they can move beyond the current guilt of wrongdoing and illegal acts, which have led them to conflict with the law, and what steps they can take to work positively towards building a better future for themselves and others.

As the purpose of the workshop was to channelise their cognitive ability, critical thinking, and thoughtful action, with the fair assessment of positive outcomes, the children were made to utilise the space provided during the workshop to overcome the negative thoughts by utilising a positive self to make themselves and their loved ones proud to lead a better future. To channelize their emotions in a positive direction after these individual and group level quality interactions, music and theatre activities used to enhance their expression capacity for the display of healthy emotions. This was done to make them learn the skilful use of insights and reflections for their emotional stability.

### **The Insights from the Field and Findings of the Social Work Intervention**

The field-based social work intervention brought relevant findings. The children of the observation home experienced a child-friendly environment for their expressions and sharing. At the same time, the regular visits, training and workshops organised by the social work practitioners provided them a sense of safety, security and acceptance under the observation home. Also, it is noticed that the conversations were genuine, reflective and insightful. The different stakeholders involved during the workshop gave it a purposeful direction towards the reformation of CICL. The major findings are crucial to discuss because they will give direction to the stakeholders for future interventions for proper and meaningful reformation, restoration and reintegration of CICL.

Almost all the participants (CICL) are registered under the offences of murder and sexual assault. Other than that, there were also a few cases of offences like street fighting, pick pocketing with theft and other antisocial activities. Almost all participants shared that they have disrupted relationships with their parents/family. It is also noted that in the majority of cases, the children belong to a lower socio-economic background and the families have difficulties in meeting their daily needs. The parents are mainly involved in casual or daily wage labour work. Also, their educational and literacy level are low. In such a situation, these children are left on their own with regard to their upbringing, guidance, and emotional needs. At the same time, the findings suggest that these children are under strong peer group pressure and influence during their growing years.

The participants shared that they are aware of the fact that they have crossed their limitations and committed an illegal act, for which they are staying in the observation home. It is worth sharing here that, though they are aware of legal complexities, the purpose of stay under OHs, as stated in the JJ Act, is not clear to them. They are having awareness and reflections that they were avoiding parents' instructions and were under peer influence to show their worth by doing some acts that are beyond imagination, to get recognition among the peer group. They happen to commit an illegal act while showing their masculinity and dominance. When it was asked why there was a strong peer pressure to show that masculinity and dominance, they replied that it is also majorly displayed in sorts of media visuals, music albums, OTT platforms, YouTube, Instagram and other related social media platforms. It is important to share here that the content which they are consuming is available easily and is impacting young and tender minds adversely. The participants shared that in major cases, the power dominance, arrogance and crime are being displayed on these social media sites, and the peer pressure is based on imitation of that. Also, getting engaged in a romantic relationship with the other gender is a symbol of masculinity, and it is generally done to show that they are young, growing and strong boys who can showcase their romantic relationship as part of social recognition. In some cases, the participants reveal that they were consuming drugs and alcohol, for which they were caught.

In order to bring reflective insights, CICL were asked that, what thoughts disturb them the most during their stay at OH and how they think they can correct their conduct with purposeful and meaningful insights?.

Interestingly, these CICL came up with their guilt of not following the instructions and guidance of their parents. Also, it is disturbing them that they brought a difficult time for their parents. About the correction in their conduct, they shared that they would like to make their parents proud by correcting their behaviour and to avoid future legal complications. Interestingly, they have realised that there is no shortcut for success and social recognition, and therefore, they would like to study hard, apologising to the victim, supporting the victim's family, learning new skills, and supporting the family and parents.

As far as their personal hobbies, hopes and future aspirations are concerned, they shared that they would like to get into sports, especially cricket, travel, photography, make good friends, music, cooking, farming, and start their own business, etc. On the question of the family relationship and its importance, their responses were around supporting the mother, father, and siblings. Some of them replied that by supporting the education of younger ones in the family, they also have aspirations to make parents proud by studying hard and to get a good job. Some participants aged 17-18 years old replied that they will go back to their romantic partners to start a fresh life it shows their future dreams and aspirations.

On the question of how society will accept them, the positive responses received from the participants and by becoming a good person, decent income, continuous source of livelihood, good work at a job setting, by taking care of parents, siblings, partners and friends, they can earn a good name in society. Almost all the participants replied that they were able to get into the positive reflections through this interactive workshop under the supervision of trained staff, and it helped them to think and plan for their better future.

In the end, to channelise their emotions in a positive direction after data collection, music and theatre are used to create a therapeutic, positive and inclusive environment to enhance their emotional expression capacity for the display of healthy emotions.

### **Conclusion and Way Forward**

Despite having the largest population of children in India, they are the most vulnerable population in the country. In the past few years, under the JJ Act, the focus from keeping the children in institutions has shifted to restoration to family and family-based care. The national and international

agencies are strongly advocating for social work intervention. The system always believes that institutionalization should be a last resort. In this framework, the observation homes become important as they directly deal with the cases of children in conflict with the law, serve as a safe custodial space for the children who are considered adults and ensure a fair and child-friendly process to provide care, protection and rehabilitative services during their legal proceedings. The services include education, health, vocational training and recreational activities. The observation homes further shield the CICL from direct contact with adult prisoners and ensure all legal procedures are completed swiftly. The reason for keeping CICL in observation homes is to prevent them from undergoing a lengthy legal process that could increase their vulnerability. To support the cause of the best interests of the child through restoration and reintegration, regular positive and therapeutic interactions are crucial to serve the purpose of observation homes. The present study, based on empirical data and field intervention, proposed that the scope of social work intervention is huge. The networking and collaboration between different stakeholders is important to bring out the best practices. The community awareness workshop for the reintegration of CICL is necessary. Skilling and vocational training are required to channelise the energy of CICL and for their better future placements. To implement the JJ Act provisions, the regular International, National, State and District consultations, training programmes, research workshops and advocacy campaign by involving all the related stakeholders and service providers placed under different CCIs must be organized. The authors recommend that by focusing more on diversion programmes for juveniles in observation homes, the system can ensure a strong justice delivery system where a juvenile does not need to stay for long in the Juvenile Justice System. Regular home visits of CICL to facilitate communication between parents and CICL must be done by observation of home officials to ensure proper reintegration in the family system, along with the follow-up visits. Without hampering their physical, social, emotional and educational well-being, the system can move closer to a place where they can be reintegrated into mainstream with restorative practices and family-group conferencing programmes, keeping in mind the best interest of the child.

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# **BETWEEN CONSENT AND CRIME: RETHINKING LEGAL BOUNDARIES FOR CONSENSUAL TEENAGE RELATIONSHIPS**

*Apoorva Bhardwaj<sup>1</sup> & Anjana Kumari<sup>2</sup>*

## **Abstract**

*Recently, we have encountered an ongoing debate over the subject matter of adolescent sexuality and the laws being implemented for the safeguarding of children from sexual offences. The topic of conversation presently is to reconcile the welfare of children and them exploring their sexual identity. Since the age of consent is fixed at 18 years in India, the law does not acknowledge consensual sexual relationship between two minors or a minor and an adult and it is considered a rape or sexual assault. Today the courts in India have become flooded with the cases of teenage sexual relationships or even pregnancy. This paper examines the need to strike a balance between the welfare of children and their autonomy. We as a society should address the issue of whether the age of consent should need to change or not keeping in view the well-being of children. It also explores the age of consent concept while taking into consideration the judicial pronouncements and laws prevailing today.*

**Keywords:** child, POCSO, law, courts, consensual sexual relationships

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<sup>1</sup>Research Scholar at Faculty of Law, University of Lucknow, Lucknow

<sup>2</sup>Research Scholar at Faculty of Law, University of Lucknow, Lucknow

## Introduction

Recently, an Indian Telugu-language film named '*Court- State vs A Nobody*' (2025) got released. While narrative is fictional, it mirrors pressing societal issues. In the movie, a lawyer is fighting for a 19-year-old boy, navigating the complexities of POCSO Act. Story beautifully narrated how a young boy mired in intricacies of law, when a romantic relationship between a boy of 19 years and a minor girl turned into a turbulent legal battle. To maintain their prestige, the relatives of girl want to send the boy behind bars at any cost. But when the girl came to the court, the truth becomes evident to everyone and the boy got released. In reality, not everyone is lucky enough to get the chance of being free from legal shackles

This story, despite being a work of fiction sheds light on genuine social dilemmas. Various special courts and High Courts are addressing such cases and at various instances expressed concern over the criminalisation of adolescent relationships under Protection of Children from Sexual Offences Act, 2012.

The POCSO Act is for protection of minors from sexual offences. But it has created a situation where a minor sometimes gets caught in web of complications as Act does not draw a distinction between consensual sexual act between the minors or involving one minor. Sometimes, families take advantage of the provisions of Act and draw adolescent into legal proceedings. The word sexual whenever adds up to an offence, doubles the gravity of crime and before trial the accused becomes criminal in eyes of society. Such cases, not only cast a shadow over their future but also adversely impact their psychological and mental health.

A debate persists on resolving the dilemma of love and law. Legal fraternity has offered significant insights to draw a balance between the two. Now is the right time to settle the issue. Aim of this article is not to support and justify the illicit relationships and sexual relationships among children but it aims to understand and recognise the ongoing changes in society and to seek guidance in finding solution.

This paper examines the ongoing debate over the matter and explores the complexities involved in reconciling children's welfare and their evolving autonomy. It includes arguments in favor of and in against of changing the age of consent for adolescents while taking in view government report and various

judicial pronouncements. Lastly, it concludes with some suggestions which can be taken into consideration.

### **Navigating the Divide: Child Protection V. Adolescence Autonomy**

“*The Child is father of the Man*” rightly said by renowned poet, William Wordsworth, suggests that thought process, nature, personality of an adult is shaped during person’s childhood. A fostering environment plays a great role in growth of a child into a confident individual. Children represent innocence. So, it becomes moral and legal duty of a human society to provide a safe hand to children. This duty includes protection of children from any kind of exploitation along with providing them education and healthcare. There is a dual responsibility on part of government to guarantee holistic development of child and to protect them from exploitation. Child abuse has been a grave social concern that affects and undermines the well-being of most vulnerable section of society, i.e, Children. To protect their best interest, child specific laws were brought up by legislation. Enactment of Protection of Children from Sexual Offences Act, 2012 has been a significant step in a journey of protecting and promoting the best interest of child for our country.

The aim of the act was to provide protection to children from sexual exploitation as the incidents of sexual exploitation are horrendous and they affect child’s mental, physical well-being and dignity. They also hamper natural or healthy growth of children towards future. *Justice D.Y. Chandrachud* while speaking on POCSO highlighted two myths; one is- only female child is victim of sexual assault and second- perpetrator is unknown (Deshwal, 2022). The act recognises the grim realities of the society and has been articulated accordingly. However, it left a loophole, leaving a room for interpretation. A grey area has emerged concerning adolescence autonomy, as the law does not create difference between the love and forced love making. It conflates sexual intimacy with criminal conduct, thereby fuelling the debate between protection and autonomy.

If we consider the emerging changes in contemporary society, involving in romantic relationships under the age of 18 is not an alien scenario. With the advent of web and social media, Children are getting mature considerably faster than before (Protection against misuse: on POCSO Act, Adolescent Sex, 2025). This development cannot be ignored. Adolescent seek broader personal liberty in making life choices, in choosing their partners. Formation of romantic

relationship is a striking feature of developmental stage. Healthy adolescent relationships help shape personal beliefs about intimacy and sexuality and leave a lasting impact on self-esteem and overall well-being later in life (Anchan et. al., 2020, p. 158).

There are some grave concerns about criminalisation of sexual relationships among consenting adolescents which form the basis for demand for Amendments to the Act. These concerns are:

- Blanket ban on all sexual activities among adolescents challenges their bodily autonomy and reproductive rights.
- This criminalisation under POCSO Act has become a weapon of revenge. The provision is highly misused by parents of girls.
- The social stigma, educational halts, fear, a criminal record affects the future of children which further defeat the true purpose of Act.

Conversely, there is reluctance to embrace change. It is considered that decriminalisation might further result into increased sexual exploitation cases. Accused with nefarious intent might get away with punishment by shifting the blame over minor girl. Extending sweeping the legal leniency may weaken the well-designed safeguards to guard children from sexual offenders, trafficking and online exploitation.

### **Arguments in Favor of Reducing Age of Consent**

- Senior advocate *Indira Jaising*, acting as amicus curiae in case *Nipun Saxena and Anr v. Union of India* supported the argument that consenting adolescent should be protected not punished under the law. She pointed out the shortcoming in legislative framework which erroneously conflates consensual relationships between adolescent with sexual abuse, sidelining their autonomy and capacity to consent. It is the time to draw attention to the need of highlighting the relationship of Legal competency with the mental competency. Under POCSO Act legal competency to have sexual relationships is fixed as 18 years which means involving in sexual relation below the age of 18 is punishable irrespective of consent. This blanket criminalisation of sexual activity including adolescents between the age of 16 to 18 years makes no difference between perpetrators and innocent lovers. Advocate Indira Jaising supported her argument by pointing out the trends in different High Courts including Madras, Bombay and Meghalaya

where High Courts registered dissent over automatic statutory prosecution of adolescents under POCSO Act. (The Hindu, 2025)

- Over a long period of time, the legal age of consent has been 16 years. In 2013 it was raised to 18 years by Criminal Law (Amendment) Act, 2013. No rational reason was cited for this increase nor any data presented suggesting the need for requirement of increase in age. Justice Verma Committee Report suggested to reduce age at 16 but this recommendation was not accepted. If reducing the age at 16 is arbitrary then fixing it 18 is also arbitrary. As per National Health and Family Survey (Department of Health and Family Welfare, n.d.), “45% of teenage girls belonging to 15-19 age group have had sexual intercourse.” Over the eight decades, sixteen was the legal age of consent, reflecting recognition of teenage sexual activity. As stated by Enakshi Ganguli from Haq Centre for child rights it is better to acknowledge such relationships as valid in very first place. It is the time to accept the change and realize that teenagers are involved in sexual relations (Pandey & Bandopadhyay, n.d.).
- *Rohin Bhatt*, Advocate, expressed his views on the age of consent debate which re-emerged from PIL in Supreme Court in Case *Nipun Saxena and Anr vs Union of India*. Mr. Bhatt clarified that in present case, blanket reduction of age of consent has not been pleaded, what actually pleaded is decriminalisation of consensual sexual relations among adolescents by introducing close in age exception. There are significant number of cases where non-abusive relationships have been criminalised. Girls out of fear of non-acceptance of their love and violence from family choose to leave home with their romantic partners. When complaint for missing of girl or an FIR for rape is filed, the boy mired under stigmatizing criminal process and labelled as criminal. The Case frequently crumbles as the girl becomes hostile.

Author added that such criminalisation has deterred adolescents from accessing reproductive health services. Mandatory reporting provision is one of the reasons behind such deterrence. It is necessary to criminalise abusive sexual relationships without compromising the health rights of teenagers. Undoubtedly, child sexual abuse is a serious concern, but to apply law in a manner which curtails the fundamental rights of healthcare and personal autonomy of adolescents is rigid application (Bhatt, 2025).

## **Arguments in Against of Reducing Age of Consent**

- Central Government is not in favour of reducing the legal age of consent from 18 to 16 as it was a well calculated and reasoned decision to set the age 18 years. Additional solicitor general, *Aishwarya Bhati* submitted a written statement before Hon'ble Supreme Court defending the centre. She argued that minimising age of consent would be legally unsound and dangerous as well. It took years for the government to come up with dedicated laws for child care and protection. Under Protection of Children from Sexual Offences Act, 2012, Juvenile Justice (Care and Protection of Children) Act, 2015 and Bhartiya Nyaya Sanhita, 2023, provisions were made and improved for protecting the best interest for the child. Departure from the spirit of these laws, even if in name of reform would undo the years of progress in protecting children. Further Centre argues that not departing from the fixed age under legislation is not arbitrary but necessary. It is pivotal as it signifies legal and Constitutional acknowledgement of the fragility of minors and protect their bodily integrity. The close in age exception would not only offer a shield of protection even to the abusers but also open the gate for trafficking of children (Press Trust of India, 2025).
- Report titled *“Intrusion on Civilization: Lowering the Age of Consent- Analysing Its Impact”* released by collaborating efforts of NGOs – Network for Access to Justice and Multidisciplinary Outreach Foundation, the Sewa Nyaya Utthan Foundation and Shanti Suraksha Aur Sadbhav Trust argues that ‘misuse of cases of teenage romance is an exaggeration (Tiwari, 2025). It shifts attention away from real and escalating issue of child sexual exploitation. Report supported its argument with the statistical data from National Crime Records Bureau 2022 which reveals brutal reality of a sharp 8.7 % year-on-year rise in crimes against children. Without resorting to lowering the age of consent, the primary concern should be on enforcing the law with sensitivity and careful judicial discretion.
- POCSO Act makes any sexual activity among minor a crime. It is not true that cases referred as consensual among teens under POCSO have very less chance of involvement of sexual exploitation. The reality is harsh and bleak. Many victims escape their homes for reasons such as violent family, sexual abuse within family, discrimination, threats forced marriage. In such situation if they find man who promises them love and a better life, they got easily manipulated. There is a tragic situation where vulnerable minor girls

had to make a choice between the frying pan and fire. Reason of eloping is to escape violence and exploitation in their own place with hope for better future. However, it pushes them to social isolation, intimidation and in numerous cases heightened violence from their parents, along with the trauma of navigating the daunting criminal justice system (Dmello & Agnes, 2025). Further the authors argued that Consent remains the most frequently invoked defence in the trials of rape cases. Expecting a minor to fully comprehend and effectively articulate consent is impractical. The POCSO Act stands as landmark victim centric legislation designed to safeguard rights and dignity of children. The blanket reduction of age of consent may risk the life of millions of girls from marginalised background. Authors made a suggestion that lawmakers should consider the ground realities, reasons and motivations behind elopement (Dmello & Agnes, 2025).

## **Committee and Commission Findings**

### **Justice Verma Committee Report**

The Report submitted in 2013 with an aim of suggesting amendments under Criminal Law, focusing on strict punishment for accused in offence of sexual assault against women and to facilitate expeditious trial. Report suggested that age of consent should be 16 years under POCSO Act to bring it into conformity with Section 375 of Indian Penal Code 1860 (*Now Section 63, Bhartiya Nyaya Sanhita 2023*). Committee made two important suggestions- one was regarding sixth exposition of Section 375, IPC that the drafting of the provision should be *“Sixthly, when the person is unable to communicate consent either express or impliedly”* and other was for introduction of a new section. Additionally, it recommended insertion of a new Section 376B which explicitly declares that a person having sexual relation with another person below the age of sixteen years, irrespective of consent shall be considered as rape. (Report 283, Law Commission of India, pg.44). The rationale behind the adoption of 16 years of age to classify as underage rape was to adhere to Article 34 of Convention on the Rights of Child which promotes the principle of best interest of child.

### **Law Commission of India Report**

22<sup>nd</sup> Law Commission of India in its 283<sup>rd</sup> report titled Age of consent under the POCSO Act, 2012, 2023, presents recommendation on issue of determining the legal age of consent for romantic relations. Two High courts referred the issue to the commission after observing several cases of non-abusive consensual sex among adolescent partners being prosecuted as offender under POCSO Act.

High Court of Karnataka, in *State of Karnataka v. Basavraj s/o Yellappa Madar (2023) 1 AIR Kant R 23* made a request to Law Commission of India to re-evaluate the established age parameters. Likewise, Hon'ble High Court of Madhya Pradesh, in case *Veekesh Kalawat v. State of Madhya Pradesh, Misc. Criminal Case No. 4521 of 2023* requested Law Commission to assess the necessity of amendment under POCSO Act and recommend Parliament to take necessary action.

These references led the Commission to examine this issue. The main question discussed in the report was whether reduction in age of consent could prevent the criminalisation of adolescent relationships and can lower the burden on the justice system. Although the commission conceded the overwhelming body of evidence derived from case laws, empirical analysis and public consultations- which substantiates the claim that a considerable number of POCSO cases are consensual, it ultimately refrained from advising reduction in age of consent. This decision culminated in an alternative recommendation to grant enhanced judicial discretion during sentencing. The Commission suggested a term "*Tacit Approval*" to describe consensual adolescent relationships. Intention of this introduction is to provide remedy in cases where child's conduct conveyed acquiescence in fact, but it could not amount to legal consent. Term as not defined in law can further place undue burden on judiciary to interpret its meaning (Pitre & Bandewar, 2024, p. 3). The reason behind not allowing change in age of consent is that the children under 18 years of age even if above 16 can be manipulated, they might lack the capacity of differentiating between right and wrong.

This cautious approach has attracted widespread criticism for overlooking the lived realities of adolescents and hardship created by the current framework and being termed as a lost opportunity for reform.

### **Age of Consent Across Jurisdictions**

Age of consent is the age customs and legislations of every country has fixed for the age at which people can have sexual intercourse that it would not amount to offence of rape. This age is different for every country.

POCSO Act has fixed the age of consent at 18 years of age and it has got its backing from Bhartiya Nyaya Sanhita and Criminal Law (Amendment) Act, 2013 which has done the same to protect children from exploitation but it has to some point neglected the concept of sexual autonomy (Pitre & Lingam, 2021).

According to the Sexual Offences Act, 2003 in the U.K. the age of consent for boy and girl both is 16 years in matter of consensual sex implemented to safeguard the children. Although there have been many debates to reduce this age of consent as many persons are engaging in sexual activities before attaining this age but it has not been taken into account giving the reason that reducing the age of consent will give an idea to the society that it is acceptable to engage in sexual relationships as early as at the age of 14-15 years. Here it has been recommended that the most effective way to deal with is to provide sex education in the schools as keeping in pace with the modern, dynamic, sexualized and technologically advanced society (Singh, 2023). The valid age for consenting sexual relations in U.S.A. varies from 16 to 18 years among different states and any sexual act between minors or one adult and minor is considered rape under the statutes. but some of the states follow the Romeo Juliet clause and provide exemption to persons who are close to the age of consent. In thirty-one states the age is set at 16, in eight states at 17 and in eleven states at 18 (World Population Review, 2025). Many states in the U.S. have also enacted laws to permit the maximum age difference between the persons having sexual relationship to protect the exploitation and abuse of younger persons in the hands of their partners. For example, Alabama has the maximum age difference of 2 years.

<b>Age of Consent</b>	<b>Countries</b>
14 years	Italy, Germany, Austria, China
15 years	Thailand, Sweden, Denmark, Greece, France
16 years	United Kingdom, Norway, Israel, Canada, Switzerland, Russia & U.S. State such as New Jersey, Michigan, Japan, Singapore
18 years	India, Turkey, Egypt and U.S. States such as California, Florida

### **Romeo Juliet Clause**

There is a concept known as Romeo Juliet clause according to which if two persons are in consensual sexual relationship, one of them is a minor and the other who has attained the age of consent a year or two before; then that case may be treated as an exception allowing a small amount of age gap between them as known as close-in age exemption, so that an innocent person is not treated as an accused and not labelled a sex offender for the rest of their life. This clause has got its name from the famous play of William Shakespeare

named Romeo and Juliet which explores the romantic relationship between two teenagers (Close in age exemptions/ Romeo and Juliet laws, n.d.). This notion is used only to differentiate between the consensual relationship from an exploitative one and to protect the interest of young people. In some cases, this exemption also gives liberty to the young people only exploring their gender identity as them belonging to LGBTQ+ community.

One of the purposes of this exemption is to promote the interest to minors while also recognizing consensual sexual relationships. In united states more than half of its states have recognized this exemption. This exemption is not recognized in India so the sexual relations between two minor or one minor and one adult is always considered a rape according to the statutes. The minors have not been given permission to explore their sexual and romantic inclinations. The Madras High Court and the National Commission for Protection of Child Rights gave suggestions about the close in age exemption that it should be taken into consideration keeping in view that the laws meant to protect children should not so frequently be misused. But these suggestions are yet to be implemented.

### **Judicial Outlook on Romantic Cases**

In the case of In Re: Rights to privacy of adolescents the Supreme Court took suo moto action against the judgment passed by Calcutta High Court after realizing the sufferings of victim emotionally and socially and didn't convict her husband under the POCSO Act in spite the facts of the case suggesting that the victim was a minor when she married the accused who was an adult at that time and that she also had a child with him. Court concluded that the act was a crime in the eyes of law but not for the victim and she suffered more because of the consequences and the legal system that she had to fought for saving the accused and the power to do complete justice concept under Article 142 was invoked by the court observing that, "the facts of this case are an eye-opener for everyone and it highlights the lacunae in the justice system. The society judged her, the judicial system failed her and her own family abandoned her."

### **Delhi High Court**

Delhi High Court in State v. Hitesh, 2025 said, "*Love is a fundamental human experience and adolescents have the right to form emotional connections. The law should evolve to acknowledge and respect these relationships, so long as they are consensual and free from coercion.*" In the present case, a minor girl of 16 years accompanied a boy willingly and maintained physical relations

with consent. A case under section 4 of POCSO Act was instituted against the boy, to which he pleaded not guilty. During trial, girl showed willingness to stay with the man. Trial Court acquitted the accused. In appeal, Hon'ble Delhi High Court upheld acquittal of accused under POCSO.

Hon'ble High Court emphasized on the earlier judgement (Court on its own motion (Lazza Devi v. State (Delhi), 2012) of the same Court that '*no straitjacket formula could be applied in such cases. Court should take caution while ensuring personal liberty of individual. Circumstances, age gap between boy and girl, maturity level, social background of parties must be taken into consideration.*' To set aside minor girl's testimony who is 16 years, 10 month and 21 days old, would not be right and just (The Telegraph Online, 2025).

### **Allahabad High Court**

In the bench of Justice Krishan Pahal, the Court expressed concern over the coercive application of POCSO Act on Adolescents. The primary objective of this act was to prevent sexual exploitation of children. But the statute is being misused, particularly in romantic cases involving adolescents (Shukla, 2024).

The Hon'ble Court observed some consideration (Ramakrishna & Swagata, 2022) in case Satish alias Chand v. State of U.P. and 3 Ors., 2024:

- Each case is unique and should be addressed with a focus on individual facts and specific circumstances. The careful scrutiny should be given to nature of relationship and intentions of parties to prevent misuse of the law.
- Victim's statement should be valued. Mutual affection and consensual nature of relationship not only help in deciding the case but also affect decisions regarding bail. Ignorance of such circumstances and nature of relationship can lead to miscarriages of justice, such as wrongful imprisonment.

### **Bombay High Court**

Bombay High Court in Imran Iqbal Shaikh v. State of Maharashtra (2023 SCC OnLine Bom 1040), observed that aim of POCSO Act was not to punish minors involved in romantic relationships. By the time Courts reach a decision, the accused had already lost his dignity, respect and a normal life in society. The act supports victim in every possible way including non-disclosure of identity of victim but has no mention of similar clause for accused. It tarnishes the reputation of accused within society in spite of his innocence.

In XYZ V. State of Maharashtra (2023 SCC OnLine Bom 1390), High Court of Bombay set aside the conviction of a young man being tried under POCSO Act (Juris Centre, 2023). Court said, *“Sexual autonomy means both the freedom to engage in desired sexual activity and right to be protected from unwanted sexual violence. Human Sexual dignity is fully respected when both of these rights of adolescents are given due recognition.”*

### **Madras High Court**

In case Sabari @ Sabarinathan @ Sabarivasan v. The Inspector of Police & Ors. (Criminal Appeal No.490 of 2018), Madras High Court said that consensual relationships between adolescents who are infatuated should not come within the arena of POCSO Act, 2012 which provide strict punishment for such acts.

In Vijaylamxi & Anr. V. State (Crl.O.P. (MP)No.3775 of 2012), Hon’ble High Court expressed that these incidents of romantic relations should never be viewed from an adult’s standpoint. Such perspective leads to lack of empathy toward the experiences of adolescents and distorts the true nature of these relationships. Court further said, ‘an adolescent partners whose decision-making ability is not fully developed or influenced by their hormones need parental as well as societal support and guidance (Venkateshwaran, n.d.).’

In year 2021, in course of quashing a case of romantic relationship filed under POCSO Act, Madras High Court expressed concern over the misuse of the Act in such cases and urged the Government to bring essential reforms within the Act (Madhav, 2021).

Taking in view the observation made by various Courts it can be concluded that incidents where teenagers face prosecution under the Act, without recognising the gravity of its provisions, raises significant concern for court’s conscience. These cases should be dealt carefully and empathetically to ensure that victim receives justice and innocent people are not purposefully harassed.

### **Striking an Equilibrium: Reconciling Child Protection with Adolescence Agency**

Let us consider a Hypothical Example of a silent trial of adolescent love. Mitali aged 16 gets attracted to a boy Ritesh aged 17 in School. When feelings became mutual; their affection bloomed in quiet corners of the school corridors

which allowed them whispered conversations, hidden letters and a gentle euphoria of first love.

Till the time Mitali's Family became aware about their relationship, she was 17 and Ritesh was just turned 18. When their relationships disclosed in front of parents, the panic turned into wrath. Fear of being separated from each other lead them to a decision of eloping from the home, without realising the difficulties awaited outside home. Parents out of fear of social shame filed a complaint against the boy under BNS and under POCSO Act. Ritesh was taken away in handcuffs. Their love interpreted by law as Deviance. He faced a long detention, lost his dignity, liberty, school, friendships. Social verdict had been pronounced- stigma endured, destinies were disrupted and innocence perished, not by law but by rigidity of law.

If such case knocks the door of Court, what should be the decision to do complete justice with parties and what factors need to be considered to reach out a decision? Should Ritesh be punished? Their love or sexual relations were consensual, then why Ritesh alone should get punished why not Mitali? How reduction of age to 16 will impact the genuine sexual assault cases?

There are some suggestions and safeguards which can offer probable solutions-

- ***From conflict to solution-*** This dilemma consists of multiple aspects. Debates and discussion are required to understand and consider the impact of all these facets before arriving at final decision. Understanding the physical and emotional aspect involved in the issue is necessary. (Anuradha Sastrabuddhe, *pressreader*). Romantic cases expose deep seated conflicts between child protection and adolescent autonomy. Justice D.Y. Chandrachud, speaking at two-day National Consultation on the POCSO Act said, "*I have observed that cases in this category poses complex legal questions for judges across the board.*" (Deshwal, 2022). One of the leading principles of Indian criminal justice system is '*thousand culprits can escape but not even a single innocent should be punished*'. This principle should be taken care of while dealing with romantic cases under Act.
- ***A matter of criminal and family jurisprudence-*** Romantic cases not only transcend the realm of criminal law but also intersect significantly with family jurisprudence, involving overlapping concern of consent, matrimonial law

and parental authority. The social and legal aspects are deeply interconnected and left a lasting effect on social, cultural and financial life of people. In this socio-legal environment sexual relationships require both consent as well as responsibility. Who would take the responsibility of the child born out of these relationships. And Children born to adolescent mothers are at high risk of being undernourished (Tiwari, 2025). Consequently, designing a uniform law for sexual consent and age of marriage is crucial. The Law must follow a single policy and this duality should be removed as said by lawyer Jai Vaidya (Kuchik, 2025).

- ***Close-in-age as solution-*** Introducing “Close-in-age” or “Romeo-Juliet Clause” will be safe instead of reducing age, suggested as an exception by 22<sup>nd</sup> Law Commission of India itself. Although, suggestion is limited to the sentencing stage. It permits consensual relationship within a close in age range of 2-3 years. Section 15 of Juvenile Justice (Care and Protection of Children) Act, 2015 has provisions for “preliminary assessment” for Children within the age group of 16-18 who are accused on heinous offence. It accesses whether these children acted with true criminal intent or it was just adolescent conduct. Report argues this kind of provision would be more helpful than reducing age. (*Intrusion on Civilization: Lowering the Age of Consent-Analysing Its Impact*).
- ***Sex Education-*** Supreme Court draws attention by highlighting the importance of age-appropriate curriculum on sex education. Philosophies of Mahatma Gandhi ‘Nayee-Talim’ needs to be adopted in new modern child protection policy. Schools should serve as safe space and a source of accurate information, empowering students to understand their bodies, make informed choice and exercise their rights carefully and responsibly (Naik, et al., 2025).
- ***Trauma Informed and Sensitive Legal Process-*** The legal process should be sensitive enough to avoid re-traumatization of adolescents. Police must be trained to make a distinction between consensual intimacy from exploitation so that genuine cases can be figured out at initial stage itself. Moreover, technology can help in protecting child exploitation. The participation of counsellors and child welfare office during preliminary stages of inquiry promotes interactions marked by sensitivity and care.

## Conclusion

The debate over age of consent is commonly presented as a binary conflict; the inviolable duty of society to protect children verses the inalienable right of adolescents to autonomy. Simply choosing one side is to ignore the profound intricacies that lie at heart of human nature. This is not a contest for victory, but a balance to be perpetually calibrated. There is a delicate line between sexual intimacy and sexual assault. Consensual sex is a far cry from sexual abuse. Protecting best interest of the Children is a national as well as an international mandate. The highest consideration must be given to ensure that every child is nurtured under safe and supportive environment. For ensuring safety, strong and well-structured laws are required. But overly protectionist laws can paradoxically compromise the interests and autonomy of adolescents. Denying a 16 or 17-years old's agency turns the law into fiction that contradicts with their lived realities

Therefore, the most compelling resolution does not lie in fixing an "appropriate age" but in moving beyond the rigid dichotomy itself. Adoption of close in age concept can be one of the progressive actions along with strengthening fast tracks courts, promoting guided judicial discretion, bringing more sensitivity during initial inquiry and in legal proceeding, promotion of comprehensive sex education to empower adolescents with the awareness and clear understanding of consent.

Ultimately, the important question is what kind of society we want? One that insulates children from the world or one that equips them to face it. The most nuanced answer may be that we must endeavour to balance the two. Child protection and autonomy are not contradictory. The debate, then, should shift from "*protection v. autonomy*" to how "*protection nurture healthy autonomy*".

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# THE ECONOMICS OF EARLY NUTRITION: WHY THE FIRST 1000 DAYS MATTER

Ms Manika Gupta<sup>1</sup> & Ms Vanshika Yadav<sup>2</sup>

## Abstract

*Early childhood nutrition has been agreed to be a crucial factor for the lifelong health and cognitive development, with a particular emphasis on the 'first 1000 days of life' which act as a critical window of opportunity for ensuring survival, shaping growth, enhancing learning and securing long-term health and development. These first 1000 days that last from a child's conception in the womb of the mother to its second birthday. Global evidence showcases how a failure to address the nutritional needs during these initial days can lead to irreversible consequences on the development of the newborn which might lead to increased vulnerability towards stunting, wasting and chronic diseases later in life. India continues to face persistent bottlenecks in executing its welfare schemes effectively, primarily due to budgeting deficits and poor resource allocation. The Right to Food has been guaranteed as a fundamental right—a right which is also recognised as being sacrosanct by international conventions. However, despite multiple safeguards and various schemes introduced by the Government, their effectiveness is constantly undermined due to budgeting inadequacies. India's spending on these schemes falls steeply short compared to the average recommended norms proposed by international standards. This paper intersects areas of law, finance and policy frameworks at the national level and integrates them to analyse their effectiveness in ensuring early childhood nutrition by drawing parallel comparisons with internationally defined standards. Furthermore, the paper critically examines the cost-benefit analysis for investing in early childhood nutrition by highlighting how proper implementation and investment can result in long term economic benefits. It connects major governmental initiatives aimed at achieving childhood nutritional goals to the Sustainable Development Goals to understand their significance in ensuring a better future for the children and the mothers. It also illuminates the key shortcomings hindering these schemes from realising full potential and underscores that these drawbacks have been acknowledged by international organisations, which emphasises the imminent need for systemic interventions to improve effectiveness and accountability. Lastly, it concludes by proposing few strategies that could help India to fulfil its constitutional obligations and aligning with globally benchmarked development goals of the children.*

**Keywords:** first 1000 days, child nutrition, budget allocation, right to food,  
Article 21

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<sup>1</sup>Assistant Professor (Law), School of Law, Bennett University, Greater Noida, E-mail: [manika.gupta.2792@gmail.com](mailto:manika.gupta.2792@gmail.com)

<sup>2</sup>3<sup>rd</sup> Year student of B.A. LL.B.(Hons.) at School of Law, Bennett University, Greater Noida, E-mail: [vanshikarao2006@gmail.com](mailto:vanshikarao2006@gmail.com)

## **Introduction**

The nutrition provided to a child plays a crucial part in their development by determining various factors, performances, and outcomes that might be witnessed in their adult life. The consequences of undernutrition at this stage often results in irreversible stunting, impaired cognitive development, weakened immunity, and increases susceptibility to chronic diseases later in life. The Right to Food has received recognition in both national as well as international arenas where multiple provisions have been subsequently provided to safeguard these rights. Similarly, the well-being of a pregnant or lactating woman has been addressed via similar provisions, ultimately aiming to achieve the objective of a reduction in the health and development related issues that are currently plaguing multiple countries including India.

The concept of “First 1000 days” has been scientifically recognized as a pivotal factor in the future intellect and capabilities of a child (Cusick & Georgieff, 2016). This in turn, also impacts the quality of life that a child will experience once he or she reaches adulthood (WHO, UNICEF, & World Bank Group, 2018). Contrary to the common misconception, these days are accounted not after the birth of the infant but at the very onset of the period of pregnancy planning up to the second birthday of the child (UNICEF, 2017). Therefore, the overall health, well-being and nutrition of the mother is also extremely crucial at the three phases which include pre, during and post pregnancy stage.

The first step in ensuring the development of the child is to ensure that the mother is healthy and receives proper nutrition well before she conceives. The poor health of the mother directly impacts this development hence, it is important to ensure that the numerous schemes, programmes and safeguards that are provided to the citizens on paper are actually implemented. As when the pregnant women do not have adequate nutrition, they require supplements to compensate for the same, it is the duty of the government to ensure that even the most marginalized, disadvantaged sections of the society receive such supplemental nutrition.

In order to ensure that the mother and the child receive a positive environment to grow through adequate nutrition, the government needs to analyse the current ground realities and whether the schemes are being implemented or not. An integral part of doing so is the budget and how it is allocated and used. This also differs from State to State as each yields different results while also having

different budget allocation and strategies. The 2021 Global Food Security Index Report has successfully able to figure out the defects that exist in the current budget allocation system (Economist Impact, 2021). This data shows that despite multiple years since the advent of these schemes, India has still not been able to emerge as one of the top 50% of the countries with regards to the number of people being able to access a healthy diet.

### **Overview of the Problem Statement**

Despite the critical importance of adequate nutrition during the first 1,000 days of life in determining not just the immediate survival but also the lifelong health and cognitive development of an individual, the public spending in the nutrition interventions has been considerably underwhelming. The system is marred by numerous shortcomings—both systematic and economic that hamper the effectiveness of these initiatives despite the Constitutional safeguard of the Right to food under the aegis of the very sacrosanct fundamental right of ‘right to life’. The issue of budgetary constraints which is further compounded high administrative costs, fund leakages and diversion into non-nutrition specific expenditures result in the inefficacy and consequential collapsing of services under already functional schemes such as Integrated Child Development Services and the Supplementary Nutrition Programme. This contention is supported by statistical data that compares the position of India in terms of nutritional inadequacy in comparison to other countries. As such, there is an imminent need to examine the extent and impact of these budgetary defalcations in India and proposing of mitigating strategies to expand and sustain the nutrition financing with respect to the most critical window for human growth and development as investing in nutrition during this period could yield the highest returns for the nation in terms of major health indices, cognitive development and long-term productivity.

### **Research Questions and Objectives**

The key research questions are:

- To what extent are the current public fund allocations adequate to supplement the nutritional requirements of children during the first 1,000 days of life?
- In what ways do the budgetary inadequacies impact the quality and coverage of nutrition-specific and nutrition-sensitive services for children under two years of age as well as pregnant women and lactating mothers?

- What are the primary systematic and economic barriers and bottlenecks in hindering successful implementation of the frameworks targeting at first 1,000 days' nutrition interventions?

The objective of this paper is to critically evaluate the cost-benefit analysis of early childhood development, signifying the long-term advantages of proper implementation by the authorities. The paper aims to examine the extent of alignment between internationally recognised standards and Indian statistical data. It seeks to provide a nuanced understanding of why the current schemes and policies fall short in realising their full potential by highlighting the systematic, economic and implementational barriers.

The paper seeks to propose relevant recommendations to strengthen the Constitutional safeguards in consonance with the Sustainable Development Goals. It aims to highlight the existing societal disparities affecting equitable access to resources. The paper also investigate the reforms necessary to deal with the issue of inadequate budget allocation and to drive a meaningful change.

### **Research Methodology**

The research combines doctrinal legal analysis with secondary data synthesis of the budget and expenditure data extracted from sources such as union and state government budgets, expenditure reports, analysis of nutrition and health dashboards available on government websites such as POSHAN tracker, HMIS, etc. The doctrinal analysis includes the examination of constitutional provisions including Article 21 and the Directive Principles contained in Articles 39 and 47 relating to nutrition and welfare, relevant statutes such as the National Food Security Act of 2013, judicial precedents including *PUCL v. UOI*, Sustainable Development Goals, and existing policy frameworks pertaining to right to food like ICDS, POSHAN Abhiyan, Pradhan Mantri Matru Vandana Yojana and Mid-Day Meal Scheme. The research also analyses secondary data and statistics from multiple government reports, international frameworks, policy reports and evaluations by global organisations and research institutions.

### **The Crucial Window of Development**

The significance of these early days was first expressed by the Lancet report (2008) which stated that “Childhood development is a maturational process resulting in an ordered progression of perceptual, motor, cognitive, language, socio-emotional, and self-regulation skills” (Black et al., 2017). The report

advocated for societal responsibility towards this crucial phase that requires continuity of developmentally appropriate nurturing care of the young children. It further highlighted that “a staggering 43 percent of children under five years of age—an estimated 250 million—living in low and middle-income countries are at heightened risk of suboptimal development due to poverty and stunting” (Black et al., 2017). Due to this risk, these children as well as the mothers need enhanced care and nurturing which is dependent on various factors, nutrition being the most important one.

Furthermore, this impairment in development also results in several macroeconomic issues. The World Bank reports that the loss caused due to low productivity is approximately least \$1 trillion a year globally (World Bank, 2024). For every dollar that is invested in addressing malnutrition, there is an estimated economic return of \$23 in form of benefits. In case of businesses in low and middle-income countries, the annual productivity loss is estimated to be \$130 billion and \$850 billion (Chatham House, 2020). Malnutrition also increases healthcare cost while simultaneously lowering the national productivity which in turn leads to increased economic burden and loss of income in the families due to medical bills and expenses to be paid (WHO, 2024).

The cost benefit analyses of nutritional interventions in India have been estimated to be in form of a ratio of 19.4:1 (Joe & Kumar, 2020). This means that every single dollar spent can yield 19.4 dollars in return. Therefore, scaling up these programmes is a more fruitful option than to later remedy the aftereffects of malnutrition in the nation. This form of initial scaling up can prevent 6.2 million deaths of children below the age of 5 and approximately 980,000 stillbirths. This prevention translates to an estimated 2.4 trillion dollars in economic benefits globally (World Bank, 2024). The studies conducted by UNICEF in the year 2017 indicate that every 1cm increase in height of an adult is associated with 4% and 6% increase in the wages of men and women respectively (UNICEF, 2017).

The Lancet report further explained that there is a dire need for government interventions which includes providing various services, such as distribution of both adequate as well as supplemental nutrition for the mother and the child and ensuring responsive caregiving. These services can vary depending on the needs of the targeted demographic—such flexibility being quintessential in

addressing the diversity and differences amongst various countries. The lack of key nutrients and minerals will lead to adverse effects on the “learning capacity, behaviour, and the ability to regulate emotions.” It further states that most of the pregnant women do not intake adequate nutritional requirements until the later months of pregnancy. It suggests that women should ideally enter pregnancy while intaking optimum nutrition. The deficiencies caused by this results in various health complications in both the mother as well as the child.

As per UNICEF’s report in 2016, India comprised of one third of the world’s stunted children population (UNICEF, 2016). The World Health Organisation defines stunting as “the impaired growth and development that children experience from poor nutrition, repeated infection, and inadequate psychosocial stimulation” (WHO, 2015). They further elucidated on the impact of the first 1,000 days, stating that stunting in early life particularly in the first 1,000 days from conception until the age of two can lead to impaired growth and other adverse functional consequences on the child. These consequences include loss of productivity, low wages attainable in adulthood as well as adverse effects on cognition and performance in education. UNICEF also explains the goals that should be achieved for ideal first 1,000 days such as educating families, supporting mothers, enhancing the efficiency of nutrition programmes, providing special grants to eligible households as well as raising awareness.

Additionally, this period underscores the heightened vulnerability of the child’s developing brain to both diseases and nutritional deficiencies. Poor nutrition, therefore, does irreversible damage to the growth of the child’s brain thereby affecting education, intellectual capacity and future employment opportunities once these children reach adulthood (Martorell, 2017). Furthermore, lack of adequate nutrition may also result in irreparable damage to the overall health of the mother, making her more prone to health complications and diseases (Martorell, 2017). Therefore, in order to ensure health of the mothers and children, a demographic that contributes a significant portion of the Indian population, it is necessary to address the underlying problems pertaining to malnutrition amongst these groups.

### **Legal Imperatives**

The Right to Food has been recognised as a part of the fundamental rights safeguarded by the Constitution of India under Article 21 (Constitution of India, 1950, Art. 21). It encapsulates the concept of living with dignity that has been upheld in myriad of judicial precedents while interpreting Article 21. The

case of *People's Union for Civil Liberties v. Union of India & Others* (2007), also commonly known as the “Right to Food case” successfully demonstrated the recognition of the need of adequate nutrition by opining that the right is not only legally enforceable and justiciable but is also inviolable.

The inclusion of the Right to Food as a part of Article 21 was also upheld in the case of *Chameli Singh vs State of U.P* (1995) in which the Hon'ble Supreme Court stated that “Food, shelter and clothing are minimal human rights” (*Chameli Singh v. State of U.P.*, 1995) Similarly the Apex Court, in the case of *Shantistar Builders v. Narayan Khimalal Totame* (1990), held that food, clothing and shelter are the very basic needs of a man, without which there exists no meaning in ‘life’.

In the case of *Francis Coralie Mullin v. Administrator, Union Territory of Delhi* (1981) as well as in *Re: Problems and Miseries of Migrant Labourers Food* (2020), the necessity of adequate nutrition was acknowledged as a key aspect and component of living a life with dignity.

These numerous judgements paved way for the emergence of various governmental initiatives aimed at reinforcing the right to food. Notable among them are the Wheat Based Nutrition Programme (WBNP) launched in 1986, the National Nutritional Policy (NNP) of 1993, and the Mid-Day Meal Scheme introduced in 1995. These initiatives reflect the government's commitment to the strengthening of the right to food, promoting nutritional development and ensuring food security. Further, these schemes were aligned to give effect to directions issued by the Supreme Court regarding the operationalisation of existing food related schemes effectively while also ensuring accountability in their implementation.

The National Food Security Act 2013 (NFSA) encompasses comprehensive and detailed provisions aimed at ensuring nutrition for both mothers as well as the children. Similarly, the Preamble of the Act clearly states that it is:

An Act to provide for food and nutritional security in human life cycle approach, by ensuring access to adequate quantity of quality food at affordable prices to people to live a life with dignity and for matters connected therewith or incidental thereto (NFSA, 2013).

Section 5 of the Act deals with supporting the nutritional requirements of the children. Section 5 (1) (a) deals specifically with the age group of six months to six years and states that:

In the case of children in the age group of six months to six years, age-appropriate meal, free of charge, through the local anganwadi to meet the nutritional standards specified in Schedule II: Provided that for children below the age of six months, exclusive breast feeding shall be promoted (NFSA, 2013).

Section 6 entails dealing with malnutrition amongst children and states that “The State Government shall, through the local anganwadi, identify and provide meals, free of charge, to children who suffer from malnutrition, so as to meet the nutritional standards specified in Schedule II” (NFSA, 2013).

The Act also imposes a duty on the Government, both State and Central levels through the provisions of Section 7 as per which:

The State Governments shall implement schemes covering entitlements under sections 4, 5 and section 6 in accordance with the guidelines, including cost sharing, between the Central Government and the State Governments in such manner as may be prescribed by the Central Government (NFSA, 2013).

Chapter three of the Act enshrines that a person whose nutritional requirements are not being met through the provisions specified under Chapter 2 has the right to receive food security allowances. The Act further goes on to talk about the need for transparency and accountability, grievance redressal mechanism as well as the provisions of other special groups.

As per the Act, both the Central and State Government as well as local authorities have certain legal obligation. Section 22 explains that the Central Government should allocate, procure and transport food grains along with their duty to provide financial assistance and maintain fair price shops. The duties of the State Government are included in Section 24 which explains that they need to look after the implementation, monitoring of the schemes. The State Government should also ensure food security while following the guidelines provided by the Central Government. It is their responsibility to look after proper storage and delivery of the food grains. As per Section 25 and 26, the local authorities need to look after proper implementation in their respective areas while also performing any additional duties as prescribed by their respective States. The entire composition of the Act is successful in at least showing the importance and recognition that food security, nutritional requirements, living with dignity and the right to food requires.

The Integrated Child Development Scheme (ICDS) aims to strengthen the essential development of children, especially at the grass-root levels while “addressing malnutrition, health and also development needs of young children, pregnant and nursing mothers” (Ministry of Women and Child Development (MWCD), Government of India (GoI), 2017). Their objective calls for a focus on children under the age of three. The scheme promotes decentralised and community-based care by enhancing integrated training at Anganwadi Centres while calling for increasing participation and public awareness. The four key components include “Early Childhood Care Education & Development (ECCED), Care & Nutrition Counselling, Health Services, Community Mobilisation Awareness, Advocacy and Information, Education and Communication” (Ministry of Woman and Child Development (MWCD), Government of India (GoI), 2017).

The Public Distribution System, now referred to as the Antyodaya Anna Yojana deals with distribution of food grains at an affordable pricing to tackle their scarcity. It is only supplemental in nature and focuses on the people falling below the poverty line of the country. The Poshan Abhiyan primarily focuses on improving the nutritional status of children, adolescent girls, and women who are pregnant or lactating. The objectives of the Abhiyan deal with tackling stunting, anaemia, low birth weight and malnutrition (WCD, Haryana 2025). These key objectives align strategically with the core of the issues that the framework of the first 1000 days seems to tackle. Preventing and reducing the nutritional concerns during the formative years will ultimately bear fruits in ensuring the well-being of the children and their mothers in the longer run. The Mid-Day Meal scheme, which is a vital initiative for improving the nutrition, education and social equity in India is also now a part of the Poshan Abhiyan.

The National Human Rights Commission comprises of a Core Group which deals with the Right to Food. Its ‘Advisory on Right to Food Security and Nutrition’ mentions how “The National Food Security Act 2013 (NFS Act) has shifted the right to food from the domain of benevolence of the State to that of the right of citizens” (National Human Rights Commission, 2021).

The Advisory, while stating certain recommendations for ICDS, suggested that the functioning of ICDS such as supplementary nutrition, referral services, health services and monitoring growth should be strengthened. They also made several recommendations specially pertaining to nutrition including suggestions given relating to the PM POSHAN (Mid-day meal scheme) by stating that “The mid-day

meal must include food items of high nutritional value, e.g., eggs, milk products, fruits, etc. The nutritional standards should be strictly enforced” (National Human Rights Commission, 2021). They also emphasised highly on the children with ‘Severe Acute Malnutrition’ (SAM) by suggesting that they should be properly identified and provided additional nutrition regulated by proper monitoring and rehabilitation in case of those whose living conditions were extremely vulnerable.

The importance of nutrition and the right to food have received worldwide attention via numerous conventions. Article 25 of the UDHR states that:

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control (UDHR, 1948).

This idea remains in consonance with that of the Indian Courts while interpreting that right to life means living with dignity, not a mere animal like existence (*Maneka Gandhi v. Union of India*, 1978). The Right to Food is both a Fundamental Right when looked at with the perspective of the Indian judiciary as well as a Human Right as per international norms and ideas. The Preamble of the Convention on the Rights of the Child addresses the need to protect and ensure harmonious development of the child and how this requires co-operation of the countries in order to improve the living conditions of the children (UNCRC, 1989).

Article 27(1) of the clause mentions the recognition of the standard of living of the child that needs to be taken into account for their overall development. The third clause states:

States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regards to nutrition, clothing and housing (UNCRC, 1989).

It is evident that India has introduced multiple such programmes to fulfil the same objective that this article is trying to signify. The inclusion of the word ‘nutrition’ again depicts the pivotal role it plays in both ensuring an adequate

standard of living as well as the well-rounded development. To understand how successful these statutes and judgements have been in ensuring these rights, it is important to look at the statistical data that is provided by the Government and analyse the pattern and trends within such data. This is imperative in determining the extent to which these safeguards are actually being exercised and implemented.

### **India's Budgeting Landscape**

While comparing the cost for meal per child, per day to the Indian data and international recommendations, it is evident that there exists a need to relook upon the budget proposed in India to ensure adequate nutrition and food security. The Department of School Education & Literacy (2024) states in their data that the average cooking cost per child receiving primary education is rupees 4.97, this cost includes the cost of oil, ingredients and fuel in the Poshan scheme.

Furthermore, the World Bank's 'Food Prices for Nutrition DataHub' shows the cost of a healthy diet in India for the year 2024 was \$4.07 which is approximately rupees 355 per day (World Bank Group, 2025). If it is divided by the norm of 3 meals per day, then the cost will be approximately rupees 118.33 this too is an ideal situation many are not able to access three square meals a day. If we compare the data suggested by World Bank to that of the one suggested by the Department, it is evident that there is a huge gap in the cost being spent even if we include the factor pertaining to lesser costs for children.

In the same datahub, 'The State of Food Security and Nutrition in the World (SOFI) 2025' found that 40.40% of the population of India is unable to afford a healthy diet (World Bank Group, 2025). This calls for a need to reevaluate the concept of a healthy diet in India and analyse how it remains different from the international standards.

The NITI Aayog's 'Evaluation of ICDS Scheme of India' sheds light on these issues pertaining to financing. They mention about the report released by the Planning Commission in 2011 which found that approximately 60% of the allotted funds are not used for 'Supplementary Nutrition Program' (SNP) (Joe et al., 2020). The report further highlighted that there is an unattainable demand for food products like milk and eggs which cannot be met due to low unit costs for the program according to the norms of ICDS. The coverage for SNP was only to the extent of 46% for the children falling in the age group of 0-71 months and 37% for women who were pregnant and lactating (Joe et al., 2020).

Both these categories are the main beneficiaries of the SNP as they require this enhanced nutrition owing to their vulnerable and critical health state. Despite this, not even half of the total target population is able to avail the services that were meant for them.

The data sourced from the ‘Ministry of Women and Child Development’ for the year 2018-2019 for the ICDS scheme shows that 47% of the entire budget goes to SNP, still the coverage for the same is low as showcased by the data mentioned above. According to the same data, the State wise budget shows that 51% of the budget for Bihar goes in SNP but the NITI Aayog mentioned that SNP coverage has reduced primarily in this State (Joe et al., 2020). Thus, Bihar being one of the States that allocates majority of its fund to SNP has experienced a reduction in coverage despite being one of the top five States in terms of budget share. As per this data, the budget per beneficiary per year for Bihar is 4000 rupees.

The field visit to states conducted by the NITI Aayog found that the budgetary allocations are inadequate vis-à-vis the expectations and requirements of the state. Poor utilization of infrastructure funds/training funds was reported in the states visited. In many cases, the budget is deemed adequate to maintain status quo, but as we approach the grass root level, we see that this is not the case. Rules, regulations and norms for flow/release of funds for infrastructure development need to be reviewed and streamlined and there is scope for convergence with the Gram Panchayat Development Plan (GPDP) (Joe et al., 2020).

The same visit also led to the conclusion that many states rely majorly on NGOs as their source of funds which is problematic as it is not a permanent or definite solution due to the possibility of their funds being withdrawn at any given moment. They also found that inadequate funds go towards focusing on the targeted beneficiaries of ICDS and the occurrence of leakages are also quite high. They further state that “There are no contingency funds made available to the functionaries, due to which they often have to pay out of their own pocket. These reimbursements are also severely delayed, and this demoralises the staff” (Joe et al., 2020). The inability to properly use funds was found to play a major role in the drawbacks experienced in the context of lack of proper implementation of the scheme.

NITI Aayog explains that:

Clearly, the average daily expenditure per beneficiary under the Supplementary Nutrition program is quite low. The actual expenditure on salary

of ICDS functionaries is very high which leaves very meager amount for other key components of the scheme. Additionally, the funds meant for ICDS is being parked in non-permissible activities such as civil deposits and personal ledger accounts, which are practiced beyond the scope of monitoring and assessment frameworks under the SNP. Consequently, the inadequate Public Spending Efficiency (PSE) has led to lapses in successful implementation of the scheme (Joe et al., 2020)

Similarly, while analysing the budget allocation and estimates for the Poshan Abhiyan, the ‘Centre for Budget and Governance Accountability’ found that the amount allocated “reflects the Government’s commitment to addressing malnutrition in India, however an inflation adjusted figure reflects inadequate allocation towards the nutrition related issues that have been highlighted in the survey reports of NFHS-5” (Kundu et al., 2023).

Bureaucratic inertia plays an integral part in causing systematic delays in supply of facilities, supplements and food which results in resource leakage and diversion of resources from vulnerable population (Gauri & Mohan, 2012). Furthermore, Saini et al. (2022) highlights the data integrity issues and inaccuracies which prevents evidence-based planning of schemes and results in underperformance and ensures that these flaws in design of the scheme remain unaddressed.

### **Critical Intersection**

According to the data collected by the Global Hunger Index, hunger scores of India and Malawi were stated to be ‘serious in nature and was estimated to be 28.5 (*Global Hunger Index 2024: How Gender Justice Can Advance Climate Resilience and Zero Hunger*, 2025). This was quite large in comparison with other BRICS countries which had a single digit score. The neighbouring countries too had a better result in GHI score.

The key findings show that “Malnutrition was the predominant risk factor for death in children younger than 5 years of age in every state of India in 2017, accounting for 68.2% (95% UI 65.8–70.7) of the total under-5 deaths” (Swaminathan et al., 2019). They further found the prevalence of and the impact of multiple deficiencies and diseases with their respective percentages such as child stunting (39.3), child underweight (32.7), anaemia in children and women (59.7 and 54.4 respectively), child wasting (15.7) and low birth weight (21.4)

(Swaminathan et al., 2019). Moreover, as per the Institute for Health Metrics and Evaluation, malnutrition has played a role in approximately 7 lakh deaths out of 1 million deaths of children under the age of 5 in the year 2017.

As per the ‘UNICEF / WHO / World Bank Group Joint Child Malnutrition Estimates’ for 2025, the Percentage of children below the age of 5 which have been affected by stunting in Southern Asian region comprising India is 31.4 which is second largest, right after Middle Africa. Similarly, it is the highest when it comes to wasting amongst children (UNICEF / WHO / World Bank Group, 2025).

According to Singh et al. (2023), the percentage of children born with low birth weight between 2005-2006 was 15.6 percent which declined to 14 percent in 2015-2016 but again rose to 15 percent in 2019-2021. This pattern of an initial decline followed by a concerning reversal undermines the primary objectives of the Government. A similar trend was also observed in case of mothers receiving adequate nutrition and antenatal care, despite the introduction of newer and more robust schemes.

Gupta and Gupta (2019) found that only eight percent of the children of age group 0 to 71 months which belonged to SC/ST category received services from Anganwadi Centres in Bihar. The underlying casteism along with the historical inequalities and marginalisation is still ingrained in the society and more evidently in rural areas. The data also suggested that children belonging to the SC/ST communities were also more prone to stunting (67%) and wasting (33%) and the overall malnutrition was much higher amongst the women and children of these communities (Gupta & Gupta, 2019).

The World Health Organization (WHO) defines food security “as a situation when all people at any times have physical and economic access to sufficient and nutritious food that meets their dietary needs and food preference for an active and healthy life” (World Bank Group, 2024). Balanced meal as well as essential nutrients are required to prevent the chances of malnutrition and other deficiencies that might become chronic in nature.

Food security plays a pivotal role in ensuring nutrition but as per the Global Food Security Index, 2022, India overall ranks 68<sup>th</sup> out of 113 countries whereas countries such as Vietnam (46<sup>th</sup>), Indonesia (63<sup>rd</sup>) and Thailand (64<sup>th</sup>) have been ranked better (*Global Food Security Index (GFSI)*, n.d.). India’s rank

in availability is lower than Nepal (42<sup>nd</sup> and 13<sup>th</sup> respectively) and its rank in affordability (80<sup>th</sup>) is lower than neighbouring countries like Sri Lanka (74<sup>th</sup>), Pakistan (75<sup>th</sup>), Myanmar (72<sup>nd</sup>) (*Global Food Security Index (GFSI)*, n.d.). Such data is alarming as it signifies that despite the initiatives made, the problem of availability and affordability of food persists in India and India's overall ranking by not even emerging in the top 50% of the country calls for a need of better implementation, enforceability, revision of schemes and monitoring.

Malnutrition in India is driven by complex social determinants, a study conducted in Uttar Pradesh discovered that the marginalised groups and communities are significantly more prone to malnutrition issues (Mishra & Singh, 2023). Moreover, Mhamane & Ramanathan (2022) discovered that countries with lower female literacy experience more prevalence of malnutrition. The study further explains how the existing gender disparities also play a role in exacerbating malnutrition as female children born after the male child are more likely to be malnourished. This pattern was also observed in cases where the family was unable to have a male child, the female children of such family were more likely to be neglected.

Overseas Development Institute reported that India's malnutrition rates are high despite the existence of comprehensive policy frameworks due to lack of "horizontal coordination" and "siloed, bureaucratic vertical articulation" within the departments (Mohmand, 2012). Lack of Horizontal coordination refers to the lack of joint planning or budgeting whereas weak vertical articulation refers to weak implementation and bureaucratic intervention. The paper further explains that malnutrition is not an issue that is prioritised in politics, it has not been able to emerge as a primary electoral issue.

### **The Cost of Inaction**

After taking into account the data from reports, it is evident that child malnutrition and deficiencies among both women and children continue to prevail despite the fundings received by governmental schemes. Grantham-McGregor et al. (2007) found that stunted children are more likely to enrol late in schools and are also more likely to receive lower grades than the non-stunted. Their cognitive development takes a setback, and studies conducted show that it also results in poorer general knowledge, academic performance and literary among adolescents who were malnourished during the initial days of their lives.

The report explains that poor development of a child also has economic consequences, it leads to the probability of earning lesser wage. This is directly linked to the disadvantaged children receiving lesser education and poverty, stunting and lack of development due to malnutrition that plays a crucial role in classifying whether the early years of a child have been fruitful in shaping their adolescent and adult life (Grantham-McGregor et al., 2007). The report mentions how stunting due to malnutrition leads to children paying less attention in classes and scoring less in subjects that are part of the basic education curriculum like math and reading.

The reason behind is the logic that a child acquires the basic of learning as well as social skills in these early days, these skills later act as foundations on which further abilities of a child is strengthened. Taking care of the mothers and the child in these early years is far more efficient and cost effective than interventions to remedy the deficits. Neglect during these days results in the vicious cycle of poverty to continue to run through successive generations.

Moreover, lack of implementation, distribution and management of the schemes will contradict the sustainable development goals that India recognises as an integral part in the formulation of their policy framework. Sustainable Development Goal (SDG) 2 (United Nations, 2015) calls for 'Zero Hunger', it further talks about improved nutrition, food security and affordable food prices in order to address issues such as anaemia in women and stunting and wasting in case of children below the age of 5.

SDG 3 (United Nations, 2015) talks about 'Good Health and Well-being', this too is directly linked with nutrition which plays a pivotal role in ensuring the health and well-being of children and mothers. The goal sheds a light towards maternal mortality rate, chances of which might increase due to improper care and nutrition. The PDS focuses on the economically marginalised sections of the society as they have poorer access to food grains to fill their dietary requirements and SDG 3 calls for reduced inequalities. Inequality in the form of lack of access to better healthcare and nutrition gives rise to lack of opportunities and proper development once the child grows up.

## **Conclusion**

The first 1000 days act as an irreversible window for the child's development; despite this, India's fiscal commitment remains inadequate in nature. While more schemes are being introduced and expanded, problems like

underfunding, delays and lack of implementation showcases neglect towards the mothers and children of the country. Leakages, lack of funding, uneven state performance undermine the objective that these schemes seek to attain. These financial inefficiencies result in higher risk of diseases, reduced income, irreversible cognitive loss and consistent state of poverty and inequality. The policy architecture is not the primary problem; the already existing schemes are quite robust in nature in upholding the legal and judicial principles. The National Food Security Act has transformed these safeguards into legal rights, the rights that were recognised by cases like PUCL.

But mere policy framework is not sufficient in tackling the issues. While these show commitment towards the SDGs, it is the proper implementation that results in an actual change. Lok Ayukts (Ombudsman institutions) can play a key role in monitoring proper execution and investigating corruption. They can also ensure that the authorities are held accountable for leakages of funds. These institutions should be empowered to effectively check the functioning as well as utilisation of funds. Whistleblowers can be instrumental in exposing inefficiencies, misuse of resources and corruption at grass root level. This will enhance the transparency and accountability of the system.

A separate budget needs to be allocated to factors such as transportation and salaries that make up majority of the source of expenses. A focus needs to be on building up the capacity of infrastructures to obtain optimum results.

A multi-faceted approach focusing on institutional reforms and community empowerment calls for a shift from top-down to a decentralised approach where local level authorities can act as key drivers of change. The service delivery mechanisms need to be more transparent and effective in contrast to the current system of underreporting and inefficiency. A systematic change is required that targets the core social barriers such as gender disparities, literacy and awareness issues and caste-based discrimination.

If the current scenario remains stagnant, the country will not be able to achieve these Sustainable Development Goals, at least not entirely. While the existence of rights, schemes and programmes signifies the effort, at the end of the day it is the implementation and the utilisation of the funds and resources which determines whether or not there will be a substantial change in the difficulties that large amount of people currently face.

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# REHABILITATION AND REINTEGRATION OF A CHILD IN CONFLICT WITH LAW: ISSUES AND CHALLENGES WITH SPECIAL REFERENCE TO THE STATE OF TRIPURA

*Roshni Laskar<sup>1</sup> & Dr. Zigisha Pujari<sup>2</sup>*

## Abstract

*The present Juvenile Justice System in India possesses significant challenges related to rehabilitation and social reintegration of CICL. This study examines the gaps in implementation, causes hindrance in successful rehabilitation and reintegration of Child in Conflict with Law (hereinafter CICL) by collecting empirical data from the state of Tripura. The Juvenile Justice (Care and Protection of Children) Act, 2015 focuses on child centric rehabilitation approaches but often proves ineffective due to improper implementation of it. The issues such as lack of trained professionals, inadequate infrastructure, vocational training and psychological counseling are often the key challenges in rehabilitation. Additionally, family support, community acceptance and after release care are other cognitive reasons in defeating a successful social reintegration. To get an in-depth insight related to the implementation gaps, researchers have collected empirical data through interviews from different observational homes of Tripura. The study focuses on the importance of effective rehabilitation and reintegration of children and suggests mechanisms such as preparation of Individual Care Plans, gender based plans and community based services to ensure the child's rights protection and also opportunities must be created to facilitate sustainable reintegration.*

**Keywords:** CICL, rehabilitation, reintegration, delinquency, reformatory, conflict with law

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<sup>1</sup>Research Scholar, Faculty of Law, ICFAI University, Tripura. Email: [laskar.roshni88@gmail.com](mailto:laskar.roshni88@gmail.com)

<sup>2</sup>Assistant Professor of Law, ICFAI University, Tripura. Email: [zigishapujari@iutripura.edu.in](mailto:zigishapujari@iutripura.edu.in)

## Introduction

The issue of juvenile delinquency has become a serious threat and is now viewed as a matter of global concern. Over time, the emphasis of juvenile justice has shifted away from punishment towards reform, recognizing that children in conflict with the law need guidance and support rather than retribution. The Juvenile Justice (Care and Protection of Children) Act, 2015 reflects this shift, as it highlights rehabilitation and reintegration as key measures to help children rebuild their lives and find their place in society. The concept of juvenile justice is based on the doctrine of '*parens patriae*' (Kumari, 2017). Under the Juvenile Justice Act of 2015, defined '*Juvenile Delinquents*' are as children who are involved in illegal activity and '*Juveniles*' are those children who are engaged in any criminal activity before completion of 18 years of age. India has ratified International Standards such as "UN Standard Minimum Rules for the Administration of Juvenile Justice" (Beijing Rules, 1985), "UN Convention on the Rights of the Child" (UNCRC, 1989) and "The United Nations Guidelines for the Prevention of Juvenile Delinquency" (Riyadh Guidelines, 1990) for betterment of juveniles and incorporated those principles in Indian juvenile justice system. The evolution of Juvenile Justice Legislation in India is a reflection of the country's dedication towards reform and rehabilitation, especially to protect the rights of the children (Rukhsana, 2023).

Despite this back ground, India reported a total of 3, 40,168 juvenile crimes between 2013 and 2022, more than 75% of Apprehended juveniles between 16 to 18 age group "Juvenile Crime rate highest in Delhi last year: NCRB data", (National Crime Records Bureau, 2022).

This study mainly focuses on Tripura for certain compelling reasons. Firstly, the challenges it faces as a border State (Bangladesh shares 84% of its border) which creates hindrances in implementation of juvenile justice provisions. Secondly, cases of child trafficking related to cross border and implementation of Juvenile Justice Act on foreign national juveniles. Thirdly, as a north-eastern border state Tripura faces the problem of limited resources and implementation challenges. Lastly, during collection of empirical data it has been observed that there is a gap in legal provisions and implementation, which helps to closely observe the systematic challenges that impact the effectiveness of the juvenile justice system.

## **Research Objectives**

This study aims to:

1. To critically analyze the gaps in implementing the Juvenile Justice Act, 2015 in accordance with rehabilitation and social reintegration of CICL in Tripura.
2. To address various implementation challenges such as lack of trained professionals, inadequate infrastructure, vocational training, and psychological counselling and after care release faced by institutional child care in Tripura.
3. To assess stakeholder roles and monitoring mechanisms in the juvenile justice system.
4. To provide suggestive measures such as Individual Care plan, gender based strategies and community based services for holistic reintegration and reformation of CICL.
5. To recommend policy measures to strengthen the rehabilitation and reintegration process.

## **Conceptual Framework: Juvenile Justice and Principle of Best Interest**

### **UNCRC Article 3.1: Best Interest of Child**

Article 3.1 of UN Convention on the Rights of the Child emphasis ‘best interest of child’ as primary consideration, that “in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration” (UNCRC, 1989).

The best interest of a child not only mandates the safeguarding from harm or welfare of the child but it also covers the broader spectrum of protection of child rights, privacy, and expression. This principle demands overall development of children by prioritization of rehabilitation and reintegration by shifting the focus from punitive to reformative approaches.

### **Juvenile Justice System in India**

The principle of best interest is incorporated in Juvenile Justice Act, 2015 by following the general principles such as presumption of innocence, non-

discrimination, principle of dignity, participation, non-discrimination, principle of fresh start and restoration (JJ Act, 2015). Application of these principles requires proper implementation of a child centric care plan, alternatives of institutionalisation and effective aftercare support mechanisms.

In the landmark judgement of Sampurna Behrua Case (2018), Supreme Court has directed the State to ensure effected enforcement of the provisions of the JJ Act, 2015 and also for establishment of separate bodies such as Juvenile Justice Board (JJB) and Child Welfare Committee (CWC), inclusion of trained professionals and strong monitoring mechanisms. The court emphasizes that the present legislation is ineffective without proper implementation and systematic monitoring.

### **Need for Rehabilitation and Reintegration: Prioritising the Best Interest of the Child**

The background of juvenile justice exemplifies a shift toward identifying that children's mental, moral and emotional development differs from that of adults, requiring special designed approaches that emphasize rehabilitation over punishment. This change acknowledges the understanding that children's criminal actions are often related to factors such as poverty, family instability, lack of education, and social exclusion, rather than inbuilt tendency toward crime.

Various sociological and criminological theories helps in better understanding of juvenile delinquency:

- Strain Theory (Raturi & Rastogi, 2022) - It explains that delinquency occurs when an individual has limited resources to fulfil their desires. In such cases, it has been observed that many individuals are involved in illegal activities to fulfill their aim.
- Social Learning Theory (Raturi & Rastogi, 2022) - This theory implies that children learn certain behaviour by observing other people as they try to mimic it. To prevent delinquent behaviour within a child, it is very important to provide them a positive environment.
- Labelling Theory (Raturi & Rastogi, 2022) - Deviant behaviour can occur in a person if he/she is tagged or labelled as criminal, then it tends to possess participation in criminal act irrespective of what behavioural traits existed beforehand. It emphasises that a non-labelling approach must be taken by child care institutions.

## **International Standards Supporting Rehabilitation and Reintegration of Juvenile**

The International community drafted juvenile legislation and related to children in conflict with law.

- Beijing Rules, 1985: ‘The United Nations Standard Minimum Rules for the Administration of Juvenile Justice were adopted by United Nations General Assembly resolution on 29<sup>th</sup> November 1985’. It states in detail, that all children irrespective of their colour, race, gender, language or place of birth, will be subject to a minimum standard of rules (The Beijing Rules, 1985).
- United Nations Convention on the Rights of Child, 1989: It emphasizes basically on social reintegration and best interests of the children (Convention on the rights of child, 1989).
- Riyadh Guidelines, 1990: The United Nations Guidelines for the Prevention of Juvenile Delinquency, 1990 (Riyadh Guidelines, 1990), accept the significance of implementing measures to restrict children from involving in criminal activities, presenting various nuanced strategies for crime prevention and discouraging juvenile offenders.

## **National Framework towards Rehabilitation and Reintegration of Juveniles**

After Nirbhaya case (2012) involving a juvenile offender, was a pivotal point as a response of public outcry which triggered the legislative changes as an outcome of which the Juvenile Justice Act, 2015 was introduced. It set forth procedural safeguards for juveniles by addressing the issues related to adoption, unsettled cases and institutional responsibility. It also aims to address the increasing crimes between 16 to 18 years of age of children (Crime in India, 2022).

### ***Juvenile Justice (Care and Protection of Children) Act, 2015***

The Preamble of Juvenile Justice Act, 2015 provides ‘catering the best interest and addressing the basic needs by ensuring development, proper care, reintegration, by implementing a child friendly environment in the adjudication and to rehabilitate them through processes mentioned, under institutions and non-institutional bodies established (JJ Act, 2015). The key Provision of the Act are as follows:

- The Act changes the nomenclature from “juvenile” to “child”, it categorizes child in “children conflict with law” and “Children in need of care and protection”.
- ‘Child in Conflict with Law’-As per provision 2(13) of the Juvenile Justice Act, 2015, a CICL, means an “individual” who has engaged in offence and has not completed 18 years of age (JJ Act, 2015).
- Classification of offences.
- Reduction of age in juveniles for commission of heinous crime.
- Establishment of Juvenile Justice Boards in each district.
- Strengthening the provisions related to adoption by establishing the Central Adoption Resource Authority (CARA).

### **Constitutional Mandates**

Under Article 15(3) of Indian Constitution, it mandates the States to make special provisions for Children. Article- 21 guarantees right to life and personal dignity, which provides protection to the juvenile rights. This constitutional mandate includes in JJ Act, 2015 through prioritising child-centric rehabilitation approaches (Pandey, 1997).

### **Female Delinquents**

Under Juvenile Justice Act, 2015, no specific legal provisions are solely available for female juveniles, but impliedly mentioned within its principles and institutional set up, however without a distinct gender-specific provisions in many instances it faces various challenges in its implementation. Provisions mentioned impliedly for female juveniles within the Act are as follows:

- General Principles mentioned under Section-3 of (UNCRC,1989) relevant to female are:
  1. Principle of Dignity and Worth: This principle is important for female juveniles as they are often subjected to abuse and exploitation.
  2. Principle of Equality and Non-Discrimination: This principle also prevented discrimination on the basis of gender.
  3. Principle of Best Interest of Child: It highlighted that all the decisions must be taken after considering the best interest of the child.

4. Principle of Safety: This principle ensure the safety of a child, this mainly relevant to female juveniles as they were subjected more to sexual abuse and exploitation.
- Section 8 of (JJ Act, 2015), talks about administering the Juvenile Justice Board- The act mandates that there should be one woman among the two social workers.
  - Section 27 of (JJ Act, 2015), mandates that there must be a women member within the Child Welfare Committee. Section 41 and 50 of (JJ Act, 2015).
  - specify to have separate institutional facilities for females and female staff must deal with the female delinquents.
  - Rule 56 of (Juvenile Justice Model Rules, 2016) provide that only female staff will supervise the girl children. It also provides provisions to ensure hygiene during mensuration, separate nutritional diet and vocational training for female juveniles.
  - Though the Act is a gender neutral act, it still emphasizes special care to protect the girl children during providing aftercare programmes, mainly for those who cannot return back to their family.

### **Role and Accountability of Stakeholders**

- Police and Special Juvenile Police Units (SJPUs) - It is the first contact point with apprehended child, ensures child friendly process, should produce within 24 hours before the JJB, coordinate with CWC and JJB (JJ Act, 2015).
- Probation Officer- plays a vital role from preparing Social Investigation Reports (SIR) to monitoring the development in child behaviour. Emphasis in Individual Care Plan, their role is not limited to institutional care but include after care services for long-term social reintegration.
- Child Care Institutions- Offer residential care, education, skill development training, psychological support, medical care. Institutions must promote child-friendly environments that support rehabilitation.
- JJB and CWC- operates cases related to CICL and Child in need of care and protection, ensures child friendly approach & best interest of child.

## **Role of NGO's**

- To actively participate in the monitoring mechanism of the physical conditions of child care institutions.
- To create awareness to facilitate the acceptance and support for better social reintegration of CICL.
- To connect CICL in different programs arranged for community services.
- To create sustainable employment opportunities, CICL may be encouraged to sell their handmade products at various exhibitions organized by the State Government. This initiative would not only generate income for them but also imbibe entrepreneurial skills, build confidence, and facilitate their reintegration into society.
- To organize certified courses sponsored by the State government.

## **Monitoring Mechanism: Later Sampurna Behrua Case (Mehndiratta, 2023)**

- National Commission for Protection of Children's Right and State Commission for Protection of Children's Right should appoint adequate staff for proper functioning in providing appropriate conditions for children.
- JJB should engage in regular sessions for speedy disposal of cases related to CICL.
- The Commission of Children's rights should conduct surveys at regular intervals at the state and national level.
- The State government must look after that each child care institution must be registered.
- In every high court, the chief justice should ensure a child friendly environment for CICL.
- All the professionals related to CICL such as members of JJB, SJPU of each district must be given special training to handle those children.

## Comparative Analysis of Indian Laws with Various Jurisdiction of Juvenile Justice Laws

This comparative analysis is based on institutional structures, accountability, legal provisions and rehabilitative measures adopted in India, United Kingdom, United States and Saudi Arabia (Mishra, 2020 & AlRomaih, 1985).

Table 1: Comparative analysis of India, United Kingdom, United States and Saudi Arabia.

Factors	India	USA	United Kingdom	Saudi Arabia
Age of Criminal Responsibility	Below 18 years	7-18 years, varies state wise	10-17 year	7-12 years
Institutional Framework	JJB and CWC	Juvenile Courts	Youth Offending teams	Sharia-based juvenile courts
Gender-Responsive Provisions	Limited implementation	State-dependent programs	Comprehensive gender services	Traditional gender separation
Rehabilitation Focus	Provided in legal provisions, but gap in proper implementation	Evidence based programs	Early intervention priority	Family-community based
Aftercare Systems	Lack of proper execution	Structured services	Comprehensive support	Social reintegration
Classification of Offenses	Petty, Serious, Heinous	Differs by jurisdiction	Summary and prosecutable	Pious and civil codes

### Some Key Points

- In the USA rehabilitation programs based on evidence supported programs, specialised aftercare services and tailored programs addressing substance abuse among juveniles (National Research Council, 2013).
- The United Kingdom mainly focuses on early detection of juvenile delinquents to prevent it through Youth Offending Team, conferences with family, institutionalisation alternatives on community based services (Youth Justice Board, 2019).
- Saudi Arabia supported community based alternatives and strong family

measures for effective rehabilitation (AIRomaih, 1985).

### **Prevalent Gaps in Indian Juvenile Justice Structure**

1. Absence of adequate measures for early intervention like United Kingdom's Youth Offending Team.
2. Lack of sufficient community based alternatives for institutionalisation.
3. Lack of evidence based support programs available in the USA.
4. Weak substance abuse intervention programs.
5. Inadequate family intervention programs for better reintegration of juveniles.

### ***Rehabilitation And Reintegration Services Provide under Institutional Care***

As per the Section- 53 (1) of the Act (JJ Act, 2015), the child care institution must be registered and should provide various services for rehabilitation and reintegration of CICL and emphasis that all the institutional care must work towards aiming rehabilitation and reintegration of child in conflict with law by following prescribed manner:

- To provide basic fundamental requirements such as clothing, shelter, food and medical attention.
- To provide educational facilities as per the specific-need of the children.
- To provide proper vocational and skill development facilities to children in conflict with law.
- Availability of prosthetic devices, hearing aids, wheel-chairs and other essentials required for special children.
- To provide occupational therapy.
- To provide counselling for the mental well-being of the children.
- To provide facilities and infrastructure required for legal aid, treatment of mental-illness and de-addiction.

These provisions provide proper guidelines of the rehabilitation process and also mandates to prepare Individual Care Plan as per the requirement of an individual child by providing them an opportunity to turn into a responsible member of the society (JJ Act, 2015).

Aftercare organisation plays an important role in social reintegration of

CICL, it is a temporary home where children are placed before they are totally reintegrated into the society. Section 46 of the Act, defines Aftercare that when a child is discharged from a child care institution after attaining 18 years, they are provided with after care and financial support to efficiently facilitate the child's reintegration into the society as prescribed under the Act (Mishra, 2023).

### ***Aftercare Services***

Aftercare or post care is a crucial part of rehabilitation for successful reintegration of CICL, the State government shall make rules in accordance with the JJ Act.

- For establishing a child care institution.
- Aftercare schemes such as special homes must be followed for children's overall growth.
- The probation officer must prepare a report for each child before release from the child care institution and produce it before the juvenile justice board.
- Financial support must be given to CICL after their discharge from the JJ system for an efficient reintegration into society.

## **Research Methodology**

### **Research Design**

This study employs a mixed approach by collecting both qualitative and quantitative data to provide an overall understanding of the juvenile rehabilitation challenges. The methodology has been designed to confirm that the research objectives are addressed systematically and that the findings are reliable, valid, and ethically sound.

### **Sources of Data**

#### **Primary Data**

Semi-structured interviews were conducted with the probation officers, counsellors, staff and CICL from different institutional care.

#### ***Secondary Data***

Exploration of policies, statutory provisions, case laws, reports of the National/State Commissions for Protection of Child Rights, Ministry of Women and Child Development & International Convention documents.

### **Research Settings and Population of the Study**

Tripura has a total of 8 districts. In 8 districts, 3 observational homes are present, accommodating CICL from across several districts. As the researcher deals with CICL so the data was collected from observation homes. Data was collected from three (3) observation homes and one (1) special home in Tripura:

- Observation home at Dharmanagar, North Tripura (occupancy-8)
- Observation home at Narsingarh, West Tripura (occupancy-15)
- Observation home at Udaipur, Gomati District- (occupancy-11)
- Special Homes, Narsingarh, West Tripura (integrated with observation home of Narsingarh)- (occupancy- 7)

### **Sampling Method**

A purposive sampling method was adopted to identify institutions and potential respondents. This method was used as access to children in conflict with the law is directed by severe legal and procedural safeguards. The sample size of the study was 33. This included children in conflict with the law (n=25). Among them, 16 were male and 9 were female aged between 1-17 years. Other respondents include: staff members (n=3) and representatives of Child Welfare Committees/Probation Officers (n=3).

### **Data Collection Procedures**

Data was collected using the semi-structured interview schedule. The researchers designed the schedule with both open and closed-ended questions to elicit responses from CICL and staff. Each interview lasted for 35-50 minutes. The interviews were conducted in Bengali and Hindi, as per the participant's preference. The data collection was done during January- March, 2025. Along with interviews, data was collected through direct visit and observation of institutional infrastructure, facilities, and daily schedules of the CICL. The researcher maintained strict ethical standards while undertaking the research and especially during collection of empirical data. For that, the researcher obtained permission from institutions, obtained consent from the CICL, structured the interview

questions by considering the aspects to avoid any re-traumatisation, protected confidentiality and privacy by not mentioning the names of the participants.

### **Method of Data Analysis**

Field data were analysed through thematic content method, with responses systematically coded into key themes, such as education, healthcare, vocational training, aftercare, family reintegration and challenges of child care institutions. Secondary sources were referred using doctrinal and comparative approaches, incorporating references to related international standards

### **Research Findings**

The study found various challenges in implementation of rehabilitation and reintegration in the child care institutions. These are as follows:

#### **Lack of Infrastructure and Physical Conditions**

Overcrowding is one of the key challenges in rehabilitation of CICL. Some of the child care institutions are overcrowded and they are accommodating more Childrens than it is designed for. One of the unique findings of the study is that it find out no separate space is provided for pregnant CICL. Also, it was found that even though the Juvenile Justice Model Rules, 2016 mandate to make age-based segregation, most of the facilities didn't maintain such segregation. Almost all the facilities accommodate CICL and Child in Need of Care and Protection together. Beside poor sanitation facilities is another area of concern. Lack of adequate number of washrooms (i.e., 1-2 washrooms are allotted for more than 15 inmates) and most of the times the washrooms are not properly cleaned. Finally, the observation and special homes lack proper ventilation. Lack of proper ventilation causes poor quality of air and light, the rooms are shabby, dirty bed sheets have fewer beds which causes a negative impact on child psychology which affects the rehabilitation process of the child. As a 14 years female inmate reported:

We have a lack of washrooms. Sometimes we have to wait for a long time to get the chance to use the washroom and the washrooms are very dirty. Even the quantity and quantity of food provided to us is not appropriate for us.

#### **Lack of Professional Staff**

The study identifies the lack of specialized staff in observation and special homes as a significant challenge to the effective rehabilitation of CICL. As per

the JJ Model Rules, 2016, a permanent counsellor should be appointed and they should visit the CCIs on a regular basis. But most (60%) of the facilities have appointed temporary counsellor and they visit on a weekly basis which ultimately hampers the regular psychological intervention. Besides, proper training should be given to the staff for better understanding of psychological and physical needs of a child and it is crucial for implementing Individual Care Plans (ICPs) for efficient implementation of rehabilitative programmes. As one of the staff who participated in this study said:

We give our best to understand the child, but sometimes some of the children get violent and at that time it was very tough to manage them without being strict. So due to less training we don't know the appropriate approach to handle them.

### **Lack of Educational and Vocational Training**

The findings indicate that educational and vocational training facilities available to CICLs are severely limited. Only in 30% of facilities, the children are attending schools, that too for only giving the exams. Most of the children are not going to schools and even no structured system of education is designed for them. No certified courses are provided to them. Similarly, absence of vocational training is very evident. 80% of the facilities are lacking in providing structured vocational training which is helpful to get employment. No separate vocational training programs are designed for female inmates such as tailoring, handicraft or cooking classes. As one of the study participants reported, "We didn't attend any school, home tutors used to come to teach us only for 3 days in a week".

### **Lack of Implementation of Individual Care Plans**

The findings indicate an absence of Individual Care Plan for each child. Staff in the facilities do not document any systematic Individual Care Plans. Even no regular review is done for monitoring the progress of the child which is mandated by JJ Act, 2015.

### **Lack of Aftercare and Community Based Services**

The study reveals an absence of adequate aftercare services for CICL. No proper track is maintained for those children who have been released from such

facilities. After release reports have to be submitted for individual children by the Probation Officer, but such reports are not prepared and maintained by the facilities. Also, there is an absence of arrangement of community based services which is provided under the JJ Act.

### **Community and Social Stigma**

The study found that the CICL also experience rejection from the families as in cases of some Children, their parents cut all ties with them. The facilities informed the researcher that in certain cases it is very difficult to handover the child to their families as they refuse to take them back after they have been released. Also, in certain cases, the child faces social stigma and labelling and couldn't be able to sustain a normal life. As one of the participant informed:

I am a re-offender, and after release I wasn't able to go to school and lead a normal life. Even my neighbours and relatives avoided me. Again, I indulge myself in theft and I prefer to stay here because here no one makes me feel that I am different from them.

Another participant, a superintendent shared:

A boy aged almost 12 years murdered his mother, and after he came here no one from his family visited him. We tried several times to arrange a meeting with his father but he refused to keep any contact with him.

### **Gender Based Dimensions: Vulnerability of Female Juveniles**

The findings suggest that CICL is exposed to cross-border vulnerabilities. A majority (80%) of females are from Bangladesh and some are victims of trafficking, they are facing difficulties such as indeterminate legal status, language obstacles and complex repatriation process. Besides, reproductive health issues are also frequent due to inadequate mensuration hygiene facilities, awareness on contraception, reproductive health education and prenatal & postnatal care for pregnant females. Also, family connections are limited as often families are rejected to keep contact or to accept them back into the family due to shame and societal rejection. A 15 year female participant shared that:

I eloped with my boyfriend, he brought me to India and sold me. Then I was forced into prostitution, somehow I managed to cross the border to go back to Bangladesh but I was arrested while crossing the border without any documents.

Another female participant sharing her ordeal said “After release we have to wait here for several days or months due to the procedures and many times our parents don’t want to take us back”. Such instances make female CICL more exposed to vulnerabilities.

### **Limited Collaboration among the NGOs**

The study reported limited institutional collaboration with NGO’s, although the provisions are laid down to encourage such collaboration to facilitate the rehabilitation and for promoting community based alternatives. Thus, institutions should establish partnerships with private organizations to facilitate opportunities for placement of juveniles following their release from such facilities.

### **Discussion**

The major finding reveals that though legal provisions are given for the best interest of children by incorporating international conventions, there is a gap of implementation of such provisions. Though a proper accountability mechanism is highlighted through Sampurna Behrui judgement (2018), no regular inspection is done as per the mandate. No specific gender-based facilities are provided to the female juveniles by considering their special needs, abuse, and trauma. Lack of reproductive health services, lack of appropriate number of female staff, limited vocational program which violates the gender-centric principles laid down in UNCRC.

### **Policy Recommendation**

#### **Immediate Reforms (0-1 Years)**

1. **Infrastructural Changes:** Speedy sanctioning of funds for improvements of the basic amenities such as ventilation, sanitation, privacy provisions, and gender-specific accommodations.
2. **Immediate Staff Recruitment:** To appoint specialized staff such as psychologists’ counsellor, female workers for gender specific services.
3. **Implementation of proper training:** Mandatory training programs must be given to the existing staff including child psychology, trauma-informed care, and rights-based approaches.
4. **Preparation of Individual Child Care Plan:** Improvement and implementation of standardized ICP procedures with regular monitoring and outcome tracking.

### **Medium-Term Reforms (1-5 Years)**

1. Alternative Community Development: Encouraging foster care, establishment of therapeutic communities and alternative community based services such as indulging them
2. Aftercare System Strengthening: To create a dedicated team for aftercare services with trained social workers, sustainable funding, and systematic outcome monitoring.
3. Gender-Responsive Programming: To develop a comprehensive program addressing reproductive health, trauma recovery, and skill development for female CICL.
4. Early Intervention Pilot Programs: Implementation of Youth Offending Team models adapted for Indian contexts in select districts.

### **Long-Term Reforms (5+ Years)**

1. Integration of System and Technology: Development of unified case management systems that link all involved parties and support decision-making based on data analysis.
2. Legislative Review: Regular systematic review of the JJ Act execution challenges and consideration of amendments & addressing identified gaps State and National Level Recommendation

## **Suggestions**

### **State Level**

1. Establishment of a strong monitoring committee for the State juvenile justice that include civil society representatives and they should possess power to ensure compliance.
2. To develop practical guidelines for State- specific rehabilitation application by including socio-economic & cultural aspects.
3. To allocate a dedicated budget for each rehabilitation program's measurable outcome performance indicators.
4. To arrange family meetings at regular intervals and to involve the CICL in community based activity which facilitate a smooth reintegration into the society.
5. To involve NGOs for smooth reintegration of CICL.

## **National Level**

1. To include gender-specific programs in the present the JJ Act as mentioned under Beijing rules to fulfil the separate physical, social and psychological needs of females without any discrimination, along with strong accountability mechanisms.
2. To develop certain standards as a registration criteria that every child care institution must follow for getting registered.
3. To establish National Juvenile Justice centres along with regional centres.

## **Limitation of the Research**

Due to shortage of time, this research is limited to the State of Tripura and the findings may not be applicable to other parts of the country. Moreover, due to administrative pressure and lack of trust on researchers, there is a chance of response biases from CICL and officials themselves during interviews. Due to confidentiality clauses, the researcher faces problems in getting access to records and details of children in conflict with law.

## **Conclusion**

The study shows a persistent and significant gap between the objectives of the JJ Act 2015 and the ground-level conditions the CICL is actually facing. Although proper legislative provisions and accountability mechanisms are provided in the Sampurna Behrua (2018) judgement, still poor implementation exists which causes systematic failures and to undermine the focus on “best interest on child” and are the contributing factors for marginalisation, social stigmatisation and recidivism. The empirical data of this research shows that present rehabilitation and reintegration programs fail to provide overall holistic development of CICL, and also fail to address the definite issues of the cross-border female juveniles. Absence of structured Individual Child Care Plan, lack of trained staff, poor infrastructures and absence of after care services amounts to systematic violation of child rights and fundamentally undermine the reformatory purpose of juvenile justice.

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# CHILDHOOD, CONSENT, AND PRIVACY: A CASE COMMENT ON IN RE: RIGHT TO PRIVACY OF ADOLESCENTS

*Hritwik Ravi*<sup>1</sup>

## Abstract

*The Supreme Court's judgment on in Re: Right to Privacy of Adolescents marks a critical juncture in the intersection of child protection law, constitutional justice, and adolescent autonomy in India. While the Protection of Children from Sexual Offences (POCSO) Act, 2012, was enacted as a robust safeguard against sexual abuse, its blanket criminalization of all sexual activity under eighteen has created deep tensions between legislative intent and lived adolescent realities. A significant proportion of POCSO cases, often "romantic" in nature, reflect consensual relationships between peers rather than predatory exploitation, exposing the limits of a rigid statutory framework. The case in question illustrates the tragic consequences of this dissonance, where the victim's trauma stemmed less from the alleged offence and more from systemic failures: police hostility, legal alienation, financial exploitation, and institutional neglect. The Court's invocation of Article 142 to suspend sentencing, despite affirming the conviction, embodies a bold embrace of restorative justice. This act was framed not as mercy but as a therapeutic intervention to prevent further harm to the victim and her child, highlighting the judiciary's role as a constitutional corrective when statutory schemes collapse into instruments of harm. Yet, the Court's disclaimer that the decision should not be treated as precedent underscores the fragility of such interventions, which cannot substitute for structural reform. The judgment ultimately exposes the pressing need to reconcile POCSO with adolescent realities, calling for legislative recalibration, comprehensive sexuality education, and stronger welfare mechanisms. While the Court has delivered "complete justice" in one tragic case, the responsibility now shifts to Parliament to ensure a systemic response that balances protection with recognition of adolescent agency.*

**Keywords:** POCSO Act, adolescent autonomy, restorative justice, constitutional interpretation, consent.

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<sup>1</sup>Research Scholar at Indian Law Institute, New Delhi

## Introduction

The Protection of Children from Sexual Offences (POCSO) Act, 2012, stands as a pillar of India's child protection jurisprudence. It's a legislative shield forged with the noble and necessary intent of safeguarding the nation's most vulnerable from the scourge of sexual abuse. It defines a "child" as any person below the age of eighteen, thereby creating a legal reality where a minor's consent to a sexual act is a nullity. The doctrine of *parens patriae*, the state as the ultimate guardian, finds its most potent expression in this act.

This blanket criminalization policy, a fundamental tool in combating exploitative predation, has unintentionally drawn the Indian legal system into a social clash. Law, in its unyielding rigidity, has been pitted against the intricate, frequently untidy, realities of teenage sexuality. Empirical research has always found that a considerable percentage of cases registered under POCSO, which is projected at 20% to 25%, are not predatory abuse but are "romantic" cases involving consensual relationships between adolescents who are close in age. In such cases, the gender-neutral language of the law is routinely interpreted in a gendered fashion; when two children are discovered to be in a relationship that violates the provisions of the Act, the judiciary traditionally automatically labels the girl the "victim" and the boy as the "accused" and sends him into the juvenile justice system. On the other hand, the girl is sent to a Child Welfare Committee.

Thus, over the past decade, a significant and contentious debate has emerged from the law's application to cases that are far removed from its intended targets. This has led to a state of legal and social turmoil, in which young people find their evolving agency denied and their emotional lives prosecuted.

This legal quagmire has fostered a fractured jurisprudence across the country in which Courts are adopting starkly divergent approaches.

*In Re: Right to Privacy of Adolescents* is a decision that does not resolve the statutory paradox but instead transcends it and brings the entire dilemma into sharp focus. It states that true justice, at times, must look beyond the cold letter of the law to the reality of human lives.

## Deconstructing the Case

The case originated from a relationship between a 14-year-old girl and a 25-year-old man in rural West Bengal. In May 2018, the girl left her home to be with the man, prompting her mother to file a First Information Report (FIR). The girl was subsequently placed in a shelter home and later restored to her parents. However, facing intense stigma, humiliation, and surveillance from her own family, she left again to live with the accused. In May 2021, when she was 17, she gave birth to their daughter.

The state machinery arrested the accused in December 2021. The Special Court convicted him under Section 6 of the Act and Sections 363 and 366 of the Indian Penal Code, 1860 (IPC), imposing the mandatory minimum sentence of twenty years' rigorous imprisonment for the POCSO offence.

On appeal, the Calcutta High Court, in a surprising move, set aside the conviction entirely. Invoking its extraordinary powers under Article 226 of the Constitution and Section 482 of the Code of Criminal Procedure, 1973 (CrPC), the High Court prioritized the preservation of the *de facto* family unit over the strict application of the law.

The State of West Bengal appealed this acquittal to the Supreme Court. In an initial judgment on August 20, 2024, the Supreme Court set aside the High Court's order, restoring the conviction. The Court, however, deferred the question of sentencing and appointed a three-member expert committee to assess the socio-psychological realities of the case.

## Analysis of the Judgment

Written by Justice Abhay S. Oka, the Court first dismantled the High Court's reasoning for quashing the conviction. It held that the High Court had committed a grave jurisdictional error by using its inherent powers under Section 482 CrPC to nullify a conviction for a serious, non-compoundable offence. Relying on its own precedent in *Gian Singh v. State of Punjab & Anr.*,<sup>2</sup> the Court reiterated the principle that while offences of a "civil flavor" could be quashed upon settlement, this power does not extend to "serious offences like murder, rape, dacoity, etc., or other offences of moral turpitude under special statutes".

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<sup>2</sup>2012 (10) SCC 303

The Court unequivocally placed POCSO offences in this latter category, reasoning that they are crimes against society, not merely against an individual. Therefore, a subsequent compromise or marriage holds no legal sanctity in erasing the crime. The Court stated firmly that “even if the accused and the victim (who has now attained majority) were to come out with a settlement, the High Court could not have quashed the prosecution”. This part of the judgment serves as a crucial reaffirmation of the POCSO Act’s legislative intent.

Having reinstated the conviction, the Court then addressed the very disturbing issue of sentencing, under the direction of the appalling revelations of the expert committee. The committee’s deepest finding, which was the ethical pivot of the Court’s ruling, was that “it was not the legal crime which caused trauma on the victim, rather it was the legal battle which ensued consequent to the crime that is taking a toll on the victim”. Her trauma was the result of her experiences with the police, the isolating legal system, and the desperate, money-losing fight to save her partner and bring up their child on her own. The committee documented her appalling financial exploitation, to the extent that she was made to take on a debt of over Rs. 2 lakhs for lawyers’ fees and even a tout.

The reports painted a picture of a young woman who, abandoned by her family and failed by the State, had found her only anchor in the very man the law branded her abuser.

Section 19(6) of the POCSO Act, a crucial provision that mandates informing the local Child Welfare Committee (CWC), which would have triggered the supportive framework of the Juvenile Justice (Care and Protection of Children) Act, 2015. This, combined with the inaction of village-level Child Protection Committees and the failure of the legal aid system, created a vacuum of support that left the victim with no viable alternative. The Court concluded that a mechanical application of the mandatory twenty-year sentence under Section 6 of the POCSO Act would be the ultimate act of systemic violence against the victim, destroying her family and her emotional well-being.

### **Article 142 as a Tool of Restorative Justice**

To resolve this conflict, the Court invoked its extraordinary jurisdiction under Article 142 of the Constitution, which empowers it to pass any order

necessary for “doing complete justice”. The Court clarified that this was not an act of mercy but a calculated therapeutic intervention, stating that “true justice lies in not sentencing the accused to undergo imprisonment”. Aware of the profound implications, the Court emphatically ring-fenced its decision, stating, “This case is not going to be a precedent... This case is an illustration of the complete failure of our society and our legal system”.

### **Reconciling POCSO with Adolescent Realities**

The judgment reflects a bold and empathetic turn towards restorative justice. However, its dependence on a constitutional exception to address a systemic statutory void exposes a deeper malaise within Indian criminal law. It mirrors a broader conflict unfolding in High Courts across the country, resulting in a fractured and inconsistent jurisprudence. Several courts have adopted a pragmatic approach, recognizing the need to contextualize adolescent intimacy rather than criminalize it mechanically.

For instance, in *Hamid Sha v. State of Odisha*,<sup>3</sup> the Orissa High Court granted interim bail, with Justice S.K. Panigrahi observing that the justice system should not be weaponized to punish emotional intimacy between peers simply because it offends the sensibilities of others.” The court further emphasized the need for a “nuanced and contextual approach” rather than rigid statutory application. (The Indian Express, 2024) In another set of cases, the same court quashed proceedings where couples had married, reasoning that continuation of prosecution would have the “undesired and self-defeating effect of punishing the victim as well.”

This reasoning has found resonance elsewhere. The Karnataka High Courts, too, have invoked similar considerations in “Romeo and Juliet” cases, prioritizing familial stability and protection from societal stigma (The Hindu, 2024).

Yet, these reformist decisions coexist uneasily with more formalist rulings. In a separate matter, the Madras High Court stressed that a POCSO offence is not merely against an individual but against society itself, holding that marriage cannot erase culpability. This divergence creates acute legal uncertainty, where outcomes hinge less on principle than on the bench before which a case is placed.

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<sup>3</sup>BLAPL No.1805 of 2025 (High Court of Orissa)

## Conclusion

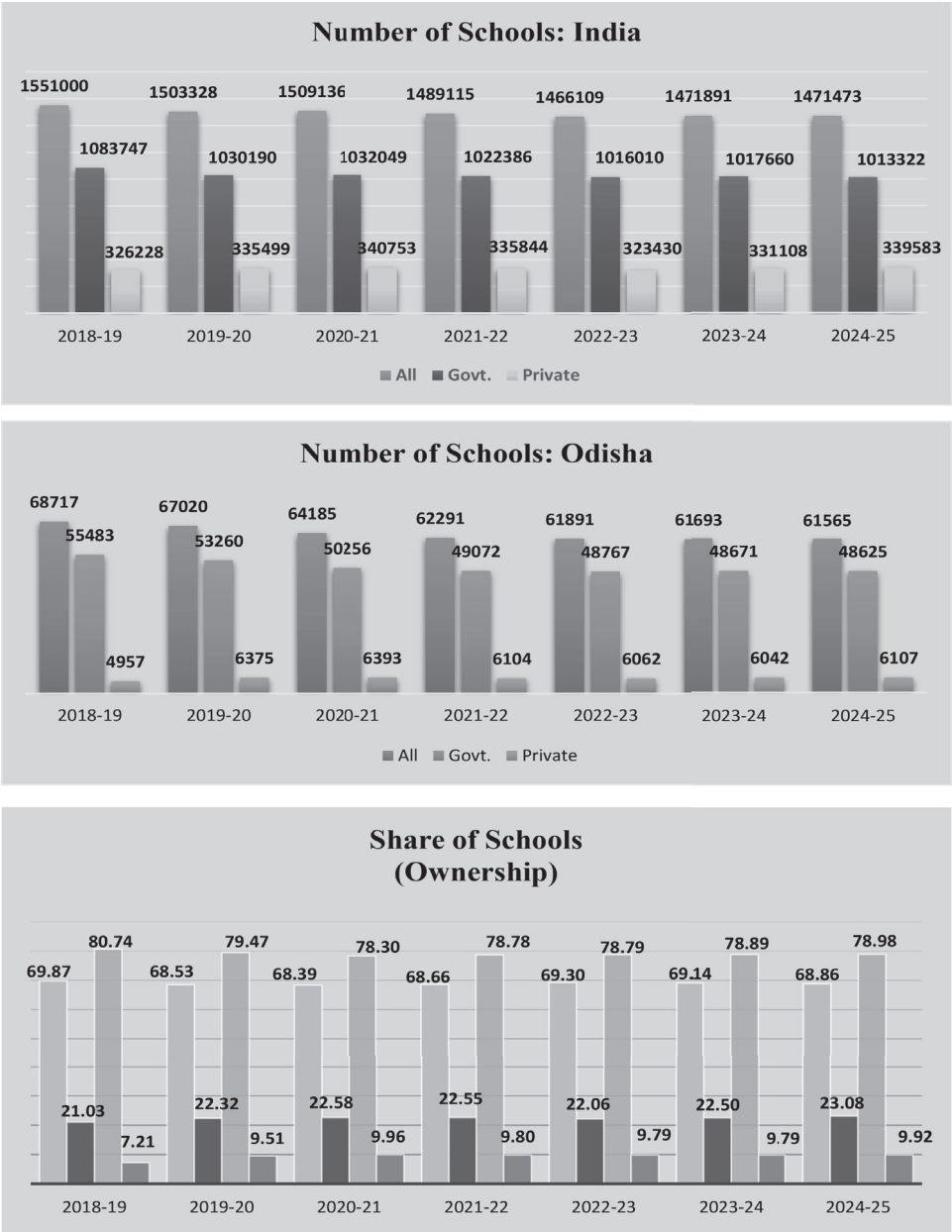
The Supreme Court's judgment in *In Re: Right to Privacy of Adolescents* is a profound statement on the limits of law and the boundlessness of justice. It is a testament to the fact that when a legal system fails so completely that its own processes become the primary source of trauma, the Constitution must serve as the ultimate corrective. The Court did not condone the act but condemned the system that left a vulnerable girl with no real choice. While the Court's disclaimer that this case is not a precedent must be respected, its true legacy lies in its role as a powerful catalyst. It has laid bare the deep-seated flaws in the POCSO Act's application to adolescent relationships and has placed the onus squarely on the legislature to act. The judgment's forward-looking directions, which call for comprehensive sexuality education, robust data collection, and the strengthening of child welfare systems, chart a course for a more holistic, supportive, and humane approach to child protection. The Court has done its part to deliver "complete justice" in one tragic case; it is now for Parliament to ensure that such extraordinary judicial interventions are no longer necessary.

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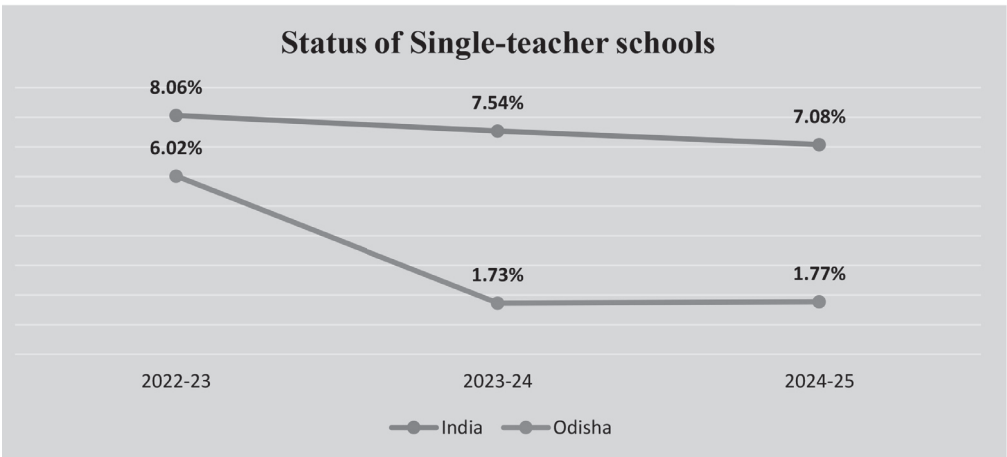
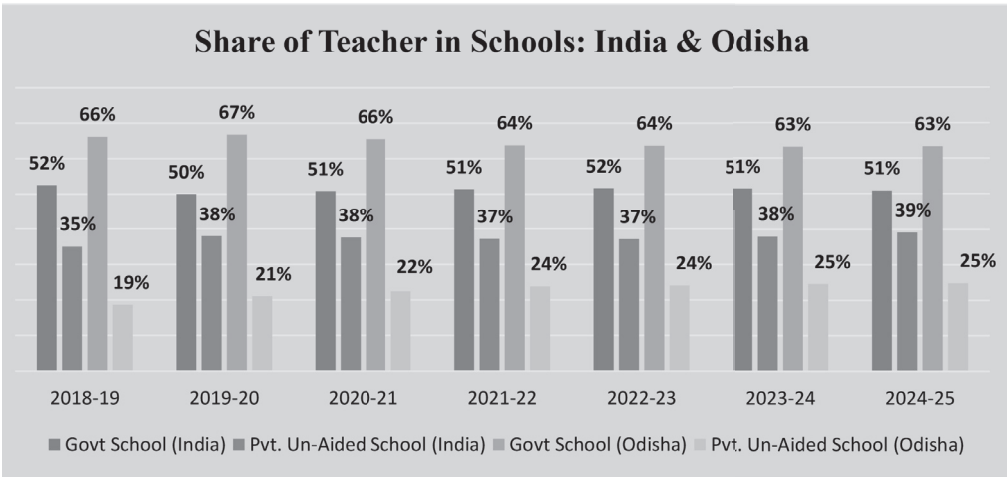
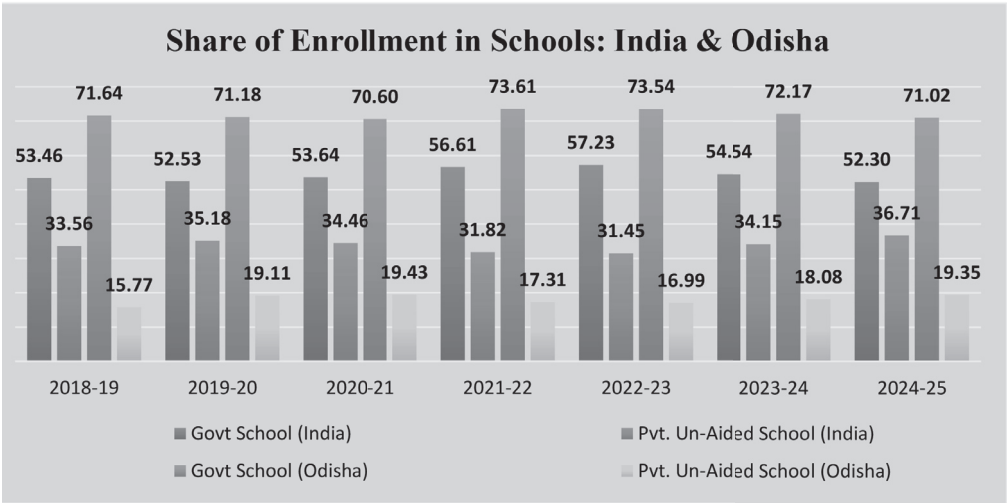
# SCHOOLS AT A GLANCE: INDIA & ODISHA

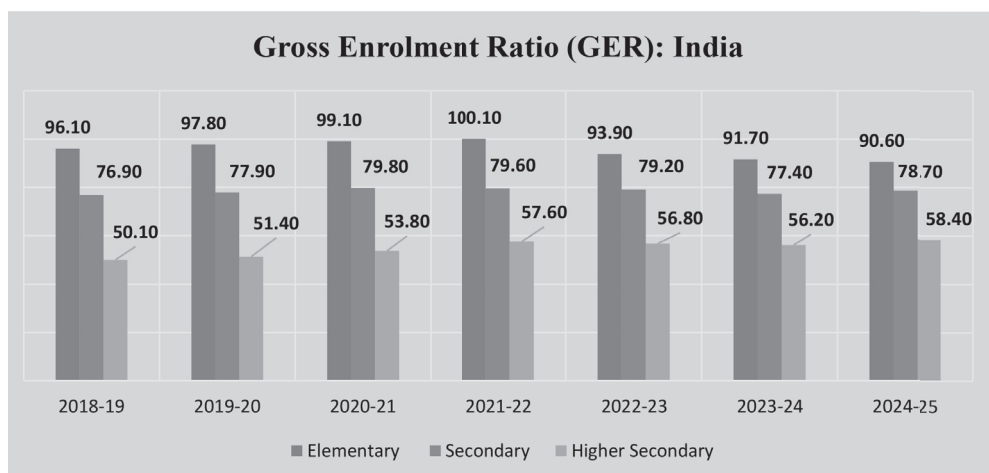
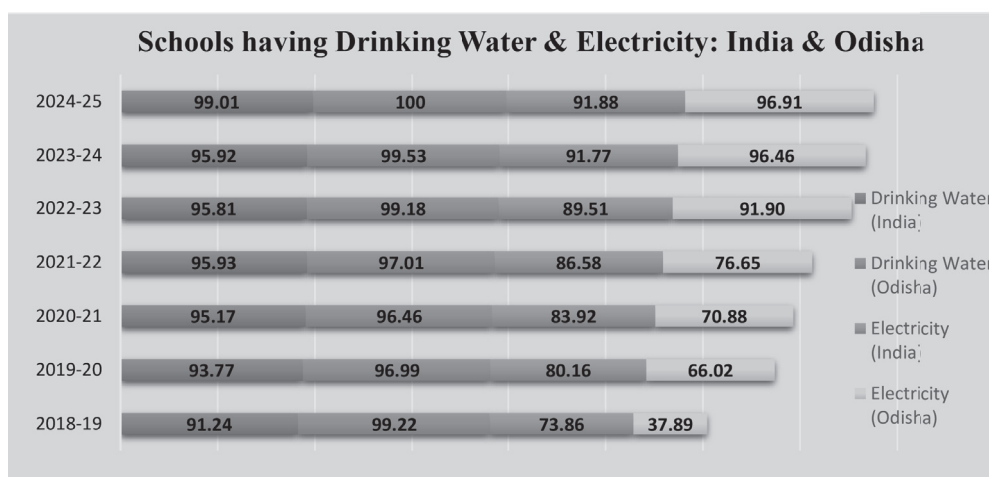
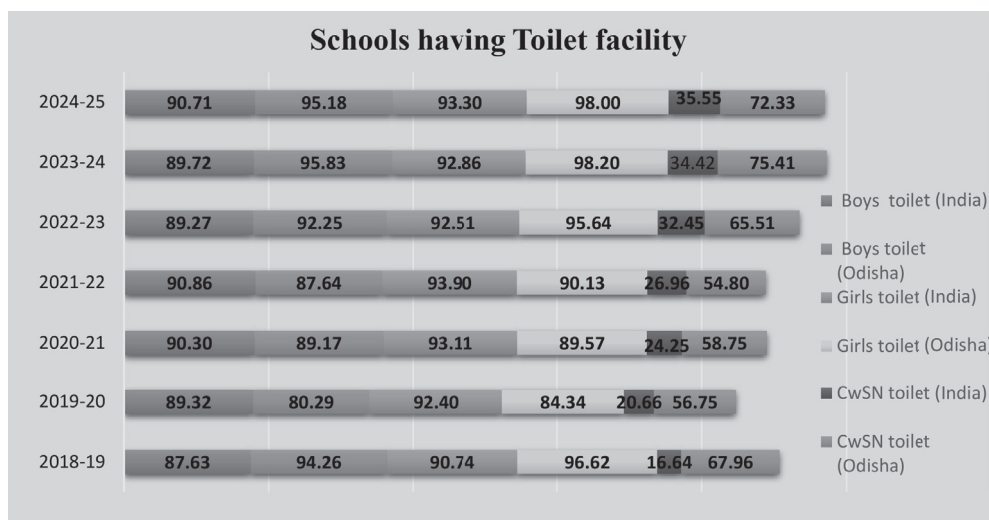
*Dr. Pradipta Kumar Sarangi<sup>1</sup> & Dr. Swagatika Samal<sup>2</sup>*

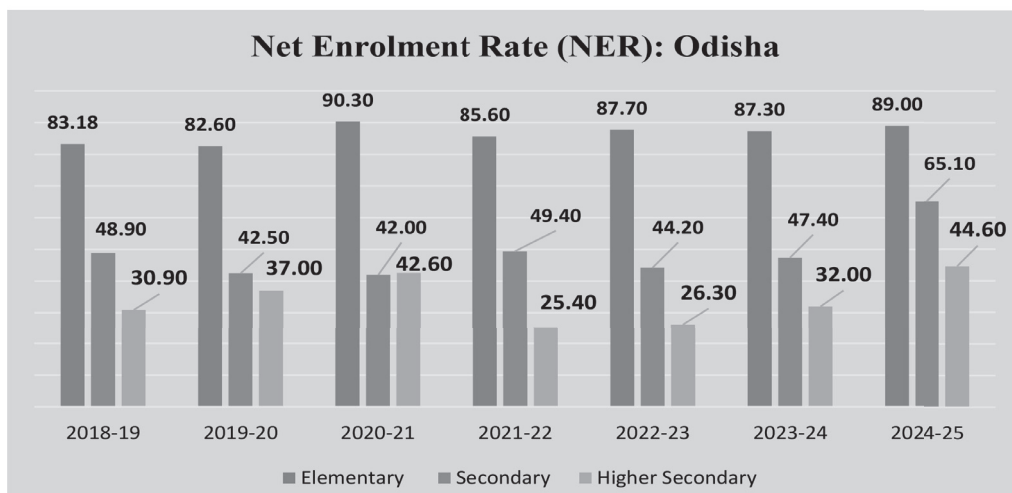
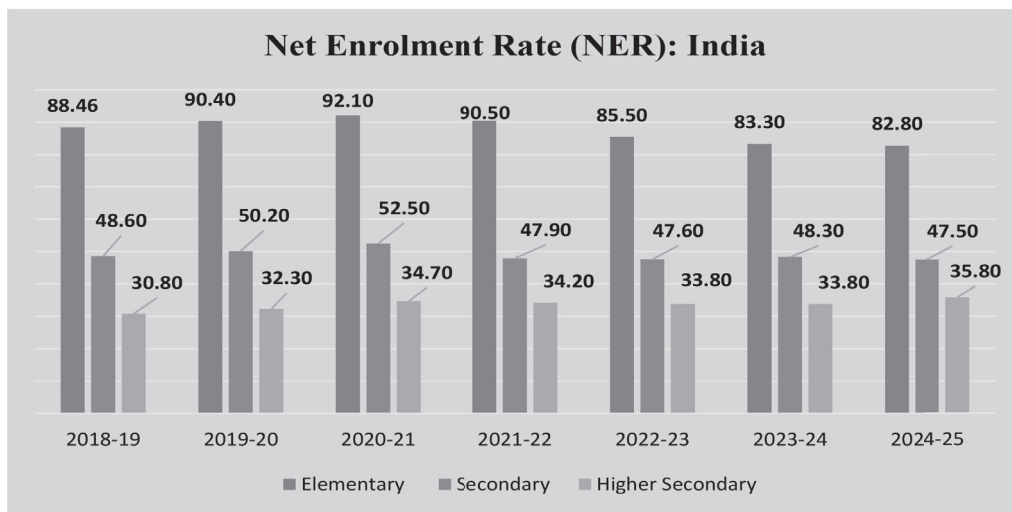
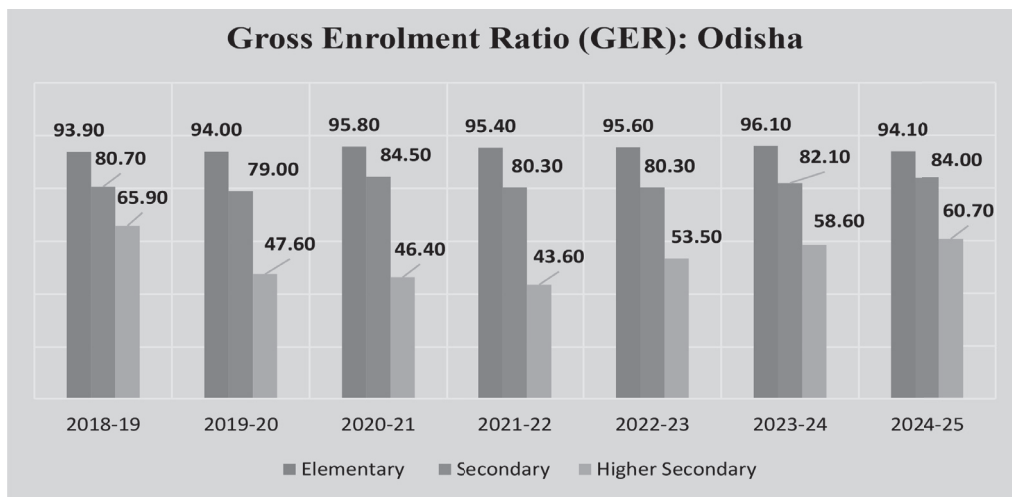


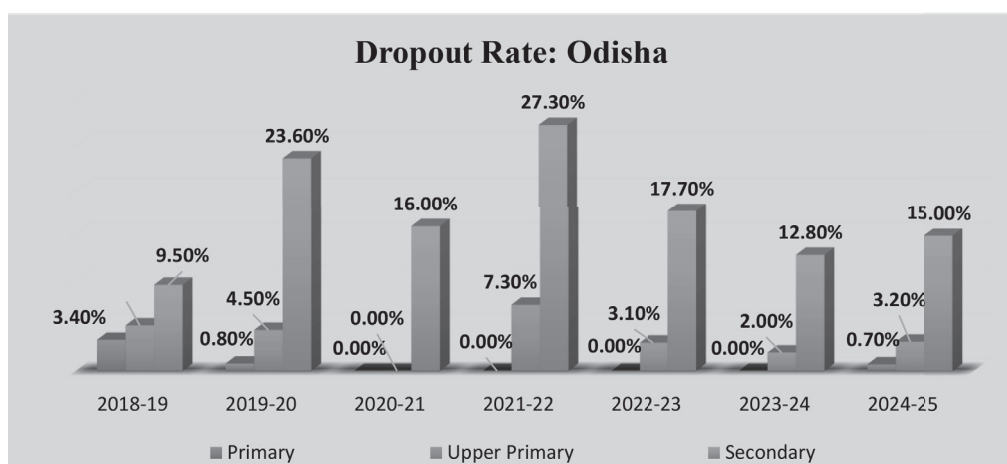
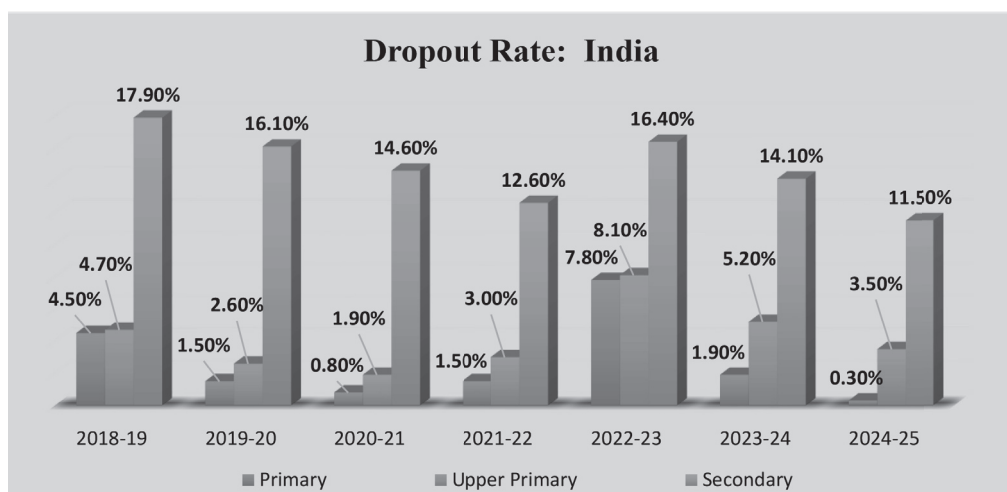
<sup>1</sup>Researcher, Centre for Child Rights, National Law University Odisha

<sup>2</sup>Researcher, Centre for Child Rights, National Law University Odisha









The info-graphic on schools at a glance in India and Odisha presents data for the period from 2018–19 to 2024–25, except for information on single-teacher schools due to non-availability of data

Source: UDISE Report, Ministry of Education, Govt. of India  
[https://www.education.gov.in/en/statistics-new?shs\\_term\\_node\\_tid\\_depth=394](https://www.education.gov.in/en/statistics-new?shs_term_node_tid_depth=394)

## **PROCEEDINGS OF THE OFFICIAL SATELLITE EVENT OF 5TH WORLD CONGRESS ON JUSTICE WITH CHILDREN: “ADVANCING CHILD- CENTRED JUSTICE”**

*Madhulika Tripathy<sup>1</sup>*

### **Introduction**

The satellite event titled “*Advancing Child-Centred Justice*” was organised on June 3, 2025, by the Centre for Child Rights (CCR) at National Law University Odisha (NLUO), in collaboration with Child Rights and You (CRY), as part of the 5<sup>th</sup> World Congress on Justice with Children. Held in a hybrid mode from NLUO, Cuttack, the event served as India’s academic and policy-oriented contribution to the global discourse on child justice. Over 150 participants (in-person and online), including child rights champions from the judiciary, government, academia, and civil society, participated in the event, reflecting their commitment to the greater cause of advancing justice and upholding the rights of children.

#### **The objectives of the event were:**

- To advance understanding of General Comment (GC) 27 and its implications for India’s justice systems,
- To evaluate the strengths and gaps in the current juvenile justice and child protection frameworks, and
- To generate concrete recommendations that can inform both national policy and international advocacy.

A key focus was placed on the event, on moving beyond formal justice mechanisms to include health, education, identity, social protection, and cultural attitudes as core to the lived experience of justice for children.

The event followed a hybrid format, featuring a central high-level panel discussion with distinguished speakers from the judiciary, government, academia, and civil society. It was followed by a reflection and recommendations

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<sup>1</sup>Former Student, National Law University Odisha and former mentor of CCR-NLUO Student Team

session that included comments from in-person participants and online attendees from across India and globally. The event concluded with a vote of thanks to acknowledge the contributions and collaborative efforts. Visual presentations and data-driven insights accompanied some of the speeches, including a comparative South Asia-focused study shared by NLUO.

### **Background and Context of the Event**

The primary motivation behind hosting the Official Satellite Event was to localise and contextualise the global discourse on access to justice for children. With a special focus on GC 27 of the United Nations Convention on the Rights of the Child (UNCRC), the event aimed to reimagine access to justice not only as legal redress but as a comprehensive ecosystem encompassing dignity, participation, protection, and inclusion. Featuring a distinguished panel of jurists, administrators, academics, and practitioners, the discussion aimed to identify the legal, structural, and psychosocial barriers that children face, while also presenting innovative solutions and reforms. The deliberations contributed vital inputs to GC 27.

The Congress theme, “*Advancing Child-Centred Justice: Preventing and Responding to Violence Affecting Children in Justice Systems*,” highlighted the global urgency of transforming justice systems into spaces of protection, participation, and transformation for children. India, with its vast child population and socio-legal complexities, stands at a critical juncture where discourse must translate into systemic reform. This satellite event aimed to serve as a knowledge platform that blended academic, judicial, administrative, and grassroots perspectives.

### **About the Organisers**

The Satellite event was co-hosted by the CCR – NLUO and CRY.

#### **Centre for Child Rights (CCR) – National Law University Odisha (NLUO):**

The Centre for Child Rights (CCR) at National Law University Odisha (NLUO) is one of India’s leading academic centres dedicated to child rights, juvenile justice, and rights-based advocacy. Established in 2015, CCR stands out nationally as the only child rights centre housed in a law university with a full-time Chair Professor position, reflecting NLUO’s long-term commitment to child-centred jurisprudence.

CCR combines rigorous academic research with practical engagement. It operates at the interface of law, policy, and grassroots intervention, producing evidence-based research that informs legal reform, judicial practice, and administrative implementation. The Centre collaborates extensively with state departments, judicial committees, and child protection agencies. It also offers specialised courses and training modules for students and professionals, fostering the next generation of child rights advocates.

Through its active engagement with government and civil society, CCR has contributed to national consultations on child rights and has submitted alternative reports to international bodies, including the UN Committee on the Rights of the Child. Its field-driven approach ensures that academic findings are translated into actionable insights.

Co-hosting the satellite event of the 5<sup>th</sup> World Congress on Justice with Children, reflected CCR's belief that justice for children extends beyond legal access - it must be lived, inclusive, and rights-based. With its academic integrity and strategic partnerships, CCR continues to shape India's discourse on making justice truly child-centred.

### **Child Rights and You (CRY)**

Child Rights and You (CRY) is a pioneering Indian non-profit organisation committed to realising the rights of underprivileged children. Since its founding in 1979, CRY has emerged as one of the country's most trusted voices on child rights, working across 20 states and union territories (UTs). Its mission is rooted in the belief that all children deserve the right to a safe, healthy, and empowered life, irrespective of their caste, class, or geography.

CRY adopts a comprehensive rights-based approach, focusing on four key pillars: education, health and nutrition, safety and protection, and child participation. Through partnerships with grassroots organisations and direct interventions, CRY addresses systemic issues that impact children's lives. It partners with district, state, and national governments to strengthen policy and governance systems for children, ensuring effective implementation of key child-related laws.

CRY's strength lies in its ability to connect local realities with national policy engagement. Its Research and Knowledge Exchange (function) tracks

public budgets and generates research that guides programmatic action and influences public policy. Through these efforts, CRY upholds child rights as guaranteed by the Constitution of India and the UNCRC.

In co-hosting the satellite event with NLUO, CRY brought its decades of practice-based learning to the fore. The organisation's insights from the field offered a grounded and intersectional lens to discussions on GC 27. CRY's enduring commitment is to ensure that justice for children is not symbolic, but accessible, systemic, and transformative.

## **Proceedings**

### **Introductory Remarks by Prof Biraj Swain**

Prof Biraj Swain, Chief Minister's Chair Professor and Director of CCR, set the agenda for the event with a multilingual welcome and contextual overview. She proudly introduced CCR and CRY as partners in this effort and presented the event as a vital opportunity to think critically about what child-centred justice means in today's world.

Prof Swain positioned the event as India's academic and policy contribution to the 5th World Congress on Justice with Children, held in Madrid during June 2–4, 2025. She highlighted that the theme of the Congress -“Advancing Child-Centred Justice: Preventing and Responding to Violence Affecting Children in Justice Systems” is both urgent and timely in the Indian context. She emphasised that the World Congress is a global effort that includes children and youth at its heart, and the theme of GC 27 allows for expanding justice beyond courts to real, everyday access.

Prof Swain asserted that even in 2025, the most vulnerable children still face obstacles in accessing justice-whether legal, social, or psychological. She positioned the event as not only a discussion on what exists but also a collective brainstorm on what needs to be created, and emphasised that access to justice must be made “real, lived, and felt” in the everyday lives of children-not just in statutes and court orders.

Prof Swain explained that GC 27 obligates states to ensure effective remedies and mechanisms for children's rights violations-not merely symbolic provisions. The CCR and CRY would use the deliberations from this event to prepare India's contribution to the UNCRC for GC 27, she added. She

introduced all the speakers with deep respect and admiration, noting their contributions to jurisprudence, governance, and grassroots engagement.

Prof Swain, while hoping that the event would generate practical, scalable, and interdisciplinary recommendations for child-centred justice, described the conversation as a “north star moment”, a guiding light for stakeholders across legal, academic, and social sectors to realign toward a justice system that truly serves the smallest voices.

### **Prof Rangin Pallav Tripathy’s Welcome Address**

Prof Rangin Pallav Tripathy, Professor of Law and Registrar at NLUO, delivered the welcome address. In his address, he acknowledged that, despite it being 2025, we still need to advocate for justice with children, which should not have been necessary if progress had been achieved.

He envisioned an ideal scenario where the world could ideally say that children are better off now than in 2021, but the reality shows otherwise. He urged attendees to ask themselves not only how to do the right thing but also to identify what the right thing is, which is often the real challenge. He emphasised the importance of platforms like CCR and NLUO to reflect critically and strategically on what has been achieved and what remains to be done. He also expressed pride that NLUO is offering a space where such discussions can take place, highlighting the university’s role as a convener of inter-sectoral dialogue on child rights.

### **Hon’ble Justice Madan B Lokur’s Deliberation**

Honourable Justice Madan Bhimarao Lokur, former Judge of the Supreme Court of India and currently the Chairperson of the United Nations Internal Justice Council, at the outset congratulated NLUO and CRY for organising the satellite event with such a dedicated audience for child rights. In his deliberation, he focused on three categories of children: victims of violence, children in conflict with law (CICL), and children in need of care and protection (CNCP) who require access to justice.

On victims of violence, Justice Lokur cited NCRB 2022 data: 93,000 children recorded as victims of violence versus 30,000 children accused of violence. He argued that this ratio calls for urgent attention to victims and for recognising the vast number of unreported cases. He further apprehended

that real numbers were likely to be much higher due to underreporting. He described various forms of violence: sexual abuse, physical abuse, child trafficking (including via the darknet), child labour, and child marriage.

Justice Lokur raised critical examples and shared a case of a seven-year-old rape survivor who had to come to court seven times, re-experiencing trauma due to procedural delays. He also mentioned the case of a 13-year-old pregnant survivor denied immediate compensation because she was 33<sup>rd</sup> in line, indicating bureaucratic insensitivity. He pointed out language barriers, too, citing the case of a trafficked girl from Kolkata whose trafficker falsely claimed to be her father.

Justice Lokur also highlighted the systemic coercion of children to plead guilty to receive lighter sentences. He critiqued the focus on conviction rates rather than acquittal rates and specifically noted delays in juvenile justice inquiries, and gave an example of the Delhi High Court directing termination of over 700 inquiries pending for more a year. He condemned the overcrowded and unsanitary conditions in observation homes and places of safety.

Justice Lokur asserted that CICL are also CNCP and criticised the lack of proper sanitation, hygiene, and discipline in child care institutions. He urged regular social audits and performance reviews of existing schemes and childcare institutions. He also emphasised the lack of access to legal aid as a critical barrier to justice for children.

Justice Lokur recommended that legal aid be made more accessible and that acquittal rates should be studied alongside conviction rates. He further recommended social audits, legal aid reforms, restorative justice, and an overall shift toward child-sensitive and empathetic justice systems. He also suggested that restorative justice and trauma-informed practices must be institutionalised, and to enforce child rights effectively, political will is essential.

### **Address by Hon'ble Justice Savitri Ratho**

Honourable Justice Savitri Ratho, Judge of the High Court of Orissa and Chairperson of the Juvenile Justice Committee, Orissa High Court, delivered an impassioned speech grounded in her lived experience as a judge. She asserted that justice for children is not a peripheral aspiration but a core constitutional and moral commitment of any just society. She defined meaningful access to justice as extending beyond physical and procedural access to become

transformative and rooted in dignity, participation, and systemic trust. She said, “justice is a right of the child, not a favour granted by the system”, while emphasising the importance of building an entire ecosystem that fosters a sense of safety, inclusion, and healing for children, especially those navigating legal systems.

Justice Ratho described Odisha’s proactive judicial efforts through the Juvenile Justice Committee of the Orissa High Court, which she chairs alongside Honourable Justice Aditya Kumar Mohapatra and Honourable Justice Murahari Sri Raman. She further highlighted the fact that the Committee regularly engages with line departments, Child Welfare Committees (CWCs), Juvenile Justice Boards (JJB), and non-governmental organisations (NGOs). It holds quarterly meetings to assess the pendency of cases, institutional health of observation homes, availability of legal aid, and progress in rehabilitation. She shared that the committee works to resolve both procedural delays and systemic attitude problems across departments, while mentioning about the training programmes and workshops conducted for legal functionaries to strengthen the implementation of the JJ Act.

Based on her first-hand judicial experience and lived realities, Justice Ratho shared her courtroom experiences with CICL, child victims, and children from broken or violent homes. She noted that many children arrive fearful, withdrawn, or even aggressive, but leave the courtroom calmer when treated with empathy and dignity. She acknowledged that such positive experiences are still too rare and should become the norm.

She raised her concern about children who face multiple vulnerabilities including Dalit, Adivasi, transgender, migrant, differently-abled, and impoverished children and how they face compounding barriers in the justice system. She also pointed out that many of these children do not have access to legal aid or rehabilitation services and are often further harmed by insensitive systems

Justice Ratho also highlighted critical gaps such as persistent procedural delays in children’s cases, lack of trauma-informed processes and personnel, inadequate number of child-friendly courts, insufficient gender and disability-sensitive legal services, stigma and discriminatory treatment by institutions, particularly for marginalised groups etc.

Justice Ratho called for a paradigm shift from court-centric to child-centric justice systems and recommended increasing the number of child-friendly courtrooms, specially trained staff, and female officers who can interact with children in sensitive cases. She urged for widespread adoption of trauma-informed legal services, including specialised legal aid and psychological care, and advocated for community-based, non-institutional alternatives for CNCP.

She suggested strengthening linkages between juvenile justice functionaries and other service-delivery institutions to ensure holistic rehabilitation, and strongly reiterated that justice is not a privilege to be earned but a promise to be fulfilled for every child, regardless of their background.

### **Sharing by Smt. Shubha Sarma, IAS**

Smt. Shubha Sarma outlined the initiatives of the Women and Child Development Department, Government of Odisha, which are directly impacting over 60 lakh people through schemes for nutrition, maternal health, and child protection. While addressing the august gathering, she shared that Odisha's Subhadra scheme has reached one crore women, providing them financial support. She highlighted the Odisha State Policy for Children 2022, which has seven focus areas, including justice and child participation.

For CICL, Smt. Sarma described Odisha's child-friendly police stations, fast-track courts for POCSO cases, and virtual hearing setups in JJBs. She further stated that regular meetings with the judiciary have reduced the incarceration of children for petty offences. She informed that, with prompt responses, children are being released and reintegrated faster compared to the past.

For CNCP, Smt. Sarma also emphasised the importance of prevention over reactive justice. She advocated for kinship-based care, community rehabilitation, and psychosocial support. She added that Odisha's non-institutional care coverage has grown 300% in three years, and legal adoption rates have increased by 200%, including for children with disabilities and girls.

While mentioning the key innovations, Smt. Sarma highlighted the ADVIKA programme, which focuses on adolescent empowerment and anti-trafficking awareness. She informed about orphan surveys and early disability identification campaigns, as well as the Ashirbad scheme, which offers post-COVID support to the affected children.

Her core message was: Justice must be restorative and empathetic; Justice for children begins long before conflict arises; and Governance must integrate rights-based empathy into everyday systems.

### **Address by Ms Sonal Kapoor**

Ms Sonal Kapoor, Founder and CEO of Protsahan India Foundation, shared her extensive experience working with children in shelter homes and on the streets. She explained how trauma and neurobiological factors influence children's ability to narrate incidents of abuse. She cautioned against the rigid enforcement of mandatory reporting under the POCSO Act, which may force children into disclosing events before they are emotionally prepared. Such premature disclosures, she noted, often lead to further psychological harm.

Ms Kapoor introduced the HEART framework, which stands for Health, Education, Arts, Rights, and Technology. She suggested that interventions addressing trauma should include these dimensions to ensure holistic care. She further recommended allowing a 48- to 72-hour delay before reporting to (CWCs), enabling children to build trust and prepare emotionally.

She urged the integration of trauma modules into police and judicial training, as well as the inclusion of neurobiological insights into educational curricula. Her work advocates for systems that understand and accommodate the psychological needs of children, rather than demanding linear testimony from those whose experiences are fragmented by trauma.

### **Sharing by Shri Subhendu Bhattacharjee**

Shri Subhendu Bhattacharjee, Director of Research and Knowledge Exchange at CRY, emphasised that child justice is inseparable from broader welfare concerns such as education, nutrition, health, and social security. Drawing from CRY's 45-year history of on-the-ground engagements across 20 states and UTs, he presented case examples illustrating the transformative impact of small interventions. These included a rescued child, an empowered mother, a trained village leader, and a dropout student re-enrolled in school.

He also cited landmark judgments such as *Independent Thought vs Union of India*, which addressed marital rape and child marriage, and the *Unni Krishnan* case, which affirmed the right to education. He highlighted the child-unfriendly provisions in existing laws and stressed that systems must evolve from child-friendly to child-centred frameworks that prioritise the voices and lived experiences of children.

Shri Bhattacharjee's message reinforced the need for policies backed by grassroots realities and urged stakeholders to work collectively toward solutions that prevent children from entering the judicial systems unnecessarily.

### **Deliberation by Prof Ved Kumari**

Prof Ved Kumari, Vice Chancellor of NLUO, delivered an online presentation from the 5<sup>th</sup> World Congress platform in Madrid, Spain, offering a comparative perspective on child justice indicators across South Asia. She noted that while India has made significant progress, there are opportunities to learn from regional experiences. Through the lens of GC 27, she emphasised that justice should be seen not only in terms of legal access but also in relation to socio-economic, health, and educational entitlements.

Prof Ved Kumari shared comparative data to illustrate how neighbouring countries such as Bhutan, Sri Lanka, and the Maldives have made encouraging advances in areas like birth registration, secondary school attendance, under-five and neonatal mortality, and social protection spending on children. She suggested that these examples provide valuable insights into how consistent investment and child-sensitive governance approaches can yield positive results.

She reflected on aspects of India's child protection framework that could benefit from further strengthening, such as reviewing the minimum age of criminal responsibility, addressing adolescent concerns within protective laws in a sensitive manner, and ensuring stronger alignment between laws and their implementation. She also reflected on how provisions under the POCSO Act sometimes pose challenges in addressing consensual adolescent relationships, particularly for children from marginalised backgrounds. She suggested that a more nuanced and child-sensitive approach could help ensure that protective laws fully serve the best interests of all children.

Prof Ved Kumari emphasised the importance of justice systems that respond to children's lived realities, particularly those who may face challenges linked to documentation, mobility, or family support. She highlighted the importance of making socio-economic rights, such as health, education, nutrition, and identity, more accessible and enforceable, so that children can experience these rights as a lived reality.

Drawing from experiences in Nepal, she shared examples of juvenile care models that prioritise empathy and participation, noting that such approaches help strengthen systems for children by making them more supportive and inclusive.

Prof Ved Kumari concluded with constructive recommendations, including raising the age of criminal responsibility, sensitively re-examining how consensual adolescent relationships are addressed, strengthening judicial training to include trauma awareness and child development, and improving disaggregated data collection on vulnerable groups of children. She also invited international and regional collaboration with NLUO for evidence-based reforms and joint research contributing to GC 27.

### **Q&A Highlights**

During the open floor reflection session, moderated by Dr Swagatika Samal, Researcher at CCR-NLUO, participants raised significant concerns. One speaker stressed the high burden on child protection functionaries and called for integrating AI and tech tools to streamline training, response systems, and case management. Another participant from the child protection sector raised the issue of how violence is narrowly defined, urging recognition of institutional, caste-based, and systemic violence that Dalit and Adivasi children face.

Justice Lokur responded by stressing the importance of societal education alongside legal reform, while Justice Ratho highlighted the role of families, schools, and communities in fostering empathetic responses to trauma. The session concluded with calls for intersectional frameworks to understand better how multiple forms of discrimination intersect with violence and systemic neglect.

### **Key Takeaways**

The satellite event “Advancing Child-Centred Justice” successfully brought together diverse stakeholders from the judiciary, public administration, academia, and civil society to create a collaborative and holistic dialogue on child-centred justice in India. The event moved beyond traditional interpretations of justice and anchored discussions in the lived experiences of children, particularly those from marginalised communities.

Multiple speakers reiterated that justice is not merely a procedural or legal ideal but a lived, relational experience involving dignity, participation, empathy, and restoration. The conversation revealed that there is now growing national and institutional recognition of children as rights-holders, rather than as passive recipients of welfare or protection. Several panelists, including Justice Lokur, Justice Ratho, and Smt. Sarma, underscored that the judiciary, executive, and state institutions must lead by example in implementing rights-based approaches.

Speakers called for a radical rethinking of child justice systems, one that embraces trauma-informed, inclusive, and child-sensitive practices. The event served as an urgent reminder that time-bound reforms must accompany declarations and policy papers for any change to reach children on the ground.

The event concluded with a shared understanding that justice for children cannot be limited to statutory provisions or courtroom procedures. It must be a holistic experience rooted in empathy, dignity, and systemic reform. The key takeaways from the deliberations are:

### **Legal and Institutional Reforms**

- Consider revising the minimum age of criminal responsibility from 7 years in line with international standards.
- Explore alternatives to transferring children to adult courts, even in cases of heinous offences.
- Review how consensual adolescent relationships are addressed under the POCSO Act to ensure child-sensitive application.
- Promote trauma-informed training for judges, police, and legal aid providers to strengthen child-friendly justice.
- Enhance legal aid systems for children so that they are proactive, timely, and responsive to children's needs.

### **Administrative and Programmatic Actions**

- Strengthen and expand the reach of child-friendly courts and police stations to cover all the districts.

- Institutionalise trauma-informed care within child protection services, including observation homes, shelter homes, and CWCs.
- Ensure the presence of trained female officers and disability-inclusive infrastructure in all institutions handling child justice cases.
- Scale up virtual hearing mechanisms and digital facilities to reach children in remote and underserved areas.

### **Data, Evidence, and Monitoring**

- Conduct disaggregated data collection across caste, gender, disability, region, and other vulnerabilities.
- Encourage regular social audits and performance evaluations of child protection systems and schemes.
- Integrate psychosocial well-being indicators into child protection monitoring.
- Invest in research partnerships with universities and child rights organisations to support longitudinal studies on child justice.

### **Community and Cultural Shifts**

- Launch national awareness campaigns to destigmatise CICL and survivors of abuse.
- Integrate child rights education and sensitivity training into teacher and parent training modules.
- Encourage peer-to-peer learning and child-led monitoring systems within communities and institutions.
- Raise community awareness to reduce stigma and encourage safe reporting of abuse and exploitation.

### **Policy Engagement and Collaboration**

- CRY will collaborate with government departments to explore pilot initiatives that integrate trauma-informed care and restorative justice approaches in selected districts.
- CCR will coordinate with law schools and judicial academies to integrate trauma-informed modules into judicial education and training.

- Efforts will be made to build a national consortium of academic and civil society organisations committed to tracking the implementation of GC 27 over the next five years.

### **Strategic Partnerships**

- A proposal will be developed for international collaboration involving South Asian universities and child rights organisations to undertake comparative studies and track child justice indicators.
- Encourage research partnerships and internships for young professionals to work on child justice and promote cross-border cooperation for shared learning and collective action.

### **Capacity Building**

- Develop training modules on trauma and neurobiology for frontline workers and child protection personnel.
- Translate training resources into regional languages for wider accessibility.
- Provide support to NGOs and local institutions to enhance their capacity for child-sensitive interventions.

### **Long-term Vision**

- To move toward a justice system where every child, regardless of their background, feels heard, protected, and empowered.
- To institutionalise lived experience, evidence-based policy-making, and human dignity at the centre of all justice processes involving children.

The event concluded with a formal vote of thanks proposed by Dr. Pradipta Kumar Sarangi, Researcher, CCR – NLUO and Shri Ankit Kumar Keshri, UNICEF Consultant, CCR – NLUO.

### **Conclusion**

The satellite event successfully brought together thought leaders and practitioners from different sectors to critically reflect on the barriers and possibilities for ensuring child-centred justice. It broadened the discourse beyond legal frameworks to include trauma-informed care, social protection,

inclusive services, and comparative data benchmarking. The discussions reaffirmed the core principles of GC 27 and provided actionable insights rooted in field experience, policy reform, and judicial leadership.

The event's recommendations included raising the minimum age of criminal responsibility, institutionalising trauma-informed judicial training, expanding non-institutional and kinship-based care, conducting social audits, and making socio-economic rights legally enforceable. The overarching call was to move from rhetorical commitments to lived realities, where every child feels safe, heard, and supported. The overarching goal is clear: to ensure that every child's voice is heard, every right is upheld, and justice is not merely a procedure but a lived experience of dignity, safety, and empowerment.

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The Registrar, National Law University Odisha, Cuttack  
Kathajodi Campus, SEC-13, CDA, Cuttack 753 015, Odisha (India)

E-mail: [registrar@nluo.ac.in](mailto:registrar@nluo.ac.in), Contact No. +91-671-2338018

Website: [www.nluo.ac.in](http://www.nluo.ac.in)