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"FROM NEGLECT TO RIGHTS: THE LEGAL IMPERATIVE FOR MENTAL HEALTH INTERVENTIONS FOR UNDERPRIVILEGED CHILDREN"

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Abstract

Unprivileged children in India face disproportionate mental health challenges arising from poverty, malnutrition, abuse, exploitation, unstable family environments, and systemic neglect. Despite this heightened susceptibility, child mental health remains one of the most neglected aspects of child welfare, which has long – term developmental, educational, and social consequences, influencing an entire life trajectory. The central argument of this chapter traverses that mental health provides the supports impoverished children and is both a social obligation and a legal requirement based on India's International Human Rights commitments, statutory provisions, and constitutional guarantees. This discussion highlights how the present legal frameworks already protect children's right to education, concentrating on the Indian Constitution, the Juvenile Justice Act, the Mental Healthcare Act, the Protection of children from sexual offences Act, and the UN Convention on the Rights of Children. However, these gaps are still being undermined by implementation imperfections, insufficient amenities, stigma, and the absence of proper funding. This chapter further examines urban slums, displacement, the effects of conflicts, gender – specific vulnerabilities, and the shortage of qualified mental health professionals in government educational institutions and childcare centres. It emphasizes the way neglecting the provision of prompt psychological assistance restricts children's fundamental rights and perpetuates intergenerational marginalization and destitution. According to the NCPCR's findings and Sheela Barse v. Union of India, which acknowledged mental health as an integral part of Article 21, mental health neglect in child institutions is illegal non – compliance. Finally, in order to guarantee that mental health care becomes accessible, equitable and required for every child, regardless of their economic circumstances, it ultimately recommends a right – based model for intervention that integrates community health workers, school – based counselling, early – screening mechanisms, and legal accountability frameworks. In addition to safeguarding vulnerable children, a change

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from neglect to rights will be essential for bolstering India's wider social justice and public health systems.

Keywords: Child Mental Health, Rights – Based Interventions, Underprivileged Children.

I. Introduction:

"The true measure of any society can be found in how it treats its most vulnerable members"

- Mahatma Gandhi[1]

Child mental health has increasingly emerged as a critical yet neglected dimension of child rights discourse, country's moral, social and constitutional conscience. For millions of unprivileged children in India, childhood has been defined by poverty, deprivation, violence, and psychological instability rather than care and opportunity. Despite the fact, India has made significant achievements in the areas of education, nutrition, child protection and mental health, but it is still one of the aspects of child welfare which has been remains neglected. A child's cognitive growth, emotional stability, academic proficiency, and future socioeconomic mobility are all strongly affected by their mental health, making it more than just a medical issue. Neglecting children's mental health encounters far – reaching effects, particularly when it comes to children from underprivileged and marginalised backgrounds.

Unprivileged children are disproportionately exposed to adverse childhood experiences like malnutrition, sexual abuse, domestic violence, child labour, displacement, homelessness, and institutional disregard. Vulnerability to anxiety disorders, depression, post – traumatic stress disorder, and behavioural problems is significantly heightened by these events. India's child welfare discourse has historically placed a greater emphasis on formal education and physical survival instead of mental health, despite this higher danger. This fragmented approach operates towards India's constitutional vision of equality and dignity and jeopardizes children's comprehensive growth.

From a legal standpoint, this chapter examines that child mental health is deeply ingrained in Article 21 of the Indian constitution's right to life and personal liberty, that has recently been judicially extended to encompass the right to live with dignity[2]. The state must be implemented

[1] B.R. Nanda, Gandhi and his Critics 12 (Oxfod Univ. Press 1985).
[2] INDIA CONST. art. 21.

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to provide psychological care, rehabilitation, and trauma – informed support under the statutory provisions such as the Juvenile Justice (Care and Protection of Children) Act, 2015[3], the Mental Healthcare Act, 2017[4], and the Protection of Children from Sexual Offences Act, 2012[5]. India's international responsibilities under the UN Convention on the Rights of the child, which guarantees every child's right to the highest feasible standard of mental health, comply with these domestic mandates[6].

The chapter further examines the systematic vulnerabilities of disadvantages children, institutional negligence, and professional shortages, in conjunction with judicial oversight acknowledging mental health. It also proposes a rights – based intervention model integrating community, educational, welfare, and legal accountability apparatuses to make certain holistic child development.

II. Mental Health Vulnerabilities of Underprivileged Children in India

Mental health vulnerabilities among underpriviledged youngsters in India are a severe and complicated problem. They stem from deep – seated inequality, social exclusion, and weaknesses in establishments. formative years is a crucials time for cognitive, emotional, and social boom. For kids dwelling in poverty, displacement, and marginalization, this period often interrupted. Their psychological misery isn't simply because of character issues; it's far on the whole motivated by way of terrible social elements. The encompass lack of cash, gender discrimination, hazardous residing conditions, and constrained get admission to healthcare and education. Systemic failure in shielding children and handing over intellectual fitness offerings make challenges even worse. The following discussion take a look at the key dimensions of intellectual fitness vulnerabilities faced through underpriviledged children in India, focusing on structural determinants, gender – particular risks, and the psychological impact of institutionalisation:

A. **Structural Determinants of Psychological Distress:** Underprivileged children from disadvantaged backgrounds in India encounter with mental health challenges that originate from societal injustices rather than particular diseases. Chronic stress environments that prevent psychological development are fostered by poverty, food

[3] Juvenile Justice (Care and Protection of Children) Act, 2015, No. 2, Acts of Parliament, 2016, §§ 3, 39.
[4] Mental Healthcare Act, 2017, § 18, No. 10, Acts of Parliament, 2017 (India).
[5] The Protection of Children from Sexual Offences Act, 2012, § 19–21, No. 32, Acts of Parliament, 2012 (India).
[6] Convention on the Rights of the Child, Nov. 20, 1989. 1577 U.N.T.S. 3; 28 I.L.M. 1456 (1989).

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insecurity, poor housing, insufficient sanitation, domestic violence, using drugs within families, child labour, human trafficking, and involvement in criminal activities. Research consistently shows that children from low – income families are more likely than their financially secure peers to suffer from mental health disorders.

Malnutrition possesses a negative impact on cognitive growth and emotional control, particularly during early childhood**.** This raises the risk of developmental delays, attention deficits, and behavioural disorders. Stress and trauma have been made worse for children living in crowded urban areas due to overcrowding, environmental risks, societal exclusion, and restricted access to healthcare. In the same way, children who are experience displacement as a result of migration, violence, or climate change forfeit their social networks, stability, and identity, which leads to elevated anxiety and post – traumatic stress.

B. Gender – Specific Mental Health Vulnerabilities :

Girls from underpriviledged backgrounds face gendered mental health risk due to early marriage, household obligations, restricted mobility, sexual abuse, and gender – based discrimination. Adolescent girls are especially susceptible to depression, anxiety, and self - harm. psychological harm becomes more severe by the combination of poverty and patriarchy, but gender – sensitive or trauma informed strategies are seldom in mental health services.

C. Institutionalized Children and Psychological Harm:

Children living in shelter homes, observation homes, and child care centres frequently experience abuse, neglect, and emotional deprivation. Systemic imperfections in mental health screening, counselling, and therapeutic treatment within such institutions have been highlighted in reports by the National Commission for Protection of Child Rights (NCPCR). Psychological harm is constructed more severe by the lack of monitoring systems and competent professionals, which usually leads to behavioural challenges, self – harm, and legal issues.

III. Constitutional Foundations of the Right to Child Mental Health

The mental health of children is intently tied to their dignity, development, and ordinary well – being. This makes it an critical trouble, not just a social issue. In India, whilst the constitution does not sincerely state a separate proper to mental health, courts have step by step accelerated essential rights to consist of psychological and emotional, particularly for inclined corporations like children. The constitutional framework, while

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viewed as a whole, offers a robust basis for spotting toddler intellectual health as a key part of the right to existence, schooling and development.

The very best court docket has emphasized, via interpretations of Article 21, that living with dignity consists of having true mental and emotional fitness. Similarly, the Directive principles of state policy calls for the state to shield kids from exploitation and create situations that assist their universal growth. Moreover, the right to schooling below article 21 A suggests the need for supportive intellectual fitness environments, meaningful schooling cannot exist without mental well – being. Together, these constitutional provisions highlight the country's responsibility to develop systems for youngsters that includ e mental heath care as an important part of their rights:

A. Article 21 : Right to Life with Dignity:

The right to live with dignity, which include mental, emotional, and physical well – being, has been frequently interpreted by the Supreme Court of India under Article 21. The court determined in Francis Coralie Mullin v. Administrator, Union Territory of Delhi that the right to life incorporates the right to live with human dignity and all corresponding rights. Therefore, the Constitutional guarantee of life is inextricably connected to mental health. The court concisely recognised the psychological health of children in educational and custodial settings as a constitutional concern. In Sheela Barse V. Union of India, the court acknowledged mental health as an integral part of Article 21 and emphasised the state's obligation to provide children with appropriate conditions, counselling, and rehabilitation.

B. Directive Principles and Child Welfare

Articles 39 (e) and (f). 41, 45, and 47 of the Constitution impose a safeguard for children from exploitation, promote their proper growth and development, and provide them with conditions of freedom and dignity. These provisions, yet non – justiciable, reinforce the state's responsibility to address mental health as part of comprehensive child development and establish the interpretation of fundamental rights.

C. Right to Education and Mental Well – being

The right to education is considered as a fundamental rights under Articles 21 A, cannot be fully acquired without mental health assistance. Psychological anguish affects on learning outcomes, presence, and retention. Especially, for underpriviledged children. Courts have acknowledged that education should focus on the child, be comprehensive, and foster development. This implicitly assert a psychological support

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systems.

IV. Statuary Framework Governing Child Mental Health

The protection and promotion of child mental health in India is not just about public welfare; it is a legal obligation based on constitutional guarantees, laws, and international human rights commitments. Recognizing that children, especially those from marginalized and disadvantaged backgrounds, are particularly vulnerable, the Indian legal system has increasingly included mental health as a key part of child protection and development. Various laws take a rights-based approach, focusing on dignity, rehabilitation, psychological well-being, and the best interests of the child. However, even with strong laws in place, translating legal intent into effective mental health care is inconsistent and faced with systemic issues. This section looks at the main laws governing child mental health in India. It highlights their goals, scope, and limitations. By reviewing the Juvenile Justice (Care and Protection of Children) Act, 2015, the Mental Healthcare Act, 2017, and the Protection of Children from Sexual Offences Act, 2012, it aims to determine how well these laws meet the psychological needs of children and points out the ongoing gaps in implementation that hinder their effectiveness**:**

A. Juvenile Justice (Care and Protection of Children) Act, 2015[7]:

The Juvenile Justice Act takes a rights – based stance, focusing on rehabilitation, social reintegration, and the child's best interests. Individualised care plans, mental health evaluations, and counselling services are required by the Act for both children in legal trouble and those in need of care and protection. However, due to insufficient supervision, staffing, and training, implementation is still poor.

B. Mental Healthcare Act, 2017[8]:

The Mental Healthcare Act marks a paradigm shift from custodial care gave way to rights – based mental health services. It emphasizes the right to community – based services, mental healthcare, and protection against unfair treatment. The Act's child – specific provisions are continue to remain underutilized, specifically, for children from marginalized groups have little knowledge and awareness, regardless of the fact that it applies to all individuals.

[7] Juvenile Justice (Care and Protection of Children) Act, No. 2 of 2016, INDIA CODE (2016).
[8] Mental Healthcare Act, No. 10 of 2017, INDIA CODE (2017).

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C. Protection of Children from Sexual Offences Act, 2012:

The POCSO Act necessitate child – friendly procedures, counselling, and therapy due to it comprehends the significant psychological consequences of sexual abuse. However, long – term health and trauma recovery are negatively impacted by the tardiness or superficial quality of mental health treatments.

V. International Human Rights Obligations

International human rights law proposed a strong normative basis for the protection and promotion of child mental health, recognising it as an essential part of the right to life, dignity, and comprehensive development. These obligations carry positive duties on States to respect, protect, and fulfil child mental health, especially focusing on vulnerable and marginalized children. Mental health has ceased to be a concern of the medical field alone and has become a human rights concern that is inextricably intertwined with education, social inclusion, protection from violence, and equality. The international community has progressively developed standards through binding and soft-law instruments for early intervention, accessibility, non-discrimination, and child-friendly approaches to mental health care. As a State party to major international conventions, India is obligated to bring its national laws, policies, and institutional frameworks in line with these standards. It is therefore imperative to review these international obligations to determine the extent to which India has incorporated international commitments on child mental health.

A. UN Convention on the rights of the Child (CRC):

As a State Party to the CRC, India is required to guarantee children with the optimal potential physical and mental health. Mental health has been specifically addressed by Article 24, and protection from assault and required by Articles 19 and 39. Early intervention, community – based services, and non discrimination have been emphasised in the CRC's General Comments.

B. Other International Instruments:

The requirement to incorporate mental health into public health systems, particularly, for vulnerable populations, is further emphasised by international frameworks like the WHO's Mental Health Action Plan and the International Covenant on Economic, Social, and Cultural Rights (ICESCR).

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VI. Implementation Gaps and Institutional Failures

Despite the existence of constitutional protection, legal provisions, and international human rights obligations, the issue of child mental health rights in India is extremely impeded by systemic implementation deficits and institutional failures. The application of legal standards to ensure the availability and effectiveness of child-friendly mental health care has been patchy and inadequate, especially for children belonging to socio-economically disadvantaged sections of society. Institutional weaknesses in the public health and child protection sectors, combined with chronic underfunding, lack of administrative coordination, and absence of accountability mechanisms, have led to a systemic gap between policy and implementation on the ground. These challenges are further compounded by the absence of awareness and the low priority accorded to mental health issues within the overall child protection agenda. A critical review of these implementation deficits is necessary to comprehend the reasons for the ineffectiveness of existing legal safeguards in mitigating the mental health risks of disadvantaged children and to pinpoint areas requiring immediate institutional change.

Mental health services for children with limited resources are still severely underdeveloped despite adequate legal frameworks. There is an extreme absence of child psychologists, psychiatrists, and social service professionals in the public health system, and fiscal resources for child mental health are scant. Access is made more difficult by stigma, ignorance, and fragmented governance. Rarely, do government schools, anganwadis, and childcare centres offer counselling services or perform systematic mental health assessments. Legal protections are ineffective when implemented because there are inadequate monitoring systems and responsibility for non – compliance.

VII. Towards a Rights – Based Model of Mental Health Intervention

A rights-based approach to mental health interventions for children signifies a paradigm shift from charity-driven welfare models to enforceable State responsibility, as informed by constitutional and human rights standards. Child mental health cannot be viewed as a discretionary social welfare function anymore; it is inextricably intertwined with the right to life, dignity, education, and comprehensive development. In the Indian scenario, the continued invisibilization of children's mental health, especially in the case of disadvantaged and marginalized sections of society, points to the profound failure of structural policy and institutional management. A rights-based approach requires the State to transcend piecemeal

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and responsive interventions and instead develop systemic, preventive, and accessible mental health infrastructure that is constitutionally guaranteed and effectively tracked. This requires a focus on early detection, community-based integration, institutional responsibility, and gender and trauma sensitivity, which are informed by the varied risks that children are exposed to. By integrating mental health care delivery through schools, primary healthcare systems, and child welfare institutions, and by providing adequate resource allocation, the State can meet its positive obligations under domestic and international law. The following elements articulate the critical foundation of a comprehensive rights-based mental health intervention program for children.

The State must follow enforceable requirements of care and extend beyond discretionary welfare programs in order to implement a right – based approach. Essential components consist of:

1. **School – Based Mental Health Programs** with competent instructors and mental health professionals who are competent to identify indications of distress.
2. **Community Mental Health Workers** are integrated into child welfare and primary healthcare systems.
3. **Early detection and intervention** strategies at the school and anganwadi levels.
4. **Frameworks for Institutional accountability** that involve regular audits, grievance settlement, and judicial surveillance.
5. **Gender – sensitive and Trauma – Informed Care Models** for individuals with vulnerabilities.
6. **Increased funding and capacity building** for mental health services for children.

VIII. Conclusion

In India, the mental health of underprivileged children lies as a essential intersection between human rights, constitutional morality, and child welfare, nevertheleness, it is frequently neglected in institutional practice and policy enforcement. While statutory structures and judicial rulings have increasingly recognised mental health as a crucial element of the right to life and dignity under Article 21 of the constitution, the lived experiences of marginalised children demonstrate a substantial gap between legal assurance and social implementation. Children's psychological health is remain compromised by systemic poverty, exposure to violence, displacement, and institutional failings, which perpetuate cycle of vulnerability and marginalization.

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Fixing this isn't about more piecemeal welfare programs. It means switching to a rights-based approach—something holistic, sensitive to trauma, and cantered on the child. The Juvenile Justice Act of 2015 and the Mental Healthcare Act of 2017 lay down the rules for this, but laws alone don't change anything unless there's real funding, enough trained mental health workers, and people actually checking that the rules are followed. Courts have stretched the meaning of dignity, but unless officials and communities step up, mental healthcare for underprivileged kids stays out of reach—too expensive, too far away, or just not tailored to what these children really need. India's also signed up for this on the world stage. The UN Convention on the Rights of the Child makes it clear: the State must treat children's mental health as a top priority. Ignoring this doesn't just break international promises—it chips away at the whole idea of equality and justice that the Constitution stands for. In the end, looking after the mental health of underprivileged children isn't just a nice thing to do or a policy option. It's a constitutional, legal, and moral obligation—and it's key to creating a fairer and more compassionate society.