e-ISSN: 3107-4030

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

VOLUME VII ISSUE I APRIL 2026

FROM THE DESK OF THE EDITOR-IN-CHIEF
EDITORIAL NOTE

PRESIDENTIAL ADDRESS

Presidential Address by Hon'ble Justice Savitri Ratho, Judge, Orissa High Court and Chairperson-Juvenile Justice Committee, Orissa High Court

Hon'ble Justice Savitri Ratho

RESEARCH PAPERS

Dilution of the Right to Education: A Critical Analysis of Uttar Pradesh's School Merger Policy

Ms Medha Shukla & Ms Anjali Verma

Sex Education and New Education Policy in India: Towards a Better Juvenile System

Mr Pawan Kumar & Ms Kashish Jain

When Children are Tried as Adults: A Critical Analysis of the Role of Children's Courts Under the JJ Act 2015

Ms Nandini Chauhan & Ms Yamini Rizvi

Comprehensive Analysis of the Functioning of Juvenile Justice Institutions in India: Institutional Performance, Procedural Gaps, And Reform Imperatives

Ms Nazrah Altaf & Dr Nazia Khan

Historical Evolution of Child Sexual Abuse Legislations in India and their Relevance in the Modern Education System

Mr Raj Gupta & Dr Sumit Gangwar

Criminalising Adolescence: Misuse of POCSO in Consensual Teenage Relationships and its Impact on Child Rights

Ms Mahak Khirwal

In Response to Sam Timimi's: The Commercialization of Children's Mental Health in the Era of Globalization

Ms Manvee Sharma

CASE COMMENTARY

Judicial Formalism and Child Protection: A Critical Analysis of the Delhi High Court Ruling in the Unnao Rape Case

Ms Kimaya Vinayak Dalvi & Mr Navtez Singh

POP CULTURE REVIEW

Understanding Adolescents in a Digital World: A Commentary on the Netflix Limited-Series 'Adolescence'

Dr Sohini Mahapatra

INFOGRAPHIC FACT-SHEET

Infographics on Child Budget in Union Budget

Research & Knowledge Exchange Team, Child Rights and You (CRY)

National Law University Odisha, Cuttack
(Established by Act 4 of 2008)

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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. Last year, the centre relaunched 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.

Centre for Child Rights and National Law University Odisha assumes no responsibility for the statements and opinions advanced by the contributors.

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State: Odisha (India)

Publisher:
Prof Rangin Pallav Tripathy, The Registrar

Publishing Body:
National Law University Odisha

Naraj Road, Sector – 13, CDA,
City: Cuttack
Pin Code: 753015,
State: Odisha (India)
Email: registrar@nluo.ac.in,
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JOURNAL ON THE RIGHTS OF THE CHILD OF NATIONAL LAW UNIVERSITY ODISHA

VOLUME VII **ISSUE I** **APRIL 2026**

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. The initiatives and growth of the Centre are deeply rooted in the visionary leadership of the former Vice Chancellor of the National Law University Odisha, Prof Ved Kumari, one of the most important chroniclers of Child Rights and Juvenile Justice in the world. Her intellectual stewardship, institutional guidance, and sustained commitment were instrumental in conceptualizing, shaping, and strengthening the Centre.

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. CCR's initiatives deepened community, academic, and policy engagements by organizing key events such as organizing a Special Aadhar Enrolment Camp for children in February, 2026. As its commitment to creating child-friendly communities per NITI Ayog mandate and the Sustainable Development Goals' mandate, and to NLUO's flagship outreach programme - Project KUTUMB, CCR organised the Camp for over 50 children (experiencing documentary challenges) of marginalised migrant and poor families of neighbouring vulnerable settlements of Brajabiharipur, Baba Tilkanagar, and Balmiki Nagar, in collaboration with the Cuttack Municipal Corporation (CMC) and District Child Protection Unit (DCPU), Cuttack, thereby ensuring social inclusion of the vulnerable children. The CCR team also met as a delegation with the Deputy Chief Minister of Odisha in charge of Women and Child Development, Mission Shakti and Tourism portfolio, Shrimati Pravati Parida and the Odisha State Commission for Protection of Child Rights Chairperson Shrimati Babita Patro.

In 2025, CCR launched and offered the *Child Protection Mentorship Programme* for capacity building of around 100 frontline cadre, first responders in the child protection space in the state of Odisha. The mentorship programme is 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. CCR re-launched its flagship journal - *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. In July, the journal received *international indexation,* marking CCR's growing leadership in global child rights research and advocacy. The centre brought out the first issue of the e-ISSNed journal in October, 2025 with all due diligence. The Centre also facilitated the *launch and orientation of Community Level Child Welfare and Protection Committees (CLCWPCs)* in three urban settlements of Cuttack-Brajbeharipur, 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 *Oficial Satellite Event of the 5th World Congress on Justice with Children* in partnership with Child Rights and You (CRY).

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 inter- sectionalities
- **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, practice 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. 7th Semester and 10th semester respectively. These papers focus on praxis and lexis and on career growth with experiential learning.

Additionally, a mentorship programme has also been 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 (CNCP), 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, Centre for Child Rights, NLUO :	Prof Biraj Swain
Researcher, CM's Chair Professor Team Member, Centre for Child Rights, NLUO :	Dr Swagatika Samal
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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

It is with great pride and immense pleasure I present this issue of the ***Journal on the Rights of the Child of National Law University Odisha***. This issue of the journal marks completion of one year after the re-launch of the journal last year in April 2025, and reaffirms the Centre for Child Rights (CCR), National Law University Odisha (NLUO)'s unwavering commitment to scholarship, advocacy, curating change and shaping the discourse on child rights. With intensive editorial review, high-level double-blind peer review, plagiarism check, AI check and fact-check of all the contributions, our journal commits to maintaining academic integrity, quality and credibility.

The journal's each issue, is not merely a compilation of academic writings; it is a reflection of evolving conversations, emerging challenges, and renewed commitments within the field of child rights. This edition, informed by rigorous scholarship and diverse perspectives, continues our endeavour to position the journal as a meaningful platform for critical engagement, interdisciplinary dialogue, and transformative thought.

At a time when the discourse on child rights is both expanding and becoming increasingly complex, each new issue of our journal presents an opportunity to pause, reflect, and reimagine our collective commitments. The journal continues to serve as a vital intellectual space where law, policy, and lived realities converge. The present issue is a testament to that vision—bringing together diverse, critical, and interdisciplinary perspectives that interrogate not only the promises of child rights frameworks but also their limitations and lived consequences.

This edition of the journal offers a rich and nuanced exploration of contemporary child rights concerns, bringing together diverse yet interconnected scholarly contributions. It opens with a compelling Presidential Address by Hon'ble Justice Savitri Ratho, Judge & Chairperson of Juvenile Justice Committee, Orissa High Court - that calls for a decisive shift from a welfare-oriented approach to a rights-based understanding of childhood, recognizing children as active rights-holders whose dignity, agency, and participation must be central to all frameworks.

This issue of the journal has original submissions on the key areas such as right to education (RTE); sexuality education; role of children's courts when children

are tried as adults; performance, gaps and reform imperatives of juvenile justice institutions; child sexual abuse laws; misuse of Protection of Children from Sexual Offences (POCSO) Act, 2012; commercialization of children's mental health; commentary on Netflix's limited-series 'Adolescence' etc. In keeping with the journal's commitment to accessible and impactful knowledge dissemination, this issue features an info-graphic on child budgeting, via data-visualisation, showing the trends in public expenditure on child-focused interventions, linking child rights to economic policy and resource allocation.

The volume also expands beyond law into mental health and digital culture, critiquing the globalization of child mental health frameworks and exploring adolescent experiences in digital environments.

As CCR, NLUO, remains committed to fostering scholarship that not only advances knowledge but also informs practice and policy. This journal is a key instrument in that mission. It is a space where critical questions are asked, where dominant narratives are challenged, and where new ideas are nurtured.

A notable strength of this issue lies in its diversity of contributors. The authors who have contributed to this volume includes an Hon'ble sitting Judge, academics from law and humanities disciplines, practitioners, legal researchers, students and civil society organization, each bringing unique perspectives and expertise. This plurality enriches the discourse, ensuring that the journal remains inclusive, dynamic, and responsive to emerging challenges. I sincerely thank all the contributors of this issue and encourage them to keep contributing as it reiterates our commitment to the promotion of research, scholarship and platforming of new perspectives.

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 immensely contributed to the academic integrity of this issue.

I would also like to thank my co-members in the Editorial Board i.e. our Editor Professor Biraj Swain, Professor Ravinder Barn, Professor Frederick de Moll,

Professor Damanjit Sandhu, Dr Asha Bajpai, Dr Kalpana Purushothaman for their leadership, engagement and commitment to the journal to see the light of the day.

I also thank and appreciate the efforts of our team of Associate Editors comprising Dr Swagatika Samal, Dr Pradipta Kumar Sarangi, Mr Ankit Kumar Keshri, Dr Rashmi Rekha Baug, and Dr Shubhanginee Singh and our student editor Ms Madhulika Tripathy.

I am proud to share here that, CCR has added much more to its list of achievements. In addition to bringing out this journal every six months with academic rigour and all due diligence, CCR has offered the first ever Child Protection Mentorship Programme for capacity building of around 100 frontline cadre, first responders in the child protection space in the state of Odisha. As its commitment to creating child-friendly communities per NITI Ayog mandate and the Sustainable Development Goals' mandate, and to NLUO's flagship outreach programme - Project KUTUMB, CCR organised a Special Aadhar Enrolment Camp for over 50 children (experiencing documentary challenges) of marginalised migrant and poor families of neighbouring vulnerable settlements of Brajabiharipur, Baba Tilkanagar, and Balmiki Nagar, in collaboration with the Cuttack Municipal Corporation (CMC) and District Child Protection Unit (DCPU), Cuttack, thereby ensuring social inclusion of the vulnerable children. The CCR team also met as a delegation with the Deputy Chief Minister of Odisha in charge of Women and Child Development, Mission Shakti and Tourism portfolio, Shrimati Pravati Parida and the Odisha State Commission for Protection of Child Rights Chairperson Shrimati Babita Patro.

The Chief Minister's Chair Professor cum Director of CCR, has taught 117 students in the "Child Rights Course" in the 7th semester and 95 students in the "Food and Nutrition Justice Course" in the 10th semester. Both of these courses are over-subscribed and highly valued by the students at the University. The speaking engagements of Chief Minister's Chair Professor cum Director 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 a series of bi-monthly CCR newsletters on

child rights in 2025. These newsletters are a global and local scan of important developments in the child rights space. Starting 2026 these newsletters by CCR student members will be quarterly. The student body of CCR has managed and run two active social media handles on LinkedIn (https://www.linkedin.com/in/centre-for-child-rights-nluo-88a27b338/) and Instagram (https://www.instagram.com/centreforchildrightsnluo?igsh=MW5oZHRwdTBhaGpuaQ=) with explainers and posts, making child rights and various articles of the United Nations' Convention on Rights of the Child (UNCRC) accessible to one and all.

As we present this issue, we are reminded that the journey towards realizing child rights is ongoing. It requires continuous engagement, critical reflection, and collective action. We invite our readers to engage with the issues meaningfully and critically. We hope that the insights presented here will not only deepen understanding but also inspire action. The realization of child rights requires collective effort, sustained commitment, and an unwavering belief in the inherent dignity and potential of every child.

As we look ahead, we remain committed to expanding the scope of child rights practise and discourse, encouraging interdisciplinary engagement, and amplifying diverse voices. We call upon contributors to continue exploring under-researched areas, challenging conventional boundaries, and contributing to a more holistic understanding of child rights.

This journal, in its essence, is not just about documenting knowledge-it is about shaping the future. A future where every child is not only protected but empowered; not only heard but understood; and not only included but cherished.

We invite our readers and contributors to provide us feedback for improving the journal further. The readers and contributors are also encouraged to mention any theme, area of specific concern in the field of child rights, for inclusion in the future issues.

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

EDITORIAL NOTE

Childhood in contemporary India and the world exists at a complex intersection of promise and precarity. While the legal and constitutional architecture has progressively recognised children as rights-bearing individuals, their lived realities continue to be shaped by deep structural inequalities, institutional inconsistencies, and rapidly transforming social environments. The child of today is not only navigating classrooms and courtrooms, but also digital ecosystems, cultural transitions, and shifting notions of autonomy and protection. In this moment of transition, child rights discourse must move beyond static legal guarantees and engage with the dynamic, often conflicting forces that define childhood. This Volume VII, Issue I of the ***Journal on the Rights of the Child of National Law University Odisha*** emerges from this urgency, bringing together diverse scholarly voices that interrogate whether India's child protection and welfare frameworks are adequately equipped to respond to these layered realities, and more importantly, whether they are capable of centring the child not merely as a subject of law, but as an active bearer of rights, dignity, and agency.

The Presidential Address delivered by Hon'ble Justice Savitri Ratho sets the intellectual and moral tone of the volume by reaffirming that children must be placed at the centre of societal progress through a rights-based, rather than welfare-oriented, approach. Her address underscores a critical truth that resonates across the contributions that follow: that legislation, however well-intentioned, is insufficient in isolation. By drawing attention to rising crimes against children and emerging vulnerabilities in the digital age, the address calls for a collective, multi-stakeholder response, one that integrates legal frameworks with social responsibility, institutional accountability, and sustained public engagement. In doing so, it lays the foundation for a volume that consistently interrogates the gap between normative commitments and lived realities.

Medha Shukla and Anjali Verma's examination of Uttar Pradesh's school merger policy brings into sharp focus the fragility of constitutional guarantees when confronted with administrative rationalisation. Their analysis reveals

how policies framed in the language of efficiency can, in practice, erode the foundational principles of accessibility, proximity, and equity embedded within the right to education. By situating the issue within constitutional jurisprudence and judicial scrutiny, this original paper demonstrates that the dilution of rights often occurs not through overt withdrawal, but through subtle restructuring. It compels a reconsideration of whether governance reforms, when detached from child-centric considerations, risk reversing decades of progress in educational inclusion.

Extending the conversation on education from access to substance, Pawan Kumar and Kashish Jain foreground the critical absence of Comprehensive Sexuality Education within India's schooling framework. Despite the progressive aspirations of the National Education Policy 2020, the silence surrounding sexuality education reflects a deeper discomfort that carries tangible consequences. By linking emotional illiteracy and lack of awareness to patterns of juvenile offending, the paper reframes sexuality education as not merely a pedagogical tool, but as a constitutional and human rights imperative. It powerfully suggests that in an era where digital exposure is inevitable, institutional silence is not neutrality, but neglect.

The tensions within the juvenile justice system are brought to the fore by Nandini Chauhan and Yamini Rizvi, who critically examine the role of Children's Courts under the Juvenile Justice (Care and Protection of Children) Act, 2015. Their analysis challenges the assumption that transferring children to adult trials signifies a departure from child-centric principles, instead revealing a more complex legal architecture that attempts to balance accountability with rehabilitation. Yet, the persistence of procedural inconsistencies and limited awareness of statutory safeguards exposes the vulnerability of this balance. The paper underscores that the spirit of juvenile justice cannot be preserved through legislative design alone; it must be actively sustained through consistent and informed implementation.

This concern is amplified in the work of Nazhah Altaf and Dr Nazia Khan, who broaden the lens to examine the functioning of juvenile justice institutions as a whole. Their identification of "systemic institutional deficits", manifested

in delays, infrastructural inadequacies, and weak coordination, highlights a structural dissonance between the ideals of rehabilitative justice and their realisation on the ground. The paper offers a sobering reminder that the effectiveness of any legal framework ultimately depends on the strength and coherence of the institutions tasked with its implementation. In doing so, it situates institutional reform as central to the future of child rights in India.

Providing a historical anchor to these contemporary concerns, Raj Gupta and Dr Sumit Gangwar trace the evolution of child sexual abuse legislation from the Indian Penal Code, 1860, to the enactment of the Protection of Children from Sexual Offences Act, 2012. This trajectory reflects a gradual but significant shift from implicit protection to explicit recognition of children's vulnerabilities and rights. By mapping this evolution, the paper highlights the progressive expansion of legal consciousness surrounding child protection, while also implicitly raising the question of whether legislative advancement has been matched by equal progress in enforcement and societal understanding.

Mahak Khirwal's analysis of the misuse of POCSO in consensual adolescent relationships complicates this narrative of legal progress by exposing the unintended consequences of rigid statutory application. The paper reveals how a law designed to protect children can, in certain contexts, become an instrument of control, particularly when invoked against adolescent relationships that challenge social norms. By foregrounding the principles of dignity, autonomy, and evolving capacities, as recognised under the UN Convention on the Rights of the Child, the paper calls for a more nuanced approach that distinguishes between harm and agency. It thus raises a fundamental question: can protection, when applied without sensitivity, itself become a form of harm?

This tension between law and justice is further interrogated in the case commentary on the Unnao rape case involving Kuldeep Singh Sengar. By critiquing the Delhi High Court's reliance on a narrow, formalistic interpretation of statutory provisions, the authors demonstrate how legal technicalities can dilute the protective intent of child-centric legislation. The reduction of charges in the absence of a clear definition of "public servant" exposes a critical vulnerability in the legal framework, allowing power to

evade accountability. The paper compellingly argues that interpretation must remain aligned with the law's purposive and victim-centric objectives, lest justice itself be compromised.

Moving beyond legal structures, Manvee Sharma's engagement with Sam Timimi introduces a critical perspective on the globalisation of children's mental health. By examining the imposition of Western diagnostic frameworks on non-Western contexts, the paper highlights the risks of cultural homogenisation and the erasure of local experiences of distress. At the same time, it resists romanticising indigenous systems, acknowledging that they too may perpetuate harm. This nuanced critique underscores the need for culturally grounded, context-sensitive approaches that recognise the diversity of childhood experiences without imposing reductive binaries.

Dr Sohini Mahapatra's analysis of the web-series "Adolescence" brings the discussion into the realm of lived experience, illustrating how contemporary childhood is shaped by digital cultures, shifting social norms, and evolving family dynamics. By examining themes such as online influence, parenting gaps, and the emergence of masculinist ideologies, the critique highlights the limitations of existing protective frameworks in addressing the complexities of the digital age. It demonstrates that popular culture, far from being peripheral, serves as a critical site for understanding the realities that legal and policy frameworks seek to regulate.

Finally, the infographic analysis of child budgeting by the Research & Knowledge Exchange Team at Child Rights and You (CRY) grounds the volume in the substantive realities of governance and resource allocation. By revealing that child-focused expenditure remains modest relative to the Gross Domestic Product despite increases in absolute terms, the analysis highlights a fundamental disconnect between policy rhetoric and fiscal prioritisation. It underscores that rights, however robustly articulated, cannot be realised without sustained financial commitment, efficient utilisation, and accountability mechanisms that ensure resources translate into meaningful outcomes for children. That public finance allocation and its expenditure is an

important metric of how a society treats children is demonstrated in this data visualisation.

Taken together, the contributions in this volume present a compelling and multi-dimensional portrait of child rights in India, one that is marked by progress, but equally by persistent contradictions. They reveal a landscape where laws evolve but are unevenly implemented, where protection sometimes conflicts with autonomy, and where emerging social and technological realities challenge existing frameworks. The path forward, as this volume suggests, lies not in isolated reforms but in an integrated, child-centred approach that bridges law, policy, institutions, and society. To truly realise the promise of child rights, it is imperative to move beyond viewing children as passive recipients of protection and instead recognise them as individuals with voices, agency, and evolving capacities. Only then can the vision of justice, dignity, and holistic development for every child be meaningfully achieved.

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

VOLUME VII | ISSUE I | APRIL 2026

Presidential Address

Presidential Address by Hon'ble Justice Savitri Ratho, Judge, Orissa High Court and Chairperson- Juvenile Justice Committee, Orissa High Court — 1-4

Hon'ble Justice Savitri Ratho

Research Papers

Dilution of the Right to Education: A Critical Analysis of Uttar Pradesh's School Merger Policy — 5-33

Ms Medha Shukla & Ms Anjali Verma

Sex Education and New Education Policy in India: Towards a Better Juvenile System — 34-55

Mr Pawan Kumar & Ms Kashish Jain

When Children are Tried as Adults: A Critical Analysis of the Role of Children's Courts Under the JJ Act 2015 — 56-75

Ms Nandini Chauhan & Ms Yamini Rizvi

Comprehensive Analysis of the Functioning of Juvenile Justice Institutions in India: Institutional Performance, Procedural Gaps, And Reform Imperatives — 76-92

Ms Nazrah Altaf & Dr Nazia Khan

Historical Evolution of Child Sexual Abuse Legislations in India and their Relevance in the Modern Education System — 93-105

Mr Raj Gupta & Dr Sumit Gangwar

Criminalising Adolescence: Misuse of POCSO in Consensual Teenage Relationships and its Impact on Child Rights — 106-112

Ms Mahak Khirwal

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

VOLUME VII ISSUE I APRIL 2026

In Response to Sam Timimi's: The Commercialization of Children's Mental Health in the Era of Globalization 113-128

Ms Manvee Sharma

Case Commentary

Judicial Formalism and Child Protection: A Critical Analysis of the Delhi High Court Ruling in the Unnao Rape Case 129-136

Ms Kimaya Vinayak Dalvi & Mr Navtez Singh

Pop Culture Review

Understanding Adolescents in a Digital World: A Commentary on the Netflix Limited-Series 'Adolescence' 137-142

Dr Sohini Mahapatra

Infographic Fact-sheet

Infographics on Child Budget in Union Budget

Research & Knowledge Exchange Team, Child Rights and You (CRY) 143-154

Journal on the Rights of the Child of National Law University Odisha
Vol. VII, Issue I, April 2026, pp. 1-4

PRESIDENTIAL ADDRESS BY HON'BLE JUSTICE SAVITRI RATHO, JUDGE, ORISSA HIGH COURT AND CHAIRPERSON–JUVENILE JUSTICE COMMITTEE, ORISSA HIGH COURT

Delivered on the occasion of unveiling of the first internationally indexed issue of the Journal on the Rights of the Child of National Law University Odisha post indexation held on 15th October 2025

I am delighted to be amongst you for the unveiling of the first issue of the ***Journal on the Rights of the Child of National Law University Odisha***, Volume VI, Issue number II (post indexation).

To quote **John F Kennedy**: *"Children are the world's most valuable resource and its best hope for the future."*

Children are one of the most important demographic set of any society. No society can function properly without ensuring that its children are protected, preserved and nurtured. India, since its independence and foundation as a republic, has been working towards providing a just and equitable environment to its children.

Through the enactment of various legislations like

- the Child Labour (Prohibition and Regulation) Act 1986,
- the Pre-Conception and Pre-Natal Diagnostics Technique Act, 1994 (and its subsequent amendment in 2003),
- the Commission for Protection of Child Rights Act, 2005,
- the Prohibition of Child Marriage Act, 2006,
- the Right of Children to Free and Compulsory Education Act, 2009,
- the Protection of Children from Sexual Offences (POCSO) Act, 2012,
- the National Food Security Act, 2013,
- the Juvenile Justice (Care and Protection of Children) Act, 2015,
- the Child Labour (Prohibition and Regulation) Amendment Act, 2016, and
- signing and ratification of the United Nations Convention on the Rights of the Child (UNCRC),

A definite shift can be observed from just welfare provisions towards a rights-based approach, where the children are not just considered passive recipients of welfare measures who need to be protected, but human beings who have their own rights and a voice and the state and society's obligation to ensure the same.

A total of 1,77,335 cases of crime against children were registered in the country in 2023, showing an increase of 9.2% over 2022, according to the latest National Crimes Record Bureau (NCRB) report.

In case of Odisha, there has been a spike of 4% in crimes registered against children from 8240 in 2022 to 8577 in 2023. The major crime heads were kidnapping and abduction and offences under the POCSO Act against children. With the advent of digital era, the issues around child rights, ranging from privacy violations to juvenile delinquency, have become more complex and entangled.

Often, we come across reports of teenagers and adolescents indulging in serious crimes apart from being its victims. Homes are no more safe havens for children as parents are unable to devote time and attention to their children and very often fail to inculcate the right values and morals in them.

Thus, it is obvious that mere legislation is not enough. Child rights, child welfare, child development is a shared responsibility. We cannot expect the State to do everything. Judicial intervention should be the last resort. Unless the entire society picks up its socks and ensures the implementation of the various enacted laws, children will not derive any benefits from them.

In such a scenario, our keen attention and focus on child rights becomes necessary, even more so than ever before, and the role of institutions like the Centre for Child Rights (CCR) at National Law University Odisha (NLUO) becomes extremely significant.

Juvenile Justice Committee (JJC), Orissa High Court

As a judge of the Orissa High Court, and the Chairperson of its Juvenile Justice Committee (JJC), I realize everyday how essential it is to sensitize and actively collaborate with various stakeholders, including legal professionals to further enrich and propagate awareness and advocacy about child rights as the issues of children cannot be dealt with in isolation. It requires constant dialogue, active collaboration with governmental as well as non-governmental institutions,

people from various walks, teachers, parents and children themselves to understand the problems faced by the children. The Committee convenes seminars, state level consultations, and workshops to discuss and adopt the best practices for furthering the objectives behind child protection laws and their effective implementation in Odisha. To provide a repository of the best practices alongwith the details of activities of the Committee and share the views and suggestions of various stakeholders which includes Judges, State Government Officers, Judicial Officers, research scholars and others, the JJC has re-launched its e-newsletter titled "*Sishu Surakhya*" this September which was published with the collaboration of United Nations Children's Fund (UNICEF). This *Sishu Surakhya* is available in the website of the JJ Committee and can be downloaded.

Now coming back to CCR, CCR is the oldest research centre of NLUO. I am told CCR is the second oldest centre for child rights or children and law in any NLU.

Under the leadership of the Vice Chancellor, Prof Ved Kumari, who herself is one of the most important chroniclers of Juvenile Justice in the world, CCR has become the only centre with a fully functional chair professorship on child rights amongst all the Universities (law and non-law included) headed by Prof Biraj Swain, the Chief Minister's Chair Professor cum Director of CCR.

Through its teaching, research, advocacy, training, mentoring and publications, CCR has played a significant role in strengthening child rights discourse, jurisprudence, raising awareness and influencing policy engagement in Odisha, India and beyond.

Centre for Child Rights and therefore its journal are intersectional. The journal includes case commentaries, legal research, economic analysis, social science research, data re-analysis and visualization as published works.

I have been told that the editors intend to carry pop culture review as well as commentaries on programmes dedicated to or telling children's stories in our current world.

I truly believe this journal will be a vital scholarly resource in informing judicial reasoning and institutional reforms on child rights, inside the Courts and outside, in the society too.

I found that the present issue of the journal has contributions from practicing academics, lawyers, research scholars and students. There is discussion of

different issues around child rights, such as public finance, right to education, digital vulnerability of children, sextortion, issue of consent vis-à-vis POCSO, importance of social work interventions in rehabilitation of children in conflict with law, nutrition, status of schools etc.

I must admit that the successful publication of this issue post indexation, with all due diligence, is not just a proud moment for CCR but it also feels like a personal achievement since I re-launched the journal not so long ago. On the 12th of April 2025, which is six months and three days ago, I stood in the NLUO, to re-launch the journal after a 5 years' Covid 19 – induced hiatus. It was the 10th anniversary of the Centre for Child Rights.

Although it is very difficult to say no to Prof Swain, when she first invited me for launching the journal on 12th October 2025, I had to turn down her request as our entire Committee was to go to Delhi to participate in the 10th National Stakeholders Consultation on "Safeguarding the Girl Child: Towards a Safer and Enabling Environment for her in India", organized by the Juvenile Justice Committee of the Supreme Court. To my pleasant surprise, I found that she rescheduled the date today.

I am told that Child Rights and You – in short CRY, has partnered with CCR in the production and launch of this issue and the previous issue. CRY, as most of you know, is an Indian organization that brought children's issues into our living rooms through their greeting cards. It has a 45 years' legacy and has a presence in 22 states and union territories of India and is currently reaching almost 5 million children directly. Its acronym is obviously misleading, as it strives to bring smiles in the faces of children.

I congratulate the entire team of CCR, Hon'ble VC Prof Ved Kumari, the National Law University Odisha and CRY.

I wish you luck with your future editions. I hope that the journal will pave the way for the most relevant scholarship on child rights. I look forward to reading this issue and the future issues and taking ideas and insights to work towards a world where every child in Odisha, India and the world achieves their best potential.

In conclusion, I leave you with Nelson Mandela's quote, *"There can be no keener revelation of a society's soul than the way it treats its children."*

Thank you!

Journal on the Rights of the Child of National Law University Odisha
Vol. VII, Issue I, April 2026, pp. 5-33

DILUTION OF THE RIGHT TO EDUCATION: A CRITICAL ANALYSIS OF UTTAR PRADESH'S SCHOOL MERGER POLICY

Medha Shukla[1] *& Anjali Verma*[2]

Abstract

India's constitutional commitment to universal, equitable, and free elementary education culminating in Article 21A and the Right of Children to Free and Compulsory Education Act, 2009 (hereinafter referred to as the "RTE Act") stands at a crucial crossroads. While historically the Indian state moved from the civilized legacy of inclusion to a post-independence welfare model ensuring access to schools for every child in the country, contemporary policies in the name of administrative efficiency appear to reverse this trajectory of growth and inclusion. The Uttar Pradesh state government introduced one such policy. Uttar Pradesh's school merger policy seeks to consolidate small government schools on the grounds of administrative efficiency. The policy has faced significant legal and social concern, especially after constitutionally sensitive litigation in the Sitapur district. The single-judge decision by Justice Pankaj Bhatia, together with the subsequent special appeal proceedings before the Division Bench led by the Honourable Chief Justice, Arun Bhansali, of the Allahabad High Court, raises new questions about the dilution of the welfare statute and RTE's structural guarantees.

This paper argues that the merger policy risks reversing centuries of progress to make education a fundamental right. Relying on historical evolution, constitutional jurisprudence, and statutory frameworks, it argues against the merger policy and highlights the conflict between administrative efficacy and a child's fundamental right to education. The analysis also inculcates the perspectives of the petitioner's counsel, Dr Lalta Prasad Mishra, whose years of experience in constitutional law offer invaluable insights into the constitutional stakes of the controversy. Finally, the paper aims to demonstrate incompatibility between consolidation-driven reforms in other legal systems and India's constitutional vision of equitable, proximate and child-centred schooling.

Keywords: child rights, right to education, school merger policy, article-21a

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Introduction

India has long been a country deeply rooted in culture, tradition, and shared social values. Its societal framework has therefore consistently placed special emphasis on education as a means of transmitting these values across generations. Traditionally, education was viewed as a means through which individuals could develop moral character, intellectual capacity, and an understanding of their social responsibilities. In modern India, however, the importance of education has assumed even greater significance. As the most populous country in the world, India today stands at a crossroads where the accessibility and quality of its education system will significantly shape the nation's demographic and developmental strength.

The same is also reflected in Article 21A of the Constitution of India, which was added in 2002 through the Constitution (Eighty-Sixth Amendment) Act. The amendment transformed education from a state policy goal into a strict and enforceable constitutional right. This objective was further strengthened through the enactment of the Right of Children to Free and Compulsory Education Act, 2009 (hereinafter, the RTE Act). The purpose of both enactments was to prioritise education and ensure its accessibility to every citizen. The neighbourhood school concept is one of this framework's most important components. According to the neighbourhood principle, schools must be situated reasonably close to children's homes. The reasoning behind this clause is simple: the constitutional guarantee of education loses its practical significance when distance becomes a barrier.

However, recent administrative reforms have raised important questions about whether this trajectory is being maintained. In the name of administrative efficiency, multiple states have adopted school merger policies. One such policy was introduced by the Uttar Pradesh government in 2025. The policy primarily aimed to merge or consolidate government schools with fewer than 50 students. The policy aimed to optimise resources and ensure each child gets holistic development. However, this has raised multiple questions about its direct impact on the fundamental right to education and its conflict with the neighbourhood principle.

The conflict led to the filing of two writ petitions before the Honourable Allahabad High Court. The petitioners (primarily from the Sitapur district)

challenged the merger policy on the grounds that it violated Article 21A of the Constitution of India and the RTE Act. However, the court has dismissed the same, and the merger policies have been held constitutionally valid. Given these circumstances, this study examines whether the policy/merger policy is a legitimate administrative upgrade or an encroachment of the fundamental right to education.

However, it is impossible to comprehend the current Indian education policy discussion in a vacuum. Over the ages, India's educational system has experienced several stages of change. It has evolved through different perspectives on what education should accomplish and who it should serve are reflected in each step. These historical shifts are essential for demonstrating a steady trend toward increasing educational access and bringing educational institutions closer to children.

Historical Foundation of Access to Education in India: From Nalanda to Constitutional Commitment

Education did not become a fundamental right of every child overnight. It is the result of a long historical evolution. For much of India's history, education was considered a valuable and powerful instrument of intellect and moral development. However, such an instrument was limited to only a particular section of the society. It aimed to promote values, culture and skills, yet was not conceived as a universal entitlement available to all children. Colonial policies later re-organised the education sector. It aimed to serve administrative needs rather than the welfare and development of children. Thus, it was only in the post-independence era that the Indian state gradually began to view education through the lens of equality, democratic participation and above all the welfare of children. Understanding this transition is essential for appreciating why each contemporary educational policy must be evaluated against the constitutional commitment to protect and realise children's right to education.

Nalanda and India's Civilizational Commitment to Education

Education in ancient India was thorough and held a highly esteemed position that shaped the cultural, intellectual, social, and spiritual bases of the early Indian civilisation(Basham, 1954). It extended beyond mere literacy or job training. It was a comprehensive framework aimed at developing character, safeguarding sacred cultural knowledge, and guiding individuals in their societal responsibilities (Radhakrishnan,

1951). Learning took place in a variety of institutions like gurukulas, ashramas, monastic schools, and in prominent universities like Takṣhshila and Nalanda (Singh, 2008). The gurukula system was the most significant, wherein the students lived with their Gurus (teachers), and learned not only through texts but discipline, ethics, and life skills through one-to-one daily interaction (Altekar, 1944). This holistic development-centric model allowed education to shape the mind, body and soul of an individual, rather than mere teaching.

Despite valuing the essence and importance of education, ancient Indian education lacked in multiple ways. Access to education was a privilege available only to a limited pool of students, largely influenced by their caste, gender and social standing. Such exclusion impacted significant portions of the society. Thus, despite having intellectual depth, ancient Indian education did not incorporate the concept of universal schooling and inclusion. It stayed decentralised, socially governed, and reliant on support and closeness.

The British Era

The arrival of colonial governance created a significant shift in the philosophy and objectives of education in India. The colonial regime changed the pre-colonial system's approach of integrating learning into ethical living, by turning education into a tool of control (Kumar, 2005). The frequently referenced remark by Macaulay (1835) asserted that the objective was to form

"*a class of persons Indian in blood and colour, but English in taste, in opinions, in morals, and in intellect.,*"

This assertion was not solely ornamental or superficial, rather it captured the foundational ideology of colonial education. Education was conceived as a means to produce a limited intermediary class of Indian men that would serve as interpreters, clerks, and bureaucrats in the colonial system (Viswanathan, 1989). It wasn't a system meant to increase and improve accessibility to education or promote welfare of children in any manner. Rather a system that enforced administrative subordination and British control (Cohn, 1996).

A less recognised aspect of education during the colonial times was the imposition of penalties on parents to ensure school attendance (Indian Education Commission, 1883). These policies reveal the contradiction inherent and deeply rooted in colonial education. While constantly presented as "progressive" initiatives, they showed no real concern for welfare. Parents were expected to

relinquish their children to a foreign curriculum that neither ensured economic advancement nor connected with native ways of life (Kumar, 2005). The state's growing dependence on punishment instead of incentives highlights its failure or reluctance to tackle the underlying issues contributing to low enrolment, including agrarian reliance, poverty, and the outdated nature of colonial education in relation to daily economic realities (Cohn, 1996).

Education was now viewed as a hindrance instead of a virtue, as it did not enhance income potential or correspond with cultural norms (Dharampal, 1983). Colonial officials viewed this opposition as "backwardness." Yet it was a logical refusal of a system that demanded conformity without providing meaningful benefits (Viswanathan, 1989). The parents who were themselves drowning in poverty, were expected to send their children to schools in return for cash or kind.

The Wood's Despatch of 1854 is frequently referred to as the "Magna Carta of English Education in India," further enhanced the struggle. It was a hierarchical and exclusive framework, which forced *pathshalas* to adopt a fixed fee structure and regular timetables to receive government grants (Wood, 1854). Although it seemed to offer a well-organized educational system on the outside, on the inside its funding priorities were heavily biased. Primary education was consistently underfunded, while English-medium secondary and tertiary education were allocated an excessive share of the budget (Indian Education Commission, 1883). The outcome was the establishment of a small, exclusive class educated in English sitting above a wide foundation of an uneducated populace (Metcalf, 1995).

This structural bias resulted in lasting effects. By favouring English education and urban institutions, the Despatch solidified social hierarchies and increased the divide between rural and urban India (Kumar, 2005). The colonial assertion of "civilising" India masked this grimmer truth. Countless children stayed beyond the reach of education due to disregard and intentional financial indifference (Cohn, 1996). Fixed fee structures had forced the poor population to drop out of schools. The gender disparity was even more pronounced and prominent, as female education garnered only superficial focus, upholding and deepening strong patriarchal ideals and restricting women's access to literacy and economic involvement (Forbes, 1996).

As its direct consequence, India entered the twentieth century with remarkably low literacy levels, extensive rural marginalisation, and deep-rooted gender biases. These results were not a historical coincidence, but a direct result of colonial intentions to continue ruling the Indian subcontinent (Census of India, 1913). The persistence of these structural inequalities continued to influence postcolonial educational issues, highlighting the profound impact of colonial priorities on the direction of Indian education (Austin, 1966).

The Post-Independence Transformation: Introduction to Universal Schooling

The years following independence marked a crucial shift in India's relationship with education. Attempting to recover from the colonial suppression, the new Republic faced the both the challenge and opportunity to envision and develop its own educational system (Kumar, 2005).

The Constituent Assembly recognized that democracy would only thrive if its citizens were educated and had the ability to decide for themselves. Thus aimed to develop a society which promotes social and educational equality (Constituent Assembly Debates, 1948). This sensitivity was first articulated in the Directive Principles through Article 45 of the Constitution of India (1950). The Article specifically called on the State to ensure free and compulsory education for every child until the age of fourteen. Even though it wasn't legally enforceable in court then, Article 45 served as a moral compass. It indicated that the new Republic viewed education as a public obligation rather than a personal entitlement (Austin, 1966).

Amid this transforming constitutional perspective, a notable occurrence arose with the Constitution (Forty-Second Amendment) Act (1976), which added Article 39(f). This clause mandated the State to safeguard childhood from exploitation and to provide children with opportunities to grow in environments of dignity, freedom, and safety. Despite being a Directive Principle only, Article 39(f) surfaced a ground reality. The myth that educational deprivation was limited to lack of schooling was bursted. It conveyed that educational deprivation also diminished a child's holistic development (Baxi, 2000). Incorporating the welfare and dignity of children into the constitutional language prompted the State to deepen its understanding of its responsibilities to its youngest citizens.

These constitutional amendments came at the same time as the Planning Commission's policy work. The Planning Commission aimed to create five year plans to develop institutional foundations for universal elementary education. The First Five-Year Plan (1951-1956) of the Commission acknowledged the need to improve rural schools from the colonial era and expand educational facilities outside of urban areas. It dedicated funds for expansion of primary schools and the deployment of basic teachers after declaring that elementary education was crucial to the regeneration of rural areas (Government of India, 1951). The Second (1956-61) and Third (1961-66) Plans maintained this trajectory of growth by boosting teacher-training capacity and promoting the systematic extension of primary education into underserved areas. It made strategies to overcome the two significant hurdles; teacher access and lack of local school provisions (Bareau et al., 1957).

In order to make education a fundamental basic facility, the Fourth (1969–74) and Fifth (1974–79) Plans shifted from expansion goals to consolidation of the primary school network, allocating funds specifically for additional primary schools in habitations lacking facilities, and incorporating elementary education into the Minimum Needs Program (Government of India, 1969). During the Seventh Five-Year Plan (1985-90), the Planning Commission established the goal of "Universal Elementary Education by 1990." It recognized retention, quality, and equity (especially for girls and first-generation learners) as essential priorities, and emphasized that the focus of policy should change from simple enrolment to retention and learning outcomes(Planning Commission of India, 1985). The Seventh Plan established official and unofficial goals (25.53 million children for formal schooling and 25 million for non-formal schooling) and emphasised the importance of enhancing teaching–learning methods to lower drop-out rates and increase actual enrolment(Planning Commission of India, 1985, para. 9.3). The Commission highlights the need to improve regional educational facilities and informal educational offerings to support marginalised groups and directly links access, retention, and equity as mutually dependent objectives in the Plan's treatment of universalisation (Planning Commission of India, 1985, paras. 9.18–9.24).

Collectively, the series of plans demonstrates a coherent policy rationale: the State needs to develop local educational capacity focused on retention, equity,

and quality. The Planning Commission's function was thus both infrastructural and normative. It positioned primary education as an essential public necessity, and a crucial addition to the constitutional Directive Principles.

Right to Education: A Fundamental Right of Each Child

The recognition of education as a fundamental right in India was the result of sustained efforts by all three organs of the State. The legislature enacted provisions, executive implemented them and the judiciary gave them a holistic and child-centric interpretation. Through this constant effort, education became an enforceable fundamental right.

One of the most landmark decisions in the constitutional history of child's fundamental right to education is the case of Mohini Jain v. State of Karnataka (1992). The court in this case discussed the impact of capitation fees charged by private medical institutions on the marganised sector. Through this case the court recognised the inherent relationshi[between human dignity and educational rights. It was observed that "The right to education flows directly from the right to life." The Court further emphasised that the exercise of fundamental freedoms would remain illusory in the absence of education. As noted by the Court, "The dignity of the individual cannot be assured unless it is accompanied by the right to education." Despite generating debates and criticism arround it, the judgement laid the foundation for recognition of education as a part of right to life and personal liberty.

The constitutional position was further clarified in Unni Krishnan v State of Andhra Pradesh (1993), where the Supreme Court reconsidered the scope of the right to education in greater detail. The Court gave harmonious construction to Articles 21, 41, and 45 of the Constitution and concluded that children possess a fundamental right to elementary education. Hon'ble Court held: "The right to education flows directly from the right to life under Article-21." The Court further explained that the enforceable component of this right extends to children up to the age of fourteen years. The decision represented a significant constitutional development because it integrated Directive Principles with Fundamental Rights.

The constitutional and jurirprudential essence emerging from these decisions generated considerable constitutional momentum. And the Parliament introduced Article 21A and 51A(k) into the constitution through the Constitution

(Eighty-Sixth Amendment) Act, 2002. Article 21A expressly provided that the State shall provide free and compulsory education to all children between six and fourteen years of age (Constitution of India, 1950, art. 21A). Article 51A(k) on the other hand placed a fundamental duty upon parents and guardians to provide educational opportunities to children between the ages of six and fourteen (Constitution of India, 1950, art. 51A(k)). Article 21A, 45, 51A(k) together became the holy trinity for educational rights. It became a combination of state obligation, directive policy and civic responsibility.

The constitutional guarantee under Article 21A must also be understood within the broader framework of child rights. International human rights law has consistently recognised education as a developmental objective and fundamental entitlement of every child. Article 28 of the United Nations Convention on the Rights of the Child (UNCRC) affirms that States must recognise the right of every child to education and make primary education compulsory and available free to all. Article 29 of UNCRC further clarifies that education must aim at the development of the child's personality, talents, and mental and physical abilities to their fullest potential (United Nations, 1989).

India ratified this Convention in 1992 and thereby pledged its commitment to incorporate progressive regimes into its legal system. To bring into effect Article 21A and the international obligations, the Parliament enacted the RTE Act in 2009.

The RTE Act is considered one of the most beneficial and important legislations enacted for the advancement of India's educational history. With the aim of making education accessible to each citizen it incorporate provisions for neighbourhood school, adequate infrastructure for children with disabilities, pupil-teacher ratio, potable water, distinct toilets, etc. (RTE Act, 2009 sch.1). The Act, therefore, created a mandatory duty for the State to provide free, compulsory and quality education for all students aged 6 to 14 years of age.

The Supreme Court also confirmed these standards in the case of Avinash Mehrotra v. Union of India (2009) and held that these provisions are substantial for providing quality education. The Act also intended to break down discriminatory practices entangled in the society, such as screening processes, capitation charges, physical punishment and removal from schools (Right of Children to Free and Compulsory Education Act 2009, ss.13, 16, 17). Thus, the

aim for all the three pillars was one: to improve the existing education regime and not mere physical enrolment.

The no-detention policy, though later modified through legislative amendment, was originally based on research indicating that grade repetition disproportionately affects children from socio-economically disadvantaged backgrounds and increases the likelihood of school dropout (OECD, 2014).

The neighbourhood school principle introduced by the Act is a fundamental component of the Act. According to Section 6 of the RTE Act and the Uttar Pradesh Right of Children to Free and Compulsory Education Rules, 2011 a primary school must be located within one kilometre and an upper-primary school within three kilometres of each residence. The Kothari Commission (1966) and other educational commissioners have repeatedly acknowledged that access begins with physical proximity. Girls, young kids, children with disabilities, and those from economically disadvantaged backgrounds encounter unequal obstacles when schools are located at a distance. Significant relationships between distance, irregular attendance, and dropout rates have also been shown in research (Planning Commission, 2007). Therefore, Article 21A's constitutional promise is meaningless in the absence of local schools.

Section 21 of the RTE Act mandates that parents make up the majority of the members of School Management Committees (SMCs). These committees distribute governance, improve accountability, and promote community involvement. The Supreme Court in the case of State of Tamil Nadu v K Shyam Sunder (2011) has reaffirmed the need for community involvement in educational governance as part of the right to education. The Supreme Court in the case of Society for Unaided Private Schools v Union of India (2012) also upheld the mandate for specific safeguards for marginalised groups, which includes a 25% reservation in private unaided schools at the admission level as described in Section 12(1)(c). The court held that this clause is essential to achieving substantive equality.

To sum up, the RTE Act of 2009 marked a significant shift in primary education from administrative judgement to rights-oriented governance. This legal framework must be used to assess any policy that aims to modify the worldview. Thus, the Government of Uttar Pradesh's 2025 school merger policy must also be reviewed under the same lense.

Uttar Pradesh's School Merger Policy: Administrative Reform or Rights Dilution

By "pairing" and consolidating primary and upper-primary government schools with low student enrolment, the Uttar Pradesh government carried out a thorough administrative overhaul of the public basic education system in 2025. According to studies, the policy affected approximately 27,931 schools out of 135658 government schools, concentrating on establishments with fewer than fifty students enrolled (UDISE+ Report 2024-25). According to official pronouncements and media reports, organisational simplification and administrative ease were the declared justifications rather than pedagogical change.

In response to the tension that escalated amongst the stakeholders the State Government persistently termed the policy as a mere administrative reform. On the contrary the public viewed this as unequal teacher distribution, underdeveloped infrastructure, and the incompetency of running schools in underprivileged areas (Times of India 2025). The goal was to attain administrative uniformity. It was asserted that combined schools would become "viable" educational institutions, allowing for improved student learning environments and more teacher utilisation. The National Education Policy (NEP) 2020's consolidation ideas were largely reflected in the policy debate, particularly with regard to school complexes as a way to improve systemic efficiency (Ministry of Education, 2020).

It is also important to acknowledge that school consolidation policies are often introduced with the objective of improving educational quality and resource utilisation. Governments frequently allege that small schools have structural issues like inadequate infrastructure, a lack of subjects offered, and a teacher shortage. By merging these institutions, the State may attempt to raise student-teacher ratios, combine teaching staff, and create learning environments that provide students with better facilities and more academic opportunities. Larger institutions may also make it possible to use public funds and administrative resources more efficiently, enabling governments to concentrate investments on improving infrastructure, teaching quality, and curriculum diversity. From this perspective, consolidation is sometimes viewed as a policy initiative to enhance the public education system's overall functionality rather than merely an administrative task.

Both the reform and the conceptual change it represents are significant. Education is now viewed as an administrative service that can be maximised rather than as a constitutionally guaranteed right. The Right of Children to Free and Compulsory Education Act, 2009 and the Uttar Pradesh RTE Rules, 2011, which prioritise the child over the institution in the area of educational governance through the neighbourhood school principle, are directly at odds with this development.

The State's efficacy narrative is called into question by independent field reports and analysis of the teacher workforce. According to national research on teacher distribution, unequal distribution is a long-standing governance issue that is typically resolved through recruitment and transfer as opposed to by physically removing institutions from local communities (UNESCO, 2021). Instead of creating teachers on its own, consolidation shifts the weight of systemic scarcity from administrative frameworks onto children's experiences and lives by reallocating distance. The fundamental significance of the merger strategy lies in the constitutional values it seems to replace.

India's educational policy has always developed around the notion of ensuring physical accessibility to schools. To achieve the same the government has over decades implemented various policies to reduce travel times and distance and overcome social barriers of caste, gender and disability. The merger policy risks undoing all these efforts which might push the country back into a regressive state. The implementation of the merger policy would require the children to travel farther distance, adjust to new environment and compete with students who have developed in better infrastructure since the beginning. Such institutional adjustments might also led to exclusion of children coming from the merged school.

The UNCRC and the UN principle of "Leave No One Behind" recognises that exclusion often results from structural isolation instead of explicit denial (United Nations, 1989).Although these commitments cannot be directly enforced within the nation, constitutional courts have more often utilised them as interpretive frameworks to assess whether state acts pertaining to socioeconomic rights are acceptable or not. This leads to a change in public education away from the rights-based principle of proximity inherent in the RTE framework, rather than merely a matter of administrative efficiency.

The main question thus is not whether merger of schools would led to administrative efficacy; it clearly would. But whether such efficacy should be achieved on the ground of disruption in the child's fundamental right.

Litigation in Sitapur and the Judicial Encounter

The School merger policy was challenged in the Constitutional courts in the form of a writ petition. The legal dispute puts light on the stark reality where administrative policies had to be adjudicated on the basis of actual experiences of rural childhood. The dispute reached the Allahabad High Court, Lucknow Bench, via Writ-C No. 6290 of 2025 and Writ-C No. 6292 of 2025, instituted by the parents/guardian of 51 children aged 6 to 10 years. The Government Order issued on 16 June 2025 by the Additional Chief Secretary of the Basic Shiksha Department in Uttar Pradesh was challenged through these writ petitions. Another order passed subsequently on 24 June 2025 by the authorities whereby 105 schools were shortlisted for the purpose of pairing was also challenged in the same writ petition.

The policy formulated for the purpose of "pairing" was not less than a nightmare for the affected families. Multiple families judged the policy as discriminatory with respect to rural education, they perceived the policy as effectively removing neighbourhood schools. Major resentment was shown due to the fact that the policy had a negative consequence on the neighborhood school principle. Due to this many children would be forced to travel long distances to attend schools. The worry about their children's safety became the focal point of the present dispute. Safety, exhaustion, the feasibility of consistent attendance and an increase in costs were some of the large scale drawbacks. The anxiety about the safety of girl children was particularly intense. Female education in India has always been a topic of discussion and that to education of girl child in rural areas is significantly lower than the urban areas. Travelling through unsafe paths would lead to lower enrolment and dropouts which would eventually force many families to marry their daughters early.

The petitioner's contentions were focused primarily on the ground realities of the rural neighborhood wherein sending their children to school daily was already a task. The petitioners placed their arguments on these realities rather than other hypothetical situations. The public infrastructure in rural areas is still way behind. Absence of proper pathways would discourage the students from

going to school regularly. The children would need to cross isolated highways, forests, rivers, railway tracks, and farmlands, which could easily be an area for crimes and unwanted accidents. Parents/guardians also contested that the policy did not provide for any definitive strategy for transportation.

The petitioners placed their reliance on the Constitutional guarantees. They argued that the reform policy infringed Article 21A of the Constitution, which guarantees education as a fundamental right. Another law that this policy violated was the RTE Act, 2009 along with the Uttar Pradesh RTE Rules, 2011. They claimed that an executive order could not curb or restrict the rights already provided by law and especially the fundamental right.

The state relied on their arguments on the National Education Policy, 2020, they contended that numerous schools experienced very low or no enrolment, and that consolidation only aimed to enhance educational quality by combining resources and helping students gain exposure. It was claimed that the policy did not jeopardise the right to education, as education would continue to be both free, mandatory and readily available, with transportation provided whenever distance created an obstacle.

The judgment given by Hon'ble Arun Bhansali, Chief Justice and Hon'ble Jaspreet Singh, J presented a one-sided approach, primarily focusing on the State's contention without deeply analysing the petitioner's claims. The main issue before the court was whether the state's decision to pair or merge the school was violative of Article 21-A and the RTE Act, 2009. Ultimately the Court, in its final judgement, refrained from going into the domain of executive decision making power. The court indirectly ruled in the favour of the State's policy. The court's approach was consistent with established principles of separation of powers and demonstrated a conscious effort to respect the domain of policymaking.

In the initial phase, however, the Court did take into consideration constitutional challenges by observing "blatant inconsistencies" in the State's contentions, subsequently the court ordered it to maintain the status quo. In order to protect the children from irreversible damage the court ordered the state to submit proper affidavits and establish its stand more clearly. Through the court's order the state was instructed to guarantee procedural accountability and enhance transparency. Due to the increasing resentment amongst the parents

and the guardians the state revised its policy. The state submitted the affidavit in this regard that a school with more than 50 students and distance between schools being one kilometer or more will not be paired.

The court did not consider some important issues in depth. By analysing the courts order it can be clearly seen that the judgement lacked discussions on core issues like accessibility, practical challenges and Article-21A. In rural areas even a kilometer might create a major difference. The main purpose of filling any writ petition is that it involves violation of fundamental rights. During the whole hearing the focal point is the discussion on fundamental right and its violation but the courts in this particular case did not go into the interpretation of Article-21A. The main reason for this was that the judiciary did not want to encroach upon the domain of executive decision making power.

Another important aspect which the court did not take into consideration was the proportionality test. An already established principle which talks about the extent to which a law can be held valid with regard to the Constitutional guarantees. The court must have based its ruling after adjudicating whether the policy was actually required or the purpose could have been achieved by using any other less restrictive ways. Even though the state intended to optimize its resources which in turn is a great step for the country's economy, this could have been done without compromising the education of children. The decision lacks such thorough discussions.

Travel challenges, safety issues, dropout risks, and the unique requirements of vulnerable groups including the appellants' children with disabilities, were not taken into account by the Court. The court erred to disregard the constitutional history and the real life challenges that would be faced by the petitioners. The judgement limits the interpretation of a fundamental right to an administrative compliance exercise. The Court was successful in making sure the State followed its own rules, but it was unable to fully realise the scope and spirit of the constitutional guarantee under Article 21A of the Indian Constitution.

Role of Petitioners' Counsel: Dr. Lalta Prasad Mishra

Dr. Lalta Prasad Mishra, a renowned veteran advocate with over fifty years of experience at the Awadh Bar, highlighted the constitutional and legal issues arising from the policy of merging numerous government primary and upper-

primary schools in Uttar Pradesh. The petitioners had approached him, and now Senior Advocate Gaurav Mehrotra requesting their expert opinion and assistance on the matter, due to their extensive involvement in constitutional litigation and issues related to fundamental rights of individuals. The petitioners stated that the merger policy has caused significant disruption to schooling access in various villages, and as a direct result, many of the students have dropped out of schools. Dr Mishra was informed that, after the mergers, many children could not enrol in the newly assigned schools, resulting in some cases in the complete interruption of formal education and the practical loss of an academic year, which became the sole reason for him to submit the writ petition, challenging the said government order.

Dr Mishra, while discussing the issue, articulated the opinion that these results do not align with the mandatory constitutional structure regulating elementary school education. According to his evaluation, the right to education as stated in Article 21A of the Indian Constitution, in conjunction with the RTE Act, 2009, was enacted to create a child-focused framework that emphasises accessibility, consistency, and close proximity of schools for each and every child of the country, and not to foresee the administrative feasibility of the government. He asserted that administrative ease or logistical factors cannot and should not limit an enforceable fundamental right. Any policy action that makes education virtually unattainable, even if not officially restricted on paper, must be directly assessed for its constitutional legitimacy. The Constitution of India, being the Grundnorm of our country, should not be treated as a mere document that could be overridden by political agendas and policies.

He also highlighted the educational implications of consolidation, especially regarding the most critical issue: teacher-student ratios, which are prevalent in almost every government and private school. A significant issue that remains prevalent in urban areas is that the classrooms are overcrowded which affects the teaching pattern. Each student is different in their own way. Some are way more studious and some require more understanding. Due to this the children are forced to join tuitions and coaching institutes apart from daily schooling. If students in rural areas are merged with students in crowded areas then this will affect their learning outcomes. Additionally they will also not have resources to join tuitions which will eventually keep them backwards.

To sum up Dr. Mishra's arguments, the merger policy possesses serious socio-economical hardships for the students. Be it travelling long distances or the teacher students' ratios, he places his reliance on the petitioner's vulnerability as a major challenge to the government order. He advocated in favour of Constitutional values. His contentions revolved around students' welfare, terming the Right to education as an asset.

In conclusion, Dr. Mishra's arguments posed a reality check for the court. Apart from patent technical challenges he also emphasized on serious issues which did not arise in normal discussions such as education of girl child and vulnerable groups. These issues not only throw light upon the current state of affairs but through these discussions we can infer that in India education still remains a sensitive topic especially in rural areas, and by formulating these kinds of policies the situation can become even worse. To uphold the rights that the Constitutions of India guarantees, a more thorough investigation becomes necessary.

Critical Analysis: How the Merger Dilutes RTE

The litigation in school-merger policy cannot be interpreted meaningfully on the basis of Constitutional values alone. A very elemental question that arises in this discussion is how should the policy be shaped so that it does not affect the rights of the students and also balances the administrative efficiencies?

Access, Distance and the Risk of Exclusion

Distance plays a major role in establishing the fact that the merger policy has negative consequences. This has already been proven through empirical evidence, particularly conducted in rural settings. As per the official data collected under the Unified District Information System for Education Plus (UDISE+) for the 2024−25 academic year, Uttar Pradesh had the **highest number of drop-out students in India, with 784,228 identified as not enrolled in any recognised school**. This exceeds the counts in both Jharkhand (65,070) and Assam (63,848) combined. The Annual Status of Education Report (ASER) 2024, one of India's leading household surveys on schooling and enrolment, further shows that while overall school enrolment remains high, children aged between 15 and 16 years of age continue to have higher non−enrolment rates, which indicates major challenges in secondary−level school participation in the villages (ASER Centre, 2024).

The merger policies that increase the distance between schools and students also increase the chances of students dropping out. Empirical research consistently identifies distance from school as a major determinant of enrolment, attendance, and dropout in rural India. Studies show that reductions in travel distance significantly increase the probability of school participation, particularly among children from disadvantaged households and rural communities (Kanbur & Pritchett, 2016). Educational research further suggests that longer travel distances disproportionately affect girls' attendance due to safety concerns and mobility constraints (NCERT, 2017). For families facing economic issues, longer distances amplify transport costs, safety barriers, and opportunity costs; often pushing students towards child labour, begging, domestic work, or early marriage rather than continued schooling. Although the state has assured making provision for suitable transport facilities to minimise the hurdles, it can only be analysed after its implementation.

Gendered Consequences of Consolidation

The impact of school consolidation on gendered consequences demands specific scrutiny. Cultural limitations, household responsibilities, and safety issues already limit girls' educational participation; increasing travel distances amplifies these hardships. Despite schemes such as Beti Bachao Beti Padhao, the families in villages often prioritise boys' education over the girls', and on top of this, the increased distance further escalates this problem.

Studies such as the Field insights from the **Azim Premji Foundation** underscore that proximity and school accessibility are two very important factors affecting girls' continuation into higher education, especially where economic and social barriers combine with other barriers such as distance to schools (Azim Premji Foundation, 2024). Independent surveys, such as ASER 2024, report higher non−enrolment and dropout rates among older girls in Uttar Pradesh (Times of India, 2025). In these contexts, consolidation may not merely be an inconvenience to girls' education but creates a systematic exclusion.

Socioeconomic Stratification and the Two-Tier Risk

The consolidation policy further creates a division in society. Families with economic resources can accommodate sending their children to private school, but families with less income get trapped in this policy. UDISE+

2024–25 data demonstrates a national decline of over 8 lakh Scheduled Caste enrolments, with government schools losing 5.9 lakh students while private unaided schools gained 5.8 lakh (Ministry of Education, 2025). This trend shows that consolidation accelerates the exit of economically better-off families from the public system, leaving the poorest behind. Such outcomes undermine the egalitarian promise of Article 21A, transforming public education from a universal right into a selective entitlement.

Missing Social Impact Assessment

Impact assessment is a major technical step which forms a part of the decision making process. Every Government Law, order, rule, regulation must go through the process of its impact assessment because ultimately it's the general public which suffers its consequences. In the present case the stage of Impact assessment is totally missing.

The States' promise to provide transportation support remains weak. The past experiences from China and the United States clearly demonstrate that a successful merger depends on the transport systems. When the infrastructure is missing, the proximity guarantees in the RTE Act become an illusion.

Data transparency complicates the issue. Declaring the schools redundant without trying every way to boost enrolment puts at risk the children who are most hidden from statistics.

Policymakers cannot base such reforms on a choice between efficiency and access. Different consolidation policies require different planning, such as building-based planning, community participation, targeting and performance monitoring, which are constitutional necessities. If consolidation cuts access for the most vulnerable children, consolidation threatens Article 21A itself.

In conclusion, the State must simplify the school network. The State must carry out the simplification in a way that puts the child first, not administrative convenience. The State must put the child at the centre of the education policy. The real test of consolidation is not the reduced numbers on a spreadsheet. The real test of consolidation is whether the child can still reach a school. The fact that consolidation would lead to better utilization of resources is not contested, what is actually contested is the fact whether or should administrative efficiency override the fundamental right of education of even a single child.

Comparative Perspectives on School Consolidation, Administrative Efficiency and the Indian Constitutional Context

The policies relating to school consolidation due to low enrolments are not an alien concept to the world. Many jurisdictions have adopted these policies before the Indian subcontinent, as a reaction to financial strain, demographic shifts, and administrative optimisation. Some had succeeded in increasing the education rate, while some had failed miserably. The outcomes rely on the educational system's normative commitments, the State's administrative capabilities, and the societal conditions in which schooling functions in that country. A comparative analysis of consolidation methods in the United States, China, and Singapore, along with India, shows that although efficiency can be a valid government goal, merger-based approaches often incur equity costs that are hard to align with rights-based models of primary education (OECD, 2019).

United States of America

In the United States of America, school consolidation has mainly taken place in rural areas facing decreasing enrolment and financial limitations due to different reasons. Decisions made at the state level, like those in West Virginia, have permitted the shutdown of several rural schools due to financial operability and administrative effectiveness (Duncombe & Yinger, 2007). However, the academic evaluations of these initiatives show varying results. Certain research indicates that consolidation may enhance access to specialised educators, a wider range of curriculum options, and improved facilities when students are integrated into larger nearby schools (Engberg et al., 2012). Simultaneously, a considerable amount of empirical studies highlight the negative impacts linked mostly to longer travel distances, such as a drastic increase in absenteeism, diminished parental involvement in school activities, and poorer educational results for younger children and those from low-income families (Lyson, 2002).

Significantly, these impacts are evident within a legal system that does not constitutionally ensure neighbourhood education. Despite being a relatively high-capacity system, school closures have demonstrated a decline in community cohesion and a deterioration of the social roles that were traditionally held by local schools (Ministry of Education, PRC, 2001). The American experience categorically demonstrates that efficiency improvements from consolidation often lead to distributional harms that disproportionately impact rural and

marginalised communities. Thus, even in a legal system like that of the USA, the school mergers have shown mixed conclusions.

China

Due to rural-to-urban migration, China implemented a large-scale rural school consolidation program in the early 2000s. The government was forced to combine the schools in order to guarantee administrative efficiency due to the declining rural populations. Many village schools were closed as a result of this program, and pupils were moved to central townships (Hannum et al., 2021)

Empirical research, however, shows that this policy's distributional impacts were noticeably uneven. Children who faced school closures during their primary years finished significantly fewer years of education, according to longitudinal research using data from household surveys. Girls were disproportionately affected negatively (Hannum et al., 2022). Lower attendance and higher dropout rates were caused by longer travel distances, safety concerns, and more home responsibilities. Consolidation made it more difficult for minority communities to receive instruction in their native tongues, which decreased student engagement. While some kids benefited from improved facilities at receiving schools, the overall pattern suggests that most were adversely affected. These results demonstrate that consolidation does not function consistently in various institutional and social circumstances. It might be suitable for some and might lead to negative consequences for others.

Singapore

Singapore's education system reflects a fundamentally different understanding of efficiency. As a country frequently listed among the world's top-performing education systems, Singapore has achieved administrative effectiveness without relying heavily on school closures or consolidations. The focus of their policy has always been robust teacher recruitment and training, ongoing professional development, continual curriculum updates, and strategic long-term infrastructure planning (Singapore Ministry of Education, 2018).

In instances of school mergers, they have been constrained in scale and more influenced by demographic factors, such as decreasing birth rates, rather than a lack of resources. Even so, officials have emphasised the importance of maintaining school identity and community involvement, which can not be

achieved by merger policies. Singapore's experience shows that increasing administrative efficiency is possible even by enhancing the existing systems rather than retreating from institutions.

India's Constitutional Distinctiveness

India, being a hybrid legal system, has a fundamentally different stance. Elementary education has been the country's primary focus since ancient times and is currently guaranteed as a fundamental right under Article 21A of the Constitution, implemented through the RTE Act, 2009. The primary principle of this Act, being that every single child gets equal access to opportunity and education, viewing physical closeness as a protection against exclusion instead of merely an administrative convenience (RTE Act, 2009).

In this constitutional framework, school consolidations that increase the travel distance pose legal rights-based questions instead of being simply managerial. The jurisprudential essence of the neighbourhood school principle was to bring the school nearer to the students and not the vice versa. It is important to highlight that every law must pass the test of constitutionality to be enforceable in the country. Even though the state contends that such merger would benefit the students through better resource utilization, the question which remains is: Can the fundamental right of education of even a single child be violated to ensure administrative efficiency?

In a country like India, where socio-educational conditions, such as gender-related mobility restrictions, caste-based discrimination, obstacles due to disabilities, and uneven transportation systems, are the most prevalent issues, the introduction of such a merger policy would push the children away from their education. Empirical research from Indian settings indicates that consolidation might enhance specific administrative metrics while concurrently lowering enrolment and retention if compensatory strategies are insufficient (Bhatnagar & Bolia, 2019).

In contrast to Singapore, India cannot rely on consistently high-capacity transportation systems, as many villages are built near lakes, jungles, and farms, where constructing roads for heavy vehicles becomes difficult. In contrast to the United States, it has constitutionally integrated proximity as a component of educational rights as inferred from the neighbourhood principle. In contrast to China, it functions under ongoing judicial oversight of educational policy.

These structural differences make straightforward policy transfers unwise. The issue is not if there are inefficiencies in school administration, but rather how to tackle them without undermining the legal and moral principles of the right to education. The primary question of how to align administrative capacity with constitutional adherence to shape the policy options is examined below.

Policy Recommendations

Mandatory Social Impact Assessment before School Consolidation

Every school consolidation policy must go through a required social effect assessment, which is open to the public and reviewable. In addition to evaluating adherence to Article 21A and the RTE Act, these assessments must take into account the distance that exists between schools, security parameters, gender-specific effects, the beneficial and detrimental effects for Dalit, Adivasi, and minority communities, accessibility for people with disabilities, and the risk of dropout. Comprehensive pre-closure effect evaluations have been required since the beginning in nations like Finland and Canada, which have some of the best education systems in the world. These nations recognise that consolidation decisions taken without clear information can often result in chronic exclusion.

Democratic Community Consent

Without informed local approval, mergers cannot proceed. Gram Sabhas or similar institutions should be used to offer affected villages or communities the power to approve or reject projects. They have the right to carefully consider the benefits and drawbacks of merger policies for their offspring. The view that local schools are important community resources rather than merely service providers is demonstrated by the fact that countries like the United States and some parts of the United Kingdom require school board approvals and community involvement before closing. Additionally, it makes parents feel important and involved in making decisions that will have a significant impact on their children's life.

Transport as a Precondition

When consolidation is required, safe and complementary transport must be established prior to implementation and should not be viewed as a post-implementation strategy to persuade the stakeholders. Consolidation without guaranteed transportation dramatically increases dropout rates for girls and

marginalised children, as seen by South Africa and China. Transport ought to function as a requirement rather than an afterthought.

Preference for Strengthening Existing Schools

Policy should be biased in favour of improving local schools through resource coordination, infrastructural upgrades, and teacher assignments. Singapore serves as an example of how investment-driven changes can address inefficiencies without severing relationships between schools and their communities. As demonstrated in Delhi, student enrolment would inevitably increase if the current institutions were reinforced.

Structured Oversight of Merger Decisions

Independent and judicial review should be applied to school mergers, and the State should be required to present empirical data outlining the merger's advantages and disadvantages. This would guarantee that no legal rights are infringed. In order to ensure that efficiency claims do not jeopardise access, safety, and justice, Germany and Australia require evidence-based evaluations. When taken as a whole, these acts support the idea that children's constitutional rights should not be compromised in the name of educational efficiency.

Conclusion

After analysing comparative studies worldwide, it can be inferred that school mergers are neither a fair administrative method nor a holistic reform. Its impacts are primarily and largely dependent on background, framework, and surrounding circumstances. In instances where a merger has been attempted, ignoring other important domains like transport systems and costs, safety assurances of children, and equity-focused planning, it has often not only escalated the existing issues but also created new challenges, rather than reducing administrative burden.

In India, the consequences of school merger policies are critically challenging and much more complex than in other jurisdictions. Such school-merger policies threaten the fundamental rights guaranteed by the Constitution of India. The lack of school staff, infrastructure, or financial resources cannot be curtailed by shifting the burden of shortcomings onto minor children, most importantly those on the fringes of geography, caste, gender, and poverty. Article 21A's guarantee and the legal protection of the RTE Act were specifically added

to curb such obstacles by placing access and equity at the centre of primary education.

India's rich educational past also supports this imperative. From Nalanda's tradition of inclusive and accessible education to the expansion of village-level schooling after 1947, education has been viewed not just as a system but also as a societal and ethical obligation towards children. Article 21A of the Constitution has formalised this vision, transforming a goal into a fundamental responsibility. The Uttar Pradesh school consolidation policy not only diminishes this guarantee by undermining the principle of neighbourhood schools and transferring the focus of the government from the child to administrative efficiency, but also acts as a step back to the pre-independence era, where each individual had to fight to get their basic human right.

Thus, evidence from both international case studies and local experiments, especially in Delhi, points to the conclusion that public education systems improve with periodic investment and strategic planning, rather than through wholesale reduction or shifting the burden to already vulnerable children. Due to the present inefficiencies, the constitutional solution focuses on building schools, maintaining the teacher-student ratio, enhancing infrastructure, and growing community involvement and not requiring the students to cover longer distances to gain primary education.

India must uphold the principle that has influenced its civilizational identity and constitutional future for decades and centuries: every child, in every village, must have access to a nearby school. It is the responsibility of the state to ensure that no child is forced to marry, work or remain uneducated due to a lack of facilities. To act in a distinctly discriminatory manner would not only negate a legal right but also represent a setback to the essential concept of education as a cornerstone of Indian democracy.

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Journal on the Rights of the Child of National Law University Odisha
Vol. VII, Issue I, April 2026, pp. 34-55

SEX EDUCATION AND NEW EDUCATION POLICY IN INDIA: TOWARDS A BETTER JUVENILE SYSTEM

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Abstract

In India, the debate and discussions on comprehensive sexuality education continue to be divided on issues of cultural unease, societal issues, policy confusion, and legal inattention and is mostly unseen in school's curriculum. The well-drafted National Education Policy, 2020, stresses life skills, socio-emotional learning, and all-around development of a child, but does not go so far as to make a direct inclusion of sexuality education into the standard curriculum. With the right to education being part of a fundamental right in India, comprehensive sex education is yet to be formally mandated in schools and the paper argues the need of it in schools. The demand for Comprehensive Sexuality Education (CSE) is no longer pedagogical; it is an issue of legal right, constitutional sense, and human rights fulfilment. This paper examines the need for comprehensive sexuality education in India and has traced data from the National Crime Records Bureau and found that most juvenile offences are committed by boys between 14-18 years of age. Examining the data, the paper revisits the National Education Policy of 2020 and makes the case for sex education being included in the standard curriculum. We have looked at the possibilities of making CSE part of constitutional rights and the challenges of its implementation in India. The paper is a study of juvenile crime, emotional illiteracy and the cost of silence, and our conclusion lies in the fact that we might be silent on sex education, the internet won't. In finality, it can be said that while we have the right to education in India, we need to develop the right to sex education so that juveniles can be made aware, leading to fewer crimes.

Keywords: comprehensive sex education, juvenile education, crime prevention, right to education, new education policy

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Acknowledgement: The author ackonwledge Dr Pradeep Kumar Mehta has helped in finalising the paper and worked as anonymous reviewer for the comments.

Introduction

"In India, adolescence is usually a period of unspoken changes, hidden questions, and shame-filled searches."

India has the world's largest adolescent population at over 253 million people aged between 10-19 (Pandurang, 2022). Despite the demographic profile, adolescents in India come of age with very little, or in some cases, no access to organised and age-specific information on their bodies, relationships, or emotional health (Sunitha, 2014). In an over-connected society where more than a quarter of Indian internet consumers are teenagers, peers, internet searches, and pornography are commonly their first sources of information about sex and identity, rather than organised education or mature adults (Abhijita, 2022). The result is a culture in which false information flows better than facts, and emotional disorientation is greeted with silence, not compassion. The goal of this research paper is to examine this silence from a constitutional and policy perspective. It aims to show that Comprehensive Sexuality Education (CSE) is a requirement that stems directly from the Indian Constitution's guarantees of sexuality education, privacy, and dignity.

While the Right to Education as provided explicitly in Article 21A and the Right to Privacy and Bodily Autonomy as developed by the Supreme Court of India through Article 21 are constitutionally protected in India, CSE is still not recognised as part of a child's educational or personal rights (Joseph, 2023). Adolescents are enabled to meaningfully exercise their rights in both the public and private domains when CSE is positioned within these constitutional protections, preventing them from being forced to fend for themselves against false information. In the majority of Indian schools, sex-related topics are either completely omitted or just briefly mentioned in biology texts (Jose, 2024). Young people must confront these realities alone, ignorant, and exposed, since extremely significant topics like emotional control, internet safety, consent, pleasure, gender identity, menstruation, wet dreams, and masturbation are either stigmatised or not mentioned at all (Pant, 2025).

For example, boys who are experiencing wet dreams or the urge to masturbate tend to do so in secret and without any idea of what these things mean (Meltzer, 2022). Without safe and trusted adults to speak with, many

go online for answers and are rapidly immersed in violent and distorted representations of sexuality via pornography (Taylor, 2018). Menstruation, too, a girl's first embodied encounter with womanhood, is something from which boys are deliberately excluded, one that must be kept hidden, something shameful (Bobel, 2020). The outcome is a generation that becomes emotionally disjointed, sexually ill-informed, and socially isolated (Gullette, 2004). Beneath the statistics on juvenile sexual offences lies a quieter truth: what is often labelled as deviance is, in many cases, the confused search for understanding in the absence of honest guidance.

These silences have consequences in the real world (Sauntson,2021). As per National Crime Records Bureau (*hereinafter,* NCRB) data, a majority of juvenile offences under the POCSO Act are made by boys between 14 and 18 years of age (Kabasi, 2023). Most are not repeat offenders or criminally inclined but rather uninformed teenagers who have never learned the legal, ethical, or emotional models for comprehending boundaries, consent, or consequence (Schissel, 2021). On this account, the failure to provide sexuality education not only fails to safeguard youth but also criminalises their ignorance (Galer, 2022). Concurrently, national policy documents such as the New Education Policy (*hereinafter,* NEP) 2020 stress life skills, socio-emotional learning, and all-around development, but do not go so far as to make a direct inclusion of sexuality education into the standard curriculum. Absent a legal requirement and social agreement, even so-called progressive policies are selectively implemented, patchily implemented, or not implemented (Veeraraghavan, 2024).

The four main goals of incorporating CSE into the curriculum are firstly, to give teenagers accurate, age-appropriate, and culturally sensitive information about their bodies and relationships; secondly, to give them social and emotional skills like empathy, consent, and respect that can help them avoid harming themselves or others; thirdly, to end the cycle of stigma and false information that currently encourages unhealthy behaviours and juvenile offenses; and lastly to bring India into compliance with its international commitments under the ICPD Programme of Action and the Convention on the Rights of the Child, which both highlight the importance of sexuality education for public health and development.

In our paper, we have looked at answering this critical and multifaceted gap by examining three key research questions: in what ways can CSE be established and implemented as an inalienable right under Indian Constitutional law, specifically under Articles 21 and 21A?; how is there a connection between the lack of CSE and the emergence of emotional distress, misinformation, and juvenile sexual offences among Indian youth? And how can policy instruments such as the NEP 2020 and the Right to Education Act best be utilised to institutionalise CSE in Indian schools in a culturally responsive, age-specific, and legally enforceable manner?

Such questions demand a multidisciplinary response, drawing on constitutional law, adolescent psychology, education policy, and sociology. It demands a realisation that teenagers are not mere fact learners but identity explorers, emotion regulators, and social complexity managers (Zhang, 2023). It demands facing the generational gap, where elder policymakers and educators might be reluctant to talk, even as younger generations become more willing to listen and change (Georgescu, 2024).

CSE is not about promoting early sex. It is about creating an ecosystem of awareness, respect, and resilience (Seiler-Ramadas, 2021). It is about empowering young people to know their bodies without shame, to guide relationships with empathy, and to make decisions based on consent and clarity (Wood, 2025). In addition to promoting change, its goal is to make sexuality education a constitutional requirement and an essential public health measure. It is about ensuring that silence does not mould the most defining years of a person's life. This article contends that the day has arrived when India needs to recognise sexuality education not as a voluntary intervention, but as a constitutional imperative, a public health measure, and overdue educational reform.

Mapping the Literature Review

Statement on the Importance of Sexuality and Gender Research by Cynthia Graham highlights the value of studying gender and sexuality in order to address past social, cultural, and health disparities (Graham, 2025). Furthermore, it argues that political limitations on transgender, gender, and LGBT words are tantamount to scientific censorship and endanger research integrity and intellectual independence. The risk of this kind of censoring is

that it will deliberately leave out disadvantaged groups while impeding public health initiatives and larger social justice campaigns.

Critical Consciousness and Sex Positivity: Opinions on Race Play within Alternate Sexuality Communities by James E. Brooks examines the relationship between race, sexuality, and sexual autonomy in kink with a focus on race as a tactic that purposefully manipulates racial relationships and stereotypes (Brooks, 2025). The study illustrates the ethical tensions between individual sexual freedom and racial responsibility by demonstrating how participants' sex-positive orientations and awareness of institutional racism interact to shape their views on race. A sophisticated framework for comprehending how overlapping racial and sexual ideologies influence moral sexual behaviour, agency, and evaluative judgments within alternative sexual communities is presented by Brooks, who connects critical awareness with sex-positive beliefs.

Euphorias in Gender, Sex and Sexuality Variations uses the notion of "euphoria" to analyse how repressive sociocultural and institutional circumstances provide pleasure and validation for oppressed gender, sex, and sexuality groups (Tiffany, 2023). She develops an ecological framework that pinpoints the structural, cultural, and personal factors that impact euphoric experiences using survey data from intersex and LGBTQ+ participants. The research highlights the subversive possibilities of being "euphorically queer," emphasising how exclusion both generates and restricts options for delight. Jones advocates for the advancement of pleasure and affirmation in underrepresented groups, urging gender and sexuality research to transcend oppression and distress (Jones, 2023).

Teaching about Sex and Sexualities in Higher Education by Susan Hillock is a critical, multidisciplinary examination of pedagogical practices in higher sexual education (Hillock, 2021). For educators to successfully negotiate the intricate, emotive, social, and ethical facets of sexuality, the volume emphasises the need to equip them with both intellectual and practical expertise. Contributors offer evidence-based suggestions for the creation of an inclusive, reflective, and responsive curriculum that meets a range of student experiences by critically examining current discussions, diversity models, and new issues. Hillock's study highlights the importance of educator preparation

in defining transformational learning settings and sexual literacy advancement in higher education environments by emphasising professional development, reflective practice, and teaching efficacy.

A Critical Analysis of Juvenile Justice Delivery Mechanism in India with Special Reference to Heinous Crimes by Gunjan Srivastava, 2020 is a study on juvenile justice and heinous crimes committed by children in India (Srivastava, 2020). The repercussions of the Juvenile Justice (Care and Protection of Children) Act, 2015, as well as heinous crimes like child sex, are the main topics of this book's critical analysis of India's juvenile justice system. Engaging Youth in Activism, Research, and Pedagogical Praxis: Transnational and Intersectional Perspectives on Gender, Sex, and Race by Tamara Shefer provides a thorough, cross-border analysis of programmatic, activist, and educational interactions with young people in the Global North and South (Shefer, 2018). The book reveals the institutional, cultural, and structural barriers to young people's agency by critically analysing how the intersecting axes of sexuality, gender, racism, class, age, ability, and health impact their lives. The work centres adolescents as agentic participants in social justice praxis and promotes a transdisciplinary framework that synthesises local and global knowledges, drawing on a cooperation between Finland and South Africa. The authors show how intersectional, contextually grounded methods may foster critical consciousness, empowerment, and revolutionary educational and activist results by questioning prevailing theoretical frameworks and traditional pedagogical practices.

Risky Lessons: Sex Education and Social Inequality by Jessica Fields examines critically the manner in which sex education within the United States is both informed by and reflects social stratification (Fields, 2017). From an intersectional perspective, fields illustrates how subordinated teens are disproportionately exposed to risk-based, prescriptive education, while their more advantaged counterparts receive full-spectrum, empowerment-based education that promotes agency and competent decision-making.

The Limits of Sexuality Education: Love, Sex, and Adolescent Masculinities in Urban India by Ketaki Chowkhani is a study of institutional and sociocultural dimensions of sexuality education in urban Indian schools

(Chowkhani, 2017). The author describes how curricula have been narrowly circumscribed by prescriptive and heteronormative frameworks that restrict students' engagement with sexual autonomy, consent, and desire through the systematic study of adolescent masculinities. The article points to the extent to which gender norms and institutionalised routines limit the emancipatory potential of sex education, and to how great a disparity exists between policy objectives and adolescents' everyday lives.

Curriculum Realities and the Structural Limits

It is important that any discussion on CSE in India is preceded by a detailed examination of the curricular framework through which adolescents are currently exposed to sexuality, body development, and reproductive health and there has been a common perception in Indian society that sexuality education is completely absent in Indian classrooms. (Chakraborty, 2021). This is not entirely true! There is a presence of elements related to body development, reproductive health, and adolescent development in the school curriculum (Utami, 2024). These elements are present in a fragmented manner, are largely biological in content, and are pedagogically insufficient in engaging with the overall social, psychological, and relational dimensions of sexuality, which are now considered important in educating adolescents in a globalized world. The curriculum designed by the National Council of Educational Research and Training (NCERT), which is considered a primary source of school education in India, reflects this gap with clarity.

In the upper primary stage, the NCERT textbook for Class VIII Science introduces the concept of adolescence to the students in the form of a chapter titled, *"Reaching the Age of Adolescence."* The chapter mentions the biological changes that occur during puberty, the development of secondary sexual characteristics, the biological maturation of the reproductive system of the body, personal hygiene, balanced nutrition, and physiological changes in the body during adolescence in both boys and girls (Koul, 2022). From a scientific point of view and the age-appropriate learning, the students are provided with accurate knowledge about the changes that occur during puberty, i.e., the *endocrinological changes* that occur in the body during puberty, the maturation of the reproductive system of the body, etc., in the chapter. However, the concept of adolescence is limited to biological changes only, and no information is

provided to the students about the emotional and psychological changes that occur during the adolescent phase of life. Therefore, it can be stated that adolescence is a purely biological phase of life, as per the implications of the curriculum, rather than a multidimensional phase of life that is a phase of life in which the formation of identity, social life, and emotions occur.

This reductionist approach can be seen even more clearly in higher secondary education, specifically, in the Biology textbook for Class XII, two chapters *"Human Reproduction"* and *"Reproductive Health"* discuss issues of sexuality (Ampatzidis, 2022). In these chapters, the biological aspects of reproduction, fertilization, pregnancy, contraception, treatment of infertility, and the spread of venereal diseases are explained in great detail, in addition to these, the population growth and the population planning policies of India are also discussed, as India has a long history of population control measures. Thus, the inclusion of these issues in the curriculum ensures that the student gains a scientific knowledge of the issues of sexuality. Nevertheless, even at this advanced level of schooling, sexuality remains an issue discussed only within the realm of reproductive biology.

Key concepts pointed out in contemporary models of CSE, such as *consent, sexual orientation, gender identity, healthy relationships, and emotional communication*, are not only briefly discussed but also ignored altogether, another notable aspect, there is a lack of discussion on how to deal with changing digital spaces and how adolescents are increasingly exposed to sexuality through social media and online spaces (Maes, 2022). This means that while there is technical knowledge on how reproduction occurs, there is an absence of knowledge on how to interpret and deal with the social realities surrounding sexuality in modern society.

This approach has been *"biological reductionism"* from an educational perspective, which sees sexuality being reduced to biological processes and reproductive activities without considering other cultural, ethical, and emotional contexts in which sexual identity and behaviour develop (Mahardhika, 2026). The educational implications of this limitation are also important to discuss, for example, *adolescents don't experience sexuality in terms of physiological changes alone, but also in terms of interplay with family, peers, media, and their own developing identity (*Kaestle, 2021*).* If formal education only offers

biological knowledge, then adolescents may end up looking for knowledge from other sources, which may be incomplete and inaccurate in their representation of sexuality and thus contribute to sexual myths and unhealthy behaviours.

Despite such structural limitations, it would be a mistake to argue that Indian policymakers have totally neglected the issue of adolescent sexual and reproductive health and over the past two decades, a number of initiatives have been undertaken to meet the informational and psychosocial demands of adolescents beyond the formal school curriculum, the most important initiative in this context has been the Adolescence Education Programme, which was designed in collaboration with the Central Board of Secondary Education with the support of the Ministry of Health and Family Welfare. The Adolescence Education Programme (AEP) was initiated in the mid-2000s as a part of India's HIV/AIDS prevention strategy, with the aim of equipping adolescents with knowledge on reproductive health, gender equality, and life skills.

Unlike conventional classroom teaching methods, AEP placed emphasis on participatory methods of teaching. Classroom discussions, group teaching, and interactive activities were employed to motivate young people to engage with issues such as communication skills, decision-making, self-esteem, and gender sensitivity, among others. The teachers were provided with training manuals that would help them conduct discussions on issues such as puberty, reproductive health, HIV prevention, and respect for diversity, among others. This programme attempted to cover some of the psychosocial aspects of young people's development that are not included in conventional text materials.

Nevertheless, the institutional form of AEP points to the precarious nature of India's present strategy in dealing with issues of sexuality education. The AEP, for example, is implemented in the form of a co-curricular activity rather than being made compulsory in the form of an examinable subject. This makes it difficult to achieve any sort of uniformity in the implementation of the program because there are significant variations in its implementation in different states and schools. In addition to this, in some states, opposition to the program on the basis of cultural or moral grounds has also led to the postponement or modification of the activities included in the program. The absence of any legally enforceable mandate in the implementation of the program makes any

sort of discussion on the issue dependent on the comfort levels of individual teachers, as well as the socio-political scenario in which they are functioning.

Another example of initiatives at the State level serves to further highlight the possibilities and challenges of what is being achieved by educational methods at present. One of the more creative initiatives can perhaps be seen in the social and emotional learning initiative of the Jharkhand government, dubbed by many as the *Harsh Johar Curriculum* (TOI, 2024). In partnership with educational organisations, this initiative was carried out in all government schools, focusing on the emotional intelligence of young people, as well as their capacity for empathy and social skills, through discussions, storytelling, and reflective learning, students are encouraged to think critically about issues such as self-identification, respect, equality between genders, and decision-making skills.

Even though there is no explicit presentation of the Harsh Johar Curriculum as an instrument for sexuality education, there are several aspects that are discussed which are considered core elements in any modern model of CSE. Through the debate on peer relations, social pressures, and stereotypes in gender roles, there is an indirect focus on the social context in which adolescent sexuality is experienced. Through an emphasis on emotional intelligence and communication, there is an illustration of how culturally sensitive pedagogical practices can be used to engage with issues of adolescent development without evoking any resistance that might be generated by an explicit focus on sexuality education.

Yet such initiatives are limited in their geographical reach and institutional strength. Their effectiveness also relies on state-specific policy focus rather than a uniform national policy strategy. Therefore, access to structured education for adolescents continues to differ substantially from place to place in the country. In most parts of the country, adolescents receive very little formal guidance on issues such as consent, body autonomy, or online safety.

The necessity to bridge this policy gap becomes more apparent when viewed comparatively. For example, various countries have incorporated and implemented the inclusion of comprehensive sexuality education in their national curriculum. In Argentina, the Comprehensive Sexual Education Law is a law that requires all schools, whether public or private, to include age-

appropriate comprehensive sexual education in the curriculum that promotes gender equality, reproductive rights, diversity, and bodily autonomy (Rodríguez, 2026). In the Netherlands, the policy has gone beyond this and incorporated the inclusion of sexuality education in all levels of primary education and in Dutch educational policy, emotional intelligence, respect, communication, and consent are included in the curriculum (Fitzwater, 2025).

Likewise, Canadian provincial education systems have incorporated sexuality education within the overall context of adolescent mental health, digital literacy, and safe school environment programmes, also, these programmes specifically address issues such as sexual orientation, gender identity, and healthy relationships (Maradiya, 2026). This provides adolescents with a framework for understanding both the biological and social dimensions of sexuality, some of the empirical research studies conducted within these jurisdictions consistently show that comprehensive sexuality education improves adolescent well-being, increases knowledge of consent and gender equality, promotes delayed initiation of sex, and reduces risk of sex exploitation.

When this is viewed against the backdrop of what is happening internationally, it can be seen that the present system of education in India can perhaps only be termed a transitional one rather than a fully institutionalized one, also while a great deal of valuable information on reproductive biology is contained within textbooks, additional programs provide some information on psychosocial issues.

The challenge facing India, therefore, is not merely to introduce sexuality education, but to integrate all educational, health, and social initiatives into a comprehensive framework that acknowledges the following: adolescent sexuality cannot be addressed in purely biological terms, as it also involves emotional development, relationships, gender equality, and digital citizenship, among other dimensions. By broadening the current educational focus to take in these dimensions, the education system can transcend a purely biomedical model of sexuality to a more holistic model of adolescent development.

Such a reform would not only enhance educational outcomes but also ensure greater conformity between educational policy and constitutional values of dignity, equality, and informed personal autonomy. Adolescents need more

than a body of factual information about reproduction; they need the ethical, emotional, and social competencies required to responsibly interpret their experiences in a rapidly more complex social and virtual world. An educational approach capable of engaging with such realities is not only desirable; it is also essential in meeting the needs and aspirations of young people in India.

Why Comprehensive Sexuality Education must be a Legal Right

In contemporary India, the dialogue on sexuality education continues to be divided on issues of cultural unease, policy confusion, and legal inattention (Taverner, 2023). As today's teens are brought up in a digitised, fast-evolving world, the law still remains to be convinced of their right to basic, systematic, and science-based education on issues of body, identity, relationships, and consent (Agren, 2020). The demand for CSE is no longer pedagogical; it is an issue of legal right, constitutional sense, and human rights fulfilment (Shefer, 2018).

This argument is based on the interpretive enrichment of the Indian Constitution, specifically its focus on individual dignity and integrative education. Article 21A, the right to free and obligatory education for children between the ages of 6 and 14, is intended not merely to produce literate citizens but educated, secure, and empowered ones (Prasad, 2021). Education here has to be in a substantive sense; it has to equip young people with the ability to pass exams, but also to pioneer life (Cense, 2019). When young people are subjected to interpersonal interactions with emotional control, peer relations, or control over their bodies, they require more than science in books; they require means of knowing themselves and others (Zhurabekova, 2020). The omission of CSE from school education, thus, renders this right incomplete and ineffective in meeting the real developmental requirements of adolescents (Ramaswamy, 2021).

Besides, the constitutional interpretation of Article 21, which includes the right to life and liberty, has also undergone major changes. In *K.S. Puttaswamy v. Union of India* (2017), the Supreme Court founded the right to privacy in Article 21, namely encompassing the right to make personal choices, bodily integrity, and individual identity.[3] This acknowledgement necessarily entails that the citizen has to be given the consciousness and capability to exercise such

[3]*Justice KS Puttaswamy (Retd) v. Union of India & Ors.*, Supreme Court of India, 24 August 2017.

independence effectively. If the law recognises bodily integrity as a right, then the law must also recognise the obligation of the state to ensure the knowledge required to uphold and exercise that right from puberty onwards (Bublitz, 2022). CSE is the educational framework that makes bodily autonomy a reality and not rhetoric (Miedema, 2020).

Another complementary constitutional requirement is Article 51A(h), which defines the basic responsibility of all citizens to acquire a scientific temper and humanism (Pratham, 2020). This makes it necessary for the state to avoid educating children in fear, taboo, and silence regarding natural biological processes, emotional facts, or relational ethics (Lehn, 2025). Today, though, this is how sexuality is dealt with in India's classrooms: *euphemised, marginalised, or non-existent* (Jose, 2024). The failure to provide a scientific, secular, and rights-based foundation for CSE undermines the Constitution's promise to build rational, ethical, and well-informed citizens (Vincent, 2020).

The Right of Children to Free and Compulsory Education (RTE) Act, 2009, enshrines Article 21A but does not tackle emotional, social, and reproductive literacy in any meaningful way (Khare, 2022). The Act's lack of mention of sexuality education is a testament to a limited and outdated view of what constitutes effective learning (Chaka, 2017). Its curriculum framework prioritises learning outcomes at the foundational level, without including provision for knowledge about consent, gender, online safety, mental health, or power issues (Bose, 2020). This results in piecemeal legislation state-wise, under which life skills courses are watered down or excluded altogether in the face of socio-political realities. It is therefore crucial to amend the RTE Act on curriculum development, with the inclusion of CSE as an explicit, mandatory aspect of school education (Astle, 2021).

Besides these constitutional mandates, India is also subject to several international legal commitments that give importance to the responsibility of providing CSE. Under the UN Convention on Rights of the Child (UNCRC), India must provide access to reliable, age-appropriate information regarding health, development, and well-being (Articles 13, 17, 24) (Desai, 2018).

To legislate CSE as a right would have symbolic and structural meaning. It would be symbolic of a change from viewing sexuality education as being

ancillary or experimental to viewing it as being central to protecting individual rights and public health (Lottes, 2013). It would force equal application throughout states, provide adequate teacher training, and protect CSE from political or ideological pendulum swings (Anderson, 2023). It would destigmatise these conversations by providing them with legal legitimacy within the national education and policy machinery.

In a nation that has constitutionalised the right to education, dignity, and personal liberty, withholding from adolescents structured and predictable information regarding their development is an abandonment of legal duty (McCowan, 2013). CSE is not a luxury, but a matter of pressing necessity, and one which should be safeguarded as a right under Indian law, which cannot be denied (Manoj D, 2025).

NEP 2020 as a Pathway

The NEP 2020 focuses on foundational life skills, ethical formation, and pedagogy for all, laying a rich canvas to institutionalise CSE in Indian schooling formally (Kirchhoff, 2021). Although the policy does not refer to CSE, its design is well-suited to introduce sexuality education through curricular and teacher training pathways (Mukau, 2025). NEP 2020 thus becomes not only a progressive idea but also a feasible means to provide age-appropriate, culture-specific, and competency-relevant CSE.

One of the strengths of NEP 2020 is its curricular adaptability and modular nature, specifically the change from learning in terms of content to competency-based skill acquisition. This creates space for CSE to be integrated without separating it as a distinct subject. Emotional well-being, respect for diversity, decision-making, and ethical online behaviour are all pillars of the NEP map that align with the objectives of an updated CSE curriculum. Alignment, not addition, is what is needed.

The Preparatory and Middle Stages are well-suited for incorporating CSE in current subjects like Environmental Studies, Moral Science, and Life Skills, with the emphasis on personal safety, body awareness, and empathy. In the Secondary Stage, CSE can be articulated as an optional or cross-listed module through Social Science, Health Education, or even Legal Studies, emphasising critical thinking, digital responsibility, and civic value (Lawrence, 2000).

To move from policy potential to practical implementation, three reform levels are essential:

- CSE needs to be region-specific and developmentally phased, rebranded under NEP as 'Life Skills and Relationship Education' and integrated into subjects and co-curriculars to minimise political and cultural resistance.
- Incorporate compulsory SCERT/NCERT-sponsored CSE certification online and offline with scenario-based pedagogy, emotional facilitation, and classroom management, providing both competence and institutional legitimacy.
- Utilising DIKSHA and NDEAR to provide decentralised CSE material peer videos, FAQs, teacher forums, and local stories, allowing discreet, culturally appropriate access, particularly to rural students (Naik, 2024).

Besides these, there is also a generational shift in the teaching body. Although older teachers might be reluctant to start such conversations, younger teachers, particularly those entering post-NEP, are already socialised towards freer, rights-based pedagogies. NEP's progressive rhetoric gives them institutional space, yet their buy-in needs to be complemented with equipment, community, and coverage.

Above all, NEP's articulation with Indian philosophies of life creates room for a values-driven re-narration of CSE. In the Arthashastra, Kamasutra, and the earlier Ayurvedic texts, sexuality was never severed from ethics, aesthetics, and statecraft (Bialystok, 2022). Through an appeal to this intellectual heritage, policymakers can re-narrate CSE not as a Western invention, but as the recovery of holistic Indian knowledge traditions upholding both cultural continuity and youth well-being.

To this extent, NEP 2020 is not just a background document but a ready policy framework. Placing CSE as a life skill, if done with foresight, can make NEP's vision operational in concrete terms: creating learners who are not only literate and employable but also emotionally capable, socially considerate, and legally enlightened.

Conclusion

CSE in India needs to be repositioned not as a pedagogical debate, but as a constitutional obligation and a developmental need. The provision of CSE is protected against temporary political changes and cultural opposition by being reframed as a constitutional obligation, which places it inside the legally binding framework of fundamental rights. Such acknowledgement would bring India's domestic responsibilities into line with its international commitments under the Sustainable Development Goals and the Convention on the Rights of the Child, both of which emphasise the need to provide adolescents with a thorough, rights-based education.

Fundamentally, CSE is not about teaching sexual information in isolation; it is about instilling respect, emotional intelligence, body autonomy, and an abiding appreciation for human relationships. In this sense, it is not different from the basic rights guaranteed in the Indian Constitution: the right to life, to education, to privacy, and dignity.

The way forward requires three converging recognitions: *legal recognition, curricular integration, and systemic implementation*. One, CSE has to be recognised as a constitutional right built into the Right to Education under Article 21A and reinforced by judicial understandings of privacy and autonomy under Article 21. Two, it has to be recognised as a curricular requirement, not optional or subject to ideological veto. As in the case of literacy or numeracy, emotional literacy and ethical decision-making need to be explicitly taught and reinforced at all stages of education. And third, it needs to be contextualised as a public health intervention critical in alleviating adolescent pregnancies, preventing abuse, countering misinformation, and promoting mental well-being.

Notably, the institutional ingredients for this shift are present already. India possesses strong legal foundations, visionary policy blueprints in the NEP 2020, and an increasing coalition of educators, health workers, and civil society activists who are dedicated to adolescent development. What is lacking is not infrastructure, but alignment, a shared language, effective leadership, and policy legitimacy that ties the law, classroom practice, and community discourse together. Without normalised public discourse and state-supported safeguards, CSE will continue to be patchy and subject to backlash. A pragmatic

track demands sequential rollout; pilot programs in sample districts, scaling up through SCERTs and NCERT, infusing CSE pedagogy in teacher education courses, and creating a national monitoring and evaluation system. Education budget earmarks, in addition to digital dissemination policies, can guarantee access across India's socio-economic and linguistic diversity. Institutionalising it will convert CSE from a disputed initiative into an enduring public good.

We conclude, *"we learned how to make kids read and write; now we need to learn how to make them feel, relate, and respect."* Anything else would be a shame to their emotional, legal, and civic future that we supposedly help prepare them for. Thus, the requirement is not just educational but also civilizational; to empower India's youth with the knowledge and abilities necessary to regulate their emotions, respect their bodies, and establish relationships founded on dignity and consent. CSE must be given top priority in India's public health, curriculum, and constitution if the country is to turn its demographic dividend into a democratic dividend. And, to create a resilient, just society, comprehensive, rights-based, and culturally appropriate sexuality education must be implemented.

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Journal on the Rights of the Child of National Law University Odisha
Vol. VII, Issue I, April 2026, pp. 56-75

WHEN CHILDREN ARE TRIED AS ADULTS: A CRITICAL ANALYSIS OF THE ROLE OF CHILDREN'S COURTS UNDER THE JJ ACT 2015

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Abstract

The Juvenile Justice (Care and Protection of Children) Act, 2015 brought along with it, a major shift in India's long history of rehabilitative juvenile justice. It allows children aged 16-18, accused of heinous offences, to be tried as adults after a preliminary assessment; a legislative change that was born out of intense public outrage rather than any solid empirical evidence. It thus led to the creation of a Children's Court and set up a complex dual system that includes both the Juvenile Justice Board and the Children's Court. This paper seeks to address the information gap regarding Children's Courts and how they operate in this new system. It addresses the common misconception that transferring a child for an adult trial means it will follow the usual sessions trial process. Through a detailed doctrinal examination of the statutes, judicial precedents, and the protections outlined in Sections 15 and 19 of the Act, the paper argues that a Children's Court is a distinct forum based on child rights, rehabilitation, and the best interests of both the wronged children and those in conflict with the law. Key findings indicate implementation challenges, including limited awareness of Section 19 safeguards, procedural inconsistencies between the JJ Act and Rules and variations in bail framework, underscoring the need for uniform practices to prioritise child treatment in these proceedings.

Keywords: children's courts; children in conflict with law; child rights; trial as adult; rehabilitation

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Introduction

A child is a product of his present, molded by the conditions of his surroundings. When a child runs afoul of the law, it is not only the fault of one individual or family; rather, it is the fault of the entire system and should be a problem for society as a whole. Indian laws recognise this vulnerability. Article 14 of the Indian Constitution guarantees equality before the law, and Articles 15(3), 39(e) and (f), 45 and 47 place a special duty on the State to protect and nurture children. It is within this constitutional framework that the Juvenile Justice (Care and Protection of Children) Act, 2000 was enacted. However, with the passage of time, the need for stronger safeguards and reforms was felt, leading to the enactment of the Juvenile Justice (Care and Protection of Children) Act of 2015, passed in the aftermath of the national uproar over the release of the juvenile in the infamous Nirbhaya case.

By giving into public demands, the Indian legislature disregarded recommendations of the United Nationas Convention on the Rights of the Child (UNCRC), high-powered domestic Committees, child rights advocates and organisations, national human rights institutions by legislating a system that allows the trial in an adult criminal court of children, at or above the age of 16 and below 18 years of age, accused of heinous offences. While the 2015 Act builds upon the progressive framework of the 2000 Act, it introduced significant changes. Notably, it categorised offences committed by juveniles into three classes:

- Petty offences (punishable with less than three years' imprisonment),
- Serious offences (punishable with imprisonment between three and seven years), and
- Heinous offences (punishable with imprisonment of seven years or more)

In 2021, this category of offences was further amended and some of the offences which did not strictly fall under any of these categories, particularly those offences where the maximum sentence was more than 7 years imprisonment but no minimum sentence had been prescribed or minimum sentence of less than 7 years was provided, were decided be treated as serious offences within this Act.

Another important change in the 2015 Act, is with respect to the categorisation in the age group of the Children in Conflict with Law (CiCL). Whereas the 2000 Act treated all CiCLs under 18 as children, Section 15 of the 2015 Act provides that in cases of heinous offences alleged to have been committed by a child who has completed or is above the age of 16 years and below 18 years, the Juvenile Justice Board (JJB) must conduct a preliminary assessment. Such a process would include assessment of a child's mental and physical capacity to commit the offence, ability to understand the consequences, and the circumstances in which it was allegedly committed, and may thereafter allow the child to be tried as an adult. In other words, following the CiCLs' release three years after the Nirbhaya case, the law carved out a whole new class of CiCLs; adolescents between the ages of 16 and 18, who could be treated as adults when charged with heinous offences.

The constitutionality of the retention of all persons below the age of 18 years under the juvenile justice system under the erstwhile Juvenile Justice (Care and Protection of Children) Act, 2000 had been upheld by the Supreme Court in two successive cases before 2015. Yet, the judiciary also tuned in to the public protests and supported the government in revising the law to address heinous offences by juveniles. Thus, by carving out a law to treat juveniles differently based on category of offences, India to joined the list of countries such as USA, UK and France that treat children falling under certain age groups as adults for heinous crimes, defying the CRC, to which it acceded to in 1992 and which mandates under Article 40(3), the establishment of a justice system specifically for persons below 18 years accused of offences.

This paper aims to address: How do Children's Courts function under the Juvenile Justice (Care and Protection of Children) Act 2015, particularly in maintaining rehabilitative and child-rights principles during proceedings involving transferred cases, and what implementation challenges arise? The paper is organised as follows: Section 1 outlines the research methodology. Section 2 examines the concept and role of Children's Courts. Section 3 discusses the transfer process from JJB to Children's Court, focusing on preliminary assessment under Section 15 and then a fresh assessment under Section 19. Section 4 analyses trial procedures in Children's Courts under Section 19. Section 5 explores the bail framework. Section 6 reviews child-friendly measures. Section 7 addresses outcomes upon conviction. Section 8 concludes with observations on gaps and recommendations.

Research Methodology

This paper uses a doctrinal method of research to understand the law related to children who have been transferred to the adult criminal justice system and the functioning of the Children's Court under the Juvenile Justice (Care and Protection of Children) Act of 2015. The reliance has been placed on the Constitution, Juvenile Justice (Care and Protection of Children) Act, 2000, JJ Act 2015 and Juvenile Justice (Care and Protection of Children) Model Rules, 2016 (India). Further judgments of various high courts and supreme court have been studied to understand the evolving jurisprudence on this issue. A qualitative study of ground practices has been done to understand the challenges on the ground in terms of bail, assessment under section 19, review at the age of 21 etc to share insights on the implementation of the act. The paper does not use empirical research but it seeks to bridge the gap between law and practice through a contextual and practice-informed analysis

Findings

Drawing on doctrinal analysis and informed by field-level realities, the following findings are presented to a deeper understanding of systemic issues and inform potential areas for reform.

What are Children's Courts?

Now the question arises, what is the meaning of the term "being tried as an adult" or "being treated as adult"? Does it mean that a child stops being seen as a child and his/her matter is transferred to a regular Sessions Court? Under the JJ Act, two special forums are mentioned: Juvenile Justice Board and Children's Court. A Juvenile Justice Board (JJB) can handle the following cases:

1. All petty and serious offence cases of children below 18 years
2. All heinous offence cases of children below 16 years
3. All heinous offence cases of children above 16 years and below 18 years who are found to be treated as CiCLs and not adults after the preliminary assessment under Section 15 of the Act.

Whereas, a Children's Court has the jurisdiction to deal with:

1. All cases of children between 16-18 years who have committed heinous offences and have been transferred for trial as adults after the preliminary assessment under Section 15.
2. Cases of appeal against orders passed by the JJB.

The most common misconception is that when the JJB under Section 15 of the JJ Act, decides that a child between 16-18 years who is accused of committing a heinous offence, should be tried as an "adult" and transfers the case to a Sessions Court, the trial proceeds exactly like a regular sessions court case.

A Children's Court in simple terms, functions as an extension of the JJB and has the authority to impose a higher punishment than the maximum of three years prescribed under S.18 of the JJ Act. If found guilty, the CiCL may even be sent to an adult prison once they attain 21 years of age. However, it has to be remembered that these bodies are not ordinary criminal courts in disguise, they are built on a different philosophy altogether; one that places reformation and rehabilitation above retribution. The proceedings in both these forums remain bound by the principles of the child's best interests and are required to follow child-friendly procedures throughout. "Child-friendly", as defined under Section 2(15) of the JJ Act, refers to any behaviour, conduct, practice, process, attitude, environment, or treatment that is humane, considerate, and in the best interest of the child.

According to the JJ Act, A "Children's Court" may be a court established under the Commissions for Protection of Child Rights Act, 2005, or a Special Court designated under the Protection of Children from Sexual Offences (POCSO) Act, 2012. In places where no such specialised court exists, the Court of Sessions with jurisdiction functions as the Children's Court for offences under the Act. However, in situations like these, the Court of Sessions has to describe itself specifically as a 'Children's Court' while dealing with cases related to CiCLs in the proceedings drawn by it. Therefore, the purpose of designating a Sessions Court as Children's Court highlights that the intent of the legislature was to provide a forum for these children who are transferred to the adult criminal justice system to be treated differently from a regular adult accused.

However, although statutory obligations clearly exist, many Sessions Courts remain unaware of their designation and responsibilities as Children's Courts. The role is frequently misconstrued as merely referring to courts that adjudicate offences committed against children, such as cases under the POCSO Act, rather than courts mandated to address matters involving children in conflict

with law. In some instances, even court staff are unaware that the presiding officer is functioning as a Children's Court, or of the legal implications of such a designation. Consequently, these courts often remain uninformed about the powers vested in them under the Juvenile Justice Act and their critical role in the rehabilitation and reintegration of children in conflict with law.

In a recent Supreme Court judgment, while explaining the role of Children Courts, a bench comprising Justice MM Sundresh and Justice Aravind Kumar observed that *"a Court is expected to play the role of parens patriae by treating a child not as a delinquent, but as a victim, viewed through the lens of reformation, rehabilitation and reintegration into the society"*. They further went on to say that *"a Juvenile Court is a species of a parent. A delinquent, who appears before the Court, is to be protected and re-educated, rather than be judged and punished and thus the Court will have to press into service the benevolent provisions for rehabilitation introduced by the Legislature. A Juvenile Court therefore, assumes the role of an institution rendering psychological services. It must forget that it is acting as a Court, and must don the robes of a correction home for a deviant child."*

The need for special treatment of CiCLs during judicial processes has been repeatedly recognised by various authorities, committees, and government bodies, both national and international. The National Policy for Children, adopted by the Government of India in 2013, firmly establishes the "best interest" principle as the primary consideration in all decisions and actions affecting children taken by courts of law. This commitment was reiterated in the Report of the National Annual Stakeholders Consultation on Child Protection (2023), organised by the Supreme Court Juvenile Justice and Child Welfare Committee, which highlighted the damaging impact that formal judicial proceedings can have on a child's mental and physical well-being. One of its key recommendations was to strengthen and embed child-friendly processes at every stage of justice delivery.

How does a Case Get Transferred from the JJB to the Children's Court?

The Concept of 'Preliminary Assessment'

The most important change that the 2015 amendment brought to the juvenile justice framework in India, is the process of 'Preliminary Assessment'.

As the name suggests, it is conducted right after determining the age of the CiCL being produced before the JJB. The Board is then required to assess the mental and physical capacity of a child to commit such an offence, his ability to understand its consequences, and the circumstances in which the said offence was committed. Using these parameters, the Board is to accurately determine, within a period of three months, whether the child is to be tried as a child or as an adult. The Board may obtain the assistance of experienced psychologists for such determination. Along with this, the JJB usually calls for, and peruses the social background report, social investigation report, physical mental drug assessment report, Preliminary Assessment Report (PAR) and other relevant records filed by the police. Some of these reports contain versions of the child in conflict with law too, thus ensuring fulfilment of the mandate, to an extent, right of participation of children. CiCLs are entitled to receive a copy of each of these reports. The Hon'ble Bombay High Court in 2018 had observed that all the four aspects-physical capacity, mental ability, understanding, and the circumstances should be considered by the Board cumulatively and that none is dispensable. This is because transfer to an adult criminal justice system is an exception and not a norm.

Judicial and Policy Framework

In 2022, the Supreme Court of India, followed by the National Commission for Protection of Child Rights (NCPCR) in 2023, issued guidelines governing the process of preliminary assessment. These guidelines lay down the parameters for evaluating four key aspects, which are cumulatively discussed below. First, the assessment of the child's physical capacity to commit the alleged offence is to be framed in terms of locomotive and functional abilities, including gross motor skills such as walking, running, lifting, and throwing. Second, the evaluation of mental capacity has to take into account the child's ability to make reasoned social decisions and judgments. In principle, this requires a nuanced engagement with the child's mental health and psychosocial profile, including factors such as substance use, deficits in life skills, neglect, lack of parental supervision, exposure to poor role models, and experiences of trauma or abuse. Third, the "circumstances" in which the offence was allegedly committed are expansively defined to include a wide spectrum of psychosocial vulnerabilities, ranging from family environment and economic deprivation to peer influences,

trauma, and developmental history. Notably, the guidelines emphasise that this inquiry must extend beyond the immediate triggering event that led to the alleged crime and instead adopt a longitudinal perspective of the child's lived experiences. Finally, the child's ability to understand the consequences of the alleged offence encompasses both legal and social awareness, including the recognition of stigma, interpersonal repercussions, harm to the victim, and potential legal sanctions. This component is arguably the most normatively loaded, as it presumes a level of cognitive and moral development that may not be uniformly present across children.

The Challenge of Preliminary Assessment Becoming a 'Mini-Trial'

Explanation to Section 15 of the JJ Act strictly clarifies that the inquiry at the stage of Preliminary Assessment is not a trial. However, herein lies the fallacy of the 2015 Amendment. The evaluation by the Board of the mental capacity of the CiCL to commit the offence is the first step of the evaluation process, taking place before it is even proved if the offence has been committed by him or not. Thus, the preliminary assessment of the CiCL proceeds on the assumption that the alleged offence has been committed, and is thus a sentencing decision before guilt is established. While, the statutory discretion of taking help from experienced psychologists to conduct a preliminary assessment has been held as mandatory, the Board is also free to independently assess the parameter of 'circumstances' of the child independently. Sometimes, this particular evaluation lacks procedural fairness as Boards often rely on the prosecution documents and supposed statement of the CiCL in his psychological report to assess the circumstances in which the alleged offence has been committed. However, the Delhi High Court in 2022 has clarified that extracting a confession from a child is unconstitutional, violative of Art. 20(3), and goes beyond the scope of a preliminary assessment report. Thus, the Board transfers the child to be tried as an adult only when it is satisfied that the above four criteria are being met.

Trial Procedure Adopted by the Children's Courts

The Children's Court is endowed with the responsibility of delicately balancing the application of criminal law with the principles of child rights enshrined under the JJ Act. Its powers are primarily derived from S.19, supplemented by the provisions of the JJ Model Rules 2016. While the trial of CiCLs accused of heinous offences follows the procedure under the Criminal

Procedure Code, 1973 (Cr.P.C.), Section 19(1)(i) of the JJ Act, makes it clear that such trials are not intended to mirror adult trials in all respects.

The process begins when the JJB, after conducting the preliminary assessment, decides under Section 18(3) that a CiCL should be tried as an adult. However, the matter does not automatically proceed to an adult trial. A CiCL can still file an appeal against the order of the Board in the Children's Court and the latter holds the power to remit the case back to the Board or to dismiss the appeal.

Therefore, once the case is transferred and an appeal (if filed) is dismissed, the Children's Court is required to carry out its own independent preliminary assessment under Section 19 of the Act. Based on this second assessment, the Court can either declare the CiCL to be a child and assume the role of the JJB, proceeding with a summons trial, or confirm that the CiCL is to be tried as an adult and commence a sessions trial. This was reiterated by the Hon'ble Delhi High Court in Children in Conflict with Law LK v. State wherein the Court held that the power to conduct a preliminary assessment on its own before the initiation of proceedings is mandatory and the Court is not bound to simply affirm the JJB's preliminary assessment report.

Role of the Children's Court in Conducting a Fresh Preliminary Assessment

It bears reiteration that where the Children's Court, on hearing an appeal, concludes that there is no requirement to try the child as an adult, it is not obligated to remit the matter back to the JJB. Instead, the Children's Court itself is empowered to act as a Board and conduct an inquiry and pass appropriate orders in accordance with Section 18 of the Act. This distinction is critical, as a trial before the Children's Court as an adult and an inquiry before the JJB as a juvenile carry markedly different legal and rehabilitative consequences. However, if an appeal is dismissed or is not filed for some reason, Section 19 offers the child a second opportunity for a fresh and independent assessment.

Although the statutory and judicial focus has largely centred on the preliminary assessment under Section 15, the language and legislative intent of Section 19 make it clear that the Children's Court is independently required to determine whether a trial of the child as an adult is necessary.

The use of the word "may" in Section 19(1) suggests that the Children's Court has discretion in conducting a fresh preliminary assessment. This discretion appears to have been deliberately built into the statute to account for practical limitations, particularly in remote or resource-constrained districts where qualified mental health professionals may not be readily available. However, the Supreme Court, while interpreting Section 19(1), held that the word "may" therein must be read as "shall," thereby making it mandatory for the Children's Court to determine the necessity of trying the child as an adult. Therefore, this is one of the most consequential but frequently overlooked powers of the Children's Court.

Challenges

Although detailed guidelines for conducting a preliminary assessment under S. 15 have been formulated by the NCPCR, no comparable guidelines currently exist for assessments under Section 19. Consequently, the Children's Court is often compelled to rely on direct interaction with the child to evaluate their mental and psychological disposition and to arrive at an objective conclusion on whether the child ought to be tried as an adult. In this sense, the preliminary assessment conducted by the JJB assumes the character of a secondary, hierarchically superior assessment when reviewed by the Children's Court.

A question emerges here- Is the Children's Court required to take help from experts under Section 19 as does the JJB under Section 15? The answer seems simple. If it is mandatory for the Board, then it should be mandatory for the Children's Court too. Moreover, the Children's Court is also empowered to seek the assistance of experienced psychologists and medical specialists distinct from those who assisted the JJB, as contemplated under Section 101(2) of the Act while deciding an appeal against the order of the Board.

When Section 19 and 101(2) are read together, a prima facie argument emerges that the discretion under Section 101(2) ought to be exercised meaningfully, if not mandatorily. That said, any authoritative reinterpretation of Section 101(2) as compulsory would require further clarification by the Supreme Court. Accordingly, the legal position may be summarised as follows:

(a) Upon receipt of the preliminary assessment conducted by the JJB under Section 15, the Children's Court is mandatorily required to independently determine, under Section 19, whether the child should be tried as an adult or whether the matter should proceed as an inquiry akin to that conducted by the JJB.

(b) While deciding an appeal or otherwise exercising jurisdiction under Section 19, the Children's Court may, at its discretion, seek assistance from experienced psychologists and medical specialists, provided they are distinct from those consulted by the JJB, as envisaged under Section 101(2).

The Supreme Court's observations in *Barun Chandra Thakur* further reinforce this interpretive approach, having held that the word "may" in Section 15(1) operates as a mandatory requirement.

An additional and often overlooked complexity in proceedings under Section 19 is the passage of time. By the time the matter reaches the Children's Court, the child may have already attained majority, and in some cases may be well over 21 years of age. This temporal gap raises serious questions about the feasibility and validity of conducting a fresh psychological assessment, given that the individual no longer falls within the 16-18 age bracket relevant to Section 15. In the absence of clear statutory or judicial guidance on this issue, the Children's Court must necessarily rely on the original preliminary assessment, supplemented by its own interaction with the individual, while remaining guided by the "General Principles" enshrined in Section 3 of the Juvenile Justice Act.

A significant challenge to the functioning of Children's Courts comes from the fact that the law is silent on how they are supposed to conduct themselves when acting as the Board if they choose to try the CiCL as a child after Section 19 proceedings. The JJ Model Rules 2016 require that the Board hold its sittings either in an observation home, or proximate to such homes, mandating that the Board should, in no circumstances, operate from within court premises. They further require that the premises of the sitting should not resemble a court room, and there should be no witness boxes or raised platform for the Board members. Therefore, trial of a CiCL as a child, in an adult court, such as the Sessions Court, is contrary to the international mandates of the child-friendly

juvenile system. Additionally, while the 2015 Act prescribes qualifications for Magistrates and social workers constituting the Board, thereby ensuring that they are experienced in dealing with children, no such qualifications exist for judges of the Children's Court. Being ill-equipped in juvenile psychology, the Children's Court is not adequately qualified to pass orders under Section.18. Further, the absence of statutory prescribed timelines for disposal of cases before the Children's Courts, dilute the emphasis on time bound adjudication of cases concerning juveniles. This is in contravention of the right of the juvenile to decisions being taken without delay. Therefore, such challenges create gaps and loopholes not only in the functioning of the Courts but also make the process violative of the Act's very own objective of the best interests of the child.

Bail Framework under the JJ Act

A difference between the trial of an adult accused and a CiCL also emerges in the concept of granting bail to the CiCL. Section 12 of the JJ Act deviates from Section 439 of the Cr.P.C (Section 483 of BNSS, 2023) and holds that granting bail to a CiCL is mandatory, save in three situations: if there are reasonable grounds to believe the child's release would lead to association with a known criminal, exposure to moral, physical, or psychological danger, or if the release would defeat the ends of justice. Thus, as opposed to an adult accused, granting bail to a juvenile is mandatory.

As per the 2022 National Crime Records Bureau (NCRB) data total of 78,443 children were apprehended out of this 17,112 children were sent home after advice or admonition and 4104 were acquitted and 1769 were discharged. This means that out of 78,443 children who were apprehended 22,985 were sent home while rest continued to be institutionalised.

Judicial Interpretation

The treatment of the child as an adult, led many to assume that as in regular sessions case, bail would also be governed by provisions of Cr.P.C. This confusion was soon cleared by the Hon'ble Delhi High Court in A.C. v. State (NCT of Delhi) (*supra)* where it was clarified that there is no provision in the JJ Act requiring a departure to be made from the general provision contained in Section 12 in the matter of release on bail of a CiCL who has been referred to be tried as an adult. Thus, Section 12 governs the field for all children in

conflict with law, irrespective of the age bracket to which they belong, and notwithstanding the fact as to whether the case against them is being inquired into by the JJB or by the Children's Court. Moreover, there is no unqualified right for the complainant to be heard at every stage of bail proceedings under the JJ Act. The involvement of the complainant remains a matter of judicial discretion rather than an enforceable entitlement and the fundamental principle of juvenile justice i.e. "rehabilitation over retribution" must remain paramount in any such determination.

Another significant issue in juvenile justice jurisprudence concerns whether CiCLs can seek anticipatory bail, given that the JJ Act is explicitly silent on this aspect. This question has been answered in the favour of juveniles in Raman v. State of Maharashtra, wherein the Hon'ble Bombay High Court examined the interplay between the JJ Act and the CrPC, setting a precedent for granting anticipatory bail to juveniles. The Court harmonised Section 12 of the JJ Act with Section 438 of the CrPC, rejecting the contention that Section 10 and 12 of the JJ Act which are applicable post-apprehension, exclude the pre-apprehension protection provided under Section 438. Relying on Article 14 of the Constitution of India, the Court held that since IPC's definition of "person" includes children, juveniles too are entitled to the safeguards of Section 438 CrPC and cannot be denied the protection of a beneficial legislation. Thus, even when applying Cr.P.C. provisions, the JJ Act expressly requires that the court proceedings must remain child-friendly, humane and considerate, ensuring the best interests of the child. This creates a deliberate and important policy choice between the trial of a CiCL and that of an adult.

Emerging Challenges

The question that persists however, is whether child-friendly procedures genuinely translate into practice on the ground. High-profile incidents such as the Pune Porsche case cast serious doubt on this assumption. In that case, a 17-year-old allegedly caused the death of two individuals while driving under the influence of alcohol. The JJB granted bail within hours of arrest, imposing notably lenient conditions, but revoked the bail shortly thereafter in response to intense public outrage. Although the Bombay High Court eventually restored bail, the episode underscores how the implementation of statutory protections is often shaped by prevailing societal sentiments rather than consistent legal

considerations. In practice, Sessions Courts frequently base bail decisions on factors such as the nature of the offence, the alleged role of the CiCL, and the perceived heinousness of the crime, considerations that tend to dilute the statutory presumption of bail and the conditions listed under Section 12 of the Juvenile Justice Act.

This inconsistency is further highlighted by the Supreme Court's decision in ABC v. State of Chhattisgarh on 2 July 2025, where bail was granted to a CiCL who had remained in custody for over 16 months. The child contended that the case against him rested entirely on circumstantial evidence and the alleged disclosure statement of a co-accused who was also a juvenile. Despite this, the Chhattisgarh High Court had denied bail on 31 January 2025, citing the gravity of the offence and expressing concerns that release would result in a "miscarriage of justice" and pose a "danger to society." Notably, neither the High Court nor the subordinate the JJB and the Children's Court, Bilaspur had explained how any of the three statutory exceptions under Section 12 were satisfied to justify their denial of bail. The CiCL also apprised the Supreme Court that the Social Investigation Report prepared by the Legal-cum-Probation Officer had recommended the grant of bail, a factor placed before the High Court but conspicuously absent from its order. The Supreme Court's eventual intervention exposed a failure to apply the statutory framework in letter and spirit, resulting in an avoidable incarceration of 16 months.

Even at the level of the Supreme Court, inconsistencies persist. On 22 May, a Bench comprising Justices J.B. Pardiwala and R. Mahadevan denied bail to a CiCL who had spent 15 months in custody, noting that the trial was ongoing and the victim had yet to be examined, but without explaining how the Section 12 exceptions were attracted. Again, on 8 May, a three-judge Bench of Justices Vikram Nath, Sanjay Karol, and Sandeep Mehta declined relief to a CiCL who had been in custody for over three and a half years, after the Allahabad High Court had earlier denied bail without clearly stating the statutory basis for doing so. These divergent outcomes suggest a deeper structural problem. When the grant of bail to a child in conflict with law, which is statutorily framed as the norm, depends on judicial discretion, completely divergent from the clear mandate of Section 12, it ceases to be a safeguard to rehabilitate and reintegrate children in the society and becomes a matter of chance.

Child-Friendly Measures to be Adopted by the Court

Contrary to the trial of an adult, the trial of a child as an adult safeguards his basic rights not only as a person who is accused of an offence but also as a child who is in conflict with law. With respect to such basic distinction, there are various factors that a Children's Court keeps in mind while proceeding against a child. Article 45 of the Model Law on Juvenile Justice issued by the United Nations Office on Drugs and Crime in 2013 provides that a court trying children shall ensure that the language used during the trial is suitable to the child's age and understanding and that a child is given breaks from the proceedings appropriate to his or her age, health, and understanding. All throughout the trial, the Court is also required to maintain the confidentiality of the child, referring to the child using child-friendly terminology. The General Comment No 24 emphasise that throughout the proceedings dignity of a child should be maintained, a child's right to participation in proceedings should be ensured. The judges and court staff should be trained to be sensitive to the needs of the children. Priority should be given to diversion, non institutional recourse. United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (the Beijing Rules) also provide for child friendly measures. Rule 10 and 14 emphasise on procedural safeguards such as presumption of innocence, right to participation and protection of privacy.

In *A.K. Asthana v. Union of India & Anr.,* the Hon'ble Delhi High Court issued guidelines requiring courts to obliterate details leading to the disclosure of the identity of a child from judicial proceedings before issuing certified copies. The Court also directed that the Registry/Reader/Ahlmad of the Court concerned shall not accept any application if it contains the name of the child and inspection of court records would only be permitted upon an undertaking being given that the child's identity and related details would not be disclosed to anyone else. One of the key safeguards is that the proceedings are conducted by a Special Public Prosecutor appointed under the Commissions for Protection of Child Rights Act, 2005, or the POCSO Act, 2012. The Madhya Pradesh Juvenile Justice (Care and Protection of Children) Rules, 2022 provide that a trial conducted by the Children's Court under the JJ Act shall be 'in camera' while maintaining a 'child-friendly' atmosphere. The draft Karnataka State Juvenile Justice (Care and Protection of Children) Rules provide for a different

physical environment for the Children's Court. Rule 8 says that where the Children's Court decides that there is a need for trial of the child as an adult, it shall not sit on a raised platform and there shall be no barriers, such as witness boxes or bars between the Court and the child. Thus, the child for all intents and purposes is supposed to be treated differently from how an adult accused is treated in a regular Sessions Court.

What Happens to a CICL Who is Found Guilty by the Children's Court?

The final decision and conclusion of the trial also differs from that of an adult court proceeding. Upon the conclusion of the trial, every final order of the Children's Court must include an individual care plan for rehabilitation, in line with Section 19 and Rule 13(8) of the Model JJ Rules. The child is to be placed in a designated place of safety until the age of 21, where they must have access to reformative services, including education, skill development, counselling, behaviour modification therapy, and psychiatric support. The Court must receive annual follow-up reports from the probation officer, the District Child Protection Unit (DCPU), or a social worker, to monitor the child's progress and prevent ill-treatment. Therefore, unlike an adult who is sent to a formal prison system, a CiCL does not get transferred to a prison till he is 21. In Kerala a project named Kawal is run in a public private partnership model where focus is on reformation. Even when a child is released on bail he stays in continuous follow up through probation officers and NGO. The reports are constantly submitted to the JJB to track the progress of a child. This model has shown a reduction in recidivism from 13 percentages at the beginning of the program to 5%.

When a CiCL reaches 21 years of age inside the place of safety, the Court reviews their progress to determine readiness for reintegration. This assessment considers reformative progress, expert evaluations, and institutional reports. The Court may order unconditional release, release on bond with or without sureties, continued rehabilitative support, or appoint a monitoring authority. In rare cases, it may direct that the remainder of the sentence be served in jail. However, even then, a CiCL cannot be given life-imprisonment without possibility of release or death penalty.

Sections 22 and 23 of the JJ Act provide further legal safeguards. Children cannot be subjected to preventive detention or security proceedings under Chapter VIII of the CrPC, and they cannot be tried jointly with adult co-accused, even if charged in the same offence.

The role of the Children's Court, thus, is not to act as a regular Sessions Court that deals with adult offenders on a regular basis, but to balance law with compassion, ensuring that every proceeding respects the child's rights while guiding them toward a future free from the circumstances that led them into conflict with the law.

Conclusion

The Children's Court was intended to be a specialised forum to maintain the rehabilitative foundations of juvenile justice, even when a child faces an adult trial system. However, this paper shows a consistent gap between what the law aims for and how it is practised in courts. When courts do not recognise their role as Children's Courts or treat it like a regular Sessions Court, the protections in the Juvenile Justice Act become meaningless.

Inconsistencies in applying Section. 12, an overemphasis on the gravity of offences, and a lack of careful consideration of legal exceptions indicate a gradual move towards punishment-focused reasoning. Public pressure and media attention further complicate this issue, leading to longer sentences and inconsistent outcomes for children involved with the law. Such actions go against the Act's main idea that a child remains a child, regardless of the seriousness of the alleged offence. In order to ensure that the mandate of the JJ Act 2015 is achieved with respect to children who are transferred structured and strategic interventions are required:

- Capacity building: The children's court judges, public prosecutor staff members should be provided specialised training on JJ Act along with orientation towards child sensitive approach.
- Maintaining data and reporting to the juvenile justice committee of high court: all the children's court should be directed to maintain data regarding number of cases of CiCL transferred from JJB, cases in which

section 19 proceedings took place and number of cases in which review was done after a child reaches 21 as per the requirement of section 20. This data should be quarterly submitted before the Juvenile Justice Committee of the High Court to bring in accountability regarding the functioning of the Court.

- Ensuring appropriate infrastructure: The state should make sure that at least in each district there is one Children's Court. Each of such Children's Courts should be equipped with infrastructure to ensure a child friendly environment.
- Detailed SOP should be prepared for functioning of section 20: When a CiCL attains the age of twenty-one years and is yet to complete the term of stay, the Children's Court is to provide for a follow up by the probation officer or the District Child Protection Unit or a social worker or by itself, as required, to evaluate if such child has undergone reformative changes and if the child can be a contributing member of the society and for this purpose the progress records of the child under sub-section (4) of section 19, along with evaluation of relevant experts are to be taken into consideration. SOP should be prepared regarding how this evaluation is to be conducted and what are the factors that the Court should take into account while reaching a decision.

Without these steps, the Children's Court may become just a title without real meaning. This would weaken the rehabilitative goals of the juvenile justice system and undermine the commitment to child-focused justice.

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Journal on the Rights of the Child of National Law University Odisha
Vol. VII, Issue I, April 2026, pp. 76-92

COMPREHENSIVE ANALYSIS OF THE FUNCTIONING OF JUVENILE JUSTICE INSTITUTIONS IN INDIA: INSTITUTIONAL PERFORMANCE, PROCEDURAL GAPS, AND REFORM IMPERATIVES

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Abstract

This paper focuses on the examination of the functioning of juvenile justice institutions in India within the framework of the "Juvenile Justice (Care and Protection of Children) Acts", 2000 and 2015. The paper uses the method of doctrinal legal analysis and qualitative review of secondary sources, to analyse the roles, functioning, and performance of the Juvenile Justice Boards (JJBs), Child Welfare Committees (CWCs), and District Child Protection Units (DCPUs). The paper brings forth the contention that despite India's Juvenile Justice framework being aligned with the principle of rehabilitative justice, the institutional functioning faces serious challenges in the form of procedural delays, inadequate capacity, and weakened stakeholder co-ordination on ground. The proposed paper posits a central hypothesis that though India's Juvenile Justice system is theoretically sound and grounded in normative approach of rights-based rehabilitation, its practical manifestation suffers from 'systemic institutional deficits'. The paper draws on various statutory provisions, policy reports to reflect on the paradox between the reformative and rehabilitative philosophy of the Juvenile Justice Act, and its practical implementation on the ground. The paper adds to the existing literature by providing a qualitative analysis of the institutional functioning and policy-backed recommendations aimed at strengthening the rehabilitative and child-oriented justice delivery in India. The proposed study reveals that the main shortcoming of India's Juvenile Justice system is with regard to 'systemic institutional deficits' such as procedural delays, infrastructural gaps and weak inter-agency coordination. All of these combined have a negative impact on the system.

Keywords: juvenile justice, child protection, juvenile justice boards, child welfare committees, india, rehabilitation

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Introduction

The Juvenile Justice system in India has transitioned away from colonial "punitive-logic" to a "right-based framework" which keeps the "best interest of the child" in centre (Bajpai, 2017; Chakraborty et al., 2024). This philosophy is grounded on two major contentions. Firstly, that children have a higher potential for reform due to their "developmental immaturity and psychological plasticity". Second, that children need to be removed from the subjection of "adult-centric punitive measures" (Dash Ray & Choudhary, 2025; Rukhsana, 2023). Juvenile Justice encompasses a critical position at the convergence of rehabilitative justice, child rights, welfare, and the debate on human rights.

Drawing distinction from the standardised adult criminal justice system, the Juvenile Justice system holds its ground on the principle of assumption that children are "developmentally distinct, morally less culpable, and more amenable to reform" (Scott & Steinberg, 2008). The constitution of India highlights special provisions for children both in the chapter on Fundamental Rights under Articles 15(3), 23,24 and the Directive principles under Articles 39(e) and (f). The "Juvenile Justice (Care and Protection of Children) Act, 2015" highlights its aim is to ensure "care, protection, development, treatment and social reintegration of children in a child-friendly manner" (Government of India, 2015).

However, scholars have critically argued that the efficacy of the Juvenile Justice hinges less on the legislative frameworks and more on institutional functioning (Bajpai, 2016). Despite the various reforms in the legislative frameworks in India, children within the Juvenile Justice system are often entangled with the institutional deficiency such as "bureaucratic inertia, infrastructural deficits, and limited rehabilitative support (NCRB, 2022). Scholars have highlighted the "Capacity paradox: a significant disjunction between a conceptually sound legislative framework and a fragmented operational reality" (Bajpai, 2019; India Justice Report, 2025).

The proposed paper deconstructs both the normative framework and institutional dimensions of the Juvenile Justice system in India. The maiden section outlines the theoretical and philosophical underpinnings of the Juvenile Justice system, with special emphasis on concepts such as "parens patriae",

the best-interest standard, rehabilitative justice, etc. The next section provides a detailed account of the evolution of the Juvenile Justice system in India. It not only traces its evolution but also situates it in the legislative and socio-legal landscape of the country. The third section contains a thematically arranged review of the existing literature, which situates the proposed study at the intersection of raging academic debates on Juvenile Justice and Child Welfare in India. The fourth section throws light on the research methodologies employed in the proposed study. The subsequent sections examine the mandate and actual functioning of the institutional architecture in the field of the juvenile justice system in India. Some of the institutions discussed in the paper are, namely, Juvenile Justice Boards (JJBs), Child Welfare Committees (CWCs), District Child Protection Units (DCPUs), etc. The last section contains a forward-looking and structured reform agenda which focuses on fixing the legislative and governance loopholes. This paper aims to unfold the working of the Juvenile Justice institutions (Juvenile Justice boards, Child welfare committees, and District child protection officers, and explore their success in translating the child centric legislations into meaningful lived outcomes.

Literature Review

The academic discourse on Juvenile Justice in India has undergone significant evolution over the years. It has shifted away from a "welfare-oriented framework" to a more "rights-based framework". Earlier, the concept of Juvenile Justice was seen through the prism of state paternalism. Its primary emphasis was on care, protection and custodial rehabilitation (Kumari 2016). However, lately, the discourse around the concept of Juvenile Justice has pivoted towards identifying children as individuals with certain unalienable rights. Ved Kumari (2019) and others have critically examined this shift, arguing that the shift has taken place only in the legal framework, whereas the actual implementation remains suboptimal. Similarly, Bajpai (2016) underlines the "institutional deficit" within the Juvenile Justice system of India where progressive legislative provisions are overshadowed by other systemic constraints such as weak administrative capacity, inadequate infrastructure and lack of trained personnel. This points out a growing divide between normative standards on the one hand and practical on-ground realities on the other. And this divide is amply captured by the contemporary scholarship on the subject.

The comparative perspective further enriches our understanding of the subject matter. Goldstone (2011) highlights a constant tussle between the welfare oriented Juvenile Justice system and punitive aspects of legal architecture. This tussle is unfolding itself in Indian context as well following the enactment of the Juvenile Justice (Care and Protection of Children) Act, 2015. The act has provisions for trying children aged 16-18 years as adults in certain categories of offences. It translates into dilution of the welfare aspect of child-welfare and strengthening of the punitive aspect of juvenile justice (Bajpai 2016).

Another set of literature, which primarily includes policy-oriented literature on the subject, highlights empirical insights into the functioning of Juvenile Justice institutions in India. For example, reports by UNICEF (2018), the National Commission for Protection of Child Rights (NCPCR, 2021), and the India Justice Report (2022) revolve around actual functioning of the institutions. These reports regularly divulge crucial information about challenges faced by the Juvenile Justice institutions. Some of the frequently cited challenges include procedural delays, infrastructural inadequacies, lack of standardised practices, and weak inter-agency coordination. However, one critical shortcoming of this literature is that it examines and analyses these institutions in silos, ignoring the intersectionality concern in the Juvenile Justice governance framework.

The proposed paper aims to enrich the existing body of literature on the subject by undertaking nuanced institutional analysis, analysing how the institutional architecture of the Juvenile Justice system in India collectively addresses the problem of juvenile delinquency in India and examining various other aspects of child-welfare. By connecting doctrinal analysis with empirical evidence, the proposed study attempts to bridge the gap between theory and institutional practice in the context of juvenile justice in India.

Methodology and Research Design

This paper adopts a legal doctrinal analysis and qualitative research of secondary sources of socio-legal and policy research. The paper heavily draws from judicial legislations, books, journal articles, and policy reports. Content analysis is used to identify recurring "recurring institutional patterns, normative tensions, and implementation gaps" within juvenile justice institutions. The paper does not present any primary data. It relies on secondary data, synthesizing empirical findings to analyse and present an "institution-focused evaluation",

which is right for examining legal frameworks and "institutional functioning across jurisdictions" (Bajpai, 2016; Scott & Steinberg, 2008).

The proposed study employs qualitative research methodology to examine the working of Juvenile Justice institutions in India. It also undertakes a systematic analysis of statutory provisions, including the Juvenile Justice (Care and Protection of Children) Act, 2015, other rules, and judicial pronouncements of constitutional courts. The study refers to authentic secondary sources such as academic articles, policy reports, government publications, etc. It also adopts thematic content analysis as the central analytical method to better understand issues, challenges, and loopholes in the Juvenile Justice system in India.

The proposed study makes use of thematic content analysis to analyse patterns and trends related to institutional functioning, issues and challenges plaguing the Juvenile Justice system in India. Thematic content analysis is seconded by secondary sources to corroborate new theoretical insights. It should be mentioned that the proposed study takes the Indian judiciary's role as interpretative and not legislative. As mentioned above, the study relies heavily on the secondary data. While lesser reliance on primary data may be considered a limitation, the proposed study bypasses this limitation by undertaking a policy analysis route to examine and understand institutional architecture of the Juvenile Justice system in India.

Findings

Interpreting Juvenile Justice: From Adjudication to Norm-Setting

Juvenile justice in India has seen its evolution in the form of continuous judicial interpretation and re-interpretation, highlighting the rehabilitative principle and exposing the institutional shortcomings. Various judgements have extended the scope of the Juvenile Justice in India, simultaneously preventing the shaking of its fundamental principles. In "*Salil Bali v. Union of India* (2013)", the Supreme court categorically rejected the demand to lower the age of the Juvenility, holding the assumption that treating children as adults would be "contrary to the spirit of the Constitution and India's international obligations under the UN Convention on the Rights of the Child". The court explicitly stated that Juvenile Justice should flow free from the bias of the popular public opinion and highlighted that "developmental immaturity" be treated as the normative basis for differential treatment of children contrary to the adults.

However, the legal enactment of the "Juvenile Justice Act (2015)" reflected a shift from the judicial position highlighted in the *Salil Bali v. Union of India* (2013) judgement. The court in "*Dr. Subramanian Swamy v. Raju* (2014)", recognised the concern of the growing heniosity of the juvenile crimes, and yet urged to upload the principle of rehabilitative justice upon dealing with children. The introduction of assessing children aged between 16-18 years accused of "heinous crimes" under the Juvenile Justice Act 2015 highlighted the paradoxical nature of "welfare vs retributive rationalities". This debate was further worsened by the Nirbhaya gang rape case 2012, which shook the nation to its core and bought to the forefront the need to revisit Juvenile Justice in India. Scholarly works have scrutinised the legislative shift arguing that it gives discretionary powers in the hands of Juvenile Justice Boards, "making institutional competence and child-sensitive expertise central to justice outcomes" (Bajpai, 2016).

Judicial legislations have also failed to highlight the need for strong institutional functioning and procedural safeguard for increasing the effectiveness of the Juvenile Justice in India. The Supreme court in its pronouncements in the "*Sheela Barse v. Union of India* (1986)", highlighted how the state institutions have failed in the prevention of "abuse, neglect, and prolonged detention" of children in custodial settings. Courts have reinforced the idea that observation homes must function as "rehabilitative spaces rather than sites of punitive confinement", thus abiding by the practice of constitutional morality and child rights jurisprudence (Mehta, 2014).

The above judicial standpoints, highlight an important paradox. Despite the courts reiterating the principle of rehabilitative justice and a child-centric jurisprudence, they constantly bring focus to the efficacy of the institutions for the realisation of these principles. The essence and the success of the Juvenile Justice hinges upon the efficient working of the various institutions such as the Juvenile Justice Boards, Child Welfare Committees, probation services, and childcare institutions. The challenges in the form of lack of proper infrastructure, less focus on capacity-building, and weak administrative co-ordination undermines the aim of human rights, justice, and welfare as laid out in the Juvenile Justice in India.

Furthermore, considering the development of Juvenile Justice in India, an analysis of the functioning of the institutions becomes indispensable. To bridge the gap between law and practice, it is imperative to examine and critically analyse how Juvenile Justice institutions interpret, implement, and practice judicial legislative mechanisms. This paper thus takes an analytical lens to reflect how the future of Juvenile Justice in India, is highly dependent not only on "progressive jurisprudence" but also on the capability and capacity of institutions to internalise and operationalise the rehabilitative spirit affirmed by judicial interpretation and codified legal norms.

Evolution of Juvenile Justice Legislation in India

The trajectory of evolution of Juvenile Justice legislation in India is traced through the shift from "custodial control to rights-based child protection". Laws under the colonial powers such as the "Reformatory schools Act (1897), treated children who committed offences as "subjects of discipline" rather than individuals who had rights (Chakrabarti, 2019). It was the "Juvenile Justice (Care and Protection of Children) Act, 2000" that bought Indian legislation on children in tandem with the "United Nations Convention on the Rights of the Child (UNCRC)" emphasizing "rehabilitation, social reintegration, and institutional care as a measure of last resort" (Mehta, 2014).

The enactment of the "Juvenile Justice Act, 2015", stands for two major things. First, it retained the "welfare-oriented framework" which called for rehabilitation of children. Second, it bought reformation allowing children aged between 16-18 years accused of heinous offenses to be tried as adults, "subject to the preliminary assessment by the Juvenile Justice Board" (Government of India, 2015). Scholars have highlighted this shift as a "penal turn within a welfare statute" (Bajpai, 2016), arguing that this legislation is critical in understanding the influence of societal anxieties on juvenile offences. Critics argue that such provisions have a tendency to dilute the "rehabilitative ethos of juvenile justice and conflict with international child rights standards" (UNICEF, 2018).

Philosophical Foundations of Juvenile Justice

The foundation of the Juvenile Justice can be traced to the philosophical foundation of the principle of "Parens Patriae" meaning "best interest of the child", which is echoed in the "Juvenile Justice Act (2000, 2015)" in India

as well. This doctrine "legitimizes state intervention" for children who lack the means to protect their own interests (Goldstein et al., 1996). The "United Nations convention on rights of the child" reiterate the same principle that "the best interests of the child shall be a primary consideration in all actions concerning children (Article 3).

Scholars have highlighted the triangulation of juvenile justice legislation which is a combination of the triad of "welfare, rights, and limited accountability" (Bose, 2020). Despite the legislation's foundation of the principle of rehabilitation, the institutional functioning seems to oscillate between the ideas of "care and control". This overlap between care and control, is highly evident in cases of heinous crimes involving children, "where public discourse tends to favour deterrence over reform" (Raghavan, 2017). This paper draws upon this tension to critically examine the ground level functioning of the various Juvenile justice Institutions.

Nonetheless, critical scholars warn that the philosophical consistency of juvenile justice frequently disintegrates during implementation. Juvenile justice institutions throughout the world operate within a "hybrid paradigm", where the conflicting values of "welfarism and punitive measures" are at the forefront (Barry Goldson, 2011). In the Indian context, the second category of children as laid out in the Juvenile Justice Act, as "Children in conflict with law", face serious stereotypes labelling them as "dangerous offenders" rather than as young children in need of care and protection. Scholars have pointed out to this phenomenon as the "criminalisation of childhood vulnerability" (Ved Kumari, 2016). The conceptual underpinnings of juvenile justice exhibit a persistent conflict between rehabilitation and retribution, care and control, as well as rights and risk management. Although legislation frameworks express a child-centered and reformative vision, institutional actions are frequently influenced by societal concerns, moral panics, and administrative limitations.

Furthermore, despite various judicial decrees reiterating child-centric justice, there is a huge gap in the implementation of the various pronouncements. The Supreme Court despite reiterating the need for "speedy inquiry, child-friendly procedures, and rehabilitation-oriented outcomes", evidence highlights the deficiency of the various institutions reflecting a greater problem within the implementation of the law to serve the best interest of the children.

Institutional Framework of Juvenile Justice in India

Juvenile Justice Boards (JJBs)

The Juvenile Justice Boards are the "primary adjudicatory bodies" who deal with the second category of children i.e., "Children in conflict with the law". These boards are setup under the Section 4 of the Juvenile Justice Act, 2015. The board is a three-member body, comprising of a judicial magistrate and two social workers, whose area of expertise is welfare of children. The JJB is mandated to function in a "child friendly manner", in order to analyse the "social investigation reports", and mandate appropriate measures of rehabilitation for ensuring that justice is accorded to the children (Government of India, 2015).

Furthermore, various studies highlight that Juvenile justice boards have a crucial role in ensuring that the objective of JJ Act is upheld, but their everyday functioning is obstructed by "heavy caseloads, inadequate infrastructure, and lack of specialized training" (India Justice Report, 2022).Scholars have pointed out that many JJB's function "more like criminal courts in miniature than welfare-oriented forums", leading to the sabotage of the principle of reformation as laid out in the Juvenile Justice Act (Bajpai, 2016). Furthermore, the initial assessment procedure draws heavy criticism for its "subjective nature and lack of standardized psychological tools" (UNICEF, 2018).

Major challenges faced by the Juvenile justice boards includes "prolonged enquiries and case resolutions", despite legal mandate of catering to the enquiries within a stipulated time of four months as per the Section 14 of the Juvenile Justice Act, 2015. The institutional functioning of the boards is constrained by "procedural delays" which violate the principle of immediate relief to the child, and results in negatively impacting the "children's reintegration prospects, often resulting in prolonged institutionalisation in observation homes" (NCPCR, 2021). Scholars have emphasized how such delays lead to compromise in the "rehabilitative tenets of juvenile justice" (Goldson, 2011).

Child Welfare Committees (CWCs)

Child welfare committees are "quasi-judicial bodies", working specifically for the first category of children i.e., "child in need of care and protection", as

mandated by the Juvenile Justice Act 2000. Section 27 of the act mandates the authority of the child welfare committee to determine required and appropriate "rehabilitation and restoration measures" as per the "best interest of the child". The CWC has under its jurisdiction areas concerning "institutional placement, foster care, sponsorship, and adoption referrals".

Scholars has referred to the child welfare committees as the "moral core of the juvenile justice system", whose work has translated the legal legislations into "concrete welfare decisions" for ensuring justice to the child who has come into contact with the system (Mehta, 2014). Despite their efforts of rehabilitation and restoration of justice, the efficacy of CWC's is highly uneven across India. Various challenges cropping up include "frequent vacancies, lack of gender-sensitive training, and poor coordination with police and NGOs" (NCPCR, 2021). These challenges result in extended institutionalization of the child, which has socio-psychological implications on the children.

Furthermore, the Child welfare committees face heightened criticism related to their "quality of enquiry and decision-making" processes. Scholars have highlighted how the functioning of the CWC's are often "informal and poorly documented", leading to poor rehabilitation plans (Kumari, 2019). Analysis of various case-studies shows that, the decisions of CWC's ignore "of family-based or community-based alternatives", thus violating the principles of social integration of the child in the society. These procedural lapses underplay the child-centric intent of the Juvenile Justice Act and risk the CWC's as mere "administrative clearance bodies", rather than welfare institutions established for the betterment of the child. The CWC's thus need to focus on greater stakeholder co-ordination and capacity building to fulfil their role as justice enablers for the children.

District Child Protection Units (DCPUs)

Another institution associated with the implementation of the Juvenile Justice Act in India is the District Child Protection Unit. It functions as the "administrative and coordinating arm" of the Juvenile Justice system at the district level. DCPU's were established initially under the ICPS (Integrated Child protection scheme) and later "Mission Vatsalya". Their key responsibilities include data-management, stakeholder co-ordination, monitoring childcare

institutions, and supporting other institutions catering to the children as mandated by the Juvenile Justice Act, 2015.

One of the key responsibilities of he DCPU's making it an important institution in realising rehabilitation of the children is its critical role in "ensuring convergence among multiple stakeholders". However, despite this, the body faces severe constrains in terms of "limited staffing and financial resources" (NCPCR, 2021). Scholars have pointed out how the efficacy of the Juvenile Justice institutions is heavily dependent upon the effectiveness of the DCPU, making them a "missing link" in child protection efforts (Bose, 2020).

Research findings have brought to the forefront two major challenges to the functioning of DCPU. First, is the institutional instability, and second, is its ambiguous role. DCPU faces frequent delay in "salary disbursement, and unclear delineation of responsibilities between DCPUs and line departments such as police, health, and education" (Kumari, 2019). This overlap of duties and less clarity of the roles and responsibilities weaken the institutional functioning and hampers both institutional and non-institutional care measures for child protection.

DCPUs maintain district level databases for both "Children in need for care and protection" and "children in conflict with law", but the "the absence of standardized digital platforms and analytical capacity limits their effectiveness" (UNICEF, 2021). These shortcomings reduce the functioning of the DCPU's as mere "passive administrative units", reducing the efficiency of the Juvenile Justice system. Various reports regarding the functioning of District Child Protection Units have highlighted the issues of "understaffing, irregular fund utilisation, and weak inter-departmental coordination". These shortcomings reinforce how, despite being nodal co-ordination bodies under the Integrated Child Protection Scheme (ICPS) and Mission Vatsalya, DCPU's "continue to function below their intended capacity".

Key Challenges in the Functioning of Juvenile Justice Institutions

Infrastructure and Human Resource Constraints

Some general and other very particular constraints plague Juvenile Justice Institutions in India. General constraint can be understood as the hardware part

of the problem. The hardware includes inadequate infrastructure of observation homes and counselling centres and lack of basic amenities therein (India Justice Report, 2022). Other particular constraints constitute the software part of the problem, which includes human resource shortages (specially psychologists and trained social workers). Collectively, these constraints hamper the effectiveness of the Juvenile Justice Institutions in India (UNICEF, 2018). These problems are further aggravated by differential policies adopted by various states and districts. For instance, different states and districts allocate varying amounts of budget for the Juvenile Justice Institutions, highlighting the attitude of convenience. Similarly, these institutions are also plagued by "weak administrative oversight". As a result, a number of 'Child Care Institutions' operate in temporary make-shift arrangements, brazenly flouting the minimum standards prescribed under the JJ Model Rules, 2016. The concerned scholars have pointed out that such policy neglect of Juvenile Justice Institutions in India reeks of "wider institutional marginalisation of the juvenile justice system within the overall criminal justice system". In other words, the act of policing and the institutions of prisons are prioritised over and above the child-centric services (Kumari, 2019).

Procedural Delays and Case Pendency

The golden rule of any juvenile justice system is the "availability of timely intervention". Yet, data reveal that this golden rule is flouted more often than not. The high level of pendency before JJBs and CWCs corroborate it (NCRB, 2022). It not only defeats the basic purpose of reformative institutions like JJBs and CWC, but it also normalises the horrifying custodial experiences of the juveniles (Chakrabarti, 2019).

With regard to the Indian Juvenile Justice system, empirical evidence brings forth two major constraints namely "procedural delays" and "pendency". For instance, the NCRB 2022 report highlights that the rate of disposal of cases involving children in conflict with the law remains disproportionately high relative to the general case disposal rate in India. This greater proportion of pendency of cases reflects a larger issue of the "systemic delays in inquiry and disposal". The report also highlights the greater influx of cases, contributing to increased pendency, reflecting a greater issue of systematic incapacity to

rehabilitate children in conflict with the law into society. Furthermore, the numbers bring forth the failure to comply with Section 14(2) of the Juvenile Justice Act 2015, which requires completion of the inquiry within a period of four months. From a child rights perspective, the increased pendency prolongs into greater institutionalization, leading to delayed rehabilitation of the children, violating the principles of "timely justice" and "best interest of the child".

One of the main reasons behind increasing pendency is poor coordination between police, probation officers, legal services authorities and child welfare institutions. There are other reasons for the rising pendency - inadequate documentation, delayed social investigation reports, frequent adjournments etc. The case of rising pendency and procedural delays sing a tale of violation of the Articles 21 and 39(f) of the Indian constitution which guarantees a child the "right to dignity and development". When analysed from "child-rights perspective", these problems do not appear as mere administrative lapses, but rather as gross violation of principles of substantive justice.

Institutional Challenges

The India Justice Report (2022) brings forth the two deficits of the juvenile justice institutions in India. It highlights the "infrastructural deficit" and "lack of human resources" as the twin issues delaying justice to children in conflict with law. The report further delves into the shortage of "trained social workers, psychologists, and probation officers", and the failure of many states to set up fully functional institutions such as the "Juvenile Justice Boards and Child Welfare Committees" as directed in the Juvenile Justice Act 2015. These institutional deficiencies highlight a "structural governance gap rather than isolated administrative inefficiencies".

Conclusion

The juvenile justice system in India, although is continuously evolving with the contemporary legislation requirements, its operation remains highly fragile. Despite undergoing amendments, frequent debates strengthening its institutional framework, the efficacy of the institutional functioning remains highly uneven. There is a huge gap between the legal legislations and the ensuring of justice and rehabilitative measures, as underlined in the objective of the Juvenile justice philosophy in India.

Critical analysis showcases that the Juvenile Justice System in India is oscillating between a "progressive normative framework" and "uneven institutional realities". Despite the Juvenile Justice Act 2015 demonstrating a rehabilitative and a rights-based vision, the ground reality showcases constrains in the form of "structural and administrative limitations". This paper reinforces the "institutional deficit thesis", highlighting how institutional limitations are the primary impediments to effective rehabilitation of children in conflict with law in India. This impediment is further highlighted by the data from the National Crime Records Bureau (NCRB, 2022) where "emphasis is put on pendency of cases at the initial reporting, leading to delayed response in inquiry and disposal of cases".

When analysed thoroughly, the above mentioned empirical trends corroborate the argument that the Juvenile Justice system in India oscillates between two contrasting themes namely welfare and control (Goldson, 2011). In a developing country like India, this contrast is more stark because of public sensitivities around the topic of juvenile delinquency. This public perception pushes the government to come up with specific kinds of legislation around the concept of juvenile crime and also shapes how existing institutions function. Bajpai (2016, 2019), in his scholarly analysis of Juvenile Justice system in India, captures this contrast by showcasing the simultaneous existence of a modern, progressive and forward-looking legal framework with regressive and fragmented institutional reality. In a similar way, Kumar (2016) critically examines the Juvenile Justice institutions in India for not being able to move from a welfare-based approach to a right-based rehabilitation approach.

Moreover, the study highlights the crucial difference between how courts have actively interpreted the law and how administrative bodies have poorly carried out those interpretations. Several landmark judgements, such as Sampurna Behura v. Union of India (2018), have highlighted the pressing need for effective implementation of child welfare schemes and fixing accountability of the concerned institutions. However, impediments such as infrastructural deficits, procedural delays and inconsistent practices point out that judicial activism alone is not enough to address the problem of juvenile delinquency in the absence of robust institutional mechanism.

The paper argues for the need to bring reforms focused on strengthening institutional working at the ground level. There is a need to shift the focus away from legislative reforms towards greater investment in "capacity building, standardisation of procedures, digitisation of case management systems, and enhanced inter-agency coordination". India can utilize community based "non-institutional care mechanisms" to expedite the rehabilitation of the children in conflict with law into the society.

The success and effectiveness of the Juvenile Justice system depend upon two major values of the institutional functioning. First, is the focus on improving the quality of institutional practice of various bodies mandated under the Juvenile Justice Act, 2015. Second, is the focus on greater societal engagement, challenging the stereotypical mindset of the people, and ensuring greater focus on rehabilitation of children in the society. The frequently identified challenges of lack of staff, lack of co-ordination among stakeholders needs to be worked upon through measures of capacity building, workshops, training programs about the mandate of the Juvenile Justice act. Greater focus needs to be put upon the idea of "substantive care" over "procedural punitive measures" to cater to the best interest of the child.

Other measures include "strengthening community-based alternatives, enhancing aftercare and reintegration support, and embedding evidence-based decision-making" to ensure sustainable outcomes for children. Juvenile justice needs to be reaffirmed as a critical component of "social justice and child protection governance" in India. A broad-based vision is required to ensure that Juvenile Justice is seen as an "instrument of reintegration" in the society.

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Journal on the Rights of the Child of National Law University Odisha
Vol. VII, Issue I, April 2026, pp. 93-105

HISTORICAL EVOLUTION OF CHILD SEXUAL ABUSE LEGISLATIONS IN INDIA AND THEIR RELEVANCE IN THE MODERN EDUCATION SYSTEM

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Abstract

In the presented study, the researchers analyzed and summarized child sexual abuse legislation from the conservative Indian period to the modern Indian period. The Indian Penal Code, 1860, was the first written and pioneering legislation in pre-independent India. Sexual offenses always have been considered punishable criminal offenses, but the IPC, 1860, provides the primary legal framework to handle such incidents, although it did not recognize child sexual abuse as a distinct section. It worked as a foundational stone for more future-oriented acts such as the Prevention of Children from Sexual Offences (POCSO) Act, 2012. After independence in India, the Goa Children's Act was the first child-sensitive and progressive law to explain the child sexual abuse offenses. The concept of non-contact sexual abuse was introduced, and various institutions of Goa were considered accountable for sexual harassment within their respective premises. The Commission for Protection of Child's Rights Act, 2005, mandated the establishment of the National Commission for Protection of Child's Rights (NCPCR) and the State Commission for Protection of Child's Rights (SCPCR). The mentioned commissions are responsible for incorporating the child protection laws. The Prohibition of Child Marriage Act, 2006, was introduced to eliminate the evil of child marriage and protect children. The legal marriage age was set by the mentioned act, and child marriage was criminalized and considered void. The Prevention of Children from Sexual Offences (POCSO) Act is landmark legislation in independent India, as it consists of a comprehensive landscape regarding sexual offenses. It was introduced to provide more child-friendly environments and fast trial courts for sexual offenses. It empowered the government institutions, private institutions, and citizens of the country. It also encourages in-camera trials in the presence of survivor-supported persons.

Keywords: historical evolution, child sexual abuse, legislations, and modern education system.

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Introduction

Child Sexual Abuse is the crime done by perpetrators to intentionally impair the minor sexually, psychologically, and physically. Child Maltreatment is an umbrella term given by the World Health Organization to cover any kind of negligence or ill-treatment done to an individual younger than 18. This also includes physical, social, psychological, and sexual ill-treatment and commercial exploitation (WHO, 2024). Child Sexual Abuse is a silent pandemic where an individual gets involved in any kind of physical or non-physical sexual activities with a minor (0-18 years) with or without their proper consent, as the minor cannot give consent for any kind of sexual activity (WHO, 2004 & Rain, 2025). Earlier the prevalence of child sexual abuse was limited to physical presence, but in the modern technological era, Digital Child Sexual Abuse (DCSA) is also a modern and more cruel form of sexual harassment. Technology has enhanced online communication and easy interaction and collaboration strategies without guiding the youngsters in a wise use of technology. A large number of children are being exposed to sexually explicit and offensive materials and harassed and exploited on digital platforms. Child Sexual Abuse is done by perpetrators by chance, but it is their psychological and deliberate criminal offense. Online Sexual Extortion is also a sub part of DCSA, where the perpetrators start asking or recording about private pictures and videos of minors and later on blackmailing and sextorting them (Ali et al., 2023). In India, the CSA cases are unreported and mishandled, and victims are blamed and forced to stay quiet to protect pseudo family honour. In traditional and rural settings, discussing sexual health, abuse, and exploitation is often considered taboo (Shafe, 2014, and Prabhu, 2023). The National Crime Report Bureau (NCRB), 2022, reveals a surge of 1.1% in the rape cases in India, and Uttar Pradesh has a 7.4% (highest) per capita crime rate (Study IQ, 2024). An analysis done by the Child Rights and You (CRY) organization reported a surge of 96% in sexual abuse cases from 2016 to 2022. The governments across the globe implemented several legal laws and policies to reduce the evil effect of child sexual abuse, but after several years, many cases of child sexual abuse go unreported, showing the true greater extent of the problem (Fox Mandal, n.d.). Mathews et al. (2017) defines the key concepts of child sexual abuse, where the term “abuse” stands for extreme wrongfulness, which could be

caused because of power imbalance and lack of true consent. Countries across the globe introduced several legislative policies to address CSA to mandate a child-friendly environment during investigation and case trials.

NCFs Guidelines regarding Child Sexual Abuse and Harassment

The National Council of Educational Research and Training introduced the National Curriculum Framework for Foundational Stage (NCF-FS), 2022, and the National Curriculum Framework for School Education (NCF-FS), 2023, to provide a deep-down broader structure and guidelines for learners of foundational and middle stage learners. These frameworks were introduced for better implementation of the National Educational Policy (NEP), 2020. Point Number 8.2.3 of the 8.2 section of the 8th chapter of NCF-FS, 2022, explores zero tolerance regarding child sexual abuse. Teachers and other educational stakeholders should have proper knowledge and indicators of sexual abuse. The teachers should introduce the learners to various sexual abuse prevention and awareness through different interactive methods to ensure the safety and protection of children.

The NCF-SE, 2023, also provides several guidelines for securing middle stage students against sexual harassment and abuse. The NCF-SE suggests teachers have a better understanding regarding child sexual abuse to prevent students from sexual harassment and abuse. The educational stakeholders should ensure a safe environment for adequate holistic development of students. The educational stakeholders should be aware of the guidelines of the Prevention of Sexual Harassment (POSH) and Prevention of Children from Sexual Offences (POCSO) Acts to ensure the protection of adults and children against sexual harassment.

National Crime Record Bureau 2022

The National Crime Record Bureau (NCRB) works under the Indian Government's Ministry of Home Affairs to officially publish about the detailed statistics on crime in our country. It records and analyses the crime across country to provide statistical data for the researchers to improve crime prevention.

The latest report was published on 29th September, 2025 titled as Crime in India 2023. There is a surge of 9.2% in crime against children over previous year as a total of 1,77,335 cases has been registered in the year 2023 in which

38.2% of the cases have been registered under POCSO Act. There is also a surge of 9.5% missing children cases over following year. The child marriage cases have also increased from 0.2% to 1.2% in 2023. There is a drastic increase of 31.2% in cyber-crime from previous year. The records indicate a substantial increase in the crime against children over the past year and a study providing key legislation for the protection of most vulnerable population of country is needed to provide comprehensive knowledge and awareness regarding the child maltreatment (NCRB, 2023, VOL- I & II).

Review of Related Literature

The child sexual abuse is most cruel form of child maltreatment and requires a multidisciplinary response system of the society, healthcare professionals, educators, parents & guardians, school management & administration with other stakeholders to psychological support the survivors (Tyagi & Karande, 2021). The study also reveals a need of a study exploring the current legislations related to child protection. The child harassment and sexual abuse have very widespread yet discrete symptoms and every citizen of the state especially educators and parents, should be aware about the child protection legislations without exception. A study is urgently required to provide a consolidated nevertheless comprehensive knowledge about child protection legislations of India (Methews et al., 2016).

Research Questions

1. How historical development and evolution of Child Sexual Abuse laws and policies in India over the century?
2. What are the key provisions of the Protection of Children from Sexual Offences (POCSO) Act, 2012?

Objectives

1. To explore and document the historical development and evolution of Child Sexual Abuse laws and policies in India.
2. To analyze the current legal framework addressing Child Sexual Abuse, with special reference to the Protection of Children from Sexual Offences (POCSO) Act, 2012.

Research Methodology

The presented study employed the Qualitative Research Approach to explore about the pre- and post-independence child protection legislations and relevant studies. The content analysis research design was used for systematic analysis, review and comprehend key legislations such as Indian Penal Code 1860, Goa Children's Act 2003, and POCSO Act 2012. Purposive Sampling technique of Non-Probability Sampling method was used for the selection of child protection legislations and researches.

Sample/Source of Data

In this study, primary data included official government (Legislations) documents of the British Parliament (pre-independence) and the Parliament of India (post-independence). It also included reports of several law commissions and policy documents from ministries of states and unions of India. The secondary data consists of several studies done in relevant fields to develop a comprehensive understanding of the research problem.

Data Collection and Analysis

Several governmental and non-governmental documents related to Child Sexual Abuse and harassment were collected using web-based government archives, websites of ministries, and the internet. The collected documents were read thoroughly to identify key concepts and patterns after chronological organization. Thematic coding method was employed to study the content and generate key insights about each policy.

1. Identification of Relevant Pre- and Post-Independence Documents
2. Chronological arrangement
3. Initial thorough reading
4. Generation of major themes and key concepts using thematic coding
5. Disaggregation of themes into subthemes
6. Insight generation as per subthemes
7. Comprehensive writing based on the objectives of the research

Findings

In India, the concept of child sexual abuse evolved from pre-independence to post-independence India. After independence, the Constitution of India

guaranteed to safeguard the rights of children and passed several bills to protect children. Here major child sexual abuse and child protection legislations have been analysed and summarized.

Indian Penal Code 1860

The Indian Penal Code was the first official criminal code enacted by the British Parliament in 1860 and came into force on 1st January, 1862. The code included the recommendations of the First Law Commission of India in 1834. This commission was chaired by Sir Thomas Babington Macaulay. IPC was replaced by the Indian Parliament's Bhartiya Nyaya Sanhita in 2023. Section 354 of the IPC stated assaulting a woman by physical or non-physical contact, demanding or requesting sexual favours, and showing pornography to a woman are punishable offenses, and the offender shall be imprisoned for two to seven years with a fine. Section 366A stated that the forceful or seductive intercourse of a minor girl is a criminal offense, and the offender shall be imprisoned for up to ten years with a fine. Section 370A stated that the sexual exploitation of a minor, knowingly or unknowingly, is a criminal offense, and the offender shall be imprisoned for five to seven years with a fine. Sections 372 and 373 stated that selling, buying, and hiring minors for prostitution and illicit sexual intercourse is a punishable criminal offense, and the offender shall be imprisoned for up to ten years with a fine. Section 375 stated that sexual offenses against a woman or a girl are punishable criminal offenses, and the offender shall be imprisoned for ten years to life imprisonment with a fine. Sections 376DA and 376DB stated that gang-raping a minor (under the age of 16) is a punishable criminal offense, and each of the offenders shall be punished with life imprisonment and a fine. Section 377 stated that unnatural sexual intercourse with a man, woman, or animal is a punishable criminal offense, and the offender shall be imprisoned for ten years to life imprisonment with a fine. Sections 509, 509A, and 509B stated that the sexual harassment of a woman by relatives or anyone and by direct or electronic mode to outrage her modesty is a punishable criminal offense, and the offender shall be imprisoned for one to three years with a fine (Legislative Department, n.d.).

The Goa Children's Act, 2003

The Goa Children's Act was enacted by Goa's State Legislative Assembly in 2003 to outline the responsibilities of the state toward minors. The act came

into force on the 8th of July, 2003. The 8th chapter of this bill includes provisions related to child trafficking and abuse. Child trafficking is a punishable offense, and the offender shall be imprisoned for up to seven years with a maximum fine of 1 lac INR.

Child's physical or sexual assault is also a punishable offense, and the offender shall be imprisoned for three years to life imprisonment with a maximum fine of 2,00,000 INR. The survivors of child abuse will also be treated as per survivors of Section 375 of the IPC. The 14th point of the same chapter prohibits the development of child pornographic materials showing child sexual depictions. The offenders shall be imprisoned for one to three years with a minimum fine of 50 thousand rupees. Chapter 9 of this bill constitutes commercial child sexual exploitation-related provisions. It states the state should rescue all the survivors of sexual assault, and the exploiters shall be imprisoned for up to seven years with a penalty of 1 lac INR (Government of Goa, 2003).

The Commission for Protection of Child Rights (CPCR) Act, 2005

The Commission for Protection of Child Rights Act was introduced by the Parliament of India in December 2005 and came into force on the 5th of February, 2007.

This bill advocated the establishment of the National Commission for Protection of Child Rights (NCPCR), State Commissions for Protection of Child Rights (SCPCRs), and Children's Courts for speedy trials of child abuse and exploitation incidents (Government of India, 2003).

The Prohibition of Child Marriage Act, 2006

The Prohibition of Child Marriage Act was enacted by the Parliament of India on 19th December, 2006, and came into force on 1st November, 2007, to protect children and eliminate child marriage. The males should be 21 years old and the females after 18 years of age to have legal marriage. When a minor is trafficked or forced to marry, the marriage will be automatically considered void. Any adult male who marries a child, or anyone who performs, conducts, or promotes it, shall be imprisoned for two years with a penalty of 1 lac INR. The bill also appoints Child Marriage Prohibition Officers (CMPOs) to prevent child marriages (The Prohibition of Child Marriage Act, 2006).

The Protection of Children from Sexual Offences (POCSO) Act, 2012

The POCSO Act is gender-neutral legislation introduced by the Parliament of India to protect children against sexual abuse and harassment. It also mandates the reporting of CSA incidents by survivors and anyone who knows about the incidents. POCSO is the first legislation that comprehensively defines and categorizes sexual offenses based on the severity of the offense and the perpetrators or offenders. The investigation and trial of such incidents must follow a child-friendly environment and procedure. The recording of survivors' statements, the medical examination, and the legal proceedings must be done in the presence of supportive adults or parents.

The second objective of the study was to analyze the current legal framework addressing Child Sexual Abuse, with special reference to the Protection of Children from Sexual Offences (POCSO) Act, 2012. The Protection of Children from Sexual Offences Bill, 2012, is a landmark bill in eradicating the evil of child sexual abuse and exploitation. The bill was passed by the Parliament of India on 22nd May, 2012, and received presidential assent on 19th June, 2012. The bill came into force on the occasion of Children's Day in 2012. The bill was enacted to prevent abuse and exploitation of minors. The major The 3rd and 4th points of Part A of Chapter II define penetrative sexual assault of a minor by a person or forcing or making someone to perform penetrative (vaginal, urethral, oral, or anal) sexual assault with a minor as a punishable offense, and the offender shall be imprisoned for ten years to life imprisonment with a penalty. If the survivor is below the age of 16 years, then the minimum imprisonment will not be less than 20 years. Part B of the same chapter defines aggravated penetrative sexual assault, where a person in authority or power sexually assaulted the minor by misusing their power or taking advantage of the disability of the minor. The offenders shall be imprisoned for 20 years to life imprisonment or receive the death penalty with a fine.

Part C of the same chapter defines non-contact sexual assault of a minor by touching their private parts with intent to sexually assault him/her as a punishable offense, and the offenders shall be imprisoned for three to five years with a fine. Part D defines aggravated sexual assault of a minor by a person in authority or power by misusing their power or taking advantage of the physical or mental incapabilities of the minor as a punishable offense, and the offenders

shall be imprisoned for five to seven years with a fine. Part E defines sexual harassment of a minor as showing pornographic materials, uttering any words, sounds, and/or gestures, and constantly following directly or electronically with a sexual intent. The offender shall be imprisoned for up to three years with a fine. The III chapter of the bill includes use of minor for pornographic purposes, where the minor is make to get engage in real or simulated sexual activities, development and distribution of child pornographic materials, and exhibition of sexually explicit materials to a minor is punishable offence and the offender shall be imprisoned for seven years with a fine, where possession of the child pornographic materials without reporting and with an intention to share shall be fined for 5 thousand to 10 thousand INR, possession of the child pornographic materials with intention to transmission and distribution shall be imprisoned for 3 years with or without a fine, and possession of child pornographic materials for commercial purposes shall be imprisoned for 3 to 5 years with a fine at first offence but if the same offender is committing subsequent offences then they shall be imprisoned for 5 to 7 years with or without fine (Ministry of Law and Justice, 2012).

The POCSO Act mandates the creation of a child-friendly legal proceeding system to mitigate the survivor's physical and psychological distress. The police must include females (if needed) and wear civil dresses, and survivors' statements could be recorded at their homes or any comfortable premises other than the police station. The vulnerability of survivor must be protected using counselling sessions, and such incidents must be legally proceeded in special fast-trial courts within one year.

In 2019, the Parliament of India introduced the Prevention of Children from Sexual Offences (POCSO) Amendment Act to empower the existing POSCO Act. It introduced the death penalty in brutal sexual abuse cases. The earlier minimum imprisonment was increased by 7 years to 10 years, while repeated offenses may also result in the death penalty.

Educational Implications

The findings of the presented study will be beneficial for several educational stakeholders, such as teachers, parents and guardians, students, school administration and management, and policymakers.

For Teachers: The teachers should be aware of verbal and non-verbal signs of sexual harassment and bullying to prevent sexual offenses in schools (NCF-SE, 2023, Chapter 2, Point 2.3.4.5 (e)). The findings of the presented research study can provide a summarized knowledge about sexual offense laws in India, which can help them to develop a zero-tolerance policy towards sexual abuse.

For School Administration: The school administrations should be aware of the guidelines of POSH, 2013, and POSCO, 2023, to protect and prevent the adults and students from sexual violation and transgressions (NCF-SE, 2023, Chapter 2, Point 2.3.4.5). These findings of the presented study can be helpful for school administration to create a sexual-offense-free environment.

For Parents: The parents could also be aware of child maltreatment reporting-related provisions to ensure better handling of CSA cases, as the survivors are very vulnerable after maltreatment. The majority of sexual abuse cases remain unreported as the survivors are not aware of forms of sexual offenses. They are not able to recognize the seriousness of sexual offenses and laws related to CSA. The findings of the presented study could be helpful in identifying the types of sexual offenses and reporting them to authorities.

For Policymakers: The schools should have a zero-tolerance policy towards sexual harassment of adults and children (NCF-FS, 2022, and NCF-SE, 2023). There is a vital need for a sexual abuse awareness and prevention programme to spread awareness regarding CSA among students. The findings of the presented study could play a significant role in the development of such a programme.

For Students: School Going Children are the most vulnerable members of society, and by studying this research work, they will be aware of various aspects of child sexual abuse. They can differentiate between the love and affection of family and any kind of maltreatment. They will be aware of various legislations regarding child sexual abuse and harassment, which is helpful in preventing child sexual abuse and harassment.

Conclusion

The study reveals that the children are most vulnerable part of the population and they are not well aware about their rights. The government has been introduced several legislations for the protection of their rights but their implementation is still an undertaking of high complexity. Child Sexual

Abuse is not only a punishable criminal offense but also a societal crisis. The crisis not only needs progressions but also needs transformative awareness regarding child sexual abuse. The holistic progression of sexual harassment and exploitation laws provides a comprehensive understanding of modern CSA prevention activities. The time when child sexual abuse and harassment was a kinship denial matter, pre-independent India acknowledged it and provided the comprehensive Indian Penal Code, 1860. Until the 21st century, societal discomfort started to vanish, and there was a significant evolution in CSA prevention legislation as the Goa Children Act, 2003; NCPCR, 2005; and the Prohibition of Child Marriage Act, 2006 were introduced in the country. When our country was shaken by the Delhi Nirbhaya Case, the POCSO Act, 2012, was introduced before that. The act shifted the paradigm of sexual harassment and abuse. The latest NCRB report (2023) also underscores an increase in the rate of crime against children even after the introduction of such extensive child protection legislations because the legislative policies can not eradicate sexual harassment alone, but it also requires an open family environment and awareness about sexual harassment, abuse, and exploitation. The NCF-FS, 2022, and NCF-SE, 2023, also mandate a zero-tolerance policy for sexual harassment and abuse. There should be regular sexual abuse awareness and training programmes to recognize various possible indicators of sexual abuse. The curriculum should also include sex education to foster resilience among learners and develop a sexual abuse-free environment. The current child protection legislations include modern forms of child exploitations such as cyber-harassment, cyberbullying, and use of children for pornographic purposes to strengthen the rights of children and teacher education training programs also includes several sensitization programmes to reduce such cases. The education institutions can also organize child protection workshops and seminars followed by robust monitoring and policy enforcement to safeguard the child's rights.

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Journal on the Rights of the Child of National Law University Odisha
Vol. VII, Issue I, April 2026, pp. 106-112

CRIMINALISING ADOLESCENCE: MISUSE OF POCSO IN CONSENSUAL TEENAGE RELATIONSHIPS AND ITS IMPACT ON CHILD RIGHTS

Mahak Khirwal[1]

Abstract

The Protection of Children from Sexual Offences Act (POCSO), 2012, has been adopted in an attempt to safeguard children from sexual abuse. The Protection of Children from Sexual Offences Act (POCSO), 2012, has been adopted in order to protect children against sexual abuse. Nonetheless, its wholesale application to consensual adolescent relationships has produced side effects. Increasingly, parents are using POCSO in lawsuits against teenage couples, especially in cases of inter caste or interracial elopement and are using POCSO as a social control mechanism. This brings in a critical clash of protection versus criminalisation, tension in strict liability on POCSO and teenage autonomy of health policies, as in the Adolescent Reproductive and Sexual Health (ARSH) programme. This research aims to examine whether the existing understood POCSO framework is in line with the child rights jurisprudence, specifically the standards of emerging capacities and best interests in the UN Convention on the Rights of the Child. Based on the doctrinal analysis and judicial trends, the paper explores the issue of courts struggling with consensual adolescent intimacy in the context of strict statutory requirements. The most remarkable conclusion is that blanket criminalisation is detrimental to children rather than protective as it undermines dignity, autonomy, and developmental rights and promotes trauma via abuse of child protection legislation.

Key words: POCSO Act, ARSH framework, romeo-juliet clause

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Childhood, Consent and the Law

Adolescence is a phase of transition, which is marked with exploration of identity, intimacy, and autonomy. It is not absolute childhood, yet Indian law treats all sexual behaviour under 18 as criminal. The POCSO Act, as a strict liability statute, criminalises all sexual activity involving persons below 18, regardless of consent. The POCSO Act, 2012, designed as a strict liability statute, enforces zero tolerance by raising the age of consent to 18. This is in line with the goal of child protection however, its consequences have not been intended. More often, parents are prosecuting POCSO cases involving teenage partners especially those resulting in elopement, inter-faith, or inter-caste relationships as a way of controlling the decisions of daughters and family honour. The overall question that this trend brings up is whether criminalisation of consensual teenage intimacy is in the best interests of the child. This is not the question of the watering down of protection against abuse, but the question of not abusing child protection laws to police adolescent sexuality. The issue of balancing developmental science with extreme legal requirements is a challenge in a society that is negotiating between the traditional and modernity. This paper attempts to initiate a nuanced discussion, arguing that the law should distinguish between consensual adolescent relationships and cases of exploitation. The following paper preconditions a subtle discourse and suggests that the rights of adolescents should be preserved without mixing the consensual intimacy with exploitation.

POCSO and Adolescent Sexuality

POCSO Act, 2012, came to provide a broad definition to sexual assault on children and increase the age of consent to 18 years. According to this paradigm, consent is of no legal use and any sexual act of a minor is criminalized even in marriage. This is a punitive orientation in strict liability that fails to distinguish consensual exploration and sexual violence. In comparison, health policies like the Adolescent Reproductive and Sexual Health (ARSH) framework acknowledge adolescent sexuality, which encourages safe sex, birth control and education. This brings about a contradiction on its part: the health policy encourages the youth sexual behaviour whereas criminal law reprimands it. Conventionally, laws concerning marriage were related to the age of consent in which the patriarchy had a right over young girls in India. The next course was the reforms of 2012-2013 that brought teenage sexuality to the topic of family honour discourse and parental control. The result will be the clash of the right to health, dignity, and development and enforcement of punishment. Mandatory reporting policies also

exacerbate this tension since they restrict access to reproductive healthcare due to their fear of criminalisation in case they obtain medical help. Through this, the law system is a battle of safety and domination, which undermines the rights of teenagers, by baffling consensual intimacy and sexual violence.

This causes a conflict within itself: the youth sexual behaviour is supported by the health policy but is punished by criminal law. Traditionally in India, marriage laws were connected to age of consent giving authority to patriarchy over young girls. This course was followed by the 2012-2013 reforms which placed teenage sexuality in family honour discourse and parental control. The outcome will be a conflict between the right to health, dignity, and development and punishment enforcement. This tension is also worsened by mandatory reporting policies which limit access to reproductive healthcare because teenagers are afraid of criminalisation in case they seek medical assistance. In this way, the law system is a conflict of protection and control, which weakens the rights of adolescents by confusing consensual intimacy and sexual violence.

Court Acknowledging the Grey Area

There is a sign of uneasiness in judicial practice about wholesale criminalisation under POCSO. The Supreme Court has called upon Parliament to review the age of consent as there has been abuse of the law in consensual cases, High Courts often quash the FIR or grant bail in cases where adolescent girls reject victimhood, social realities, and the misuse of law by parents to manage relationships. In the Covid-19 pandemic, courts had to deal with adolescent abortion cases on the interlacing platforms of POCSO and the Medical Termination of Pregnancy (MTP) Act. One bench took a more liberal stance and permitted abortion beyond the statutory terms so as to safeguard the health of the teenagers, though others would not deem relief, which was a difficult doctrine of adhering to the letter of the law. Criminal cases explained that the consensual relationships were re-considered as rape that compelled them to insist on reports and prosecution of adolescent couples by the criminal justice system. But there were acts of judicial indulgence. Justice D.Y. Chandrachud made it clear that according to the MTP Act, the medical staff is not obliged to reveal the identity of minors requesting an abortion, which safeguards confidentiality. Meanwhile, the Madras High Court in the case of Sabari v. To avoid the criminalisation of consensual adolescent relationships, Inspector of Police recommenced thinking about the age of consent or close-in-age exemptions. Justice D.Y. Chandrachud indicated that medical practitioners do not have the duty of disclosing identity of

minors according to theMTP Act despite the Madras High court in Sabari v. IP suggested doing so, the lowering of age of consent or exemptions of a close age.

Judicial practice reveals growing discomfort with blanket criminalisation under POCSO. The Supreme Court has urged Parliament to reconsider the age of consent, noting misuse of the law in consensual cases, High Courts frequently quash FIRs or grant bail in cases where adolescent girls deny victimhood, recognising social realities and the misuse of law by parents to control relationships. During the Covid-19 pandemic, courts grappled with adolescent abortion petitions under overlapping frameworks of POCSO and the Medical Termination of Pregnancy (MTP) Act. Some benches assumed a more progressive position, allowing abortion outside the statutory provisions to protect the health of the adolescents, whereas others refused to offer relief, which was a hard rule of following the text of the statute. Criminal cases illustrated that consensual relationships were re-evaluated as rape, which forced them to insist on reporting and prosecution of adolescent couples by the criminal justice system. However, there were acts of judicial compassion. Justice D.Y. Chandrachud clarified that under the MTP Act, medical professionals are not required to disclose the identity of minors seeking abortion, thereby protecting confidentiality. At the same time, the Madras High Court in Sabari v. Inspector of Police suggested reconsidering the age of consent or introducing close-in-age exemptions to prevent criminalisation of consensual adolescent relationships. Justice D.Y. Chandrachud made it clear that medical professionals are not obliged to reveal the identities of minors as per the MTP Act even though the Madras High Court in Sabari v. IP proposed reducing the age of consent or exemptions of close age of age. These examples show that the judicial system is conscious of the gray zone between security and personal freedom. Nevertheless, relief is discretionary, as a factor of judicial sensitivity and not systematic change. The misuse is recognized by the courts, and the rigidities in the statutes have a restraining effect on the protection of the rights of adolescents by the courts.

Victim Turned Accused

POCSO criminalisation has a negative direct impact on adolescents. Boys are arrested, detained and stigmatized and girls, who are described as victims, tend to resist prosecution, pointing out their autonomy being violated. This is often followed by educational disturbance, school dropout and social shunning. Empirical studies in Gujarat indicate that in 410 cases of sexual assault, 119 cases involved victims aged 16-18 years, 85.7% of them reported to be engaged

in consensual activity. Interestingly, not one of the cases was initiated by the adolescents themselves as they were all initiated by parents or guardians. This family reporting system highlights the role of family and social pressures in leading to criminalisation despite the absence of perceived harm to the so-called victim. The accused, almost always a peer, faces arrest and stigma, while the girl is denied agency and subjected to forensic and judicial processes she may not wish to pursue. Both partners suffer disruption of education, social ostracism, and long-term psychological harm. The law is often used by families to manipulate the decisions made by adolescents and turn consensual relationships into criminal acts. The law undermines the right of the child to dignity, rehabilitation and reintegration by putting consensual teenaged sexuality in the realm of criminal assault. Instead of protecting the adolescents, the justice system, which is supposed to shield them, becomes anti-social and subjects them to trauma.

Best Interest Vs. Moral Policing

A majority of international child rights jurisprudence, especially the UN Convention on the Rights of the Child (UNCRC) focuses on the emerging capabilities and the welfare of the child. Children are known to be rights-holders who have a right to protection, identity, participation and dignity. However, POCSO is mostly used to control morality and not protection, particularly against girls in inter-faith or inter-caste unions. The Indian laws pay excessive attention to the safety against abuse and health, whereas participation and autonomy are neglected. The imbalance is a continuation of a bigger tendency: in his/her family, children are not taken as independent, but as dependent. The impact of punitive legal responses on the rights of adolescents is explained by such practices as the mandatory reporting clauses and the denial of confidential healthcare. The absence of the links between the morality of policing and right-based child protection is disgusting. Instead of giving adolescents a chance to be more autonomous, the law inculcates silence and control, which helps to advance patriarchal norms. Caused by the interpretation of child rights, the best interest principle would have to be fully observed by acknowledging that adolescents are developing beings, able to make informed decisions. The modern-day practice, however, undercuts protection privileges to prohibition, which degrades dignity and growth.

Towards a Balanced Legal Approach

Reform must balance protection and autonomy by bringing about realistic and focused measures. There would be a close-in-age exemption (Romeo-Juliet clause)

to ensure that consensual peer relationships are not criminalised but still guard against exploitation of children by adults. Obligatory child-welfare evaluations before prosecution would permit the use of multidisciplinary screening of the cases (including child-protection officers, psychologists, and health professionals) to discriminate between exploitation and consensual intimacy. Instead of instant FIRs and criminal trials, counselling-first interventions and diversionary measures would lower the level of trauma and assist in rehabilitation.

There is a need to have clear judicial guidelines that would harmonize POCSO with the MTP Act and ARSH policy so that it would provide confidentiality to adolescents who seek healthcare and standard criteria on quashing or initiating prosecutions. Transdisciplinary approach: incorporating law, health, education and child welfare would help develop child friendly channels through which the changing capacities are not ignored but they are also provided protection against abuse. Such changes would bring domestic legislation into accordance with the UNCRC principles and provide an opportunity to diminish the field of moral policing without undermining the protection of really vulnerable children.

Conclusion

The inclusion of POCSO in combating children sexual abuse is necessary, though, the severity of the act in the case of consensual relations among adolescents will discredit child rights and developmental interests. Blanket criminalisation destroys dignity, autonomy, and access to health and it often creates two-fold evils that make adolescents both victims and suspects. The relief is most commonly arbitrary and haphazard because the problem has been pointed out and empathy has been demonstrated by courts. Policy and legislative change to allow close-in-age exemptions, compulsory welfare evaluations, counselling-based reactions, and standardised court parameters can maintain the safety whilst considering the changing abilities of adolescents. Child protection legislations should not attempt to prevent the growth of children, but the harm of children. Relief is usually arbitrary and haphazard as the problem has been indicated and empathy has been shown by courts. Legislative and policy reform introducing closeinage exemptions, mandatory welfare assessments, counsellingbased responses, and harmonised judicial guidelines can preserve protection while respecting adolescents' evolving capacities. Child protection laws must protect children from harm, not from growing up.

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Journal on the Rights of the Child of National Law University Odisha
Vol. VII, Issue I, April 2026, pp. 113-128

IN RESPONSE TO SAMI TIMIMI'S: THE COMMERCIALIZATION OF CHILDREN'S MENTAL HEALTH IN THE ERA OF GLOBALIZATION

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Abstract

Western values, culture, and lifestyle are often idealized in non-Western communities, which see them as a form of advancement and modernisation. In fact, the non-Western framework of children's mental health is not immune to this McDonaldization. However, as Sami Timimi argues, in the long run, it leads to cultural imperialism as it standardizes diagnostic frameworks, which marginalize the experiences of mental distress of the indigenous children. They fail to consider cultural idioms of distress, linguistic diversity, and socio-economic realities, thus flattening the individuality of children's experiences. However, it is not as simple as Timimi views it because his valorization of non-Western culture risks neglecting the harmful practices and internal hierarchies. Timimi's obsession with collectivist, supportive, and community-based non-Western culture is problematic, as they suffer from harmful traditional practices like female genital mutilation, belief in witchcraft, social comparison, and shame. Thus, the "community" reinforces distress rather than care. Thus, this article explores how Timimi, though relevant even today, creates a false binary positive of non-Western collectivism with negatives of western individualism.

Keywords: mental health, globalization, commercialization, neo-colonialism, mcdonaldization.

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Introduction: Revisiting Sami Timimi's Critique on Culture, Diagnosis and McDonaldization of Children's Mental Health

In common parlance, we understand "Globalization" as a process of interconnectedness that reduces the relevance of national borders and fosters the integration and exchange of goods, services, technologies, communities, and culture (Held et al., 1999). However, Sami Timimi (2009, pp.7) argues that globalization is not merely driven by flows of goods, people, and capital, but also involves a potent domination and one-sided exchange of ideas and values. He terms it as "globalization from above," where the we know best attitude of the dominant West is imposed on the rest of the world (Timimi, 2009). He says that the Western approach to children's mental health is being exported like a fast-food chain and idealised across the globe, leading to negative repercussions.

He further argues that the Western model of mental health is not a scientific, universal truth, but rather a cultural product of the West, which he likens to "McDonaldization of children's mental health" (Timimi, 2009). Timimi argues that globalization has commercialized childhood by turning normal behavioural and emotional issues into profitable ones. Advertisers now target children more than ever to make money off parents' anxieties, like the pharmaceutical industries selling drugs to control children's behaviours (which was earlier considered normal) or the massive "parenting advice" industry (Timimi, 2009). This undermines the cultural child-rearing practices in non-Western nations.

Globalization acts as a form of **neo-colonialism** and imposes Western values and cultures while ignoring the background and socio-economic causes of children's problems (Riegert, 2019). He says that the neo-liberal **free market ideology** has permeated Western culture, which prioritizes individual over collective identity (Timimi, 2009). The Western world now targets children as consumers and encourages them to compete with one another, creating a world of "winners and losers" (Timimi, 2009). On the other hand, the non-Western models of childhood have a collective orientation over the individual. In these cultures, the sense of "we and us" dominates the "I" and a person's identity is closely attributed to their family. Unlike the West, the goal is to cultivate interdependence and dependability, and the children are raised within a spiritual and ecological framework (Timimi, 2009). He cites evidence to show that children within these systems have a lower prevalence of mental disorders.

However, these claims might not be entirely true in today's era and thus warrant review. This article aims to shed light on the present relevance of Timimi's work.

Points of Agreement: The Continuing Legacy of Timimi

It's been more than a decade since Sami Timimi wrote this article, and since then, the landscape of children's mental health has been revamped by the relentless evolution of technology and unforeseen global events. However, this analysis remains relevant and acts as a powerful lens to study the framework of children's mental health in a globalizing world. This chapter upholds the continued relevance and salience of Timimi's arguments.

The "McDonaldization" of Children's Mental Health

The author argues that the modern era has "McDonaldized" children's mental health (Timimi, 2009). It treats mental health like fast food, which prioritizes standardization and speed over individualized care. When a child's behavior is inconvenient, disruptive, or stressful, parents desire an immediate "quick fix", like fries and a burger for the soul. Instead of the slow, time-consuming process of understanding and evaluating the child's issues and needs (like preparing a home-made meal), our framework aims at a fast and immediate relief. It fits best with the modern busy lifestyle as it requires little effort - you just have to swallow a pill, which is profoundly hopeful and appealing.

This is in clear contrast to traditional methods that involved counselling, therapy, building trust with therapists, school and family assessments, and long clinical interviews. However, today, increasing mental health issues among children (an estimated 7 million (11.4%) U.S. children between 3-17 years of age have ever been diagnosed with ADHD, as per a survey from 2022 data (CDC, 2024)) and shortage of specialists have led to online screening tools. The pressure on healthcare systems necessitates short consultations and quick diagnosis (Madanian et al., 2023). It leads to conditions where speed becomes more important than actual diagnosis, which is the main idea of McDonaldization. The process is as fast as the time taken to cook fast food.

Modern diagnosis emphasises quantification like frequency ("how often"), number of symptoms, etc., rather than qualitative analysis (Brinkmann, 2024) Tools are used to generate data points for anxiety, depression, etc., and social and emotional realities are reduced to these scores. While it improves accessibility,

it reduces complex emotional life to predictable outcomes. Various factors like academic pressure, bullying, family situation/background, etc., are ignored, paucity of time leaves no opportunity to build trust with therapist and there is no focus on resilience and coping strategies. This can be better understood from the emerging QbTest, which tracks movement and attention in children aged 6-17 years.

Online Quiz/ Screening Tools for ADHD Digital Test (Ordering from the Menu)

For instance, in England and Wales, specialists and psychiatrists have been permitted to use a computer-based test (QbTest) to speed up the diagnosis of attention-deficit hyperactivity disorder (ADHD) in young people and children. The test measures *hyperactivity*, *impulsivity*, and *inattention* by gathering data from teachers, parents, and children. It intends to speed up assessments and reduce long waiting times, since it would take years in some cases (Campbell, 2024). The test is the need of the hour, given the surge in people suspected of having ADHD in recent years.

It is a computer-based test extending up to 20 minutes, wherein the child responds to a target stimulus while ignoring other stimuli (Qbtest). A camera notes the marker's movement that is attached to the patient's head, and the results are then compared with a group of children of the same gender and age who do not have ADHD (NIHR, 2024). This, however, has led to McDonaldization and follows the four principles that were laid down by George Ritzer (1983,100).

1) **Efficiency:** It means doing things in the quickest possible way. In the instant case, the QbTest speeds up the diagnosis that earlier took months and years of waiting (Ross, 2024).
2) **Calculability:** It means prioritising quantity over quality. The QbTest reduces complex child behaviours into a set of numbers (like calories in a fast food) and fails to consider the emotional stress, family context, learning difficulties, and school environment, which also contribute to a child's struggles.
3) **Predictability:** It produces standardized results as every child is subjected to the same test, regardless of individual story and narrative.
4) **Control:** It means monitoring and standardizing everything to ensure it is efficient. The QbTest controls the uncertainty by resorting to an objective and computerized metric rather than time-consuming interviews.

This model is the epitome of predictability and efficiency: the complex struggle of a child is addressed by a short online quiz, followed by a brief video call, and resolved with standardized, predictable, and mass-produced medication. This is like a drive-thru window that focuses on the symptom checklist and involves limited time to dig deeper into the actual cause, and the medication provided amounts to order delivery. This entire system of McDonaldization clearly violates the children's right to express their views in their own terms in matters affecting them (UNCRC Article 12), as modern diagnostic vocabulary expects children to describe their feelings in standardized terms like "depression", "anxiety", etc., but not every child understands distress in similar ways. They may use cultural expressions ("I feel cursed", "God is punishing me", or belief in karma, evil eye, etc.), physiological constraints ("I feel tired", "my body aches"), or societal attitudes ("I feel left out", "I do not feel like interacting"), etc.

In fact, modern systems are being criticized for being decontextualised and ethnocentric as they ignore socio-cultural realities and prioritize fixed categories (Bredstrom, 2017). They constrain how children articulate their suffering, especially those from diverse cultural backgrounds, thus silencing them when their mental well-being is to be protected. They also fail to consider that at times, poor focus might be due to autism, bullying, boredom, sleep deprivation, or stress, and not necessarily ADHD. Ultimately, in certain cases, this leads to *overdiagnosis* (where normal cultural behaviour is considered problematic) or *underdiagnosis* (where actual problem is not captured).

The "One-Size-Fits-All" Psychiatric Model is Troublesome

The author rightly argues that imposing a *universal*, Western psychiatric framework on multicultural populations feels like a form of "cultural imperialism" (Timimi, 2009). It brushes aside and ignores the patient's cultural values, practices, and knowledge, which might lead to a breakdown of trust. Western standards like "depression" and "anxiety" are exported globally with the assumption that they exist in the same form everywhere. Instead, there exist communication and language barriers which affect the quality and amount of healthcare received.

For instance, in the United States – about 37 million adults are non-English speakers, and about 18 million (48%) report that they speak English less than

"very well" (Health Policy Institute). In such cases, if a person cannot even express himself in the accepted language, then his suffering might get ignored. Thus, set aside culture, even language, acts as a barrier to healthcare.

For instance, children in India often feel stressed due to various factors like parental pressure, exam stress, fear of disappointing, etc., still, modern frameworks label this as anxiety, clearly ignoring the schooling environment, social pressure, and family expectations (Pienyu et al., 2024). Similarly, in many cultures, children are taught to be quiet, avoid emotional expression (especially boys), and not question elders, which is in contrast to western norms of "healthy childhood" (one who is vocal and expressive) wherein such silence and low participation might be wrongly diagnosed.

It is to be noted that sharing knowledge is not problematic per se but imposing it as the only valid one is. Non-Western explanations like spirit possession, evil eye, etc., are often dismissed as irrational beliefs and superstitions. This creates a hierarchy where local systems are backward and Western psychiatry is superior and scientific. However, when cultural beliefs are dismissed, families might feel disrespected and misunderstood, and rather, turn to religious practices and traditional healers.

Modern Culture and the Obsession with "Me-first" Culture

The author rightly points out that the recent surge in mental health problems is not merely a biological issue but is the result of real-world events. He says that the Western concept of narcissism has been embedded in our daily life, which is problematic due to its aggressive obsession with "looking after number one" or the "me-first" attitude (Timimi, 2009). This is even evident from the "vicious cycle" where parents are obsessed with academic excellence (India Today, 2020) of children and often end up pressurizing them to perform the "best and be in the number one position".

This creates a hyper-competitive environment where failure becomes intolerable, and relationships become instrumental to personal advancement. Children see "others as competitors and compare with relatives, siblings, classmates, regularly. However, it creates insecurity among children. Children may feel that their value is only in what they can produce, rather than in their individual identity (Deng et al, 2022).

The Dramatic Rise in Psychiatric Medication for Youth

The author tries to solve a big mystery as to why children in the Western world are increasingly being diagnosed with mental health issues and given medications (Timimi, 2009). He argues that the modern lifestyle consists of more pressure, less outdoor play, less family time, and bad food, which genuinely harms children and causes an increase in behavioural and emotional problems.

This argument is powerful and convincing, as, under government policies like "No Child Left Behind" in the U.S., which focus on standardized test scores, there is immense pressure to systematically cut lunch breaks, arts programs, and physical education, and replace them with test preparation and desk time (Lue, 2023). With time, our perception and attitude have changed, but the children remain the same. So, a first-grade child in 1980 would have two recess periods and an extended lunch hour; the same child is fortunate today to get a single break of 15 minutes.

The "Relative Age Effect" in the diagnosis of ADHD

Further, he says our definition of "normal" immaturity has shrunk. The once normal behaviour (like being defiant, daydreaming, or energetic) is now considered a "medical disorder" (Timimi, 2009). This is also a logical argument, as a study conducted by Harvard found that children who were among the youngest in their class were 30% more likely to be diagnosed with *ADHD,* and 25% more likely to receive treatment for it (McCarthy, 2019).

This is because they are naturally more energetic, less focused, and impulsive, which does not fit well with our rigid school curriculum that demands the same behavioural standard for all the children (McCarthy, 2019). Thus, when the age-appropriate immaturity of the youngest child is compared with the maturity levels of their older classmates, they are mislabelled as "suffering from ADHD". In fact, what is even worse is that children are administered medication that they actually don't need (McCarthy, 2019).

This theory even justifies the recent surge in the prescription of drugs everywhere. It is not the result of the identification of a new "illness" but changes in our perception and narrowing of the definition of "normal." Internally, we know that our system is problematic and is hurting our kids, but we find an easy

escape in the form of pills to manage such problems. They are an easy way to avoid questions regarding parenting methods and societal values.

Points of Disagreement: Oversimplification of the North-South binary

While Sami Timimi's 2009 paper is a strong piece, it is not free from criticisms that challenge the core assumptions of the paper.

The Problematic Idealising of "Western Approach"

Timimi centralizes the non-capitalist or the pre-industrial society. He contrasts the narcissistic individualism of the West with the family-oriented and collective cultures of the non-West. He presents the non-Western emphasis on community and interdependence and their child-rearing practices as a solution to a "happier childhood." However, this is problematic and unhelpful for various reasons:

It considers "non-West" as a Homogeneous Identity:

The term "non-Western" is a broad category that includes distinct cultures across Asia, Africa, the Middle East, and Latin America. Timimi relies heavily on examples from the Islamic and South Asian traditions as a prototype for the entire bloc. He completely ignores the varied diversity in the local concepts of mental health, social pressures, and child-rearing.

Example: The South Korean "Education Fever"

There is a stark contrast in the intense academic pressure on the children in China and South Korea, often called the "**education fever**" (Dittrich & Neuhaus, 2023) with a relaxed curriculum in parts of Latin America and Southeast Asia. In South Korean culture, there has been a long-standing cultural emphasis on academic excellence, which has created high stakes for the students. The pressure to succeed has contributed to rising rates of depression and anxiety among the youth (Jeon, 2025). In a study, it was highlighted that the depression rates among the students increased from 25.1% in 2017 to 26% in 2023, while 13.47% students reported having suicidal thoughts (Sung-mi, 2026).

This rigorous schedule is the result of the goal of achieving a high score in the *Suneung,* the highly competitive university entrance examination (Ikeda, 2025). However, for many South Korean students, life is a vicious cycle of studying that begins early in the morning and ends late at night; there is very

little time for recreation or rest (Hyun-ju, 2017). The children feel trapped and unhappy. They often describe their country as "Hell Joseon", a place which is inescapable due to intense competition and constant "rat race" (Jae-yun, 2024). Thus, the South Korean "education fever" is a powerful counter-narrative to the author's idea that non-Western societies are less stressful.

Why a strong family community can sometimes increase School stress in South Korea

Sami Timimi generally argues that collective social units and strong family bonds in non-Western countries foster cultures that act as a protective barrier against individualized stress and alienation in the West (2009). He posits that these cultures produce more stable and happier children. However, South Korea offers a powerful counter-narrative.

In South Korea, parents are deeply involved in managing their child's academic life. Parents' success is determined by their child's score, due to which almost every dining table conversation can turn into a reminder of exams, school, or high expectations (Min-sik, 2025). Thus, the concept of "we-ness" carries the weight of family honor on its shoulders, and the family unit does not alleviate stress but magnifies it. Moreover, if parents or institutions prioritize achievement, rank, or status over emotional well-being, this violates the *best interests of the child* as it produces isolation, anxiety, and insecurity, thus undermining Article 3 (UNCRC, 1989).

In fact, Article 19 of the UNCRC obligates states to prevent, detect, and respond to all forms of harm, including physical or mental violence, abuse, or injury, especially within the care of a parent or legal guardian (UNCRC, 1989). However, constant comparison, conditional love based on performance, excessive pressure, or humiliation can amount to psychological or emotional harm, even if unintentional.

Further, education must be administered in a way that respects the child's dignity (UNCRC Article 28(2)). and ensure his mental abilities, talents, and personality are developed to their full potential (UNCRC Article 29). However, in such a competitive environment, even the school's social capital becomes a rival (Jarvis et al., 2020). They are strong competitors, all fighting for the same spot in the premier institutes. Thus, even being around friends creates a

panopticon of peer surveillance, which is a constant reminder of the competition and can transmit more stress than being a sigh of relief. Thus, this example critically undermines Timimi's idealized binary between the overburdened and stressful West and a supportive "non-West."

Intense focus on the West as the primary source of psychological harm

Timimi posits that interdependence and collective unity in non-Western cultures prevent the stress-led isolated life of Western individualism. However, he overlooks the inherent patriarchy of these community-led traditions. For instance, the family honor is attributed to women's conduct and chastity, which attacks the very basis of Timimi's arguments and transforms the family into a framework of pressure and surveillance, where a girl's identity is suppressed by the weight of collectivism.

Timimi considers Western "consumerism, capitalism, and individualism" as the major source of youth stress but fails to account for the sufferings ingrained in traditional values. For instance, the "Woman, Life, Freedom" protests in Iran led by young women are a strong counter-narrative. These women were not protesting against ADHD diagnoses or consumerism, but a more *internal* matter that governs their minds and bodies – *theocratic patriarchy.* They advocated for bodily autonomy, women's rights, and an end to patriarchal laws – elucidating a movement from collectivism to individualism (OHCHR, 2025). This is a deeply internalized and ancient tool of suffering that Timimi fails to consider.

"Western Colonialism" can be a sign of liberation for the oppressed

Timimi critiques that the global implementation of psychiatric labels like depression and PTSD is a form of *neocolonialism*. They impose a Western understanding of childhood and stress by promoting universally applied therapeutic methods and invalidating the local and indigenous system of healing. However, it becomes problematic when the "indigenous system" is itself a source of trauma and depression.

Timimi's framework has no vocabulary to explain the psychological harm suffered by a child bride who is forced to marry, or a young girl subjected to female genital mutilation. The girl's emotional numbness and terror are rendered invisible and are seen as weakness and disobedience. The indigenous model offers no treatment as it does not recognise the wound. The "collective family

unit" that induces a 14-year-old into marriage is seen as an act of responsibility towards the community.

Thus, under the realm of this suffocating silence, a diagnosis of PTSD provides a language to the event that the indigenous culture fails at. It reframes the experience from "tradition" and "duty" to a "traumatic event." It stands up against the harmful cultural practices by validating the girl's suffering as real and legitimate. For a girl whose suffering was negated for long, it is a crucial step towards healing. Thus, in such contexts, a "Western diagnosis" is not a colonial subjugation but a tool for liberation.

Harmful Cultural Beliefs and Practices

The Western medical fraternity, despite all its flaws, considers mental stress an **illness,** where an individual is seen suffering from a medical condition and warrants treatment. In fact, article 24(3) of UNCRC obligates State parties to take "appropriate and effective measures to abolish traditional practices which are prejudicial to children's health" (UNCRC Article 24(3)). However, the traditional frameworks, which Timimi symbolises, often attribute mental stress to witchcraft, spiritual curse (e.g., black magic, "nazar"), or personal failing (Neuroscience, 2024). The individual's body and mind are believed to be *hijacked* by a demonic possession. The distress is also justified as a result of divine retribution for a sin committed by an individual or the family.

In such cases, no antipsychotic medication is given; rather, "treatments" are acts of torture that are ineffective and lead to social ostracization. In the name of "treatment", these individuals are shackled to trees, deprived of food and water, beaten, or subjected to other forms of violence (HRW, 2016). This is not seen as abuse but a way of weakening the possessing spirit into submission and forcing it to leave. These coercive practices rather exacerbate the children's health and result in the denial of medical care.

For a child with ADHD or any other form of mental distress, this process of treatment is a nightmare. His psychological or neurological symptoms are perceived as a "stubborn spirit" that must be tortured or abused into submission. Such a person is not met with compassion but with violence. Thus, Timimi's blind praise of the "indigenous system" completely overlooks this dangerous reality. His paper creates a false *binary* between a commercialized Western

model and a pure, traditional, and authentic one. He fails to acknowledge the **biomedical model** that offers a humane alternative and considers a person as a patient who needs care, rather than a sinner who deserves punishment.

Timimi ignores how Non-Western nations engage with Globalization

The author presents a framework where a monolithic "West" imposes its views on the victimized "non-West." However, it presents an outdated and simplistic view of globalization, and the ground reality is even more complex. Non-Western cultures are not mere recipients of Western influence but are also active agents of globalization who fuse global influences with local values to create hybrid realities.

This can be understood from the modern "hustle culture" (Carnegie, 2023). A young person working in a corporate firm in Mumbai, or at the financial centers of Shanghai, carries a dual burden: the modern, individualistic drive to succeed (that he must get promoted and succeed for himself) *and* the collectivist duty to bring financial security to the family and maintain reputation and honor for the family and the entire lineage. This hybridized pressure is a domestic creation and not a foreign imposition.

The Two-way flow of Harmful Commercialism: The Korean Beauty Aestheticism

One of the most potent criticisms of Timimi's article is the presumption that cultural imposition is a one-way flow from the Western to the non-Western world. However, it does not hold in today's context, where non-Western nations are also significant exporters of their own commercialized ideals, which are just as damaging to the youth's mental health.

South Korea is a prominent example to explain this argument. Far from being a victim of Western imperialism, it dominates the global culture. K-dramas and K-pop are widely appreciated across Asia and the world. The Korean beauty secret, with its highly rigid and demanding beauty standards like "glass skin" and "paper-thin waist," has created a new benchmark for beauty (The Straits Times, 2017). This aestheticism is promoted by the billion-dollar entertainment and cosmetic industries across the world.

However, they negatively impact the youth's mental health who face intense pressure to conform to these non-Western ideals. This has led to rising

cases of body dysmorphia, eating disorders, and increasing demand for cosmetic surgery among adolescents (Zhang et al., 2018). Thus, this phenomenon is a strong attack on Timimi's presumptions. It is a powerful example of how non-Western societies are contributing to globalization and psychological distress, which Timimi, in general, attributes to the West.

Conclusion: A Ground Framework for the Modern World

Sami Timimi's "The Commercialization of Children's Mental Health in the Era of Globalization" remains an essential and relevant piece even today. I am in complete consonance with Timimi's core arguments that the aggressive and profit-driven interests of the pharmaceutical industries, the indirect pressures of Western neoliberal culture, over-reliance on experts for child-rearing, and terming normal childhood traits as disorders have led to childhood distress and depression. His work acts as a warning against the "selfish capitalism" that medicalizes individual suffering for profits.

However, since this paper was written over a decade ago, it bears certain limitations in the multi-polar reality. I found certain points of disagreement, not per se with his observations about the West, but with the narrative that he builds. The major problem with the paper is that it creates a North-South binary - where he vilifies the individualistic and consumer-centric "West" and idealises the community-centric "non-West." This framework is inherently dangerous and overly simple. In an attempt to romanticize the "non-West," it overlooks the internal sources of distress within it. Whether it is the patriarchal model of traditional societies or the profound stigma against mental illness that attributes them to supernatural curses, Timimi's model loses relevance. His model of one-way flow of globalization is outdated. In fact, non-Western cultures now offer a powerful narrative and are active agents of globalization, which at times contribute towards distress and depression.

Further, Timimi's criticism of "psychiatric colonialism" falls flat when faced with suffering caused by indigenous cultures. For a young bride or the survivor of FGM, a "Western" diagnosis of PTSD is not an act of colonialism but a sigh of liberation which recognises and validates the harm that their own culture fails to acknowledge. In conclusion, Timimi's paper is not wrong but is incomplete. It finds it difficult to cope with the modern developments; thus, it requires a much-needed overhaul.

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Journal on the Rights of the Child of National Law University Odisha
Vol. VII, Issue I, April 2026, pp. 129-136

JUDICIAL FORMALISM AND CHILD PROTECTION: A CRITICAL ANALYSIS OF THE DELHI HIGH COURT RULING IN THE UNNAO RAPE CASE

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Abstract

"*Power, in the absence of a clear definition, is a shield." The ruling of the Delhi High Court in the Unnao rape case is a classic example of how the lack of a definition of "public servant" under the Protection of Children from Sexual Offences Act, 2012 (POCSO Act) is being used to shield the powerful from accountability to the weakest members of society. By reducing the conviction of Member of Legislative Assembly (MLA) Kuldeep Singh Sengar for aggravated penetrative sexual assault under Section 5(c) of the POCSO Act to penetrative sexual assault under Section 3 of the POCSO Act on the basis of the fact that a member of the Legislative Assembly is not a "public servant" under the Indian Penal Code, 1860 (IPC), the High Court has adopted a stance that is both legally incorrect and morally repugnant. This article contends that the approach of the High Court is inconsistent with the approach of purposive and victim-centric interpretation of special protective legislation, which is at odds with the best interests of the child principle enshrined in the United Nations Convention on the Rights of the Child (UNCRC), and the article also highlights a critical gap in the definition of "**public servant**" under the relevant legislation. It concludes with a recommendation that technical interpretation must not be permitted to act as a shield for those in authority from the enhanced accountability that the POCSO Act was specifically designed to impose.*

Keywords: minor, public servant, MLA, POCSO Act, purposive interpretation, child rights, bail

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Introduction

The Protection of Children from Sexual Offences Act, 2012, was enacted to implement India's obligations under the UNCRC, providing a comprehensive framework to address sexual offenses against children below the age of eighteen. The cornerstone of the Act is the best interest of the child principle, which must be a primary consideration in any inquiry, as emphasized in Article 3 of the UNCRC, supplemented by Article 15(3) of the Constitution of India. The aggravated offenses, including Section 5(c), of the Act demonstrate the legislative intent to hold abusers of authority accountable for their offenses.

In the recent Delhi High Court judgment in Kuldeep Singh Sengar v. Central Bureau of Investigation (2024), a critical question has arisen: whether the protective purpose of the POCSO Act can be defeated through the incorporation of restrictive definitions from a general penal code. This article critically evaluates this question through the lens of the child rights paradigm, general principles of interpretation, and relevant case law.

Background of the Case

On 4 June 2017, a 17-year-old victim was raped in Uttar Pradesh by a BJP MLA, Kuldeep Singh Sengar, and his associate. The police did not register a First Information Report, and the victim's father was arrested on false charges of possession of arms and died in custody after being subjected to fourteen injuries. The perpetrator, Sengar, was convicted of culpable homicide punishable under Section 304 Part II of the IPC. Further the victim herself met with a road accident in 2019, in which two of the victim's relatives were killed and the victim herself was injured, the Supreme Court transferred the case to Delhi. The victim's case was tried by a Special Court in Delhi, and the perpetrator, Sengar, was convicted of several IPC sections and, most importantly, of Section 5(c) of the POCSO Act, for which he was sentenced to life in prison.

The High Court's Reasoning

The Delhi High Court examined the applicability of the POCSO Act, specifically whether the classification of penetrative sexual assault by a "public

servant" as an aggravated offence, which attracts a minimum of twenty years' rigorous imprisonment, applies to Sengar. Since the POCSO Act does not specifically define "public servant," the Court had to refer to the IPC, Section 21, which defines "public servant." However, the Court found that the definition does not specifically include a "member of the legislature of a State," and hence, the conviction was reduced to the charge of penetrative sexual assault under Section 3 of the POCSO Act. Bail was also granted since Sengar had served more than the minimum seven years' imprisonment, which was the minimum prior to the 2019 amendment. The Court did not apply the increased penalties as per the Protection of Children from Sexual Offences (Amendment) Act, 2019, since it found the retrospective application not permissible.

The Supreme Court's Intervention

The Supreme Court stayed the order of the High Court on 29 December 2025, observing the unusual circumstances of the case, which included the separate conviction of Sengar for the custodial death of the survivor's father, as well as the possibility of simultaneous release in two cases. The Chief Justice of India pointed to the absurdity of the High Court's logic, which imposed harsher sentences on junior state officials such as police constables, while legislators with much higher powers would be let off scot-free, and asked if such an outcome was possibly in line with the object of the POCSO Act.

Critical Analysis

Formalistic Interpretation Contrary to Purposive Principles

It is a primary canon of interpretation that special protective legislation is to be interpreted purposively, in a manner consistent with, rather than in conflict with, the object of the legislation. As a leading text on the subject, Bennion on Statutory Interpretation, states, "Where the enactment is protective in character, the court must prefer the construction which most effectively performs the protective function." This has been consistently followed by the Supreme Court in India in the context of the POCSO Act, holding, in a number of cases, that the court must interpret the Act in a manner consistent with the object of protecting the child survivor.

The blanket adoption of the IPC's definitions into the POCSO Act appears

to be doctrinally incorrect. It does so without assessing whether it is beneficial to the protective object of the Act. POCSA Act is a paradigm shift in dealing with Child Sexual Abuse in India on account of its replacement of the IPC with a special law. Subordinating a special law to a general law is a negation of a paradigm shift.

The "Public Servant" Issue: An Interpretatively Contested Question

The finding of the High Court that an MLA cannot be characterized as a "public servant" under Section 21 of the IPC must be understood with some caveats. The question of whether an MLA qualifies to be characterized as a "public servant" under Section 21 of the IPC is an interpretatively contested question, which has not been conclusively decided. The definition of "public servant" under Section 21 of the IPC is an inclusive one, covering only a non-exhaustive list of individuals who perform public service. The question of the applicability of the definition of a "public servant" to a Member of Parliament was addressed in a different context in the Supreme Court judgment in P.V. Narasimha Rao v. State (1998).

More fundamentally, even where it is accepted that the IPC definition is used as a reference point, it is still open to the courts to interpret the definition as it is incorporated in a manner that is consistent with the object of the POCSO Act. The High Court does not appear to have engaged with this analysis with sufficient rigor. In any event, where the aggravated category of abuse defined by the POCSO Act includes abuse by a person in a position of trust or authority over a child, it is arguable that legislators who hold a significant amount of power in their constituency would need to be subjected to a much stronger test than a bare reference.

Incompatibility with the Child Rights Framework

The POCSO Act has been enacted in consonance with India's obligations under the UNCRC, which in its Article 3 stipulates that the "best interests of the child" shall be a primary consideration in all judicial proceedings. Kilkelly (2017) opines that this principle is not merely aspirational but is a "binding interpretative principle" that requires the interpretation of ambiguity in the legislation in favour of the child. The judgment of the High Court has not engaged with this framework at any point in its judgment. When the Court

granted bail to Sengar, the convict who had demonstrated a long history of abuse of authority, intimidation of the survivor, and the killing of the father of the survivor in custody, the Court has failed to keep the interests of the vulnerable child survivor at the centre of its judgment.

Questionable Basis for Sentence Suspension

Suspension of a sentence in a grave sexual offence is not a routine procedure. In the case of Omprakash Sahni v. Jai Shankar Chaudhary, the Supreme Court held in 2023 that the suspension of a sentence must prima facie be determined based on the assessment of whether the case put forward by the prosecution, as accepted in the trial, has a genuine prospect of acquittal on the basis of an appeal. In the case of Jamnalal v. State of Rajasthan, the Supreme Court held in 2025 that minor gaps in the prosecution's case would not suffice in the suspension of a sentence. However, even though the High Court's basis in the case was questionable in the application of Section 5(c), the conviction under Section 3 of the POCSO Act remained valid. Under Section 4 of the Act, as amended in 2019, the imposition of life imprisonment is provided in the case of penetrative sexual assault. However, even in the absence of the amended provision's retroactive application, the Court was bound to consider the basis upon which the sentence was imposed by the trial court in accordance with the entire Act.

Conclusion and Recommendations

Overall, what these findings indicate is that the approach of the High Court has resulted in a formalistic construction as against the protective and rights-based construction that the POCSO Act prescribes. First, the formalistic construction by the High Court of what constitutes "public servant" by relying on the IPC's definition of "public servant" and not taking into account the object and purpose of the POCSO Act is not only in violation of the principles of interpretation of statutes, it also results in a bizarre outcome whereby the powerful would not be held accountable for their actions. Second, the interpretation of "public servant" in the context of Section 21 of the IPC is itself a problem, and the court had the authority and obligation to interpret it in favor of the child survivor. Third, the imposition of a suspended sentence has not been subject to an assessment of the sustain-ability of the life sentence

provided for in Section 4 of the POCSO Act.

Three recommendations are made. First, it is recommended that courts approach the POCSO Act with a purposive and victim-centered approach in their interpretation, where the best interests of the child are used as a primary interpretive approach that prevails over, rather than is limited by, definitional uncertainties drawn from common law. Second, it is recommended that Parliament amends the POCSO Act to include a comprehensive and expansive definition of "public servant" that includes legislators who are elected and all individuals who have authority over children, in order to plug the gap that this case has created. Third, it is recommended that Indian courts take a view on the UNCRC as a substantive interpretive approach rather than a rhetorical device used to justify decisions already reached.

The child in this case has suffered not merely a heinous crime but a long period of institutional apathy, coercion, and loss. The POCSO Act was enacted to ensure that the law responds to such crimes with the full force of its protective purpose. Purposive interpretation, which is sensitive to the interests of vulnerable groups and power disparities, is a doctrine and a constitutional imperative.

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Journal on the Rights of the Child of National Law University Odisha
Vol. VII, Issue I, April 2026, pp. 137-142

UNDERSTANDING ADOLESCENTS IN A DIGITAL WORLD: A COMMENTARY ON THE NETFLIX LIMITED-SERIES 'ADOLESCENCE'

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Abstract

Netflix's four-part limited series 'Adolescence', released in early 2025, is a critically acclaimed representation of lives of adolescents in today's digital world, sometimes even leading to nasty situations and producing children in conflict with law. This commentary revisits the award-winning show to understand its portrayal of the intersection of child in conflict with law, social environment dictating the lives of adolescents, mental health, familial bonds and parenting as well as the juvenile justice system. This article analyses the show and argues that it contests conventional narratives, and instead draws attention towards parenting failure due to lack of knowledge, rapid inculcation of 'manosphere' amongst digitally-influenced adolescents and the limits of protective systems.

Keywords: adolescence, child in conflict with law; juvenile justice; digital world; social media, manosphere

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Introduction

In March 2025, a four-part limited series on Netflix broke the internet. In the first four days of its release, it garnered 24.3 million views worldwide becoming the most top-watched series in more than 70 countries (India Today Entertainment Desk, 2025). At the 2026 Golden Globe Awards, the series took home four awards including the youngest actor to ever win a Golden Globe. Written and created by Stephen Graham and Jack Thorne, and directed by Philip Barantini, 'Adolescence' created waves soon after it was released on Netflix. The series is not only technically praiseworthy for its impeccable direction and single-take episodes without any edits, but also has a compelling story-telling which forces the viewer to ponder upon 'childhood and adolescence' in today's times.

Set in a small town in South Yorkshire of England, Adolescence is the story of a 13-year-old boy, Jamie Miller, who is charged with and arrested for the murder of a girl from his school. The series begins with armed police officials barging into Jamie's house and arresting him on count of murder. From thereon, the series unfolds the socio-legal institutional interweaving of the system with juvenile justice. The Guardian accurately reported it to be 'the drama that will horrify all parents' (Heritage, 2025) because it sets up a rendezvous of the parents with a side of their children that they didn't know existed. The daunting part about the story is its resonance with the real world. Adolescence is an exceptional narration of the culture of digital world and how children today are consumed by it and live their lives figuratively inside it. It also portrays how the legal systems, schools, peers, families and the digital environment intersect to shape their lives. When Jamie's peers in the show nonchalantly refer to terminologies such as 'blue pills', 'red pills', 'incel', etc., it makes not only the adult characters in the show but also the viewer sitting back home, to take a pause and learn about these terms and how they control the lives of children these days.

Socially-Induced Adolescent Vulnerability

One of the crucial aspects of the show is its affirmation of the idea that an adolescent is not just the product of who they are as an individual but primarily of the social influences around them. Jamie is seen to be a regular boy from the outside, but is caught in the web of what is referred to as 'manosphere'. Manosphere is referred to online communities in the digital world which target male audience to spread the idea of 'an ideal man', often packaged with misogyny, toxic masculinity, normalizing violence against women, hate speech, etc. (UN

Women, 2025). More often than not, neither parents nor officials at school are able to detect or notice any signals of such behaviour. Hence, it is almost like two different worlds that the child lives in, each being disassociated from the other. In the show, Jamie is seen to be deeply affected by the non-reciprocation of his 'romantic feelings' and subsequent 'bullying' by Katie Leonard on Instagram, leading him to eventually stab her to death. The investigating officer discovers that Katie had replied 'incel' to one of Jamie's comments on Instagram, which could possibly one of the triggers. Cyberbullying among adolescents is of increasing concern with research typically reporting around 13 to 70% of youth have experienced cyberbullying, with prevalence rates peaking in grades seven to ten (Jackson, Bussey, & Trompeter, 2020). Studies report that children who are victimised tend to experience an erosion of self-confidence and self-esteem, more so than their un-victimised peers (Smorti et al., 2005).

The show exhibits the greater concern of impact of digital world and its ability to influence adolescents in ways which adults often may not understand or comprehend. It brings to the forefront the subculture of manosphere and how deeply it permeates into the lives of young boys. The series forces adult viewers, especially parents of young adults, to face the reality of online risk environments that their kids are subjected to leading to shaping their thoughts, ideals, and behaviour.

The writers deliberately show Jamie to belong to a normal family with no issues or troubles at home, so that there is no emotional justification for his act. Many teenage and adolescent dramas show the child growing in a dysfunctional family, or having abusive parents, or alcoholic or absent parents, and therefore they turn out to be who they are. However, Adolescent completely negates this narrative by in fact showing that Jamie's parents are loving and caring. Yet the nuance lies in their failure to simply understand the inner world of Jamie. It is not neglect of the parents but rather a lack of knowledge about the vulnerability of their child in the parallel digital world. Thus, the narrative of the show problematizes the broader socio-cultural impact on a child outside the familial bonds, rather than villainizing the parents.

Series' Engagement With Child in Conflict With Law

The idea of juvenile justice and child welfare mechanisms is based on the presumption that a child in conflict with law is on a revertible trajectory. They can recover from the digression and seamlessly reintegrate back into

mainstream society. However, Adolescence challenges this notion and sparks a conversation about viability of rehabilitation in some situations. The show also demonstrates the effect of surveillance at various levels – family, institution and digital realm. Digital presence, online behaviour and documentation of one's lives creates more permanence, which may act as a hinderance for rehabilitation and defeat the concept of a 'fresh start'.

Adolescence also dedicatedly engages with the aspect of mental health and psychological assessment of Jamie. It does so without over-simplifying the conversation and interaction between Jamie and the forensic psychologist, Briony Ariston. It rather portrays how pervasive the impact of digital space is on Jamie, that during many parts of his conversation with the psychologist, she is left distressed. The third episode of the series, which is perhaps one of the most impactful and brilliantly delivered episodes, shows counselling sessions between Jamie and Briony seven months after his arrest. During the sessions, Jamie is seen to have little remorse over his act, and rather reveals his notions about masculinity, the fact that he wanted to take advantage of Katie while she was in an emotionally vulnerable state, his confession to wanting to grope her during his confrontation meeting about her comments on Instagram, and eventually ending up taking her life with the knife which he originally intended to use only to threaten her. At one point Jamie is also seen asking Briony whether she likes him, indicating the constant urge to get attention from and be liked by the opposite gender. These revelations and conversations, leave not only Briony disturbed and perturbed, but also makes the viewer question about the evolution and state of mind of an adolescent in today's times. It implies that their lives are so heavily controlled and gripped by what is happening to them on social media, that they are detached from the impact of their actions in the real world. Counselling and psychological intervention are integrated into the storyline but is not presented as the ultimate solution. On the contrary it is shown to have its own limitations, and inability to deal with the complexities of an adolescent mind. The determinants of stress, confusion, aggression and deficiency in understanding the consequences of action despite the intervention, show the deep-rooted structural impact. In the end, Jamie is seen waiting for trial, where he decides to plead guilty.

Conclusion

Adolescence, apart from the cinematic sensation that it got accolades for, also raised some very pertinent questions about parenting and familial bonds in

current times. It draws attention to conversations about online stigmatization, radicalization, perception-building about opposite gender through social media narratives, youth aggression and violence, social isolation, perpetuating toxic masculinity, and so much more. The show to an extent also proves, Blumler and Katz's Uses and Gratifications Theory, which states that individuals often turn to media to gratify their needs, whether cognitive, effective, personal integrative or social integrative (Sichach, 2023). It is a wake-up call not only for parents but also stakeholders, including institutions, educators, law and policy makers, to confront issues which affect children as well as their families, and introduce necessary interventions. In the last episode of the series, it is shown how even a year after Jamie's arrest the family was struggling with social ostracization, vandalism and simply trying to get back to normalcy.

The show is also an illustration of the difference in approach from what we see in the Indian system. The Indian system is protective in nature of a child in conflict in law and has certain mechanisms in place to ensure the same; for example - mandatory bail under Section 12 of Juvenile Justice (Care and Protection of Children) Act, 2015 irrespective of the nature of offence. In the series, Jamie is held in detention for almost a year since the date of arrest, awaiting trial. Child in conflict with law is to be kept in observation homes or safe houses and not in police lock-ups or jails. Jamie is seen to be apprehended from his home by heavily armed police personnel and thereafter being kept in detention in a lock-up.

Adolescence, as a show, certainly holds a distinct place in pop culture not only for its take on one distressing event but also for addressing the nuanced issues leading up to that one event and beyond it. One line from the show– "*It's crazy what your brain tells you to do when you are a kid"* sums up the essence of dealing with children in conflict with law and those in need of care and protection. With digital space all-encompassing their lives, vulnerability can now stem from invisible environments, making it even more difficult to shadow them to offer protection. The show marks a significant contribution in going beyond over-simplification of issues related to children in conflict with law and initiates a discourse on rights of children and role and responsibilities of adults in the digital age, thereby being a testament to the fact that pop culture continues to be a strong medium of displaying and deliberating upon complex socio-legal critique.

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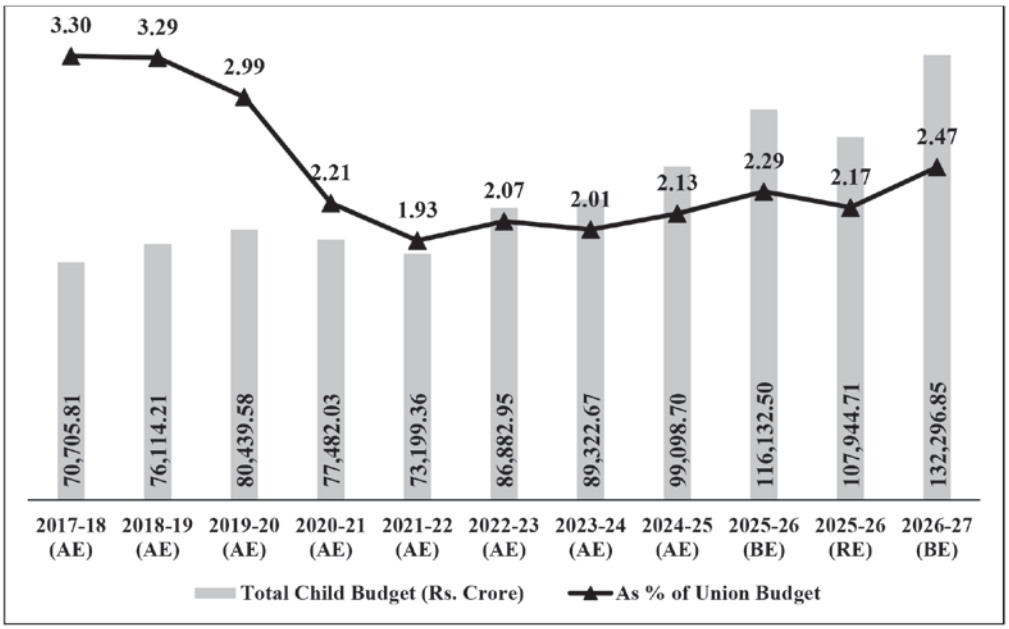
Journal on the Rights of the Child of National Law University Odisha
Vol. VII, Issue I, April 2026, pp. 143-154

INFOGRAPHICS ON CHILD BUDGET IN UNION BUDGET

Research & Knowledge Exchange Team, Child Rights and You (CRY)

Figure 1:Union Budgetary Allocations and Expenditure on Child-focussed Interventions (2017-18 to 2026-27)

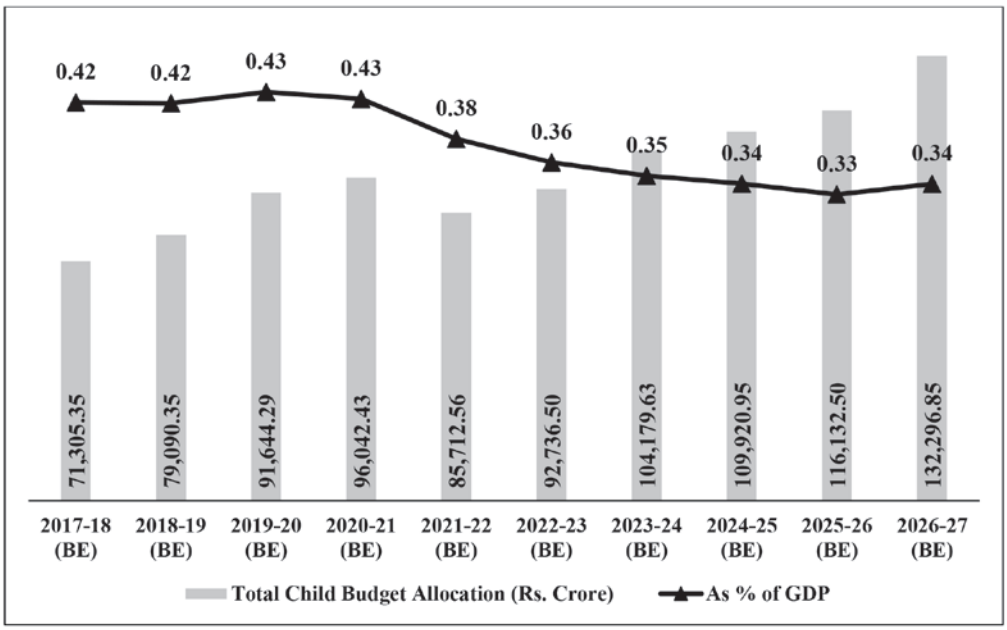


Notes: AE: Actual Expenditure; BE: Budget Estimates; RE: Revised Estimates.
Source: Statement 12, Union Budget of India (various years).

Highlights from Figure 1:

- The total child budget in the Union Budget stands atRs. 132,296.85 crore for 2026-27 (BE), which reflects an increase of 13.9% over the allocation of Rs. 116,132.50 crore for 2025-26 (BE) and an increase of 22.6% over the RE of Rs. 107,944.71 crore for 2025-26.
- As a percentage of the total Union Budget, the allocation for child budget has increased from 2.29% in 2024-25 (BE) to 2.47% in 2025-26 (BE).
- Total AE on child-focused interventions as a proportion of the total Union Budget decreased from 3.30% in 2017-18 to 1.93% in 2021-22, followed by an increase to 2.07% in 2022-23, a decline to 2.01% in 2023-24, and an increase to 2.13% in 2024-25.

Figure 2:Union Budgetary Allocations for Child-focussed Interventions as a percentage of GDP (2017-18 to 2026-27)



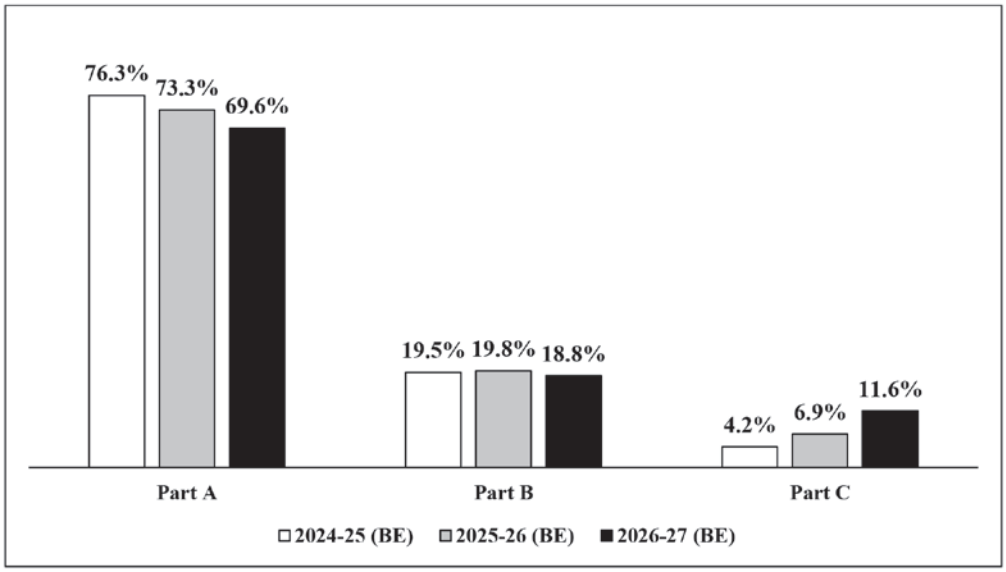
Notes: BE: Budget Estimates; GDP: Gross Domestic Product.

Source: Budget at a Glance, Union Budget of India (various years); Statement 12, Union Budget of India (various years).

Highlights from Figure 2:

- As a share of Gross Domestic Product (GDP), the allocation for child-focussed interventions exceeded 0.40% between 2017-18 and 2020-21.
- Since 2021-22, this has started to dip, reaching 0.33% of GDP in 2025-26, followed by a marginal increase to 0.34% in 2026-27.

Figure 3:Shares of Parts A, B and C in Union Budgetary Allocations for Child-focussed Interventions (2024-25 to 2026-27)



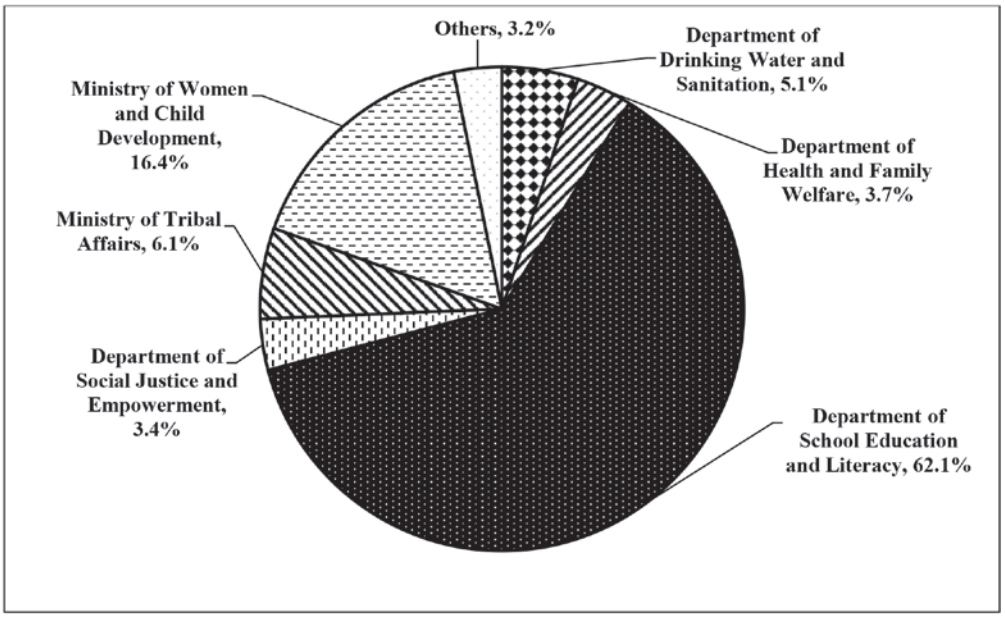
Notes: BE: Budget Estimates.

Source: Statement 12, Union Budget of India 2025-2026 and 2026-2027..

Highlights from Figure 3:

- Statement 12 of the Union Budget 2026-27 categories allocations/expenditure on child-related schemes into three parts (introduced for the first time in Union Budget 2024-2025) as follows:
  (1) Part A: Schemes with 100% provision for children
  (2) Part B: Schemes with 30-99% allocations for children
  (3) Part C: Schemes with allocations for children up to 30% of the provision
- The total child budget in the Union Budget 2026-27 reveals that Part A has received the maximum share (69.6%), followed by Part B (18.8%) and Part C (11.6%).
- A similar pattern can be seen in the allocations across the three parts for 2024-25 (Part A: 76.3%, Part B: 19.5%, Part C: 4.2%)and 2025-26(Part A: 73.3%, Part B: 19.8%, Part C: 6.9%).
- There has been an increase in allocations under all three parts in 2026-27 compared to 2025-26. On the one hand, while the increase in allocations under Parts A and B is about 8%, the increase in Part C allocations is to the tune of 92.1%, primarily driven by the inclusion of JalJeevan Mission under the Department of Drinking Water and Sanitation

Figure 4: Shares of Ministry/Department-wiseBudgetary Allocationsfor Child-focussed Interventions (2026-27)

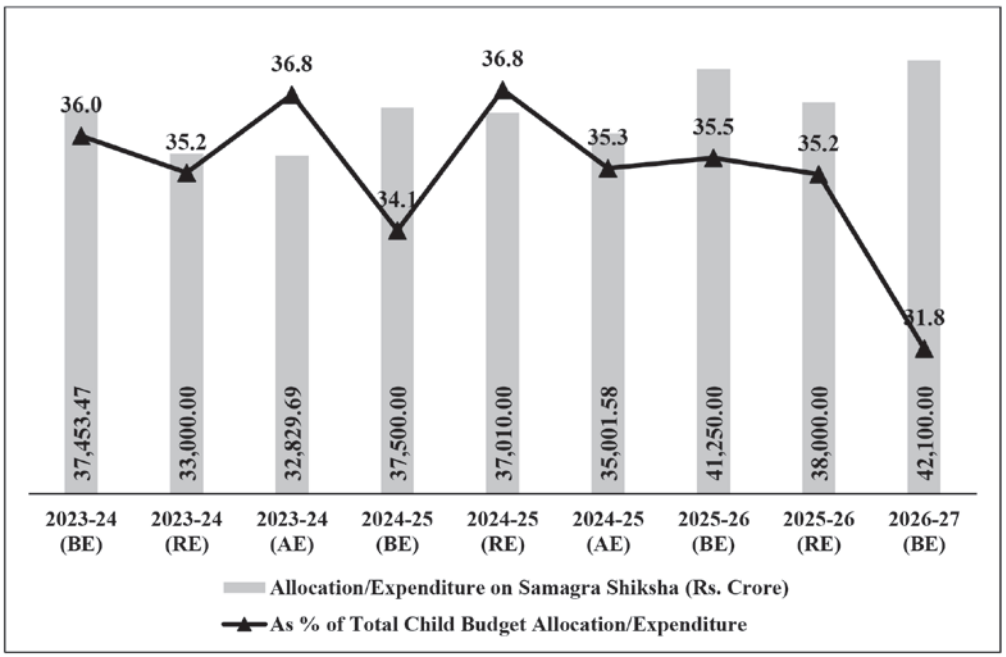


Source: Statement 12, Union Budget of India 2026-2027.

Highlights from Figure 4:

- As far as child budget allocations under various Ministries/Departments are concerned, the share of Department of School Education and Literacy stands at 62.1% of BE (2026-27) followed by Ministry of Women and Child Development (16.4%), Ministry of Tribal Affairs (6.1%), Department of Drinking Water and Sanitation (5.1%), Department of Health and Family Welfare (3.7%), and Department of Social Justice and Empowerment (3.4%).

Figure 5: Union Budgetary Allocations and Expenditure on SamagraShiksha (2023-24 to 2026-27)

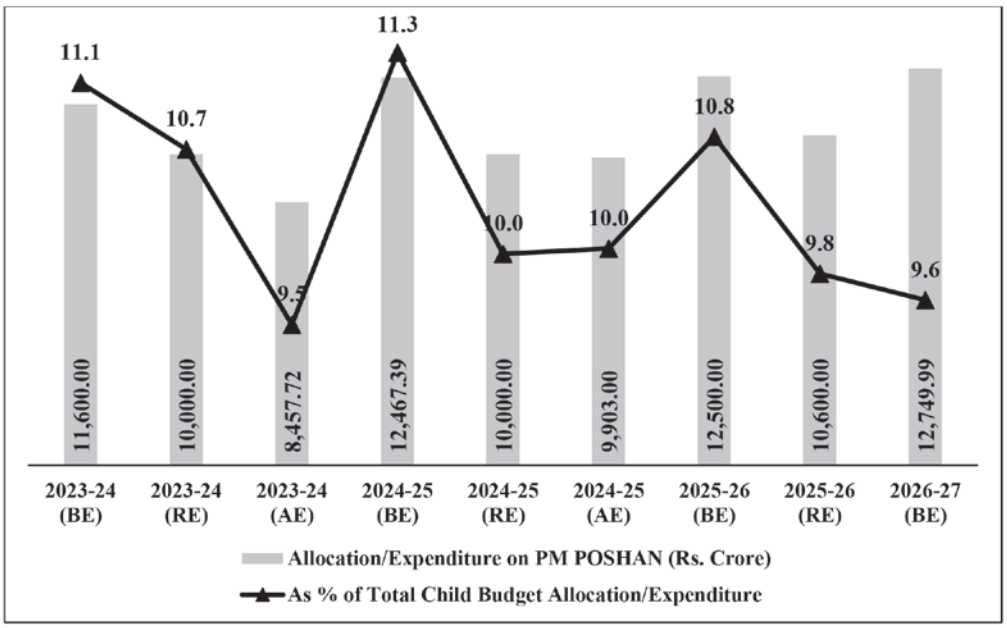


Notes: AE: Actual Expenditure; BE: Budget Estimates; RE: Revised Estimates.
Source: Statement 12, Union Budget of India (various years).

Highlights from Figure 5:

- SamagraShiksha has been allocated Rs. 42,100 crore in 2026-27 (BE), up from Rs. 41,250 crore in 2025-26 (BE), an increase of Rs. 850 crore, i.e., 2.06%.However, the 2025-26 (RE) stood at Rs. 38,000 crore, reflecting a downward revision of approximately 8% from the original BE.
- In 2023-24, the scheme recorded an allocation of Rs. 37,453.47 crore (BE) which was revised down to Rs.33,000 crore (RE) and further to Rs.32,829.69 crore in the AE.
- In 2024-25, while the BE remained also similar at Rs.37,500 crore, AE improved to Rs. 35,001.58 crore, with relatively better absorption.
- SamagraShiksha accounted for 36.0% (BE), 35.2% (RE), and 36.8% (AE) of the total child budget in 2023-24, and 34.1% (BE), 36.8% (RE), and 35.3% (AE) in 2024-25. Its share stood at 35.5% (BE) and 35.2% (RE) in 2025-26, declining to 31.8% (BE) in 2026-27.

Figure 6: Union Budgetary Allocations and Expenditure on PM POSHAN (2023-24 to 2026-27)



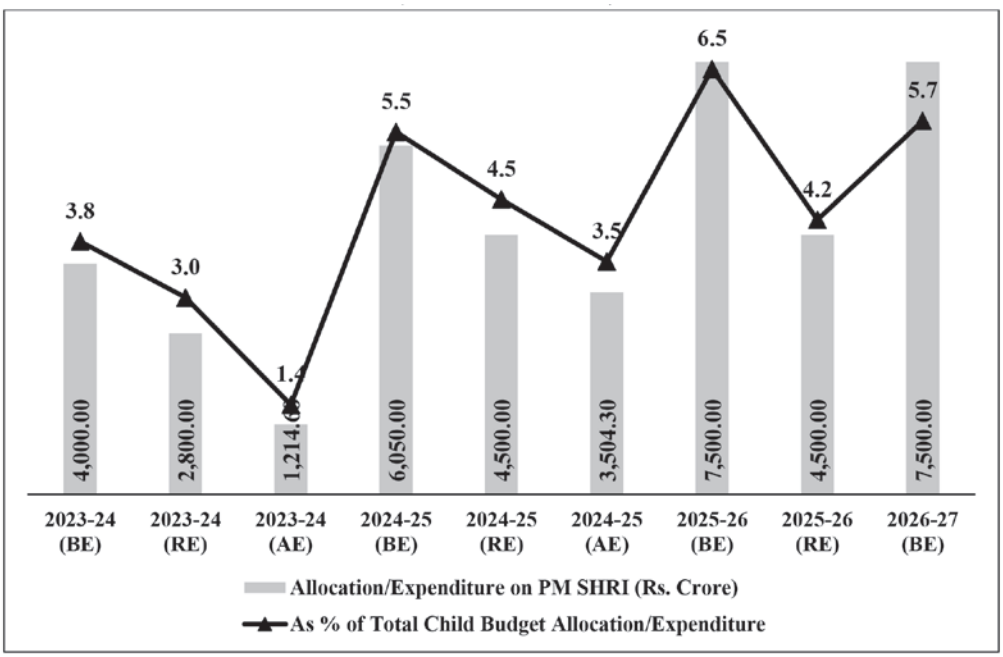
Notes: AE: Actual Expenditure; BE: Budget Estimates; RE: Revised Estimates; PM POSHAN: Pradhan MantriPoshan Shakti Nirman

Source: Statement 12, Union Budget of India (various years).

Highlights from Figure 6:

- The allocation for PM POSHAN (Pradhan MantriPoshan Shakti Nirman) has increased from Rs. 12,500 crore in 2025-26 (BE) to Rs. 12,749.99 crore in 2026-27 (BE), a 2% increase of Rs. 249.99 crore. The RE for 2025-26 moderated to Rs. 10,600 crore.
- In 2023-24, PM POSHAN recorded a BE of Rs. 11,600 crore, which was revised downward to Rs. 10,000 crore (RE), with AE at Rs. 8,457.72 crore.
- In 2024-25, despite an increased BE of Rs. 12,467.39 crore, both RE and AE converged around Rs. 10,000 crore and Rs. 9,903 crore respectively.
- PM POSHAN constituted 11.1% (BE), 10.7% (RE), and 9.5% (AE) of the total child budget in 2023-24, followed by 11.3% (BE), and about 10.0% (RE and AE) in 2024-25. The scheme's share was 10.8% (BE) and 9.8% (RE) in 2025-26, declining to 9.6% (BE) in 2026-27.

Figure 7: Union Budgetary Allocations and Expenditure on PM SHRI (2023-24 to 2026-27)



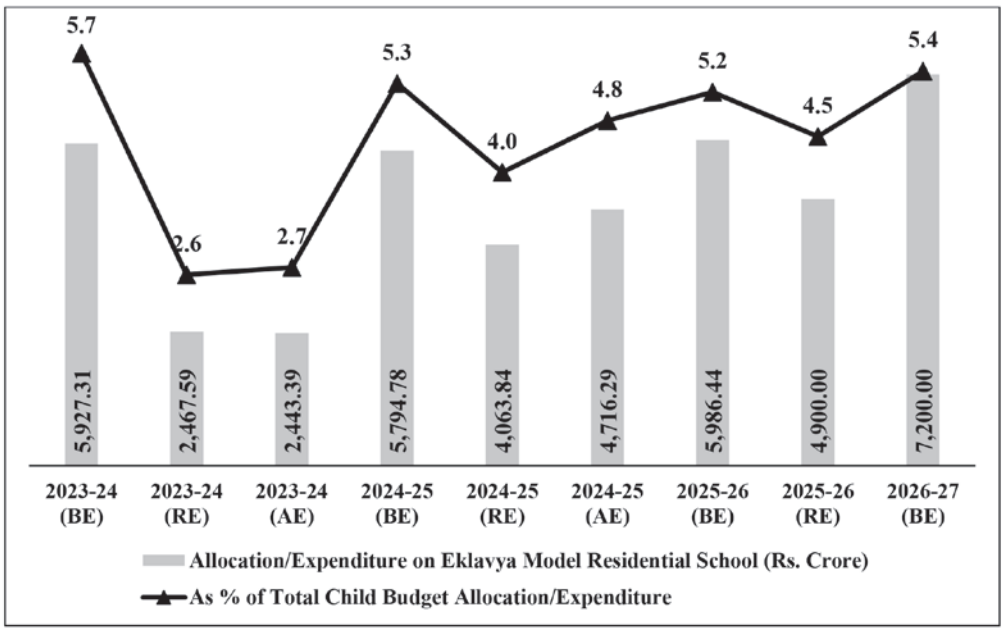
Notes: AE: Actual Expenditure; BE: Budget Estimates; RE: Revised Estimates; PM SHRI: Pradhan Mantri Schools for Rising India.

Source: Statement 12, Union Budget of India (various years).

Highlights from Figure 7:

- The PM SHRI (Pradhan Mantri Schools for Rising India) initiative has received an allocation of Rs. 7,500 crore in 2026-27 (BE), which remains unchanged from 2025-26 (BE). The RE for 2025-26 stood at Rs. 4,500 crore.
- In its initial year, 2023-24, PM SHRI recorded the allocation of Rs.4,000 crore (BE) which was revised in the mid-year to Rs.2,800 crore (RE) and further down to Rs.1,214.68 crore in the AE.
- In 2024-25, the allocation rose sharply to Rs. 6,050 crore (BE) yet RE and AE reached Rs. 4,500 crore and Rs. 3,504.30 crore, respectively.
- PM SHRI accounted for 3.8% (BE), 3.0% (RE), and 1.4% (AE) of the total child budget in 2023-24, followed by 5.5% (BE), 4.5% (RE), and 3.5% (AE) in 2024-25. Its share was 6.5% (BE) and 4.2% (RE) in 2025-26, increasing to 5.7% (BE) in 2026-27.

Figure 8: Union Budgetary Allocations and Expenditure on Eklavya Model Residential School (2023-24 to 2026-27)

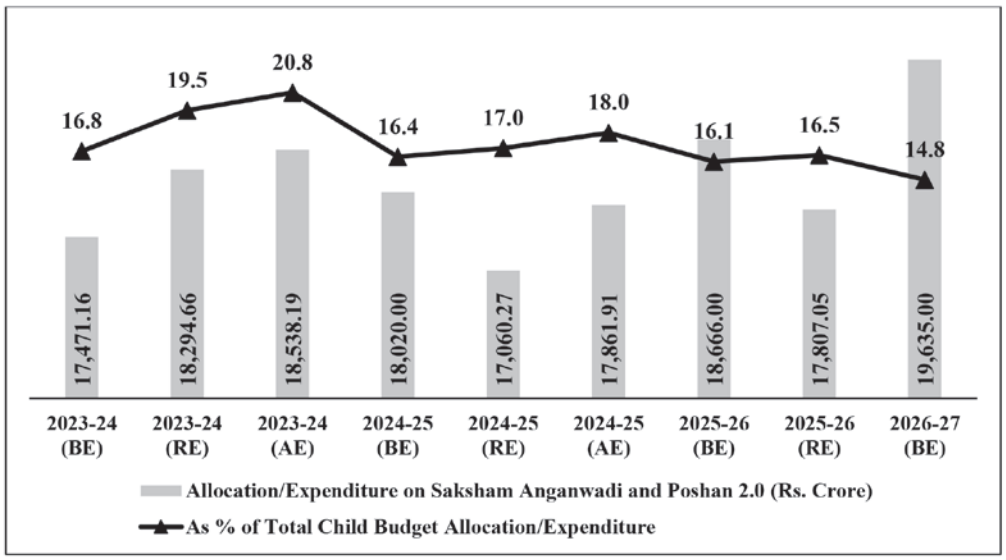


Notes: AE: Actual Expenditure; BE: Budget Estimates; RE: Revised Estimates.
Source: Statement 12, Union Budget of India (various years).

Highlights from Figure 8:

- The Eklavya Model Residential School (EMRS) initiative records a substantial increase from Rs. 5,986.44 crore in 2025-26 (BE) to Rs. 7,200 crore in 2026-27 (BE), an applaudable rise of Rs. 1,213.56 crore, i.e., 20.3%. The RE for 2025-26 stood at Rs. 4,900 crore.
- In 2023-24, EMRS witnessed a steep downward revision from Rs. 5,927.31 crore (BE) to Rs. 2,467.59 crore (RE) and Rs. 2,443.39 crore (AE).
- However, 2024-25 showed marked improvement as the AE was Rs. 4,716.29 crore against the original allocation of Rs. 5,794.78 crore (BE) and RE of Rs.4,063.84 crore.a
- EMRS constituted 5.7% (BE), 2.6% (RE), and 2.7% (AE) of the total child budget in 2023-24, and 5.3% (BE), 4.0% (RE), and 4.8% (AE) in 2024-25. The scheme's share was 5.2% (BE) and 4.5% (RE) in 2025-26, rising to 5.4% (BE) in 2026-27.

Figure 9: Union Budgetary Allocations and Expenditure on SakshamAnganwadi and Poshan 2.0 (2023-24 to 2026-27)

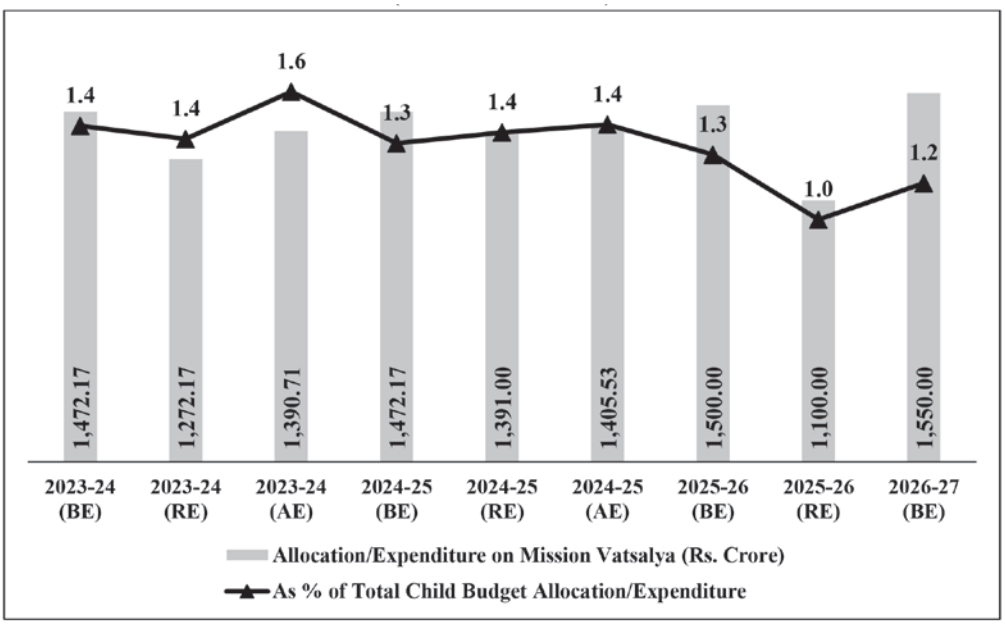


Notes: AE: Actual Expenditure; BE: Budget Estimates; RE: Revised Estimates.
Source: Statement 12, Union Budget of India (various years).

Highlights from Figure 9:

- SakshamAnganwadi and Poshan 2.0 has received an allocation of Rs. 19,635 crore in 2026-27 (BE). This is a rise of Rs. 969 crore from Rs. 18,666 crore in 2025-26 (BE). The RE for 2025-26 stood at Rs. 17,807.05 crore.
- In 2023-24, the AE of Rs. 18,538.19 crore exceeded the originally allocated amount of Rs. 17,471.16 crore (BE) and RE of Rs. 18,294.66 crore.
- In 2024-25, the AE at Rs. 17,861.91 crore was less than BE of Rs. 18,020 crore but more than RE of Rs. 17,060.27 crore.
- The scheme accounted for 16.8% (BE), 19.5% (RE), and 20.8% (AE) of the total child budget in 2023-24, followed by 16.4% (BE), 17.0% (RE), and 18.0% (AE) in 2024-25. Its share stood at 16.1% (BE) and 16.5% (RE) in 2025-26, declining to 14.8% (BE) in 2026-27.

Figure 10: Union Budgetary Allocations and Expenditure on Mission Vatsalya (2023-24 to 2026-27)



Notes: AE: Actual Expenditure; BE: Budget Estimates; RE: Revised Estimates.
Source: Statement 12, Union Budget of India (various years).

Highlights from Figure 10:

- Mission Vatsalya has received an allocation of Rs. 1,550 crore in 2026-27 (BE) compared to Rs. 1,500 crore in 2025-26 (BE). This is a marginal increase of Rs. 50 crore, i.e., 3.3%. The RE for 2025-26 stood at Rs. 1,100 crore.
- In 2023-24, the scheme had an allocation of Rs. 1,472.17 crore (BE), with RE at Rs. 1,272.17 crore but AE of Rs. 1,390.71 crore.
- In 2024-25, AE stood at Rs. 1,405.53 crore againstBE of Rs. 1,472.17 crore and RE of 1,391 crore.
- Mission Vatsalya constituted 1.4% (BE), 1.4% (RE), and 1.6% (AE) of the total child budget in 2023-24, and 1.3% (BE), 1.4% (RE), and 1.4% (AE) in 2024-25. Its share was 1.3% (BE) and 1.0% (RE) in 2025-26, increasing to 1.2% (BE) in 2026-27.

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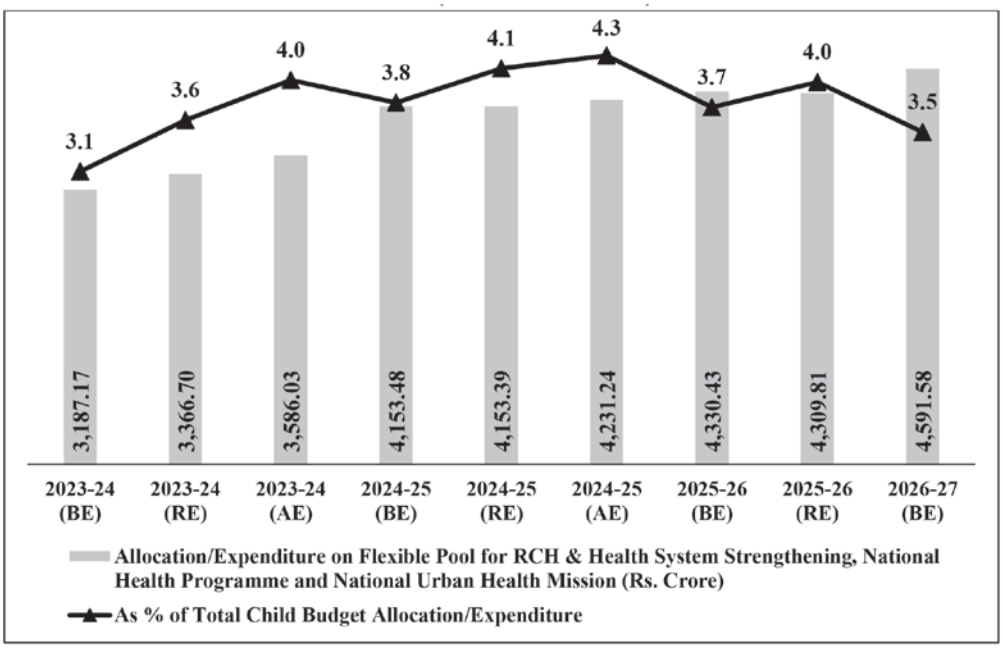
Figure 11: Union Budgetary Allocations and Expenditure on Flexible Pool for RCH & Health System Strengthening, National Health Programme and National Urban Health Mission(2023-24 to 2026-27)



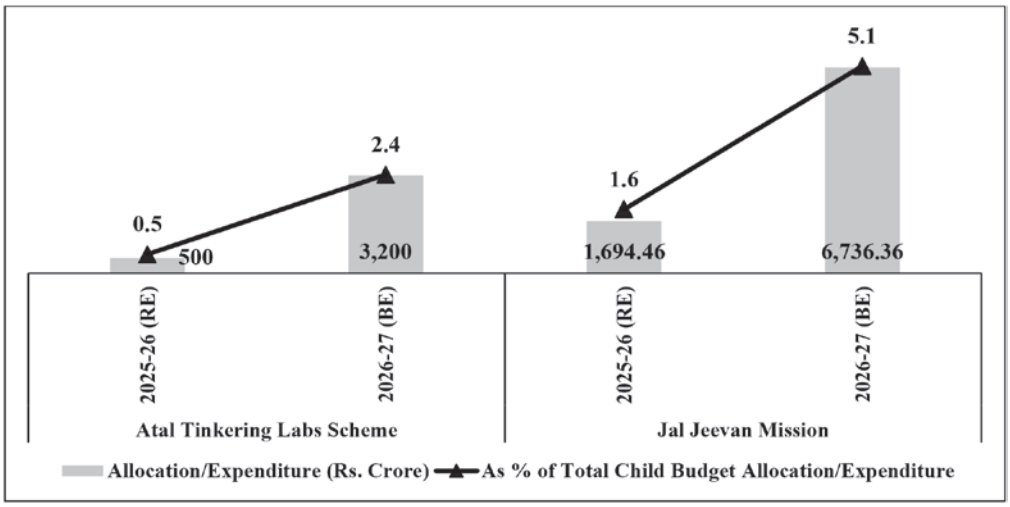
Notes: AE: Actual Expenditure; BE: Budget Estimates; RE: Revised Estimates; RCH: Reproductive and Child Health.

Source: Statement 12, Union Budget of India (various years).

Highlights from Figure 11:

- The Flexible Pool for RCH & Health System Strengthening, National Health Programme and National Urban Health Mission has received an allocation of Rs. 4,591.58 crore in 2026-27 (BE) compared to Rs. 4,330.43 crore in 2025-26 (BE). This marks an increase of about Rs. 261.15 crore, i.e., 6.03%. The RE for 2025-26 stood at Rs. 4,309.81 crore.
- In 2023-24, the AE at Rs. 3,586.03 crore exceeded the BE of Rs. 3,187.17 crore and RE of Rs. 3,366.70 crore.
- This trajectory continued in 2024-25 with AE at Rs. 4,231.24 crore exceeding BE at Rs. 4,153.48 crore and RE at Rs. 4,153.39 crore.
- The scheme accounted for 3.1% (BE), 3.6% (RE), and 4.0% (AE) of the total child budget in 2023-24, and 3.8% (BE), 4.1% (RE), and 4.3% (AE) in 2024-25. Its share was 3.7% (BE) and 4.0% (RE) in 2025-26, declining to 3.5% (BE) in 2026-27.

Figure 12: Union Budgetary Allocations and Expenditure on Atal Tinkering Labs Scheme and JalJeevan Mission (2025-26 & 2026-27)



Notes: AE: Actual Expenditure; BE: Budget Estimates; RE: Revised Estimates; RCH: Reproductive and Child Health.

Source: Statement 12, Union Budget of India (various years).

Highlights from Figure 12:

- There was no original allocation (BE) under the child-linked heads for Atal Tinkering Labs Scheme and JalJeevan Mission in 2025-26.
- An allocation of Rs. 500 crore was made for Atal Tinkering Labs Scheme in 2025-26 as RE, accounting for 0.5% of the total child budget. The initiative has seen a significant allocation of Rs. 3,200 crore in 2026-27 (BE), accounting for 2.4% of the total child budget.
- An allocation ofRs. 1,694.46 crore was made for JalJeevan Mission in 2025-26 as RE, accounting for 1.6% of the total child budget. The allocation for the initiative has witnessed a sharp increase to Rs. 6,736.36 crore in 2026-27 (BE), accounting for 5.1%of the total child budget.

Glossary:

Budget Estimates (BE) : Amount of money allocated in the Budget to any Ministry/ Department or scheme for the coming financial year.

Revised Estimates (RE) : Mid-year review of possible expenditure, taking into account the trend of expenditure, New Services and New Instrument of Services, etc.

Actual Expenditure (AE) : The amount actually spent by any Ministry/Department under mapped schemes.

Designed and printed
with generous support of
Child Rights and You (CRY)

Published by:
The Registrar, National Law University Odisha, Cuttack
Naraj Road, Sector - 13, CDA, Cuttack 753 015, Odisha (India)
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