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***“Marginalisation; where is the fare chance of Children?”***

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## **Abstract**

Marginalisation if explained in simple terms means process by which individuals are denied of full access to various rights, opportunities and resources that are normally available to different groups and are fundamental in nature. This is the effect which harms millions of people throughout the world, so how can it spare the very children of the nation. Marginalised people have very little control over their lives and resources available to them. If explained in biological way a child is a human between the age of birth and puberty, they are the most vulnerable and tender in this age. They get affected easily, and marginalisation with them is on several grounds be it on the basis of economy, gender, resources or on several other grounds. Marginalisation has many impacts on the children; it can be on their health, education, nutrition intake, growth, mental health.

As a result of patriarchal society the major effect of marginalisation is seen on the girl child. They are affected in a much greater way than a male child as there is a visibility of cases like female foeticide, abandoning of girl child, sailing them for the purpose of prostitution, providing with less education, supporting less in financial terms and so on. Marginalisation is a real attack on the concept of Right to Equality as mentioned in the Constitution of India. Measures are needed to put a stop on this practical trend of marginalization which is increasing in present time.

## INTRODUCTION

“The lyricism of marginality may find inspiration in the image of the “outlaw”, the great social nomad, who prowls on the confines of a docile, frightened order.”

-Michel Foucault.<sup>1</sup>

Over the period of human history, Marginalisation is the reality of the virtual concept of civilization in the society. Marginalisation in its simple terms means generation of feeling of being secondary or less important in an individual or group of people. This is the process by which a group of people or an individual is blocked of different rights, opportunities, or resources which are basic in nature and are normally available to different group, such rights, opportunities or resources are of fundamental nature and are within the observance of human rights within that particular group. Marginalisation only starts a trend of events that further cause the predicament of the marginalised group. Even the basic demands of such group are overheard and their desire and dreams are ignored by the powerful group. Marginalised persons are forced to the periphery of the edge of society. This, in result, steals their opportunity of the enjoyment of the facilities to be enjoyed by non marginalised section of society.

Marginalisation is an experience which has very adverse effect on billions of people throughout the country. This is a multi-layer concept, in the society there is not even a single class which is not affected by marginalisation. If we talk about the patriarchal society, it is marginalized with the sick mentality of masculinity. Females are marginalized on the basis as they are not considered for certain jobs occupations etc. The caste system marginalises the lower class, as it is the subject to structural discrimination by the upper caste. Such exclusion from economic, social and political means of promoting self-determination can have bad effect on the individuals or the marginalised group.

### Definitions of Marginalisation:

- Peter Leonard defined marginality as, “...being outside the mainstream of productive activity and/or social reproductive activity”.
- The Encyclopedia of Public Health defines marginalisation as, “To be marginalised is to be placed in the margins, and thus excluded from the privilege and power found at the center.”
- Merriam Webster’s online Dictionary defines definition of the term, marginalises, and is “to relegate to an unimportant or powerless position within a society or group.
- Ghana S. Gurung and Michael Kollmair mention that the concept of marginality is generally uses to analyses socioeconomic, political, and cultural spheres, where disadvantaged people struggle to gain access to resources and full participation in social life. In other words, marginalised people

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<sup>1</sup> *Criminological Perspectives: Essential Readings* 149.

might be socially, economically, politically and legally ignored, excluded, or neglected, and, therefore vulnerable to livelihood change.

- According to Sommers et. al., “Socio-economic marginality is a condition of socio-spatial structure and process in which components of society and space in a territorial unit are observed to lag behind an expected level of performance in economic, political and social wellbeing, compared with average conditions in the territory as a whole”.<sup>2</sup>

**Marginality in India:** In simple words, 'marginalisation' is a set of processes which ignores or relegates individuals of groups to the sidelines of political space, social negotiation and economic bargaining, homelessness, age, language, employment status, skill, caste, race and religion are some criteria historically used to marginalize. The concept of marginalisation can be represented through major approaches such as neoclassical economics, Marxism, social exclusion theory and various other forms of marginality. Neoclassical economist traces marginalisation to individual character flaws or to cultural resistance to individualism and the presence of 'culture of poverty'. In contrast Marxists see marginalisation as a structural phenomenon endemic to capitalism. Social exclusion theorists like Sukdo thraot, Amartya Sen, Arjan de haan, Hilary silver etc., argue that social hierarchical structure, persistent inequality, various forms of discrimination; poverty and unemployment are the leading cause of marginalisation.<sup>3</sup>

If we talk in Indian context, Marginalisation is done on the base of caste and untouchability. According to the old Indian texts society was divided into four Varna, Brahmin, Kshatriya, Vaishya and Shudra. This Chaturvarnya system was excluding Shudras in all way. They were completely dependent upon the other three for all their work, living, and survival. In present scenario, it is not the same but still there is marginalisation on the base of caste. They are still discriminated on different levels be it economic, educational, social, or cultural.

**Marginalisation of Children in India:** Marginalisation in children can take different forms which can be based on their experience. It can be their exclusion from the peer group or it can be different treatment for different children by the teacher. It can be based on economic, social or cultural reasons.

Child is a minor, below the age of majority. They deserve all to be protected and shown care. If we marginalise children at such a tender age it has very adverse effect on their physical as well mental health. Childhood is crucial for understanding the determinants of disadvantages in society. It is that age in which an individual is completely dependent upon their family and surroundings. If there is any visible exclusion it affects the psyche of the child and disturbs their growth.

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<sup>2</sup> Carolyn Kagan and Mark H Burton, *Community Psychology* (Chap. 13, 2005).

<sup>3</sup> Yasmeen Jahan, *intersectionality of marginalization and inequality: A case study of Muslims in India available at: [https://roundtableindia.co.in/index.php?option=com\\_content&view=article&id=8471:intersectionality-of-marginalization-andinequality-a-case-study-of-muslims-in-inida&catid=119&Itemid=132](https://roundtableindia.co.in/index.php?option=com_content&view=article&id=8471:intersectionality-of-marginalization-andinequality-a-case-study-of-muslims-in-inida&catid=119&Itemid=132)* (last visited on March 05, 2020).

In *Bachpan Bachao Andolan v. Union of India*,<sup>4</sup> the Supreme Court in a PIL for the serious violations and abuse of children forcefully detained in circus without access to their families under extreme inhuman conditions, sexual, physical and emotional abuse and deprived of basic human needs like food and water, sanitation, sleeping times, high risk factors etc. issued these directions : (1) For implementing fundamental rights under Article 21-A, the Central Government must issue suitable notifications prohibiting the employment of children in circuses within two months ; (2) The respondents would conduct simultaneous raids in all the circuses to liberate the children and check the violation of their fundamental rights and rescued children would be kept in the Care and Protective Homes till the attainment of 18 years age; (3) The respondent would frame proper scheme for rehabilitation of rescue children from circuses and (4) The Secretary of Ministry of Human Resources Development, Department of Women and Children Development would file a comprehensive affidavit within 10 weeks.<sup>5</sup>

**Causes:** There is not just one cause behind marginalisation of children but there are many causes after it and all causes share different levels of seriousness. All of the causes need separate attention and immediate action to slow down the process with the motive to eventually stop it. Causes of Marginalisation are:

- **Discrimination:** Discrimination for children is done on the basis caste and financial situations. In case of schools discrimination is done when there is different behavior towards one child as in comparison with the other there is a point of marginalisation. When intelligent students are favored upon the unintelligent ones. In *Oliver Brown, et al. v. Board of Education of Topeka, et al.*,<sup>6</sup> U.S. based case, in which the Supreme Court of U.S. stated that laws establishing racial segregation in public schools are unconstitutional, even if segregate schools are otherwise equal in equality.
- **Gender:** Girl child are always marginalised in comparison with boy child. In India a girl child faces discrimination and differential access to notorious food and gender based violence is evident from the falling sex ratio and the use of ethnologies to eliminate the girl child. The manifestations of these violations are various, ranging from child labor, child trafficking to commercial sexual exploitation and any other forms of violence and abuse.<sup>7</sup> Not just in the case of girl child but if the child is of third gender, they are witness to marginalisation at different level. They are given separate place to stay, to don't get chance to education, and are given no status in the society.
- **Poverty:** Children living in poverty are more likely to feel like a failure, and have a sense of hopelessness about their future than their more affluent peers. They don't receive the basic facilities they need and so they are subjected to beggary, forced labor, maiming for earnings and

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<sup>4</sup> AIR 2011 SC 3361.

<sup>5</sup> Dr .J.N. Pandey, *Constitutional Law of India p.no. 326,327* (Central Law Agency, Allahabad, 56<sup>th</sup> ed. 2019).

<sup>6</sup> 347 U.S. 483 (1954).

<sup>7</sup> Davesh Saksena, *The problems of marginalised groups in India*, available at: <https://www.lawctopus.com/academike/problems-marginalized-groups-india/> (Last visited on March 07 ,2020)

to fulfill their basic needs to survive, and earn living, young children are forced into labor in hazardous sites and companies which affect their growth.

In *M.C. Mehta v. State of Tamil Nadu*,<sup>8</sup> known as (Child Labor Abolition case) a three judge bench of the Supreme Court (comprising Kuldeep Singh, B.L. Hansaria and S.B. Mazumdar, JJ.) has held that children below the age of 14 years cannot be employed in any hazardous industry, or mines or other work. The matter has brought in the notice of the court by public spirited lawyers Sri M.C. Mehta through a Public Interest Litigation under Art. 32. He told the court about the plight of children engaged in Sivakasi Cracker Factories and how the Constitutional right of these children guaranteed by Art. 24 were being grossly violated and requested the court to issue appropriate directions to the government to take steps to abolish child labor.<sup>9</sup>

- Illiteracy: Literacy is the backbone for the growth of developing nations. Literacy means the ability to read and write. A child is marginalised on the base of literacy as well. The children with good reading and writing skills receive better opportunities; they are given more chances and are given preference over the illiterate ones.
- Disabilities: Children with disabilities have to fight against the stereotypical culture, fears of irrationality and harmful biased assumptions. Such behavior towards disable children has resulted in their social and economic marginalisation. They have to struggle more to make their status in the society.
- Caste system: Children from different types of tribe face multilingual diversity and are marginalised in that form. They face language barriers, and trouble communicating because of the visible difference between their first tongue and language of study. As in the case of *State of Bombay v. Bombay Educational Society*,<sup>10</sup> Supreme Court struck down the order of Bombay government denying admission of students not knowing English into schools having English Medium because it denied admission solely on grounds of indiscipline. This system has created an adverse system of irrational behavior towards the minorities, schedule tribes and schedule castes (Dalits). Some cases of children marginalisation on caste basis are:
  1. Teachers force Dalit children to clean classrooms, offices, toilets, and urinals on a regular basis.
  2. Teachers and fellow students routinely discriminate against dalit children. In classes and at meals, they force dalit children to sit separately, and forbid them from participating in school vents.
  3. Outside the classroom many students are employed in the disposal of dead animals, or must accompany their parents to work or to beg for food.<sup>11</sup>

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<sup>8</sup> Air 1997 SC 699.

<sup>9</sup> *Supra* note 5, at 488,489.

<sup>10</sup> AIR 1954 SC 561.

<sup>11</sup> *Dalit Children in India- Victims of caste discrimination*. Available at: [https://idsn.org>New\\_filesPDFDalitChildreninIndia-victimsofcastediscrimination](https://idsn.org>New_filesPDFDalitChildreninIndia-victimsofcastediscrimination) (Last visited on March 07, 2020).

- **High Dropout Rate:** Despite so many attempts to attract children to attend school, any children have dropped out because of several reasons. High Drop rate of children are of the historically disadvantaged and economically weaker community. They don't get the chance to complete their education and are force to leave school early without completing basic education.

**Constitutional Provision to control Child Marginalisation:** The Preamble of the Indian Constitution promotes the ideals to Justice, Equality, Liberty and Fraternity. It has laid down provisions to provide justice to everyone, equality among equals, liberty of thoughts and expression, fraternity to maintain brotherhood amongst all. The following articles make sure to protect the vulnerable and control marginalisation:

- **Article 14:** State shall not deny equality to any person and equal protection of law within the territory of India. In the case of Suneel Jatley v. State of Haryana,<sup>12</sup> Reservation of twenty five seats in MBBS on the basis of study of class one to eight in rural school was held violative of Article 14. It was invalid because classification of rural and urban children on this basis was completely arbitrary and irrational, and was not suitable for the children doing their Eleventh and Twelfth class from rural schools.
- **Article 15:** In this article it is mentioned that no one should be discriminated on the basis of religion, race, class, sex, and place of birth. This gives special right to make special provisions for the women and children and after the 93<sup>rd</sup> amendment for to socially and educationally backward people also. In the case of Salil Bali v. Union of India,<sup>13</sup> The Supreme Court of India held fixing of 18 years as maximum limit for treating the person as juvenile under the Juvenile Justice (Care and Protection of Children) Act, 2000 as constitutionally valid.
- **Article 17:** this particular article abolishes untouchability in any form, and makes it punishable. No person, be a child, man, or women should be treated as an untouchable.
- **Article 21 & 21A:** Article 21 states that "No person shall be deprived of his life or personal liberty except for the provision established by the law". After the Constitutional (86<sup>th</sup> amendment) Act, 2002 Article 21A was inserted in the Indian Constitution which stated that "The state shall provide free and compulsory education to all the children of the age of 6 to 14 years in such manner as the state may, by law, determine". This was added after the case of Mohini Jain v. State of Karnataka,<sup>14</sup> and Unni Krishnan v. State of A.P.<sup>15</sup>
- **Article 29(2):** "No citizen shall be denied admission into any educational institution maintained by the state or receiving aid out of state funds, on grounds only of religion, race, caste, language or

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<sup>12</sup> (1984) 4 SCC 296.

<sup>13</sup> AIR 2013 SC 3743.

<sup>14</sup> AIR 1992 SC 1858.

<sup>15</sup> (1993) 1 SCC 645.

any of them". In *D.A.V. College, Bhatinda v. State of Punjab*,<sup>16</sup> the college declared that Punjabi will be the sole medium of instruction in the college and all affiliated colleges. This was directly affecting the right of minorities who can have language barriers.

- Article 45: This provides for the provision of early childhood care and education to the children below the age of six years. This article was substituted by the Constitutional (86<sup>th</sup> amendment) Act, 2002 and the aim of substitution were to abolish illiteracy from the country.
- Article 46: This particular article promotes the educational and economic interest of the schedule caste, schedule tribe and the other weaker sections.

Above mentioned articles of the Indian constitution provides protection and safeguards to the marginalised groups and if there is any violation then they can move to the Supreme Court of India under article 32 and High Court of India under article 226 for seeking remedies.

**Schemes of Indian Government to control Child Marginalisation:** Indian government has introduced certain acts to protect the rights of children and for the better enjoyment of their life and to prevent them from exploitations and harm. There are two types of scheme one is for all children including the marginalised group and the other is especially for the marginalised children. The following schemes help in the uplifting of marginalised children and their integration in the society.

- Mahila Samakhya Program: This scheme was launched in 1989 with the aim of education of women in pursuance of the New Education Policy (1986) it's other was at women's equality. It was recognizing education as the tool of women empowerment and bringing confidence in them.
- Integrated Child Development Services: ICDS it is an initiative taken by the Indian government to provide food, primary health care, primary education, immunization, health check up to the children under the age of six years and their mother. This was launched in year 1975, and was stopped by Morarji desai's government in the year 1978 and was later introduced in the Tenth Five Year Plan.
- Sarva Siksha Abhiyan: This program was introduced by Former Indian Prime Ministe Atal Bihari Vajpayee. It was introduced in the year 2010 with the motive of educating the children between the age of 6 to 14 years and their aim was of universalization of primary education.
- The Children Act, 1960: It was introduced for the protection, education, welfare, maintenance of the delinquent and the neglected children and for their trial in the union territories.
- The Protection of Children form Sexual Offences Act, 2012: This was introduced by Indian government with the motive to fight sexual offences against the children. It categories offence of penetrative Sexual offence against the child below 12 years of age punishable.

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<sup>16</sup> AIR 1971 SC 1731.



- The Child Labour System (Abolition) Act, 1976: It prohibits enforcement of a person for the purpose of bonded labour. It denies all previous bondage agreement and stops from making new bondage agreement. It makes it a punishable offence.

In *Bandhwa Mukti Morcha V. Union of India*,<sup>17</sup> PIL was filed in the Supreme Court to look into the matter of bonded labor and find the measures to stop the system of bonded labor in the society. The Supreme Court abolished it and eradicated it.

- Mid-Day Meal Scheme: This scheme was introduced by the Indian government to provide better nutrition to the students of younger age in all the government schools. It was introduced in the year 1995 and is still in continuance.
- Operation Blackboard: This policy was introduced in the year of 1987 immediately after the release of Rajiv Gandhi's National Policy on Education in the year 1986. This scheme was introduced to provide essential equipment's for the education of children.
- Rashtriya Madhyamik Shiksha Abhiyan (RMSA): This was introduced by Ministry of Human Resource Development by the government of India. This was introduced to promote the secondary education among the Children.
- The Schedule Caste and The Schedule Tribes (prevention of atrocities) Act: this act was introduced in the year 1989. This act was made to make the status of Dalits equal to other in society and to punish them who show ill behavior to Dalits.

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<sup>17</sup> AIR 1984 SC 328.

**Conclusion:** As we draw conclusion towards the conditions of marginalised children we can see that, they suffer a lot in all the matters. Not just the minorities but the economically disadvantaged or the weaker section also suffer and bears great disadvantage. They don't get chance to excel, neither do they get chance to fulfill their desires. Even after the schemes introduced by the government, so much of initiatives taken by them and basic provision of the Indian Constitution the condition of marginalised children are not improving. They still live in the fear of ignorance and negligence from the other section of the society. Neither do they receive what they expect nor do they get chance to express themselves. What most needed at this point is acceptance of them by the other section and granting of equal status.

“There is no trust more sacred than the one the world holds with children. There is no duty more important than ensuring that their rights are respected, that their welfare is protected, that their lives are free from fear and want and that they can grow up in peace”.

-Kofi Annan

## Researcher/Scholar Index

- <sup>1</sup> *Criminological Perspectives: Essential Readings* 149.
- <sup>1</sup> Carolyn Kagan and Mark H Burton, *Community Psychology* (Chap. 13, 2005).
- <sup>1</sup> Yasmeen Jahan, *intersectionality of marginalization and inequality: A case study of Muslims in India* available at: [https://roundtableindia.co.in/index.php?option=com\\_content&view=article&id=8471:intersectionality-of-marginalization-and-inequality-a-case-study-of-muslims-in-inida&catid=119&Itemid=132](https://roundtableindia.co.in/index.php?option=com_content&view=article&id=8471:intersectionality-of-marginalization-and-inequality-a-case-study-of-muslims-in-inida&catid=119&Itemid=132) (last visited on March 05, 2020).
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