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FOREWORD MESSAGE

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Prof. (Dr.) Anita Singh
Professor-In-Charge, Sharda School of Law
Chief-Editor, Sharda Law Review

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It is with immense pride and pleasure, I extend my warmest greetings to the readers, contributors, and editorial team of the Sharda Law Review Journal. As a platform committed to promoting legal research, critical thinking, and scholarly dialogue, this journal reflects the academic rigour and intellectual vibrancy of the Sharda School of Law. In an era of dynamic legal transformation, it is imperative for scholars, practitioners, and students to engage in thoughtful discourse on emerging legal challenges and jurisprudential developments. I commend the editorial board for their dedication to maintaining high standards of academic integrity and encourage continued contributions that foster innovation and inclusivity in legal thought. The aim of Sharda Law Review is to avail platform to intellectuals and academicians for expression of their original ideas and creations whether in the form of Research Paper, Article, Case Comments or Book Reviews, etc. The journal is published twice in a year during the 6th and12th Month of every Calendar year.

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Disability, Disparity and the Right to Health: Assessing India's Legal and Policy Commitments

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ABSTRACT

In spite of constitutional guarantees and functional legislation, People with Disabilities (PwDs) in India continue to face institutionalised hindrances to equal access to healthcare. Physical inaccessibility, policy fragmentation, and socio-economic exclusion have mutually locked together to enhance health inequalities among the socially excluded group. The article critically assesses India's policy and legal commitment towards ensuring the right to health of PwDs, focusing on statutory law provisions, national health policies, and implementation lapses. Through a doctrinal approach, the research examines legal documents, including the Constitution of India, the Rights of Persons with Disabilities Act, 2016, and health policy reports. Judicial rulings and international treaty obligations of India, like the UNCRPD, are also examined. The research discovers disparities between the commitments at law and the ground reality of state-level implementation at the sites where the service is unfunded and inaccessible. As much as there are provisions for regulation, PwDs continue to be characterised by elevated unmet medical needs, as reflected in NITI Aayog reports and WHO disability health profiles. An inclusive,

rights-based strategy coupled with institutional responsibility is critical in bridging the disability-health gap in India.

Keywords: Disability Rights, Right to Health, RPwD Act, UNCRPD, Health Policy Implementation

1. INTRODUCTION

"It is health that is real wealth and not pieces of gold or silver."

- ***Mahatma Gandhi***

The right to health has been interpreted broadly as a core human right key to the promotion of equality and dignity for all. Although the Constitution of India does not have any reference to the "right to health" mentioned, judges have interpreted it as being included in Article 21, the right to life and personal liberty. In addition to this, Directive Principles of Articles 38, 39(e), 41, and 47 give a vision for the state duties in providing health for the people and among them, the disabled. Globally, India ratified this duty with the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), especially Article 25, with a binding mandate of accessible and non-discriminatory health care for PwDs.

Disability is no longer medically considered. The Rights of Persons with Disabilities Act, 2016, is a human rights and social approach, actualising disability not merely as an impairment but as an interaction with the disabling society environment that keeps individuals away from participating in society fully. To speak the truth, Persons with Disabilities (PwDs) in India are suffering from unimaginable inequalities in accessing health care services. India possessed 26.8 million PwDs, based on Census 2011, but India's health policy remains exclusionary. NITI Aayog's 2021 Universal Health Coverage report cited urgent infrastructure and service-level gaps among PwDs, such as inaccessible hospitals, insufficient trained human resources, and zero representation in health data systems.

In the aforementioned context, the purpose of this paper is to critically assess India's legal and policy compliance in ensuring PwDs' right to health, with a focus on implementation gaps and the effectiveness of statutory provisions. The research adopts a doctrinal method in the form of a comparative analysis of constitutional provisions, statutes such as the Rights of Persons with Disabilities Act, 2016 (RPwD Act), national policy, and judicial dicta backed by evidence from official government and international human rights reports.

2. CONCEPTUAL FRAMEWORK AND LEGAL RECOGNITION

The right to health is firmly rooted in both international and Indian domestic legal instruments. Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), to which India is a signatory, mandates that states have a responsibility to recognise "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health." The UNCRPD also makes it a reality under Article 25, according to which PwDs are guaranteed the same variety, quality, and amount of free or low-cost health care as any other individual, including services specific to the needs of disability.

Under Indian law, while the Constitution itself does not explicitly state a right to health, the Supreme Court has interpreted Article 21 the right to life as including the right to health and medical attention (particularly in State of Punjab v. M.S. Chawala (1996), and Parmanand Katara v. Union of India, AIR 1989 SC 2039)). Moreover, State Directive Principles like Articles 38, 39(e), 41, and 47 oblige the state to make arrangements for public health and well-being of the disabled and give constitutional imprimatur to the regulation of health.



Figure 1: The Social Model of Disability

A disability concept from a varied theoretical framework is critical to policymaking. The medical model sees disability as a physical or mental impairment of an individual that is correctable or treatable. The social model, instead, sees disability as the result of societal barriers, physical, attitudinal, and systemic, which create disadvantage. The UNCRPD and India's RPwD Act, 2016, as per the human rights model, see persons with disabilities as rights holders who deserve dignity, equality, and integration.

These conceptual models significantly influence policy framing. A medical model might foreground rehabilitation services, but a social or rights-based model is premised on inclusive infrastructure, accessible health systems, and participatory decision-making. India's policies, as

developing ones, vacillate between these models and therefore end up having patchy and uneven healthcare rights delivery for PwDs.

3. LEGISLATIVE LANDSCAPE IN INDIA

India has made great leaps in recent years to develop legal and policy statements regarding the health and welfare of PwDs. The most complete legislation to that effect is the RPwD Act, which brings domestic law in line with India's domestication of the UNCRPD obligations. The provisions for health care and allied services of the Act are sections 25 to 30. Section 25 enjoins the respective government to offer free medical care in government hospitals as well as private hospitals that have been notified by the government, make such access barrier-free, and encourage early detection and intervention. It stretches to the extent of asking even physicians to be sensitised to disability issues and mandating insurance schemes to cover PwDs on a non-discriminatory basis.

Additionally, Section 26 addresses insurance cover, Section 27 addresses offering rehabilitation services, and Section 28 addresses staff training and orientation. Even so, with such provisions laid out, ground-level application is unequal and dependent upon the whims of the state and budget. A 2022 Comptroller and Auditor General (CAG) audit in a series of states had indicated delayed implementation of accessibility standards and a lack of special professionals.

That is supplemented by the National Health Policy (NHP), 2017, which, for the first time ever, elaborates on the health needs of PwDs. It is an equity- and universality-based policy with a recommendation to give priority to vulnerable segments such as PwDs in the delivery of services. The policy supports evolving accessible infrastructure and human resource sensitisation for the disability sector. However, as a policy statement, their provisions are non-justiciable and require legislative and administrative measures to be implemented effectively.

The Mental Healthcare Act, 2017, shall also be referred to because it declares mental illness a disability and ensures the right of an individual to receive mental healthcare services on an equal

footing (Section 18). It provides community-based mental health care and ensures the dignity and autonomy of persons with psychosocial disabilities.

Though these legislative acts represent progress towards a rights-oriented legal system, their effect is softened by bureaucratic resistance, inadequate budgetary allocations, and inadequate monitoring. The gap between law enactment and the actual practice of the right to health of PwDs would have to be bridged through strong institutional support, sustained monitoring, and greater accountability across all sectors.

4. IMPLEMENTATION GAPS AND POLICY CHALLENGES

In spite of a progressive legal system, the realisation of healthcare rights for PwDs in India continues to be plagued by systemic weaknesses, particularly at the district and state levels. While the RPwD Act, 2016 and the National Health Policy, 2017, have articulated inclusive objectives, their enforcement has been uneven and patchy, derailing the achievement of health equity among PwDs.

The most glaring deficiency is the absence of physical access in hospitals and healthcare centres. More than 90% of PHCs and government hospitals in states were not accessible to individuals with locomotor, visual, or hearing disability, a National Centre for Promotion of Employment for Disabled People (NCPEDP) 2020 survey, published this week, revealed. They had no ramps, accessible toilets, Braille signage, or trained staff, a gross failure of Section 25 of the RPwD Act.

No less unsettling is the lack of disaggregated disability data in the national health databases. As noted by NITI Aayog's Universal Health Coverage report (2021), disability-specific indicators are not covered in India's health information systems, making it practically impossible to plan specially designed interventions or design fitting resource allocations for PwDs. Invisibility within numbers translates to invisibility in policy response.

At the rural level, ANMs and community health workers may be deficient in being able to cope with PwDs, especially those with intellectual or psychosocial disabilities. Bihar, Jharkhand, and

Madhya Pradesh have ascribed sub-optimal use of healthcare schemes among PwDs due to information constraints, stigma, and logistics like the unavailability of assistive transport.

Apart from having a gender budget distinct from the general budget, the women and child-focused schemes like Ayushman Bharat do not treat individuals with disabilities individually, despite them having greater healthcare requirements and out-of-pocket expenditure. Rehabilitation services fall short of being budgeted, and public-private partnerships hardly include inclusive healthcare design in their fold. Apart from that, no single monitoring system exists to ascertain how hospitals abide by accessibility norms under the RPwD Act.

The gap between constitutional commitment and policy implementation is thus not administrative but structural, testifying to an integrated, strengthened coordination among ministries and disability-oriented budgeting. In the absence of concerted reform, the constitutional guarantee of health and dignity is still a distant dream for millions of disabled Indians.

5. JUDICIAL INTERPRETATIONS AND CASE LAW

Indian courts have been pioneers in interpreting and evolving the right to health for PwDs, bridging gaps created due to policy inertia. Judicial activism has ensured that the right to health is a fundamental aspect of the right to life under Article 21 of the Constitution, and the right must be made accessible to everyone, including the physically, intellectually, and psychosocially disabled.

In its historic judgment in Jeeja Ghosh & Another v. Union of India (2016) 7 SCC 761, the Supreme Court made strong emphasis on dignity, autonomy, and non-discrimination in PwD services. The case pertained to air transport, but the Court reaffirmed categorically the right of equality of access of the PwDs in all public services, by necessary implication, health care also.

Another significant case is the Bihar Intellectual Disability Institutions case (In Re: Inhuman Conditions in 1382 Prisons, WP (Crl.) No. 406/2013), where, suo motu, the Supreme Court took

cognisance of subhuman conditions prevailing in intellectually disabled residential institutions. The Court directed medical boards, health check-ups at regular intervals, and state obligation, remembering that neglect of healthcare constitutes a violation of constitutional rights.

At the time of the COVID-19 pandemic, several Public Interest Litigations (PILs) were transferred seeking inclusive vaccination policies, preferential access and vaccination, and accessible information to PwDs. The Delhi High Court and other forums subsequently directed governments to implement doorstep vaccination, sign language interpretation, and accessible websites, signalling a judicial turn towards inclusive public health policy.

Overall, Indian jurisprudence has a progressive orientation towards a participatory, rights-oriented conception of health obligations, but there is uniform enforcement and systematic compliance. The courts acknowledged the imperative of positive state action, but in the absence of enforcement penalties, their impact tends to be undermined.

6. COMPARATIVE AND INTERNATIONAL INSIGHTS

At the international level, several nations have adopted comprehensive frameworks to deliver the right to health of PwDs through legislation, available infrastructure, and universal systems of health. Australia's Disability Discrimination Act, 1992, is an example that enforces reasonable adjustments in healthcare and has been supplemented by the National Disability Insurance Scheme (NDIS) reforms to provide individualised planning for health. Correspondingly, the United Kingdom, through the Equality Act 2010 and the NHS Long Term Plan, requires that the healthcare service is inclusive, makes provision for the availing of annual health checks to individuals with learning disabilities, and incorporates disability-specific health information in policy-making.

Conversely, India's attempts, though supported by the RPwD Act, 2016, also lack implementation, budget, and a monitoring framework. India has signed the UNCRPD, and Article 25 of the convention specifically requires states to provide PwDs with non-discriminatory, accessible, and affordable health care. SDG 3 targets "Good Health and Well-

being for All" and SDG 10 targets reducing inequalities, both of which are directly applicable to the Indian context of disabilities.

Table 1: Comparative Legal Frameworks for Health Rights of PwDs

Country	**Legal Framework**	**Key Provision for PwDs in Health**
Australia	Disability Discrimination Act, NDIS	Personalised support, inclusive insurance model
United Kingdom	Equality Act, NHS Plan	Annual health checks, data-driven planning
India	RPwD Act, National Health Policy	Free healthcare and rehabilitation *(poorly enforced)*

It is comparative experience that rights without institutional design are meaningless. India has to move away from legal formalism towards institutional accountability, aligning domestic practice with its commitments to UNCRPD and SDG, so that PwDs' health is not only assured but actually provided.

7. RECOMMENDATIONS AND THE WAY FORWARD

In order to bridge the law-realism gap, India will require a multi-level, rights-based strategy to reorient health systems to cater to the needs of PwDs. The first requirement is disability-inclusive budgeting in central and state health schemes so that allocations can be made specifically for barrier-free infrastructure, assistive technologies, and rehabilitation services. Ministries need to undertake mandatory accessibility audits of all government health facilities with deadlines and penalties for non-compliance to have Section 25 of the RPwD Act, 2016, in place.

A programme towards community-based rehabilitation (CBR) in rural and remote areas has the promise of deconcentration of health care delivery and development of local-level support for

individuals with physical, intellectual, and psychosocial disabilities. Also, training modules on disability awareness and universal health care practices must be incorporated into the curriculum of doctors, nurses, ASHAs, and ANMs so that attitudinal barriers can be minimised.

A similar concern is institutionalising redressal processes for grievances in the health system that allow PwDs to file complaints of discrimination or refusal of treatment, as well as legal recourse where required. Finally, all health data systems must disaggregate by disability status so that they can serve to inform evidence-based policy and tracking of progress. Together, these reforms can bring the right to health of PwDs into being.

8. CONCLUSION

Right to health of PwDs in India is no longer a welfare and charity matter but a constitutional and human right on the grounds of dignity, equality, and non-discrimination. India has passed progressive laws, mostly the Rights of Persons with Disabilities Act, 2016, and reoriented itself at the international obligation under the UNCRPD and Sustainable Development Goals. However, the ground realities of PwDs continue to attest to the persisting unmet gaps of access, affordability, and quality of care. These promise-delivery gaps have to be addressed by system change. A rights-based health system must move beyond legal formalism to encompass institutional accountability, social inclusion, and universal access. This requires concerted action by ministries, building stronger health infrastructure, social budgeting, and capacity-building of front-line health workers.

Subsequent research should identify state-wise variations in implementation, digital health technology's contribution to increased accessibility, and the nature of the intersection of disability with poverty, gender, and rural marginalisation. In-depth qualitative studies of healthcare experiences among PwDs, especially from unrepresented states, would improve policy-making and implementation. India's health equity pledge is not feasible unless the PwDs are taken along at all stages, from policy vision and formulation to implementation. It is not just a legislative success to narrow this gap, but it is an ethical necessity in terms of constitutional principles and the inclusive growth vision.

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Artificial Intelligence the Global Warming Mitigator

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Abstract
Global warming is a critical concern because even little changes in global temperatures can have significant environmental and societal consequences. As the Earth warms, natural systems are pushed to their limits. For example, marine turtles are on the verge of extinction because warmer beach sand causes more females to be born, breaking the gender balance required for life. Warming also causes ice sheets in Antarctica and Greenland to melt, resulting in increasing sea levels that endanger coastal communities. Heatwaves, droughts, and extreme weather events are growing more common and severe, endangering millions of lives. Food shortages in sensitive countries such as Africa and the Mediterranean could worsen with just 2°C of warming, while millions more could suffer from water stress.
Keywords: Global Warming, Environment, Temperature Rise, AI, Legal Provisions

Introduction: Global Warming
Global warming depicts a rise in the temperature of the earth's surface. Since 1850, the temperature of earth rise by 0.11 Fahrenheit i.e. 0.06 Celsius every decade. Global Warming can be done due to a number of reasons. Human activities that emit greenhouse gases into the atmosphere are the primary causes of global warming. Burning fossil fuels such as coal, oil, and gas for power, automobiles, and factories emits a significant amount of carbon dioxide into the atmosphere. Cutting down forests eliminates trees that absorb carbon dioxide, exacerbating the situation. Farming also emits gases such as methane from cattle and nitrous oxide from fertilizers. Transportation, particularly vehicles and trucks, produces harmful emissions. Industries that create items such as steel and cement consume a lot of energy and contribute to pollution. These processes trap heat in the atmosphere, contributing to global warming.

Rise in temperature, The matter of Concern

Moreover, Biodiversity is also under risk, with species losing their natural habitats and unable to adapt rapidly enough. Coral reefs, which support a diverse range of marine life, could disappear totally. These effects will not only harm animals and plants, but also impair human health, economies, and infrastructure. The IPCC warns that reducing warming to 1.5°C is critical for mitigating risks and facilitating greater adaptation. Our efforts now, particularly those aimed at reducing greenhouse gas emissions, will determine whether future generations will face manageable or catastrophic consequences.

Regular practice to balance the temperature

Rise in Temperature is not only due to Large scale companies, but it is an effect of our daily routine as well, where we use the resources in excess and make them deficient, where we don't expose our body to natural sunlight and rely over electrical appliance for every small need, where we feed our body with overcooked or pasteurized food instead of having enough natural raw fruits and vegetables. Hence, Individuals can help combat climate change i.e. Global Warming by adopting tiny but impactful steps. Supporting strong environmental regulations, employing renewable energy, and making dwellings more energy efficient can all help to reduce pollution. Choosing energy efficient appliances, conserving water, limiting food waste, composting, and using LED lighting all make a difference. Unplugging useless devices, driving fuel-efficient vehicles, maintaining them properly, taking public transportation, flying less, and recycling responsibly all contribute to the problem. These methods not only reduce hazardous emissions, but they also save money, protect health, and preserve the environment for the future. Every tiny deed leads to a larger good influence, as earth does not belong to a single individual, it belongs to the whole biodiversity and future generation as well.

AI's power to Protect Earth's Temperature

Artificial intelligence (AI) is proven to be an effective tool in the fight against climate change. AI is assisting governments, corporations, and communities all across the world in making more informed environmental decisions. It can rapidly handle enormous amounts of data, allowing specialists to better forecast weather patterns and climatic events. This enables vulnerable people to plan for disasters such as droughts and floods. AI, for example, helps Kenyan farmers plan for dry seasons by providing real-time meteorological updates. AI monitors air pollution in cities and contributes to better urban design, making them healthier

and more sustainable. AI also aids the transition to clean energy by increasing power grid efficiency and minimizing waste. In industries with significant emissions, such as fashion and agriculture, AI can enhance supply chains, reduce pollution, and encourage more sustainable practices. The United Nations is aggressively pushing AI through climate action-related projects, contests, and partnerships. Early warning systems and smart farming technology have already saved lives and helped the environment. From sustainable energy to catastrophe prevention, AI is bringing the world closer to reaching the Sustainable Development Goals. With continuous support, AI can play an even greater role in achieving a greener, safer, and more equitable future.

Artificial intelligence (AI) is helping to mitigate global warming in a variety of smart and practical ways. It can quickly handle vast amounts of data, allowing for more informed environmental decisions. AI, for example, can monitor melting icebergs, deforestation, and the amount of carbon stored by forests. In Africa, AI is used to predict weather patterns, allowing communities to prepare for climate-related dangers. It is also used to improve trash recycling by discovering additional materials that can be reused, resulting in lower methane emissions. Moreover, AI helps detect plastic waste in the ocean, allowing for more effective removal. In Brazil, artificial intelligence forecasts climatic calamities and assists governments and companies in preparing. Google's DeepMind is developing AI tools to improve weather forecasting and wind energy consumption. AI also helps heavy industries, such as mining and oil, track and cut their greenhouse gas emissions. In Rio de Janeiro, AI and drones are being used to quickly sow seeds and reforest hard-to-reach places. Furthermore, AI can also help farmers improve their practices by utilizing sensor data to minimize environmental impact. These smart technologies are emerging as significant tools in the battle against climate change, allowing us to preserve the planet and reduce global warming more effectively and fast.

Real life examples

AI is making a significant contribution to the fight against climate change. For example, **Google** employs AI in its data centers to reduce cooling energy consumption by 40%, saving money and lowering carbon emissions. **Deep Thunder, IBM's** artificial intelligence system, provides very local weather forecasts based on enormous volumes of climate data. This helps farmers and governments prepare for severe weather. AI can analyze large amounts of data and create intelligent predictions, which is essential in dealing with climate challenges. These

examples demonstrate how AI is significantly improving environmental protection and resource conservation. Thereafter, Many new companies are harnessing AI to combat climate change in innovative and useful ways. **KoBold Metals** employs artificial intelligence to locate critical minerals such as lithium and cobalt, which are required for electric vehicle batteries. Their tools improve mining efficiency and facilitate the transition to clean energy. **Station A** employs artificial intelligence to assist building owners in simply finding renewable energy providers by evaluating location and cost data. **CarbonBright** employs artificial intelligence to calculate a product's carbon footprint over its entire life cycle, assisting businesses in selecting greener materials and lowering emissions. **Rhizome** uses artificial intelligence to help governments and city planners comprehend the full impact of large infrastructure projects, such as how they affect people and the environment. **Pastoral**, based in Uzbekistan, uses AI-powered animal trackers to assist farmers in moving their cattle in ways that protect land and boost productivity. These startups demonstrate how artificial intelligence may make industries such as mining, farming, construction, and retail more sustainable. They are also producing jobs around the world while benefiting the environment.

Challenges

Artificial intelligence (AI) is rapidly increasing, but it poses significant environmental issues. Training large AI models consumes a significant amount of electricity and water, resulting in carbon emissions equivalent to hundreds of families each year. It also pollutes nearby air and water, particularly when driven by fossil fuels. This has a negative impact on the environment and the health of residents in adjacent communities. Water is also utilized extensively to cool data centers, putting strain on freshwater supplies, particularly in arid places such as Arizona or Chile. Although firms are attempting to mitigate the impact of AI through improved cooling systems, efficient processors, and renewable energy, the issue of where the damage occurs remains unresolved. Not all locations are affected equally. Some data centers use mostly renewable energy, while others rely on fossil fuels, which increase pollution. In poorer or hotter places, AI puts additional strain on already limited resources. Even smart solutions, such as transferring AI jobs between regions to save energy, may increase locals' water or electricity expenses. Moreover, To develop ethical AI, we must prioritize not only reducing emissions but also fairly distributing environmental costs. AI should not disproportionately hurt vulnerable groups; it must be sustainable and egalitarian.

Conclusion

We must act quickly to eliminate short-lived climate pollutants (SLCPs) such as methane, black carbon, hydrofluorocarbons, and ozone, which are potent drivers of global warming and hazardous to our health, food, and economy. These contaminants cause millions of premature deaths, lower food production, and harm the ecosystem. Because they only persist in the atmosphere for a short period of time, reducing their emissions can significantly decrease global warming. We already have the technology to minimize them in an economical method. Taking action now will safeguard our planet, improve air quality, increase food security, and contribute to the global goals for sustainable development. Moreover, AI is contributing to the fight against climate change in various ways. It can forecast the weather, monitor pollution levels, improve disaster warnings, and assist cities and farmers in making better decisions. The United Nations and other organizations are utilizing AI to promote renewable energy, minimize waste in fashion and agriculture, and develop smarter systems. People in Kenya use apps like MyAnga to plan for droughts. AI also helps to reduce emissions and make industries more sustainable. With worldwide support, artificial intelligence is becoming a significant tool for protecting the environment and meeting the United Nations' Sustainable Development Goals by 2030.

Although AI presents certain issues in terms of Earth's temperature, it is the best tool for protecting the planet from rising temperatures. As the number of enterprises grows and the population grows, climate becomes less important to them, and it is difficult to evaluate what they are doing to protect the environment on a weekly basis. The paper has already addressed many examples of companies that use AI to reduce the effects of global warming, which shows that AI is truly helpful to maintain the temperature.

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Analysis on Climate Litigation in India

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Abstract

This paper examines the dynamic climate change litigation environment in India, and the unique qualities of the Indian judicial system that allows it to adopt and assimilate new tenets of environmental law in the national legal system. The exploration of the historical background of judicial activism, the focus on environmental protection enforcement, and the strength of the Indian system of democratic institutions places the piece in a light illustrating how the above-mentioned points empower courts to become proactive in terms of the climate issues. The discussion has been continued to recent judicial trends and there is a provision of insight into how Indian judicial systems are being slowly taken in by various intricate barriers of climate. The article presents with the help of several case studies an increased readiness of the courts of law to apply international environmental norms and principles in national decisions that tend to make the cases compatible with the international standards. But this gradualism does not go without contradictions, nevertheless. Although the offending is very true in the way the courts are practicing the international environmental doctrines; there has been a major stumbling block regarding the efforts to place the jurisprudence of situations into actual and consistent legal resolutions. Such hurdles incorporate institutional constraints, regulatory rigidity and the overall difficulty to harmonize economic growth with ecological sustainability. By doing so, the article comments upon the conflict between the judicial innovation and systemic obstacles, which are observed in contemporary India and indicate the potential of the climate litigation therein.

Keywords: Climate Litigation, Judicial Activism, Environmental Law, Indian Judiciary, Sustainability

Introduction

There is a critical role that India could play in combating climate change in the world. With nearly one-fifth of the world population and covering only 2.4 percent of the land surface of the earth, India accommodates approximately seven to eight percent of all the known species on earth comprising of over four-five thousand plant species and approximately 91,000 types of animals. Some of its population of more than 650 million lives on climate-sensitive agricultural sector, fisheries and forestry. The outlook presented in climate forecasts is worrying as average climatic conditions in the northern hemisphere are projected to soar between 2 and 4 degrees Celsius in the 2050s or even more in the south. The Indian judiciary comes into play especially here. In the face of heightened climate-related challenges, the way in which the Indian courts address climate litigation and climate-related issues is not just an Indian matter concerning the ecological fate of the country but a global issue of climate governance. In the past, where there was no strong position on the part of the legislature, Indian judiciary has given lead in expanding constitutional rights to safeguard the environment and bringing changes in the legislature issues through its decisions [1].

Climate litigation has become a strategic tool worldwide that is much broader in its scope than the immediate interests of the plaintiffs and the defendants. Such cases as Urgenda Foundation v. The Netherlands have been far reaching in their impact as they do not only define the result of environmental policies in the Netherlands but also establish legal and societal standards which are respectable across all borders. Such cases bring attention to the population, encourage a political debate, and also act as agents of change in the area of public life and in the area of corporate life.

Milieu Defensie v. is an example of a follow-up case of this ripple effect of this pronouncement. Royal Dutch Shell, whose Dutch courts have order Shell to reduce its carbon emissions by 45 percent below 2019 levels by 2030. These watershed judgments are an indication of how courts across the globe are changing their position on corporate and state accountability on the climate crisis. It discusses the elements of proactive judicial interventions commonly known as judicial activism in India that has influenced environmental jurisprudence especially in those areas where the legislature has dictated nothing. This judicial initiative is well captured in the case of the National Green Tribunal (NGT) that was put in place to handle environmental cases.

The Indian environmental regime and its environmental law in particular, have increasingly been based on international environmental law principles like the precautionary principle, principle of polluter pays etc and it has sought to broaden the meaning of locus standi on environmental issues so as to increase the number of people taking an interest in the same. This development has played a critical role towards the realization of access to justice in environmental matters [2].

Impetus Through Judicial Activism

International developments in the climate regime have strongly influenced climate litigation globally- particularly, the mechanisms that allow periodic updates to the regime such as the Paris Agreement and its framework of Nationally Determined Contributions (NDCs), which adopts accountability. Such frameworks have imparted impetus on judicial interventions all over the world. Apart from this, the courts have also become competent in managing the specific environmental-related law issues as the environment-related law is now considered a form of law that needs uniformity of interpretation and conceptions that entail at the bar and bench levels.

In India judiciary has been going a long way which traverses a path of sympathy to the populace and judicial activism, marginally where legislature has been found glaringly inert or not being able to act. The long tradition of public interest litigation (PIL) in the country has served to significantly promote environmental law. The legal standing has become relaxed and allowed the court to hear petitions brought on behalf of communities or even future generations. This judiciary system has led the Indian judiciary not simply to be an interpreter of law, but an active custodian of the public interest with the power to retain jurisdiction to check up on the execution of decisions [3].

This spirit was evocatively expressed back in 1978 by Justice V.R. Krishna Iyer: “When legislators are late enough to test the patience of the people, the courts should have to carve out of what they have to provide”. The above statement presents a summary of the development of an activist court that was created as a response to social exigency. In a nation of hundreds of millions of citizens the majority of whom historically had little access to justice of any relevance, such a transition meant reimagining both the process and outreach of the law. In this manner, the radical concept of the public interest litigation was born and

defined the locus standi, opening the court to be more approachable, democratic, and conducive to the interests of the people.

This construed judicial function enabled the courts to deal with societal systemic problems and was not limited by the limits of the privately-based action. The polycentric judicial system that regarded judgments as binding on all those parties similarly affected replaced the traditional one in which judgments were only binding on the parties (in a court proceeding). Indian courts have been able to pay special and careful attention to environmental concerns in particular [4].

In a case titled Intellectuals Forum, Tirupathi v. State of A.P. & Others [5], have stressed that development should not be done at the expense of environment. On the basis of the significance of sustainable development and the fact that future generations must not be negatively affected by current development of economy due to the principle of intergenerational inequity, the Court acknowledged that the economical growth should not be unlimitedly allowed in spite of the necessity to consider conservation of natural resources to next generations. It echoed the thought that in hard economic times conservation is more often than not, the first casualty candidate, but also reiterated on the point that right to a clean and healthy environment is not merely an ordinary right but also the one held with a corresponding responsibility, personal, and collective to maintain and protect the ecological wealth of the environment. As the judicial experience in India with regard to environmental legislation shows, the judiciary has immense potential through innovation, responsiveness, and a sense of legal daring to fill legislative (or executive) gaps, particularly in such an acute area as climate justice.

Contextualizing the Indian Judicial System

In India, especially when it comes to the legal system involving environmental law, judicial activism is not an element of the rare instances of unusual situations or that of the changing times. Instead, it is the result of a special combination of a few institutional, constitutional, and socio-political factors. India is a convincing example of how the strong constitutional system, combined with the principle of separation of powers, independence of the court and active citizenry can help design and maintain the dynamic and responsive judicial system. Judicial activism has been on the rise in the country due to the presence of innovative and

change oriented legal minds, the formation of exclusive institutions such as the National Green Tribunal and the accompanying rule of law [6].

The Supreme Court of India which is charged with the duty of protecting the human rights guaranteed to its citizens has often proven to play a proactive part in ensuring that the interpretation of the Constitution aims at achieving justice in its purest form. This has frequently had the Court entering into fields of governance and law-making which has created what is often called judicial activism. Here, the separation of power doctrine is not so very rigid; it instead acts dynamically in its check and balance system, which is meant to preserve the constitutional governance and safeguard the freedoms of individuals.

The provision of separation of the judiciary and the executive as required by Article 50 of the Indian Constitution stressed the need of institutional independence in a democracy. The Indian constitutionalism is also strong in its elaboration of powers distributed among three separate branches of government. Articles like Article 13 give the jurisdiction of the judiciary especially the Supreme Court to kill any law within the scope of the violation of the Fundamental Rights entrenched in Part III of the Constitution. Notable among the rights, the right of a clean and healthy environment has been given recognition by the judiciary as part and parcel of Article 21 of the Right to Life [7].

Creation of judicial activism in India can as well be dated to certain historical events. The political crisis of the 1970s resulted in erosion of democratic institutions resulting in Emergency being declared in 1975. The judiciary at that time was accused of neglecting civil liberties, as portrayed by the case that caused controversy because it ruled to support the suspension of the habeas corpus rights. This was a low point, in term of judicial independence [8].

However, the complacent attitude of judiciary in the Emergency brought about an important institutional soul searching. The dominance of the courts over the years to follow was to indicate a shift in the bearing of the courts embracing a more pro-active stance in the protection of constitutional values and reducing socio-political imbalances. Such revival was especially evident in environmental law, in which Indian courts have also looked frequently to international law and norms to construe local statutes in a progressive and human-friendly way [9]. With its struggle overcoming the limitations imposed by the earlier days, the Indian judiciary has become the critical component of environmental governance in the country. It

accomplishes this not only by interpretation and enforcement of established law, but also by establishment of precepts, formulation of policies, and administrative responsibility. In this meaning, judicial activism has turned out to be both a constitutional role and a moral task of establishing the future, as well as the current generations [10].

Role of the National Green Tribunal

In the 1970s, in Europe, the first attempts to establish special Environmental Courts and Tribunals were emerging, in order to deal with the increasing environmental issues through specifically created judicial procedures. The concept has spread to the rest of the world by 2016 and in excess of 1,200 of such institutions have been established in different countries. When the question of the feasibility of having the independent green courts or independent courts distinctly apart of traditional judicial system was under discussion in the world legal community, India became the first country to take a serious step forward by having the National Green Tribunal Act, 2010 being enacted. Establishment of National Green Tribunal (NGT) The National Green Tribunal (NGT) could have been created so that disputes regarding protection of the environment, forests, and natural resources, guarantee swift and adequate action on those issues [11]. The difference between the NGT and the traditional courts is the composition of the establishment that encompasses both judicial and expert members. This combination enables a fundamental analysis of environmental issues, putting legal arguments and scientific and technical knowledge to use. Over the years since its formation, the tribunal has been instrumental in making the environmental issues be addressed as a varies problem under the Indian legal system. Despite facing continuing restrictions, especially with respect to its clarifications in jurisdiction, its power of execution and also in the body of the law, the NGT has contributed substantially towards the Indian jurisprudence in environmental law. It tends to be more progressive in terms of being conscious of the international legal norms showing responsiveness to change and develop in accordance with the global trends of the environmental management [12].

The Future of Climate Litigation in India

Climate-litigation is increasingly on the global rise noticeably after the landmark ruling of Urgenda 2015. In countries including Ireland, France, Germany, South Korea, the U.S., and India, individuals, and communities have been pursuing lawsuits against their governments to

press them to take more ambitious climate commitments, point out inadequate progress, and seek redress on climate-related damages. The purpose of such SNRI cases tends to be to connect local harm with world emissions, compel more adaptation efforts, and demand compensation of climate inaction [13]. In these regards, Article 12 of the Paris Agreement urges countries to campaign on climate education, participation and awareness of people and provide information to people. The awareness of the people in regards to the impact of climate change has also changed the debate of whether there should be a separate set of laws to deal with the rising issues. With the increase in environmental impacts on the structure of societies and rights, there has been an augmented demand to place climate change law as one non-other legal field. This changing consciousness does not only influence the opinion of people but also leads to legal and policy changes that seek to cater to the reality of a warmer planet that is desperate to have its tale told [14].

Conclusion

The environmental jurisprudence in India has been developed by the proactive interpretational approaches of the judges according to the principles of the constitution. In many instances courts have been dynamic and taken a role of seizing a gap in the legislative process by leading to specific laws through judicial proceedings as was the case in Vishaka. The right to environment, particularly the right to be free of pollution has been clearly established as fundamental rights under Article 21 of the Constitution. With India becoming the most populous country in the world and also among the highest contributors of carbon emissions, the next 10 years will play a critical role in whether climate rights could be applied and tended to in law.

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Environment, Social Governance and Sustainable Global Development: A Legal Analysis

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Abstract

Environmental, Social, and Governance (ESG) frameworks have been recognized as critical components for responsible investment at the heart of efforts to achieve the United Nations Sustainable Development Goals (SDGs), and are increasingly being incorporated into the global sustainability agenda. In an era of escalating climate risks, deepening inequalities and governance breakdowns around the world, ESG standards are fast becoming important indicators for assessing ethical business practices, resilience and sustainability. In this context of sustainable global development, this paper develops a thorough legal analysis of ESG, addressing its regulatory evolution and implementation mechanisms and challenges across jurisdictions. The article examines the dynamics of international sustainability norms, soft law instruments (specifically, the UN Global Compact and OECD Guidelines) and hard law frameworks on domestic ESG disclosure, due diligence, and corporate responsibility. It also underscores how ESG regulations are driving investor behaviors, climate risk disclosure requirements, gender equality quotas and supply chain human rights protections. It also looks at the legal responsibility of companies to achieve climate-neutral goals, social justice and governance reforms, with case studies from the EU, USA, India and developing economies.

Keywords: ESG Regulations, Sustainable Development Goals (SDGs), Corporate Accountability, Environmental Law, Governance Frameworks

1. Introduction

The increasingly important prisms for driving sustainable global development and establishing responsible corporate conduct have been Environmental, Social, and Governance (ESG) frameworks. The ESG in this sense will not only be a set of corporate principles, but an

integrated approach to align free markets with long-term sustainability and ethical responsibility in the face of climate forces (which result on bad governance, social inequality and institutional corruption). From a legal point of view, ESG is based on international environmental law, human rights standards and corporate governance regulations that collectively provide a framework for holding governments and private entities accountable to their development impact.

From a legal perspective, the evolution of ESG is a mix of soft law instruments and legally binding regulatory frameworks. International mechanisms like the United Nations Guiding Principles on Business and Human Rights, OECD Guidelines for Multinational Enterprises and the Paris Agreement establish general norms regarding ESG performance. While often not legally binding, these global benchmarks can also lay the normative foundation for national laws. The European Union, India and the United States, for instance are progressively incorporating ESG stipulations in their respective local laws related to corporate and financial regulations. The European Countries will encapsulate companies to furnish wide-ranging non-financial disclosures under Corporate Sustainability Reporting Directive (CSRD), India is stretching all the way up for ESG transparency in public enterprises by Business Responsibility and Sustainability Reporting (BRSR) framework.

The legal analysis of ESG also includes considerations with respect to corporate duties, shareholder rights, including the contemporary notion of investor stewardship expectations, fiduciary responsibilities and mechanisms for remedy and enforcement. The legal landscape is shifting as courts and regulators begin to test the boundaries of corporate responsibility beyond the spheres of environmental damage, labor abuses, and bad governance in response to calls for more accountability by investors, consumers, and civil society. Environmental litigation, climate-related financial disclosures and mandatory due diligence laws are pushing ESG from a voluntary commitment to a legal obligation. In addition, the threat of legal action around green-washing false or misleading sustainability claims is becoming more common place as regulatory bodies chose to enforce penalties.

Social governance in particular is highly transformative, which works on labour standards and diversity, community engagement, and indigenous rights. We need legal frameworks that enforce these types of social protections in supply chains and ensure governance policies are inclusive to begin the bridge the gaps in equity and ensure fairness in development. At the same time, governance parameters like diversity on boards, anti-corruption legislation and transparent decision making are being brought into the ambit of sustainable business requirements. ESG essentially provides an opportunity for sustainability goals of the UN (UN SDGs) to be connected with a complex, multi-level legal regime which establishes that public and private actors may proceed only according to responsible economic/financial practice towards progressive disclosure. For ESG to fully deliver on the promise of facilitating sustainable global development, legal systems must develop further by integrating international norms with domestic laws, strengthening regulatory enforcement and enabling affected stakeholders to seek judicial redress. A proper legal consolidation among the major existing ESG frameworks is instrumental in grounding sustainability across all mainstream sectors.

2. Legal Foundations and Regulatory Mechanisms

The roots of modern Environmental, Social, and Governance (ESG) go back to the advent of corporate sustainability reporting schemes in certain jurisdictions more than 25 years ago, and have since been supplanted by a number of other mostly mandatory ESG standards geared toward an increasing demand for accountability, transparency, and resource efficiency on the part of both public and private enterprise. ESG is therefore not working in silo but on a web of international treaties, soft law instruments and national legislations and industry specific codes of conducts. These legal structures act as a normative framework that governs the compliance, incentivizes and increasingly mandate ESG compliance.

On the global level, instruments such as the Paris Agreement, UN Guiding Principles on Business and Human Rights (UNGPs), and the OECD Guidelines for Multinational Enterprises pave the way to environmental stewardship, social equity and corporate governance responsibility. While many of these are non-binding, they form the basis for regulatory convergence and affect domestic legal systems. Case in point: the EU has been rolling out mandatory directives such as the Corporate Sustainability Reporting Directive (CSRD) and, most

recently, the Corporate Sustainability Due Diligence Directive (CSDDD), that require companies to report on ESG criteria for their own operations and human rights due diligence throughout their supply chains.

Household regulations are also important. Governments like India have rolled out mechanisms like Business Responsibility and Sustainability Reporting (BRSR) guidelines, whereas the United States Securities and Exchange Commission (SEC) has now begun making ESG-related disclosures mandatory, particularly in light of climate-related financial risks. National efforts are able to translate ESG principles into corporate behavior and investor decisions. ESG is backed by legal enforcement mechanisms such as mandatory disclosures, penalties for non-compliance and judicial recourse to ensure that ESG policies are not just aspirational but actionable. With ESG becoming increasingly engrained in financial regulation, environmental law and corporate governance, the legal infrastructure supporting ESG is on a path to maturity; marking an emerging trend toward a more sustainable and rule-of-law based global development.

3. Corporate Responsibilities and ESG Compliance

Corporate responsibilities have risen to a level to become integral to the way businesses are run and accounted for across the Environmental, Social, Governance (ESG) framework which has nullified the statement of business running company not countries and importantly capitalized around profit-maximization switching to long-term value creation on sustainability grounds driven by ethical governance. ESG adherence is not just an optional or reputational accessory; it has become a fundamental necessity in shaping how companies interact with stakeholders on the benefits and risks associated with sustainability, and their role to contribute towards supporting sustainable development. With increasing regulatory and investor focus, they predict that businesses will have to integrate ESG into their strategic processes, risk assessments and reporting.

From an environmental perspective, it is responsible of the companies to less carbon footprint, consume limited resources; dispose waste in good manners and follow all environmental laws. The responsibilities related to the above are social responsibility, fair labor practices, diversity and influence, human rights due diligence and community engagement. The governance pillar

primarily focuses on transparency, board diversity, anti-corruption measures, data protection and adherence to codes of conduct. In many jurisdictions this responsibility is now a requirement by law. For instance, the EU Corporate Sustainability Reporting Directive (CSRD) and India's Business Responsibility and Sustainability Reporting (BRSR) guidelines spell out what needs to be disclosed by companies on financial non-financial ESG data.

Accurately adhering to ESG standards are essential not only for ensuring that corporates meet the legal criteria, but also for preventing reputational and investment damages. Beyond this, regulators are becoming more aggressive where they see cases of ‘green washing’, or negligible ESG credentials. That is the reason companies must put in place proper ESG policies and due diligence mechanisms, risk evaluation methods and accurate disclosures. At the end of the day, ESG compliance indicates a corporation's sense of responsibility to operate with integrity and within the law while seeking not to compromise local markets or show disregard for global environmental problems.

4. Social and Human Rights Dimensions of ESG

This is linked to concepts of corporate responsibility to its stakeholders be they employees, communities, the vulnerable or wider society as such. In contrast to the traditional focus on financial performance, the ESG framework requires companies to embed respect for human rights and social welfare in their operations and supply chains. Subject to a number of limitations including the availability and coverage of data, ESG provides an entry point for accounting on issues related to inequality. Issues from the social pillar: labor rights, occupational health and safety, gender equality, workplace diversity and inclusion fair wages employee well-being. It prohibits child labor, forced labor, discrimination and exploitative conditions in every organization. Human rights due diligence is at the forefront of global ESG compliance as it is increasingly required under international standards, such as the UN Guiding Principles on Business and Human Rights (UNGPs), and the ILO Core Labour Standards. It canals establishes companies obligation to identify, assess and mitigate adverse human rights impacts and provide remedy mechanisms to the affected stakeholders.

The ESG framework also obligates businesses to behave responsibly towards external communities by ensuring that they are ethical i.e.. respecting the rights of indigenous peoples, preserving their cultural heritage and contributing to socio-economic development. Legal instruments like the European Union Corporate Sustainability Due Diligence Directive (CSDDD) and national frameworks as in the case of India BRSR guidelines have renewed emphasis on integrating human rights risk assessments as part of business strategies. Non-compliance with these social and human rights duties expose companies to numerous legal liabilities, reputational damage and operational disruptions. Companies would not only manage their risks, but they could also embed those principles on governance structure to show the market their willingness and efforts in doing justice, inclusiveness and sustainably business. Social and human rights sides of ESG are indispensable to properly 'gearing' economic growth in line with ethical values and global human development.

5. Conclusion

These frameworks also reinforce that the social and human rights elements of Environmental Social and Governance (ESG) are no longer ethical considerations but a cornerstone for long term sustainable and responsible business conduct in the 21st century. With regulators, investors, consumers and civil society increasingly casting corporations in the spotlight, the pressure to deliver human dignity, equity and social justice through business operations and supply chains has never been more acute. ESG principles provide a framework for integrating these values into corporate governance and strategy so that profitability is not created at the costs of human rights or societal well-being.

This is acknowledged through the integration of labor rights, workplace safety, gender equity and community welfare into ESG policies because it institutionalizes the role businesses must play in driving global sustainability and social inclusion. Moreover, as the UNGPs, ILO standards and national regulations like EU CSDDD and Indian BRSR guidelines also signify a global trend to have hard legal obligations in the realm of human rights in the corporate world which collectively forge an extensive framework for protection. These frameworks hold businesses responsible for their social impact, and enable stakeholders. The consequences for failing to fulfill these responsibilities can be far-reaching from a legal and reputational

standpoint. Rather, businesses must both accept social and human rights norms today and are building the credibility necessary to align them with long-term resilience, innovation, and market advantage. As such, the social and human rights aspects of ESG are critical to protect people and communities, but also to enable equitable, responsible, sustainable development worldwide. They are a gritty building block of social success matching business success with the good of the commonwealth.

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The Silent Witnesses: Psychological and Developmental Impact of Domestic Violence Exposure on Children in Indian Households

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ABSTRACT

Indian children who see domestic violence are silent, hidden victims of the trauma of seeing abuse between their parents or caregivers. The Protection of Women from Domestic Violence Act, 2005, does define children as "aggrieved persons," but laws and policies never show worry for the developmental and psychological harm resulting from exposure, not active abuse. This paper aims to critically examine the effects of domestic violence exposure on the mental well-being, emotional health, and social adaptation of children, as well as examining Indian legislation for the identification and protection of child victims of domestic violence. Applying a doctrinal research approach, the study assesses provisions of statutory law, judicial precedents, and international legal obligations vis-à-vis psychological concepts and empirical studies. Referring to Bandura's Social Learning Theory and Attachment Theory, the article investigates how exposure over time results in emotional dysregulation, anxiety, and violence from generation to generation. Reports by the WHO and the NCRB indicate millions of Indian children are raised in violent homes. Legal ambiguity keeps influencing India in the case of indirect child abuse, with pivotal acts like the POCSO and JJ Act not providing ample information. Yet global experience from Canada, Australia, and the U.S. recognises exposure as

harm, giving us insights. India must redirect safeguarding children to include exposure to violence, integrating trauma-informed care in legislation, schools, and support systems.

Keywords: Child Witnesses, Domestic Violence, Psychological Impact, Indian Law, Trauma-Informed Policy

1. INTRODUCTION

Domestic violence is a deeply ingrained issue in Indian society, cutting across class, caste, and religious boundaries. It is legally defined in the Protection of Women from Domestic Violence Act, 2005 (PWDVA) as any act, omission, or behaviour that harms or is likely to harm the health, safety, life, dignity, or well-being of a woman. The Act defines not just physical but also sexual, verbal, emotional, and economic abuse and offers a civil model of protection. But within this legal model, there is still one group of victims that remains hidden from the law: children who experience domestic violence.

"Domestic violence exposure" is when the children themselves are not actually abused but are impacted by its psychological effects through witnessing it, overhearing threats, seeing a battered parent, or living in a situation of constant fear and tension. According to UNICEF (2020), more than 300 million children globally live in such households where domestic violence occurs. As per the World Health Organisation, such exposure is as bad as direct physical violence and causes long-term emotional, cognitive, and behavioural harm. In India, disaggregated data on children as second victims of domestic violence is unavailable with the National Crime Records Bureau (NCRB), marking the systemic invisibility of this issue.

Despite progress in law, Indian child protective legislation and policy do not effectively address such victimisation. The article critically examines the psychological, developmental, and legal consequences of children's exposure to domestic violence within Indian households. Taking a doctrinal research methodology, it draws upon legislative material, case law, international obligations, and developmental psychology research to drive home the imperative need for reforms in recognising and protecting these silent victims.

2. CONCEPTUAL BACKGROUND AND LITERATURE REVIEW

Kids who witness domestic violence endure a kind of trauma that drastically alters their psychological and developmental trajectory. Understanding this impact requires access to established psychological and developmental theory. Perhaps the most compelling is Bandura's Social Learning Theory, as it posits that children learn behaviour through observation, most notably from their caregivers. As soon as violence becomes a habitual means of conflict resolution in the home, children are highly likely to replicate it in peer, romantic relationships, or even later as parents themselves, thereby initiating intergenerational cycles of abuse.

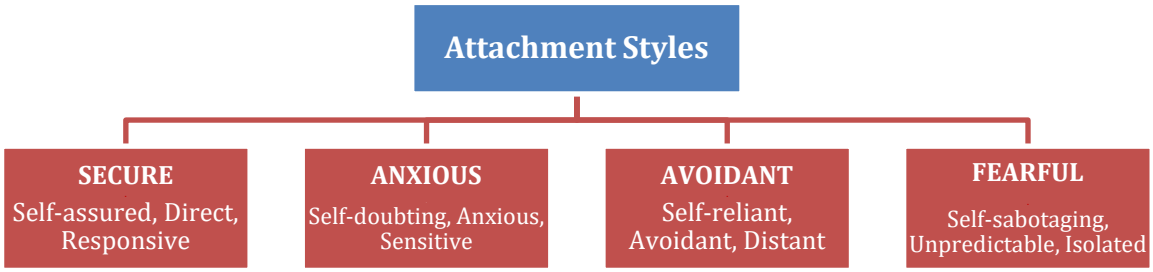


Figure 1: Four Attachment Styles in Attachment Theory

Attachment Theory also explains the lasting effect of violence exposure. Secure attachment between the child and caregiver forms the cornerstone of social growth and emotional management. When the caregiver is either the victim or the perpetrator of the abuse, however, the child's sense of trust and safety is diminished. This most likely fosters attachment insecurity, developmental impairment, and emotional dysregulation.

The Adverse Childhood Experiences (ACEs) model, developed by the CDC and Kaiser Permanente, places exposure to domestic violence as a significant childhood trauma. High ACE scores are strongly correlated with increased risk of mental illness, substance addiction, academic underachievement, and adult physical health problems. In India, a recent study in the Indian Journal of Paediatrics (2021) and the Indian Journal of Psychiatry has established a strong association between exposure to violence against parents and post-traumatic stress symptoms, aggression, and learning issues.

Despite growing worldwide and Indian evidence of damages, there is a clear gap in policy and legal literature. Indian child protection law, e.g., the POCSO Act and JJ Act, focuses on addressing direct physical or sexual abuse, neglecting exposure as a distinct form of victimisation. Consequently, child witnesses of Intimate Partner Violence (IPV) continue to fall through gaps in legal and social protection frameworks, with minimal access to care or victim status in their own right.

3. LEGAL AND POLICY ANALYSIS IN INDIA

Indian law provides patchy and incoherent recognition of children who are exposed to domestic violence, as existing laws either obliquely refer to such harm or simply neglect it. The Protection of Children from Sexual Offences (POCSO) Act, 2012, is a historic piece of legislation for handling child sexual abuse, but it is silent on psychological or emotional harm by virtue of exposure to domestic violence. Accordingly, the children who are not physically abused but are psychologically traumatised by their exposure to incidents of family violence are not covered under the protection of the Act.

The Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act) offers a bit more scope. Section 2(14) of the Act defines a "child in need of care and protection" to include a child residing with a person likely to ill-treat or neglect him. While this definition can theoretically include children witnessing domestic violence, it is rarely interpreted or enforced in such a manner by child welfare authorities or the courts. This hesitancy to interpret makes a large number of psychologically vulnerable children vulnerable to harm.

On the other hand, the Protection of Women from Domestic Violence Act, 2005 (PWDVA) is one of the few laws that deal directly with the impact on children of domestic violence. As per Explanation II to Section 2(a) of the Act, all children who have witnessed cases of domestic violence are to be considered an "aggrieved person" and are therefore entitled to relief under the Act. Despite such recognition, implementation is weak due to insufficient awareness, training, and institutional inclination. Courts and Protection Officers often fail to accord individual

consideration or redress to children and treat them as nothing more than appendages of the adult victim.

Judicial interpretation has at times left the potential for child-centred litigation on the table. In Sakshi v. Union of India (2004), the Supreme Court brought courts' child-sensitive procedures to the fore. Similarly, Vineet Narain v. Union of India (1998) reiterated the judiciary's role in ensuring constitutional protection through dynamic interpretation. These cases fall short, however, of an analysis of exposure to violence as a specific harm that requires a specific legal remedy.

Institutionally, systems such as the Child Welfare Committees (CWCs) and District Child Protection Units (DCPUs) fail to identify children as victims if they do not bear overt physical markings of injuries. The absence of psychological screening tools, poor inter-agency coordination, and scarce training among child protection officers are other discouragements to the identification and rehabilitation of child witnesses. India's child protection system is therefore still not structurally equipped to deal with this silent but common form of abuse.

4. PSYCHOLOGICAL AND DEVELOPMENTAL CONSEQUENCES

Domestic violence exposure is increasingly recognised as a psychological trauma that severely affects the emotional, cognitive, and neurological development of a child. Despite the abuse not being directly targeted at the child, the violent exposure repeatedly undermines their sense of security, trust, and emotional stability. Secondary victimisation is responsible for a range of short- and long-term psychological consequences depending on age, gender, and duration of exposure.

Short-term effects among children exposed to domestic violence include sleep disorders, heightened anxiety, emotional dysregulation, and school withdrawal. The study in the Indian Journal of Community Medicine (IJCM) identifies that children living in homes with violence are likely to report nightmares, lack of concentration, irritability, and decline in school

performance and thus likely to be absent from school or drop out of school. Young children may exhibit regressive behaviours such as bed-wetting, separation anxiety, or clinging to parents.

Long-term effects are even more distressing. The World Health Organisation (WHO) and the National Commission for Protection of Child Rights (NCPCR) have noted that repeated exposure to violence may result in depression, post-traumatic stress disorder (PTSD), low self-esteem, antisocial behaviour, and failure to establish and maintain relationships. As they grow up, they may either learn to tolerate violence as normative or be violent in their behaviour towards peers and intimate partners as well, hence perpetuating the cycle of violence to the next generation.

The impact varies significantly by gender and age. Young children, through their caregiving-dependent nature, are likely to suffer from attachment insecurity and confusion, not being able to reconcile their affection towards both parents with fear and chaos. This is impairing their capacity to establish trust and emotional hardness. In contrast, adolescents are likely to manifest externalising symptomatology, i.e., aggression, substance use, or suicidality, if they are unsupported. There are gender differences, too. Boys are more likely to model aggressive behaviour, whereas girls internalise trauma and develop depression and anxiety.

Neurodevelopmentally, exposure to violence-induced chronic stress alters brain functioning. Triggering the stress response repeatedly may impair the memory, emotional, and executive function areas of the brain. Consistent with Indian Paediatrics (2021), such neurobiological dysregulation may result in reduced emotional resilience and compromised problem-solving skills, with far-reaching effects on life outcomes.

Despite increasing evidence, interventions addressing the mental health of children exposed to the same can only be found in limited ways in India's domestic violence and child welfare systems. Lack of trauma-informed care only worsens the emotional wounds, compelling children to keep the psychological burden of a violence-ridden home in silence.

5. COMPARATIVE PERSPECTIVES AND INTERNATIONAL OBLIGATIONS

A number of countries have made progressive policy and legal moves to acknowledge and respond to the harm experienced by children who witness domestic violence, addressing such witnessing as a valid form of child maltreatment. The United States has also been at the forefront with research on Adverse Childhood Experiences (ACEs), which has recognised witnessing domestic violence as a significant traumatic experience that can have detrimental effects on health, behaviour, and development across the life course. Consequently, numerous U.S. states have instituted trauma-informed court models, incorporating psychological care into child protection and custody proceedings to counteract the impacts of such trauma. Australia has integrated emotional abuse as a result of being exposed to domestic violence into its laws through the Family Law Act, 1975, which requires courts to act in the best interest of the child, including protection from psychological injury as a result of exposure to witnessing abuse. In the same manner, Canada specifically identifies child exposure to domestic violence as child maltreatment in child protection hearings, and thus, social services act even when the child is not directly injured. Globally, the United Nations Convention on the Rights of the Child (UNCRC) to which India is a signatory binds state parties under Article 19 to safeguard children from "all forms of physical or mental violence." The Sustainable Development Goal (SDG) 16.2 also binds states to cease all forms of abuse, exploitation, and violence against children.

Table 1: Comparative Legal Recognition of Child Exposure to Domestic Violence as Abuse

Country	**Legal Recognition of Exposure as Abuse**
United States	ACEs (Adverse Childhood Experiences) framework; trauma-informed courts in child custody cases
Australia	*The Family Law Act* includes emotional harm from witnessing domestic violence
Canada	Child protection laws treat exposure to domestic violence as child abuse

Despite all these global norms, India has yet to include such recognition in the country's child protection system. Although the PWDVA, 2005, identifies children as "aggrieved persons," strict enforcement is lacking, and other child-related legislation lacks explicit provisions. To become

in line with its global obligations under the UNCRC and SDGs, India must institutionalise a rights-based, trauma-informed system that classifies exposure to domestic violence as a serious child protection concern, legally as well as institutionally.

6. POLICY GAPS AND RECOMMENDATIONS

India's current legal and institutional response to child protection is constrained by a huge blind spot, the absence of clear recognition of the psychological harm caused to children witnessing domestic violence. While the Protection of Women from Domestic Violence Act, 2005 (PWDVA) does refer to children as "aggrieved persons" in the event that they are observing abuse, this provision has as yet failed to cross the barrier of general legal consensus within comprehensive child protection legislation. The Protection of Children from Sexual Offences (POCSO) Act, 2012 and the Juvenile Justice (Care and Protection of Children) Act, 2015, must be amended to clearly include exposure to domestic violence in their definition of abuse and children in need of care and protection.

There is an urgent necessity for having trauma-informed intervention systems within institutions that deal with vulnerable children regularly. Schools, CWCs, and shelter homes must have trained counsellors and mental health professionals who can identify symptoms of secondary trauma. Including child mental health services within domestic violence shelters would also guarantee that children are not left behind when mothers seek shelter. Also, police officers, protection officers, and court staff must receive special training on the psychological effects of witnessing domestic violence so that they are able to react properly and sensitively in rescue, custody, or court. Without such knowledge, institutional actors overlook indicators of emotional abuse. It will have to be a comprehensive policy shift, a shift that recasts domestic violence as a threat not merely to women but as a subtle but devastating threat to the psyche and to the future of millions of Indian children.

7. CONCLUSION

Observing domestic violence is not passive witnessing by children; they become intensely affected victims of a hidden form of trauma with profound psychological, emotional, and developmental wounds. Apart from this, India's legal and institutional frameworks remain myopically attuned to overt abuse only and are oblivious to the real harm through exposure. Effective child protection will need systemic reforms in the shape of legislative reforms, institution-based trauma-sensitive strategies, and the integration of mental health interventions.

Future studies need to delve further into the longitudinal impact of domestic violence exposure, region-specific vulnerabilities, and efficacy of intervention models suitable to Indian socio-cultural contexts. It also needs to garner disaggregated information about child witnesses to enable evidence-based policymaking. Last but not least, there is a critical need to redefine "child protection" in India, not just to include the prevention of direct violence but also protection from the psychological harm of growing up in violent environments.

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