



TITLE: RIGHTS OF STREET CHILDREN IN INDIAN PERSPECTIVE

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Abstract This essay delves into the legislative landscape surrounding the rights of street children, focusing primarily on India while also considering international perspectives. The introduction highlights the challenges faced by street children and the importance of robust legislative frameworks to protect their rights. The essay examines India's legislative approach to street children's rights, analyzing existing laws, their effectiveness, and the persistent gaps in implementation. Comparative insights are drawn from other countries facing similar challenges, offering a broader perspective on legislative strategies. Through a critical examination of legislative frameworks, challenges, and best practices, the essay aims to provide insights and recommendations for enhancing the protection of street children's rights.

1. INTRODUCTION

The issue of street children is a pressing concern worldwide, reflecting systemic failures in societal protection and support mechanisms. Understanding the term "street child" is fundamental to grasping the gravity of their situation. A street child refers to any child for whom the street has become a habitual abode and/or source of livelihood, and who is inadequately protected, supervised, or directed by responsible adults. These children often face severe vulnerabilities, including homelessness, poverty, exploitation, and lack of access to education and healthcare.

The importance of legislative protection for street children cannot be overstated. Legislation plays a crucial role in safeguarding their rights, ensuring access to basic necessities, and providing avenues for rehabilitation and reintegration into society. Without adequate legal frameworks, street children remain at risk of exploitation, abuse, and neglect, perpetuating cycles of poverty and marginalization.

Legislation serves as a foundation for addressing the root causes of street children's vulnerabilities, including poverty, family breakdown, and lack of social support systems. By enacting laws that prioritize the well-being

and rights of street children, governments can create an enabling environment for intervention, support, and advocacy efforts.

Furthermore, legislative protection for street children is essential for upholding their inherent dignity and rights as enshrined in international conventions such as the United Nations Convention on the Rights of the Child (UNCRC). By ratifying and implementing these conventions into national laws, governments commit to ensuring the protection and fulfilment of every child's rights, including those living on the streets.

In conclusion, legislative protection plays a pivotal role in addressing the plight of street children, offering a framework for intervention, support, and empowerment. By recognizing the importance of legislative action, we can work towards creating a more just and inclusive society where every child, regardless of their circumstances, has the opportunity to thrive and fulfill their potential.

2. Legislative Framework in India: Analysis and Effectiveness

India, with its diverse population and complex socio-economic challenges, has grappled with addressing the rights of street children through legislative means. Analyzing the existing laws related to street children in India reveals a patchwork of legislation aimed at protecting their rights and providing support. The Juvenile Justice (Care and Protection of Children) Act, 2015, and the Right of Children to Free and Compulsory Education Act, 2009, stand as pillars of legislative protection, addressing issues such as rehabilitation, education, and social integration for street children.¹

Despite the presence of these laws, the effectiveness of legislative measures in India remains a subject of scrutiny. While legislative frameworks provide a legal basis for intervention, their implementation often falls short due to various challenges. One such challenge is the lack of awareness and understanding among stakeholders, including law enforcement agencies, regarding the rights and needs of street children. This results in inadequate enforcement of laws and policies, leaving street children vulnerable to exploitation and abuse.²

¹ 1. Ministry of Women and Child Development. (2005). Juvenile Justice (Care and Protection of Children) Act, 2015. New Delhi: Government of India.

² 2. Ministry of Human Resource Development. (2009). Right of Children to Free and Compulsory Education Act, 2009. New Delhi: Government of India.

Moreover, the fragmented nature of India's legislative landscape poses challenges to effective implementation. Different states may have varying laws and policies related to street children, leading to inconsistencies in protection and support mechanisms. This lack of uniformity can hinder efforts to address the root causes of street children's vulnerabilities and provide holistic solutions.

Another critical aspect to consider is the accessibility and availability of support services for street children. While legislation may mandate the provision of essential services such as education, healthcare, and shelter, the ground reality often falls short of these requirements. Limited resources, overcrowded institutions, and bureaucratic hurdles contribute to gaps in service delivery, undermining the intended impact of legislative measures.³

Furthermore, the issue of child labor and exploitation remains pervasive despite legislative prohibitions. Economic pressures, coupled with the absence of effective enforcement mechanisms, compel many street children to engage in hazardous or exploitative work to survive. This highlights the need for stronger enforcement of labor laws and concerted efforts to address the root causes of child labor, including poverty and lack of access to education.

3. Detailed Analysis of Legislative Frameworks in Selected Countries

1. Brazil: Brazil has implemented a comprehensive legislative framework aimed at addressing the rights of street children. The Statute of the Child and Adolescent, enacted in 1990, stands as a landmark legislation prioritizing the protection and promotion of children's rights, including those living on the streets. The statute emphasizes the importance of comprehensive social assistance and community-based interventions to address the root causes of street children's vulnerabilities. Additionally, Brazil has ratified international conventions such as the UNCRC and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, further demonstrating its commitment to protecting children's rights.⁴

2. Nigeria: Nigeria has also made strides in developing legislative frameworks to address the rights of street children. The Child Rights Act of 2003 provides a legal framework for protecting children's rights, including provisions for the rehabilitation and reintegration of street children. However, challenges persist in

³ 3. National Legal Services Authority. (2002). Legal Services Authorities Act, 1987. New Delhi: Government of India.

⁴ 10. Statute of the Child and Adolescent, Brazil, Law No. 8.069, July 13, 1990.

implementation, particularly at the state level, where enforcement varies widely. Despite these challenges, Nigeria's legislative efforts reflect a commitment to ensuring the well-being and protection of street children.⁵

3. Philippines⁶: The Philippines has enacted the Special Protection of Children Against Abuse, Exploitation, and Discrimination Act, which includes provisions for the protection and rehabilitation of street children. Additionally, the government has launched various initiatives, such as the "Bahay Tuluyan" program, aimed at providing shelter, education, and support services to street children. These legislative and policy measures demonstrate the Philippines' commitment to addressing the rights and needs of street children and promoting their well-being and development.

4. *India⁷: India, with its vast population and diverse socio-economic landscape, faces significant challenges in addressing the rights of street children through legislative means. While the country has enacted laws such as the Juvenile Justice Act and the Right to Education Act to protect and promote the rights of children, including those living on the streets, implementation remains a major challenge. Fragmentation, inadequate resources, and social stigma contribute to gaps in service delivery and enforcement, highlighting the need for concerted efforts to strengthen India's legislative framework and ensure the effective protection of street children's rights.

5. United Nations and International Conventions:^{**} In addition to national legislative frameworks, international conventions and agreements play a crucial role in shaping efforts to protect the rights of street children. The United Nations Convention on the Rights of the Child (UNCRC), ratified by numerous countries, sets forth principles and standards for the protection and well-being of children, including those living on the streets. By ratifying and implementing these conventions into national laws, countries commit to upholding the rights of all children, irrespective of their circumstances.

In conclusion, while legislative frameworks vary across countries, the overarching goal remains the same: to protect and promote the rights of street children and ensure their well-being and development. Through comprehensive legislative measures, international cooperation, and concerted efforts at the national level, countries can work towards creating an enabling environment where every child, including those living on the streets, can thrive and realize their full potential.

⁵ 11. Child Rights Act of 2003, Nigeria, Act No. 20.

⁶ 12. Special Protection of Children Against Abuse, Exploitation, and Discrimination Act, Philippines, Republic Act No. 7610.

⁷ 13. Bahay Tuluyan Program, Philippines, Department of Social Welfare and Development.

In conclusion, while India has made strides in enacting legislation to protect the rights of street children, the effectiveness of these measures hinges on their implementation and enforcement. Addressing gaps in awareness, enforcement, and service delivery is paramount to ensuring that legislative frameworks translate into tangible improvements in the lives of street children. Only through concerted efforts and a multi-sectoral approach can India fulfill its commitment to protecting the rights and well-being of its most vulnerable population.

4. Overview of International Laws and Conventions

International laws and conventions provide a framework for addressing the rights of street children on a global scale. The United Nations Convention on the Rights of the Child (UNCRC) stands as a cornerstone, emphasizing the rights of all children to survival, development, protection, and participation. Additionally, the International Labour Organization's Convention No. 182 on the Worst Forms of Child Labour sets forth guidelines for combating child labor, including its worst forms, which often intersect with the experiences of street children.

Furthermore, the Sustainable Development Goals (SDGs) adopted by the United Nations in 2015 include targets related to ending poverty, ensuring inclusive education, and promoting the well-being of children. These goals provide a comprehensive framework for addressing the underlying causes of street children's vulnerabilities and promoting their rights to education, health, and protection from exploitation.

5. Comparative Analysis of Legislative Approaches

Several countries facing similar challenges to India have developed legislative frameworks to address the rights of street children. Brazil, for example, has implemented the Statute of the Child and Adolescent, which prioritizes the protection and promotion of children's rights, including those living on the streets. The statute emphasizes the importance of comprehensive social assistance and community-based interventions to address the root causes of street children's vulnerabilities.

In Nigeria, the Child Rights Act of 2003 provides a legal framework for protecting children's rights, including provisions for the rehabilitation and reintegration of street children. However, challenges persist in implementation, particularly at the state level, where enforcement varies widely.

The Philippines has enacted the Special Protection of Children Against Abuse, Exploitation, and Discrimination Act, which includes provisions for the protection and rehabilitation of street children. Additionally, the government has launched various initiatives, such as the "Bahay Tuluyan" program, aimed at providing shelter, education, and support services to street children.

Comparative analysis reveals both similarities and differences in legislative approaches to addressing the rights of street children. While some countries have developed comprehensive legal frameworks, others face challenges in implementation and enforcement. Common themes include the importance of community-based interventions, access to education and healthcare, and protection from exploitation and abuse.

In conclusion, international laws and conventions provide a guiding framework for addressing the rights of street children, while comparative analysis of legislative approaches offers valuable insights into effective strategies for protecting and promoting their well-being. By learning from the experiences of other countries, India can strengthen its own legislative frameworks and enhance its efforts to protect the rights of street children.

6. Certainly, here are five case laws related to the rights of street children:

1. *M.C. Mehta v. State of Tamil Nadu* (1996)⁸:* In this landmark case, the Supreme Court of India addressed the issue of child labor, including children working on the streets. The court emphasized the constitutional rights of children to education, protection, and a dignified life, leading to directives for the enforcement of laws against child labor and the provision of rehabilitation services for rescued children.

2. *Olga Tellis v. Bombay Municipal Corporation* (1985):*⁹ This case dealt with the eviction of pavement dwellers, including families with children, by the Bombay Municipal Corporation. The Supreme Court of India recognized the right to life under Article 21 of the Constitution, extending it to include the right to livelihood and shelter. The judgment emphasized the duty of the state to protect the fundamental rights of vulnerable populations, including street children and their families.

⁸ 5. *M.C. Mehta v. State of Tamil Nadu*, (1996) 6 SCC 756.

⁹ 6. *Olga Tellis v. Bombay Municipal Corporation*, (1985) 3 SCC 545.

3. *Laborers Working on Salal Hydroelectric Project v. State of Jammu and Kashmir* (1983)¹⁰: In this case, the Supreme Court of India addressed the issue of child labor in hazardous industries, including construction sites. The court highlighted the violation of children's rights under Article 24 of the Constitution, which prohibits the employment of children in hazardous occupations. The judgment led to stricter enforcement of child labor laws and measures to protect children from exploitation in hazardous work environments.

4. *Gaurav Jain v. Union of India* (1997): ¹¹This case focused on the right to education for street children and children from marginalized communities. The Supreme Court of India emphasized the importance of education as a fundamental right under Article 21-A of the Constitution and directed the government to ensure access to free and compulsory education for all children, including those living on the streets.

5. *Hussainara Khatoon v. State of Bihar* (1979)¹²: This landmark case addressed the issue of access to justice for indigent and marginalized populations, including street children. The Supreme Court of India recognized the right to speedy trial as a fundamental right under Article 21 of the Constitution and directed the release of undertrial prisoners who had been languishing in jails for prolonged periods without trial. The judgment highlighted the vulnerability of street children to arbitrary detention and emphasized the need for legal aid and protection of their rights within the criminal justice system.

These case laws highlight the judiciary's role in upholding the rights of street children and ensuring their protection and well-being through legal interventions.

7. Challenges and Gaps in Legislative Approaches

Legislative frameworks aimed at protecting the rights of street children face numerous challenges and gaps that hinder their effectiveness in ensuring the well-being and empowerment of these vulnerable individuals.

¹⁰ 7. *Laborers Working on Salal Hydroelectric Project v. State of Jammu and Kashmir*, (1983) 3 SCC 470.

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¹¹ 8. *Gaurav Jain v. Union of India*, (1997) 8 SCC 114.

¹² 9. *Hussainara Khatoon v. State of Bihar*, (1979) 3 SCC 250

1. **Inadequate Enforcement Mechanisms:** One of the primary challenges is the lack of effective enforcement mechanisms to implement existing laws and policies. Despite the presence of legislation prohibiting child labor, exploitation, and abuse, enforcement remains weak due to factors such as corruption, insufficient resources, and a lack of coordination among government agencies responsible for enforcement.
2. **Limited Access to Justice:** Street children often face barriers in accessing justice and legal remedies for violations of their rights. Many are unaware of their legal rights, while others lack the means to navigate the legal system. Additionally, discrimination and stigma against street children may result in their marginalization within the justice system, further exacerbating their vulnerability to exploitation and abuse.
3. **Fragmented Service Delivery:** The provision of essential services such as education, healthcare, and shelter for street children is often fragmented and inconsistent. Different government agencies and non-governmental organizations may operate independently, leading to duplication of efforts and gaps in service coverage. This fragmentation hampers efforts to provide comprehensive support to street children and address the root causes of their vulnerabilities.
4. ***Social Stigma and Discrimination:** Street children face pervasive social stigma and discrimination, which undermine their rights and access to opportunities. Negative perceptions of street children as delinquents or troublemakers often result in their exclusion from mainstream society and denial of basic services. Legislative frameworks must address these social attitudes and promote inclusive approaches that uphold the dignity and rights of all children, regardless of their circumstances.
5. **Lack of Coordination and Collaboration:** A lack of coordination and collaboration among government agencies, civil society organizations, and other stakeholders poses a significant barrier to effective implementation of legislative frameworks. Fragmentation and siloed approaches inhibit efforts to address the complex and interconnected challenges facing street children. A more integrated and collaborative approach is needed to ensure holistic and sustainable solutions.

In conclusion, addressing the challenges and gaps in legislative approaches to street children's rights requires concerted efforts from policymakers, law enforcement agencies, civil society organizations, and the community at large. By strengthening enforcement mechanisms, promoting access to justice, improving service delivery,

combating social stigma, and fostering collaboration, legislative frameworks can be more effectively implemented to protect and promote the rights of street children.

8. Recommendations for Enhancing Legislative Approaches

1. **Strengthen Enforcement Mechanisms:** Implementing robust enforcement mechanisms is crucial to ensuring the effective implementation of legislative frameworks. This includes increasing resources allocated to law enforcement agencies, enhancing training programs for personnel, and establishing specialized units to address issues related to street children's rights.
2. ***Improve Access to Justice:** Efforts should be made to enhance access to justice for street children by providing legal aid services, establishing child-friendly courts, and sensitizing legal professionals to the needs and rights of street children. Additionally, awareness-raising campaigns can empower street children to assert their rights and seek redress for violations.
3. ***Enhance Service Delivery:** Coordinated efforts are needed to improve the provision of essential services such as education, healthcare, and shelter for street children. This involves strengthening collaboration between government agencies, NGOs, and community-based organizations to ensure comprehensive and accessible support for street children.
4. **Combat Social Stigma and Discrimination:** Addressing social stigma and discrimination against street children requires multi-pronged approaches, including awareness-raising campaigns, community engagement initiatives, and advocacy for policy change. Promoting positive narratives and highlighting the resilience and potential of street children can help challenge negative stereotypes and promote inclusion.
5. **Promote Collaboration and Coordination:** * Strengthening collaboration and coordination among government agencies, civil society organizations, and other stakeholders is essential for effective implementation of legislative frameworks. This includes establishing inter-agency task forces, facilitating information sharing and networking opportunities, and involving street children themselves in decision-making processes.

9. Conclusion

In conclusion, addressing the rights of street children requires comprehensive legislative frameworks that prioritize protection, support, and empowerment. While significant progress has been made in enacting laws and policies to safeguard street children's rights, numerous challenges and gaps persist in implementation. By strengthening enforcement mechanisms, improving access to justice, enhancing service delivery, combating social stigma, and promoting collaboration and coordination, legislative frameworks can be more effectively implemented to protect and promote the rights of street children.

It is imperative that governments, civil society organizations, and other stakeholders work together to address the root causes of street children's vulnerabilities and create an enabling environment where every child, regardless of their circumstances, can thrive and realize their full potential. Only through concerted efforts and a rights-based approach can we ensure that street children are afforded the dignity, protection, and opportunities they deserve.

Social interventionists have faced challenges in mainstreaming this segment of society, but recent research shows that it is not impossible with current success rates. The Outlook Parental and societal attitudes towards girls' education are shifting, leading to less gender discrepancies. The United Nations, NGOs like Save the Children India, and government measures like the Integrated Child Protection Scheme aim to raise awareness and reverse the rising number of vulnerable children in the country.

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