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Evolution of the Concept of the Protection of Street Children in Ancient India

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Abstract

Children have always occupied a special place in Indian society, and the protection of their dignity, security and well-being can be traced to the social, ethical and legal traditions of ancient India. The concept of protecting children, however, was not expressed in the contemporary language of "child rights" or "street children." Nevertheless, ancient Indian texts, social institutions and normative traditions reflected concerns relating to the care, upbringing, education, welfare and protection of children who were vulnerable or without adequate family support. This paper explores the historical evolution of the idea of protecting children in vulnerable circumstances, with particular attention to children who may, in the contemporary context, be understood as street children. The study examines references from ancient Indian sources, including the Vedas, Dharmashastra literature, the epics and the Arthashastra, to understand how society and governing institutions perceived their responsibilities towards children. It seeks to identify the values of compassion, social responsibility, community care and protection embedded within these traditions and considers their relevance to the protection of vulnerable children. At the same time, the paper recognises that ancient social structures were fundamentally different from the modern legal framework of child rights and therefore avoids imposing contemporary concepts directly upon historical society.

The paper further traces how the traditional understanding of care and protection gradually developed into a more formal conception of children's welfare, eventually reflected in modern constitutional principles, child-protection legislation and human-rights standards. By connecting historical traditions with contemporary concerns, the study demonstrates that the protection of vulnerable children has deep social and ethical roots in India, even though its legal expression has evolved significantly over time. The paper concludes that understanding this historical journey can contribute to a more humane approach to contemporary street-connected children, one that views them not merely as objects of welfare but as individuals entitled to dignity, protection, opportunities and meaningful participation in society.

Keywords: Street Children, Child Protection, Ancient India, Child Welfare, Human Dignity, Social Responsibility, Child Rights, Indian Legal Tradition.

1. Introduction

Children have become the most vulnerable group of human beings who are at the risk of urbanization. Multifarious unhealthy developments of urbanization have tremendous impact upon the children. When children have been abused, neglected, maltreated and abandoned, they venture on to the streets. It is here where one can find the root or origin of 'street children' phenomenon [1]. Although, in many situations, hunger is found to be the main reason of coming out on the streets, yet in many cases, family problems push the children into the streets. Because of their daily fight and struggle for survival on the streets, these children sometimes even forget their names in many cases.

They have to grow up without any guidance, affection and good examples. Most of them stay in the streets even for their whole life. All over the world, many children turn to the streets in an attempt to resolve problems that arise out of the social structure and situations they find themselves in. Although the words 'runaways is generally used to include 'street children', yet actually there is a difference between this word and 'street children'. 'Runaways' include those children who mostly turn to the streets in search of adventure, excitement or independence. Even the children of very affluent and well to do families also come out of their homes in order to enjoy an independent and undisciplined life with friends. Many of them even engage themselves in drug addiction and other illegal activities to get illegal pleasure. Therefore, if any adverse consequence come to these children and youth, they are responsible for their own blunder. But the 'street children' are totally a different category of children as compared to the 'runaways. The 'street children' are compelled to stay on street because of neglect, abandonment, poverty etc. So there is a vast difference between the 'runaways and 'street children'. But in some situations, runaways can also become 'street children'. As regards the nature of 'street children', it is a common fact of all such children that they have to come out on the streets not for any enjoyment or excitement like the 'runaways', but because of

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compelling life situations.

A variety of hypotheses have been advanced to describe the origin and nature of 'street children'. First one relates to urban poverty, second relates to aberrant families and the third is associated with modernization [2]. According to some writers, the rural to urban migration is sufficient to explain the origin of 'street children'. This is one of the important aspects of modernization also.

The 'street children' have no identity of their own. They are known by different names in different parts of the world. In northern developed countries, they are called 'homeless youth', 'runaways' or even 'throw away'; in developing countries like Kenya, they are called as 'parking boys'; in Philippines, they are known as 'poggy boys'; in Brazil, they are called as 'pivets'; in India, these children are known as 'rag pickers and interestingly in Peru, they are called as' pajaro-frutero' (meaning 'fruit bird'). Although in different places of the world, the 'street children' are known by different nomenclatures, yet their nature and problems are common all over the world [3].

As regards the extent of 'street children' the most commonly asked question is how many 'street children' are there in the streets of the world's cities. But there is no satisfactory answer to this question. Because there is no perfect means to determine the global number of 'street children'. The emergence of 'street children' is considered as an immense tragedy worldwide. To solve this, it is essential to know their number. But due to their migratory nature, to find out their exact number is a very difficult task. Therefore, regarding the volume of 'street children', there is no accurate and reliable data. However, a few organizations, from time to time have tried to find out the number of 'street children'. For example, the Anti-Slavery Society, a UK based Non-Governmental Organization estimates that there are about 31 million 'street children' across the globe [4].

In the international level also, there is no consensus among international institutions regarding the size of 'street children'. For example, according to some statistics, there are about 150 million 'street children' in the world, while the United Nations International Children's Emergency Fund (UNICEF) estimates the number to be 100 million. This is due to the lack of agreement on a standard definition of 'street children'. Again in 2002, the World Bank Report [5] highlighted some difficulties in determining the size of the 'street children'. The major difficulties highlighted in that report were continuous migration of 'street children' from one city to another and the fact that many of them possess neither identity cards nor birth certificates [6].

1.1. Nature of Street Children

Any one trait or background cannot define 'street children'. There are a variety of conditions and circumstances that define them. In most of the developing countries, there are fewer street girls than the street boys. Street girls are especially more vulnerable to any kind of exploitation and violence and this must not be overlooked.

The sociologists and anthropologists have recognized the 'street children' to be a socially constructed category of children, but actually, in the practical world, they do not form a clearly defined, uniform population or phenomenon [7]. 'Street Children' cover

Children in a wide variety of circumstances and characteristics. Therefore, sometimes, the policy-makers and service providers find it difficult to describe and target them in their policies and services.

The 'street children' are typically portrayed as an excluded community. These children are deprived of their family, secured shelter and as a consequence of that they are further deprived of many other essential requirements of life including education. The main stream society hardly gets time to pay any attention to these children. They have to lead an uncertain and insecure life on the street. The term 'social exclusion' is a relatively new term. The invention of the term 'social exclusion' is attributed to Rene Lenoir, then Secretaire d' Etatal Action Sociale in the Chirac Government, who published *Les Eclus: Un Francais Sur Dix* in 1974 [8]. To identify the 'excluded' in France, Rene Lenoire spoke of a few group of people which included the children who were deprived of family and abused. Therefore, from Rene's concept of 'socially excluded', the 'street children' really seem to be socially excluded or boycotted. They are not even considered as a social person in their right and often neglected. Therefore, they never get a chance to raise their voice freely and fearlessly. They do not have any protection from the vagaries of nature as well as the society [9].

These children are deprived of their family and even after that if they are socially excluded, then this social exclusion results into many other adverse consequences like poor health, anti-social behavior, mental problem etc. Therefore, there is an urgent need to study about this group of children so that their life conditions can be upgraded. Because of this exclusion, they do not have their own identity and as a consequence of that they cannot get their basic human rights. This lack of legal identity denies them access to basic human rights such as nutrition, health, education etc. Therefore, a selfless effort on the part of each and every member of the society is the primary requirement to save these children from this social exclusion.

1.2. Historical Background of Street Children

It was in the eleventh century that 'street children' began to be noticed in Europe. They were recognized only in sixteenth-century England and dealt with as an issue regarding children who faced cruelty and negligence on the streets. Consequently, the presence of 'street children' also began to be noticed in Latin American countries. According to Scanlon, Tomkins, Lynch and Scanlon (1998), the term 'street children' was first used by Henry Mathew in 1851 while writing *London Labour and the London Poor*. The term came into general usage only in1979 after the United Nations proclaimed it as the 'Year of the Children.' Before the term 'street children' came into use, they were commonly referred to as homeless, abandoned or run a ways. In 1982, the Inter-NGO Programme on Street Children and Street Youth was formed. In 1986, UNICEF's Executive Board approved priority measures about those children who were facing difficult circumstances. They coined new terms 'Children in Especially Difficult Circumstances,' 'Children in Special Need of Protection' and 'Orphans and Vulnerable Children' [10]. These terms, however, did not reflect the actual difficult conditions, which is why some of the representatives and organizations continued to use the term 'street children', while the Commission on Human Rights used the term "street child" in 1994. The Committee on the Rights of the Child under the human rights council adopted the new term 'children in street situations'. Again, the expert committee discussed and presented a new terminology 'street connections. 'Its how ed that street may be a crucial point of reference for some children, even when they are not physically present there. Street connections are essential to

children's daily survival because of their selection of managing strategies and their self-development [11]. (Report—Office of the High Commissioner for Human Rights, 2012).

Recently, attempts are being made to re-conceptualize the issues under broad groups about the children who are socially excluded and marginalized. But some organizations such as UNICEF, Save the Children and Every Child have re-conceptualized these issues. Now they are working with new concepts such as 'children on the move', 'children without parental care' and 'children affected by conflict.' These re-conceptualized issues have been organized into large framework of prevention and response, like safe migration programmes, child protection and welfare systems, and disaster risk management. Now the term 'street children' has also been divided into various groups such as children who have migrated in an unsafe manner for work, who may end up on the streets at their destination; children without parental care including homeless 'street children'; and conflicts which have caused a number of children to live on the streets. The numbers of 'street children' are increasing continuously, and their problems are becoming an area of concern in today's world and demanding more and more attention [12].

The concept of 'street children' is wide, and it cannot be defined in a single line as a single concept. It should be defined at every stage of life because every child has his or her own story which affects their everyday life. These sorrowful stories are related to various issues like their family background, behaviour of the family members or others, living conditions and their views about the society. Along with problems related to poverty they also have to face other issues like losing hope for their future, discrimination, lack of basic amenities, engaging in different activities, social network, accidents and social environment. They feel helpless and do not get to lead a meaningful life. These children face various troubles on a regular basis which not only affects their future but also has a bad impact on society where they live. These children like every other child of this country are the new buds of society's garden and are entitled to a happy childhood and equal rights like the rest of the children. Unfortunately, they are unaware of such rights and the means of claiming them. Even though the nature of 'street children' varies between developed and developing countries the fact remains that children are being exposed to vulnerable situations that also facing the problem of 'street children'. But most of the mare found in metropolitan cities. Risk their health and lives [13].

The estimated statistics of 'street children' are evidence to the fact that the issue of 'street children' is growing rapidly in all continents. These children are facing various types of problems in their lives, many of which can't even be fathomed by a common man. Several times the voices of 'street children' are suppressed by the society, due to which most of the older 'street children' are involved in sexual activity, drugs or illegal work. They are also affected by various diseases like HIV/AIDS or any other transmitted diseases [14]. If no intervention is taken, the number of 'street children' is estimated to reach 800million in the world by 2020.

'Street Children' are urban based children, mostly come from low-income families or without any family and many of them have migrated from rural and remote areas to the big cities in search of economic opportunities so that they can earn some livelihood and survive [15]. In a large majority of the countries of the world, these children are existing.

The problem of 'street children' is a global one. It is a growing social tragedy worldwide. They are found both in developed as well as developing countries. But in the developing and under developed countries this problem is more serious. One of the reasons for this problem is, these countries lack the necessary resources and sufficient administrative machinery to organize rehabilitation and welfare services for the 'street children' [16]. Besides this, these countries also face many other problems which arise as a consequence of speedy urbanization.

There is very limited authentic data about the quantity of 'street children'. It is very difficult to find out the correct number of 'street children 'in every country. These are the children basically fighting for their right to survival and in that process, they have to face many problems. But one common characteristic is observed among these children, i.e. their physical separation from their families in case of most of such children [17]. These are the most unfortunate, destitute, neglected, abused, malnourished, ill-treated and mostly orphan and abandoned children. To cope with the ever-increasing financial pressure, generally in the poorest of the poor families, more and more children are compelled to come out of their homes for earning money on their own in order to maintain themselves as well as their families. Even a little financial contribution by these children to their families is a great help. Again, in case of those 'street children' who have lost family contact, living in the ugly city streets is next to impossible. But they are living in that way. Initially those children migrate to the urban areas in the hope of a better future, but gradually due to lack of family contact, they become homeless and defenseless and ultimately become familiar as 'street children' as they are mostly seen on the streets.

In our society, there are some children maintaining a standard life with all the facilities, comfort and necessary requirements of a happy childhood. Within the same society, on the other hand, there exists the 'street children' who are living with an animal existence with harsh realities of life and without any childhood essentials. Those children who belong to the rich families may dream of anything that can give happiness to them because they know that their parents can make it possible. But the 'street children' can dream only of a square meal a day and a place to sleep at night. Beyond that there is nothing for them in this world. They have no mental capability to think beyond that. Thus, within the same society some children are specially taken care of and some are treated like thrown away or unusable things [18].

Although the problem of 'street children' is far more visible in urban areas, yet it is present in rural areas as well when a family faces destitution or near destitution due to various factors like natural calamities (cyclone, drought, flood, earthquake etc.), terrorism, insurgency, communal riots etc. which cause severe disruption in the lives of children especially when it is accompanied with the death of the parents [19]. This results into their ending up on the streets without any permanent shelter to live. Besides, there are few children who run away from home because of unbearable situations in their families including physical, emotional and sexual exploitation. Because of these reasons, these children suffer from mental trauma and when it crosses the limit they become compel to leave home. Apart from these, some children are got lost or deliberately abandoned by their parents in public places or near the orphanages in the hope that their children will be picked up by a state agency or voluntary organization or some kind hearted person [20]. These are the reasons how the 'street children' come into existence.

1.3. Evolution of the Concept and Legal Protection of Street Children in India

The notion of childhood in India has traversed a complex and evolving path. While the legal concept of "street children" is of relatively recent origin, historical references show that children without parental care or secure shelter have always existed in different guises across India's vast timeline. The legal and societal response to these children, however, has been markedly inconsistent, influenced by religious doctrines, cultural norms, economic structures, colonial governance, and, more recently, constitutional ideals and international obligations. The comprehensive historical analysis of the evolution of the concept and legal recognition of street children, tracing it era-wise from the Vedic period to contemporary India.

i). Vedic and Ancient Period (c. 1500 BCE – 600 BCE)

The Vedic era is considered the foundational epoch in Indian civilization, marked by the development of early dharmic principles, varna system, and family-based social structures. In this period, children were viewed as divine gifts and were raised primarily within the framework of the joint family system. There is no mention of children living outside familial care, yet the presence of orphans and destitute children was implicitly acknowledged in various Smritis and Dharmashastra texts [21].

Notably, the Manusmriti, considered a critical source of ancient Hindu law, laid down obligations upon householders to support "helpless individuals including orphans, the infirm, and the poor." It states:

"An orphan, a widow, the aged, the infirm, the poor—these he shall support to the best of his ability."
(Manusmriti, Chapter 4:32)

Similarly, Yajnavalkya Smriti emphasized the king's duty to protect those without guardians, suggesting an early awareness of the vulnerability of unattended children. The concept of 'rajdharma', or the ruler's moral duty, was embedded in protecting the weak, including orphans.

However, legal protections in this era were non-codified and driven by moral and spiritual obligation rather than enforceable legal rights. The absence of a State apparatus dedicated to welfare meant that such children often remained dependent on the benevolence of community institutions, like ashramas or gurukulas, rather than being integrated into any systemic legal framework [22].

Thus, while the Vedic period recognized the existence of vulnerable children, the notion of a child living on the streets without support was not a recognized legal category, primarily due to the agrarian, family-centric, and ashram-based structure of society.

ii). Mauryan and Classical Period (c. 322 BCE – 300 CE)

The Mauryan era, particularly under the reign of Emperor Ashoka, marked a paradigm shift in state responsibility toward the vulnerable, including children. Ashoka's inscriptions and edicts reveal a welfare-centric governance model that extended State concern toward the sick, elderly, poor, and orphans.

One of the most significant administrative documents of the time, Kautilya's Arthashastra, provides early proto-legal provisions for the protection of destitute and orphaned children. It proposed that:

- The State must provide guardianship to orphans and ensure their inheritance and sustenance.
- Foundlings (children found abandoned) must be taken under State protection until a guardian is located.
- The king (or his officers) had the duty to rescue children found neglected or mistreated, establishing a foundation for State intervention.

This era did not use the term "street child," yet it is evident that children lacking care were recognized within legal and administrative writings. The integration of welfare within governance became more systematic than in the Vedic era, though it still relied heavily on morality, rather than codified statutory obligation.

Moreover, while religious institutions (Buddhist sanghas, Viharas) offered shelter and food to destitute individuals, including children, there was no unified legal framework dealing specifically with unaccompanied or homeless children.

iii). Medieval Period (c. 700 CE – 1700 CE)

The medieval period in Indian history, spanning the Delhi Sultanate and Mughal eras, introduced Islamic jurisprudence (Sharia) and charitable traditions such as zakat and waqf, which expanded support systems for vulnerable groups. Orphans (yateem) were recognized within Islamic law as a protected category, and provisions were made for their education, sustenance, and inheritance protection [23].

The establishment of madrasas, orphanages, and shelter homes under the waqf system reflected institutional recognition of the needs of orphans and destitute children. These institutions, funded by endowments, provided food, education, and at times vocational training.

However, these protections were not universal and were largely confined to religious communities and urban centres. Hindu kingdoms and regions untouched by Islamic rule continued to rely on community-based relief. Moreover, children without access to religious institutions, especially those born to destitute women, prostitutes, or beggars, remained outside formal care structures [24].

There is limited evidence of any secular legal approach to child protection during this period. In fact, due to frequent warfare, famines, and slave trade, children were often among the worst affected. Beggary, bonded servitude, and early marriage were common survival strategies. While protection was extended to orphans, no clear recognition of street children as a distinct social or legal category existed

iv). Colonial Period (1772 – 1947)

The colonial period introduced the concept of modern law and institutionalized governance to India, including formal legal categories for neglected, abandoned, and delinquent children. British colonial administrators, motivated by both moral imperatives and the need to maintain public order, gradually began to criminalize street life while also creating reformatory mechanisms.

- The Indian Penal Code (1860) criminalized child trafficking, kidnapping, and exploitation under Sections 363–369.
- The Reformatory Schools Act (1897) provided for the institutionalization of child offenders but often included neglected or vagrant children, blurring the line between protection and punishment.
- The Madras Children Act, 1920, Bombay Children Act, 1924, and Bengal Children Act, 1922 were region-specific laws that introduced categories like "neglected

child," "destitute child," and "delinquent child." These laws attempted to bring such children under juvenile courts and establish specialized homes [25].

- However, colonial legal policies were marked by deep contradictions:
- While they institutionalized care for neglected children, they also enforced vagrancy and beggary laws that criminalized street living.
- Children found begging, performing, or wandering were often arrested and detained under Indian Vagrancy Acts, reinforcing the idea that homelessness was criminal behaviour.

Thus, the colonial period did recognize the legal existence of children outside parental care, but its focus was more on social control than child rights. This legacy continues to influence Indian juvenile justice policies to this day [26].

v). Post-Independence to Pre-Child Rights Convention (CRC) Era (1947 – 1992)

With the adoption of the Constitution of India in 1950, child welfare became a constitutional mandate. The Directive Principles of State Policy emphasized the State's obligation to protect children from abuse and exploitation [27].

- Article 15(3) empowered the State to make special provisions for children.
- Article 21 (Right to Life) was interpreted to include dignity, education, and health.
- Article 39(e) and (f) specifically called for protection of children from economic exploitation and for their development in a healthy environment.
- Legislative efforts during this period include:
- The Children Act, 1960, which categorized neglected and delinquent children and provided for juvenile courts and homes.
- The Child Labour (Prohibition and Regulation) Act, 1986, which addressed economic exploitation but did not encompass street children working in informal sectors.

Despite constitutional ideals, street children remained invisible in policy terms. No national survey or identification mechanism existed to recognize children living in public spaces. The assumption remained that every child belonged to a family and that homelessness was a temporary aberration. The lack of birth registration and documentation meant that most street children were not counted and hence not served [28].

NGOs began playing an active role during this time, especially in major cities, offering shelter, education, and healthcare to children on the streets. However, in the absence of a legal mandate, these efforts remained fragmented and inconsistent.

vi). Post-CRC and Contemporary Era (1992 – Present)

India's ratification of the United Nations Convention on the Rights of the Child (UNCRC) in 1992 marked a significant shift towards rights-based child protection. It necessitated the alignment of Indian laws with international standards, recognizing that children have independent legal rights, including the right to survival, development, protection, and participation.

- The Juvenile Justice (Care and Protection of Children) Act, 2000, later replaced by the JJ Act, 2015, provided for a national framework addressing both children in conflict with the law and those in need of care and protection.
- The JJ Act, 2015, while comprehensive, fails to specifically identify 'street children' as a distinct sub-category, leading to interpretational inconsistencies.
- The Right of Children to Free and Compulsory Education Act, 2009, guarantees education for all children aged 6–14, but does not operationalize inclusion of street children, many of whom lack documentation or stable residence.
- The National Policy for Children, 2013, and schemes like the Integrated Child Protection Scheme (ICPS) and Bal Swaraj Portal have made strides, but implementation remains weak.
- The National Commission for Protection of Child Rights (NCPCR) has issued Standard Operating Procedures (SOPs) for Children in Street Situations, yet these remain non-binding and advisory in nature.

Despite the modern legal framework, systemic barriers such as lack of identification, fragmented service delivery, and poor inter-agency coordination continue to leave street children unprotected, undocumented, and deprived of basic rights. India's approach, though progressively aligned with international obligations, lacks targeted legislation, integrated data systems, and clear institutional accountability.

'Street Children' are treated marginal to the city's economic life and they commonly reside in the slum dwellings constructed out of waste materials which are hazardous and temporary [29]. Therefore, these children are deprived of safe housing also. In the developing countries like India, the problem of 'street children' is severe as compared to the developed countries. In the Indian context, the violence of different dimensions against the 'street children' has now become a serious issue which needs immediate attention of all concerned. The basic human rights of these children are infringed every day. Moreover, in a country like India, the question about the security of these children is of serious nature. In India, the existing child welfare laws are not very specific about the 'street children'. Apart from this, the police in our country are also in the habit of keeping a negative attitude towards these children. All these factors and many more are actually creating hindrances in the upliftment as well as protection and development of these children.

'StreetChildren'areconsideredaschildrenunderespeciallydiffic ultcircumstancesand therefore they need carefully designed welfare services. But very few data and information are available about these children due to the insufficient systematic research about the matter. Therefore, the issue of 'street children' needs an urgent and immediate attention and without this, the social outcome may be serious [30]. To avoid the adverse result upon the society, systematic and multi-disciplinary research about 'street children' as well as the active co-operation of each and every individual is the need of the hour. The problem of violence against 'street children' is common in developed as well as developing countries. Although various factors are contributing towards the continuance of this problem yet, it can be stated that the primary causes of this problem are the poor or insufficient socio-economic conditions or status of these children and the neglectful attitude of the society towards these children. The issue of 'street children' is a neglected one. Not only in Indian Society, but in almost all the societies, this issue is neglected. Every nation is taking part in the marathon of progress and development, but with the existence of 'street children', there

will be no true victory.

It is not always true that poverty is the sole reason of 'street children' issue. In many cases, the children of well-off families may also become 'street children' due to various reasons. They may be kidnapped and then thrown to the streets as beggars or they may loss contact with their parents during natural calamities, war etc. and become homeless and start staying on the streets. But while making any study about this matter, all these children must be kept under the ambit of study. Although it is very difficult, this may give rise to fruitful and practical solutions to root out this problem. Everywhere it is accepted that children are the backbone of a nation, but in reality, we are breaking our backbone bit by bid every day by neglecting and excluding these children from the main stream of life. This is actually an offensive wastage of human resources. Therefore, to make the society aware about the profoundness of the matter, original as well as academic research are most important to carry out.

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