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JUSTICE BEYOND BARRIERS: TECHNOLOGY AND INVISIBLE CHILDREN IN POLYGAMOUS MARRIAGES

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ABSTRACT

Technological advancement in the justice system has significantly changed access to legal services due to efficient and faster processes. However, the benefits that accrue due to technology in this case are uneven since some individuals continue to experience disparities. In this case, children in polygamous unions are largely neglected as they become invisible due to lack of recognition of their rights in the laws. Therefore, this research seeks to examine the connection between technology, marginalization, and child rights focusing on how digital justice can help meet their needs.

Children in polygamous families face many problems, which are mainly brought about by inconsistencies in the law and policies. Despite the possibility of using e-courts, online legal aid and other forms of technology to ensure improved access to justice, there are various obstacles. Poor digital literacy levels, poverty, and stigmatization are some of the challenges faced by marginalized individuals in accessing technological innovations meant to improve their status.

Based on the socio-legal theory, the paper focuses on examining both the possibilities and limitations of technology in addressing the justice gap. As such, it asserts that even though technological advancements can increase the accessibility of marginalized groups, these innovations can further deepen marginalization in cases where specific consideration is not given to vulnerable individuals.

In summary, this paper highlights the need to take an inclusive approach towards digital justice by emphasizing the unique needs of children, enhancing access to technology, and promoting accountability in legal institutions. There is a great need for legal institutions to evolve to accommodate different kinds of families and ensure equal protection of all children. The realization of justice thus goes beyond technological advancements and necessitates inclusion of previously excluded individuals.

Keywords: Digital Justice; Marginalization; Polygamous Marriages; Child Rights; Access to Justice

INTRODUCTION

Access to justice has undergone significant changes in recent years, driven by the rapid advancement of technology. Innovations such as electronic courts, online dispute resolution platforms, virtual hearings, and digital legal aid services are transforming the delivery of justice. The primary objective of these developments is to enhance the legal system's efficiency, affordability, and accessibility, particularly for individuals who have historically faced challenges due to geographic distance, financial constraints, or complex procedural requirements. In India, initiatives like the e-Courts project and the Digital India programme have further catalyzed this transformation, creating opportunities for a more inclusive justice framework.

Despite these advancements, equality in access to justice remains an ongoing issue. Marginalized groups continue to encounter substantial barriers that technology alone cannot resolve. One such group is children born into polygamous marriages, who often find themselves overlooked and highly vulnerable. Their challenges extend beyond economic and social dimensions to include legal ambiguities surrounding their status and rights within existing legal frameworks.

The legal standing of polygamous marriages in India is complex. While most statutory laws prohibit polygamy, certain personal laws still allow for it, resulting in inconsistencies regarding the recognition of families and children from these unions. Consequently, children born in these contexts often face difficulties related to legitimacy, inheritance rights, identity documentation, and access to welfare programs. Additionally, they may endure social stigma, further marginalizing them and limiting their access to essential support systems.

Technology holds potential to bridge some of these gaps. Digital services, online legal aid opportunities, birth registration systems, and awareness platforms can render legal processes more accessible and transparent. Furthermore, they can empower families with knowledge of their rights and streamline interactions with the legal system. However, it is crucial to recognize that access to digital tools is not uniform; limited internet availability, a lack of devices, and low levels of digital literacy can hinder already marginalized groups, potentially exacerbating their exclusion.

This paper examines how technology can reduce the legal invisibility of children born into polygamous marriages. Using a socio-legal perspective, it aims to understand the connections between law, society, and technology in this area. The main claim is that, while technology has significant potential to improve access to justice, it must be designed and applied in an inclusive way that considers marginalized groups. Ultimately, true access to justice goes beyond technological advances; it involves the legal system recognising and protecting every child's rights, regardless of their family background.

OBJECTIVES OF THE STUDY

The primary objectives of this paper are as follows:

- To examine the challenges faced by children in polygamous marriages regarding access to justice.
- To analyse the role of technology in enhancing access to justice for marginalised communities.
- To evaluate the effectiveness of digital justice systems in addressing issues of legal invisibility.
- To study pertinent constitutional provisions and judicial interpretations related to child rights.
- To propose recommendations for establishing an inclusive and child-centric digital justice framework.

RESEARCH METHODOLOGY

This study employs a doctrinal and analytical research methodology, relying primarily on secondary data sources, including:

- Constitutional provisions
- Judicial decisions (case law)
- Scholarly publications, journal articles, and legal commentaries

- Government reports and policy documents

The research includes a critical evaluation of legal frameworks and judicial trends relevant to children's rights and marginalised communities. A socio-legal approach facilitates a comprehensive examination of the theoretical and practical dimensions of access to justice.

UNDERSTANDING MARGINALISATION AND POLYGAMOUS FAMILIES

Marginalisation refers to the exclusion of specific groups from mainstream social, economic, and legal structures. Polygamous families often navigate a complex legal environment, particularly in India, where personal laws vary across religious contexts. Children from these families frequently experience discrimination concerning legitimacy, inheritance, and social identity. Given that polygamy is not uniformly recognised across different legal systems, these children often struggle to secure fundamental rights. Their lack of legal recognition leads to challenges in accessing education, healthcare, and welfare benefits, perpetuating a cycle of exclusion that renders them socially marginalised and devoid of formal legal protection, making them effectively “invisible.”

Historically, polygamy has played a key role in maintaining lineage, organising labour in farming communities, and supporting social hierarchies. In many ancient civilisations across Africa, the Middle East, and parts of Asia, polygamy has been deeply rooted in social and cultural practices. The marginalisation of children in polygamous marriages can appear in various significant forms.

1. **Resource Allocation:** Children in polygamous families often face unequal distribution of financial and emotional resources. With multiple wives and numerous children, parental attention, educational opportunities, and material support may be limited or unevenly shared, leading to feelings of neglect or deprivation.
2. **Emotional and Psychological Impact:** The competition among co-wives can create a tense family environment, affecting children's emotional well-being. Children may experience reduced affection and support, contributing to low self-esteem, anxiety, or social withdrawal.
3. **Social Stigma and Identity Issues:** In societies where polygamy is stigmatised or legally restricted, children from such families may face discrimination or social exclusion, impacting their social integration and identity development.

4. **Educational Disadvantages:** Limited parental resources and potential favoritism may result in some children receiving less support for schooling, leading to lower educational attainment and reduced future opportunities.
5. **Gender Disparities:** Girls in polygamous families may experience greater marginalization due to compounded gender biases and resource constraints, affecting their access to education and health care.
6. **Legal and Custodial Challenges:** In some contexts, polygamous marriages may lack legal recognition, complicating children's rights to inheritance, custody, and social services, further marginalising them.

To address these effects, research and interventions should focus on equitable resource distribution, psychological support for children, community sensitisation to reduce stigma, and legal reforms to protect children's rights in polygamous families. Children in polygamous families often face challenges because resources like money, time, and attention from parents are shared among many wives and children. This can make some children feel left out or not cared for enough. The family environment can be stressful due to competition between the wives, which affects children's feelings and mental health. They might feel less loved, anxious, or withdrawn.

In places where polygamy is looked down upon or not allowed by law, children from these families might be treated unfairly or excluded by others, making it hard for them to fit in and develop a strong sense of who they are. Because parents have limited resources, some children may not get enough support for their education, which can lower their chances for a better future. Girls in these families may face extra difficulties because of gender bias, leading to less access to schooling and healthcare. Legal problems can also arise if the marriage is not officially recognised, making it harder for children to claim inheritance, custody, or social services.

To help these children, efforts should focus on fair sharing of resources, emotional support, reducing stigma in the community, and improving laws to protect their rights.

not suffer for circumstances beyond their control.

COMPARATIVE INSIGHTS: POLYGAMY VS. MONOGAMY

A comparative analysis of polygamy and monogamy reveals distinct psychological, relational, and developmental implications. While polygamy introduces complex family dynamics and potential emotional strain, the determining factor of well-being often lies not solely in the marital structure, but in the quality of interpersonal relationships, cultural norms, and the availability of economic and social support systems. The following table highlights key differences across critical domains¹:

Domain	Monogamy	Polygamy
Mental Health	Generally associated with lower rates of depression and anxiety.	Elevated psychological stress, particularly for women and children; outcomes vary for men.
Marital Satisfaction	Higher average satisfaction due to emotional exclusivity and stability.	Lower satisfaction, especially among junior or later-added spouses, due to rivalry and neglect.
Child Outcomes	More favourable emotional well-being and academic performance.	Increased risk of behavioural issues and reduced academic achievement due to fragmented attention.
Gender Equality	Greater balance and mutual respect, particularly in modern societal settings.	Typically, male-dominated, with women facing diminished autonomy and hierarchical roles.

CONSTITUTIONAL FRAMEWORK AND THE ROLE OF JUDICIARY

The Indian Constitution provides a strong foundation for protecting children's rights:

- Article 14² ensures equality before the law.

¹ The Psychology of Polygamy: Mental Health, Family Dynamics, and Social Contexts, The International Journal of Indian Psychology, ISSN 2348-5396 (e)| ISSN: 2349-3429 (p) | 938 Last visited on 16.04.2026

² Article 14: The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India."

- Article 15(1)³ prohibits discrimination
- Article 15(3)⁴ allows special provisions for children.
- Article 21 guarantees the right to life and dignity.
- Article 21A⁵ ensures the right to education.
- Article 39(f) directs the state to protect children's development.

These provisions highlight the constitutional commitment to equality and child welfare.

However, implementation gaps continue to affect marginalised groups.

The most effective instrument for the development of a child is education. A child is the most valuable asset in our society. They should be nurtured with care and must be given equal opportunity and all kinds of necessary facilities to develop healthily. It is well said that it is easier to mould a child than to mould a man.

Due to poverty, lack of medical care, and educational facilities, children are subjected to many visible and invisible sufferings and disabilities. If they are deprived of their childhood, whether socially, physically, or mentally then the nation will get deprived of the potential human resource for economic and social progress. Lack of education, care, proper training, and health facilities, children become the victims of evil elements in society.

Pt. Jawaharlal Nehru used to say that the children are the future citizens of the nation hence they need special care and attention. Our Constitution has taken special care to protect the interest of the children.

• **RIGHT TO EDUCATION**

Education is an effective tool that can eradicate many problems in society. The Right to Education was initially an implicit right under Article 21 of the Indian Constitution. Until 2002, provision for free and compulsory education for children was merely a directive under Article 45 of the Indian

³ Article 15(1) prohibits discrimination by the state on grounds of religion, race, caste, sex or place of birth

⁴ Article 15(3) enables the State to make special provisions for women and children.

⁵ Article 21A of the Indian Constitution, inserted by the 86th Amendment Act of 2002, declares that the state shall provide free and compulsory education to all children aged 6 to 14 years

Constitution. However, the Eighty-Sixth Amendment, 2002 introduced Article 21-A under the Chapter of Fundamental Rights, which runs as “*The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine*”. Even prior to 2002, courts the concept of education of children between 6 years to 14 years was an implied concept. Thus, in the case of *Unni Krishan vs. the State of UP*⁶ The Supreme Court had observed that education up to the age of fourteen was an envisaged was envisaged as a fundamental right under the Constitution of India.

In *Pramati Educational and Cultural Trust v. Union of India*⁷, the court discussed whether the institutions under Article 30 are obligated to reserve 25% of seats for free and compulsory education for the backward group. And ruled that minority groups can use the directions as regulatory measure but are not obligated to adhere to it.

• **ABOLISHING CHILD LABOUR PRACTICES**

To eliminate the menace of persisting child Labour Practices since the pre-colonial era, the Constitution of India provided its citizens the basic human rights commonly known as the fundamental rights under Part III of the Constitution. Child Labour is a menace that takes away the innocence of the child and snatches away his childhood happiness. Article 23⁸ and 24⁹ Coupled with the directives under Article 39 speaks volumes in this regard and has safeguarded the rights of the poor underprivileged children of our society. The Hon’ble Supreme Court of India had given a large number of mandatory directions in *M.C. Mehta v. State of Tamil Nadu*¹⁰. One of the important directions was to direct an employer to pay a compensation of Rs. 20,000/- for having employed a child below the age of 14 years in hazardous work in contravention of Child Labour (Prohibition & Regulation) Act, 1986.

• **RIGHT TO HEALTH**

Due to poverty a child seeks employment in factories, mine or is engaged in hazardous employment. This engagement of children in factories affects a child’s health is utmost distressing.

⁶ 1993 1 SCC, 645

⁷ MANU/SC/0419/2014 <https://www.manupatracademy.com/legalpost/manu-sc-0419-2014>

⁸ Article 23 - Prohibition of traffic in human beings and forced labour

⁹ Article 24 - Prohibition of employment of children in factories, etc

¹⁰ (1997) IILLJ724SC

The right to health is an implicit concept under article 21 of the Indian Constitution. The right to health is one of basic principles of Human Rights. The health of a girl child in the family is more upsetting. Often the girl child is subjected to harassment, abused, maltreated and discrimination assures in nutrition and education. It is to be noted that India is one of the 193 countries that are signatories to the United Nations Convention on the Rights of the Child (UNCRC). Article 39(e) provides that the health and strength of workers, men and women, and the tender age of children are not abused .Article 39(f) stated that children are given opportunities and facilities to develop in a healthy manner.

To combat the menace of violence against children several legislation have been passed by the Government. Children are considered as mute and dumb members of the society for example. Some important legislation include: The Factories Act of 1948, The Mines Act of 1952, The Dowry Prohibition Act, 1961 (28 of 1961) (Amended in 1986), The Child Labour (Prohibition and Regulation) Act of 1986, The Juvenile Justice (Care and Protection) of Children Act of 2000. Despite a long list of legislation to protect the children, the statistical data of abuse against this section of society is depressing. The implementation of the abovementioned laws is the majorly issue which needs to be addressed by the Government, much more in particular in the rural sector of the country.

The judiciary has adopted a progressive stance in protecting child rights:

- In the case of *Smt. Sarojamma and Ors. vs. Smt. Neelamma and Ors.*¹¹, the Karnataka High Court addressed the question of legitimacy and inheritance rights of children born out of void marriages under the Hindu Marriage Act, 1955. The Trial Court's decision was upheld, which stated that the first plaintiff was not a legally wedded wife of Kuruvathi Basavarajappa due to his subsisting first marriage, and this would render his second marriage void under Section 11 of the Hindu Marriage Act, 1955. It was noted that children born out of such marriages are considered legitimate under Section 16, and along with this, the court observed that in accordance with Section 16(3) of the Hindu Marriage Act, 1955, children born from void and voidable marriages are entitled to their parent's properties, which include parents self-acquired as well as joint family or ancestral property.

¹¹AIR 2005 (NOC) 422

- In *Revanasiddappa v. Mallikarjun*,¹² the Supreme Court upheld the inheritance rights of children born from void marriages.
- In *Tulsa v. Durghatiya* ¹³legitimacy was extended to children from long-term relationships.
- In *ABC v. State (NCT of Delhi)* ¹⁴the Court recognised the rights of an unwed mother and her child.

These decisions reflect a shift toward a child-centric approach, emphasising that children should

THE ROLE OF TECHNOLOGY IN ACCESS TO JUSTICE

Technology plays a transformative role in enhancing access to justice. Here are the key ways it makes a difference:

- *E-Courts*: By enabling virtual hearings, they effectively eliminate delays in legal processes.
- *Online Legal Aid Platforms*: These offer affordable legal assistance, ensuring that everyone can access the help they need.
- *Digital Identity Systems (like Aadhaar)*: These systems provide essential legal recognition for individuals.
- *Mobile Awareness Tools*: These are vital in spreading crucial information about rights, empowering individuals to advocate for themselves.

For children in polygamous families, digital identity is a game-changer, allowing them to access education, welfare schemes, and essential legal protections. Children's rights must be central to any justice system. Technology can support these rights by:

- Ensuring legal identity
- Providing access to justice
- Promoting awareness
- Judicial recognition of NGO contributions

¹² AIR 2011 SC (CIVIL) 1144

¹³ AIR 2008 SUPREME COURT 1193

¹⁴ AIR 2015 Supreme Court 2569

However, systems must be inclusive to avoid reinforcing inequalities. The ruling in *Kamlesh Devi v. State of NCT of Delhi & Anr. (2024)*¹⁵ by the Delhi High Court tackles contemporary issues surrounding child protection in the digital era. Kamlesh Devi, the accused in this case, was denied bail. Devi was involved in the abduction and sexual exploitation of a 16-year-old girl, which started when the victim exchanged messages with the perpetrator on social media. Understanding how electronic interaction contribute to these kinds of offences, the Court developed the idea of "virtual touch," highlighting the need of teaching children about appropriate online conduct, the dangers of digital interactions, and the significance of privacy settings. The conventional teachings of "good touch" and "bad touch" are inadequate in the present digital environment, **Justice Swarana Kanta Sharma emphasised**. *In order to better prepare kids for online dangers, the Court ordered stakeholders, including educational institutions and legal organisations, to include "virtual touch" education in their curricula.* In the case of *State v. Naveen Kumar (2025, Aligarh)*¹⁶, the convicted person was sentenced to life imprisonment in jail under the POCSO Act for the rape and online exploitation of a minor. The case was founded on digital evidence gathered during a CBI probe; the victim did not directly file a complaint.

CHALLENGES AND LIMITATIONS

While the Indian judiciary has taken significant steps to protect children's digital rights, several gaps and challenges remain. Many court decisions focus on general digital rights but do not clearly address the specific needs of children. There is also a lack of clear legal rules about issues like parental control, children's consent, and their right to be forgotten online. It is more difficult to guarantee children's safety and privacy in India due to the lack of a robust data protection regulation, particularly one that targets children. The actual implementation by authorities or platforms is frequently delayed, even when courts provide clear instructions. Overall, improved enforcement of current regulations in the digital sphere and more child-focused legal measures are required. Despite its benefits, technology faces several challenges:

1. Digital Divide – Lack of access to the internet and devices

¹⁵ Kamlesh Devi v. State of NCT of Delhi & Anr., Bail Appln. 216/2024, decided on 6 May 2024, Delhi High Court, available at <https://indiankanoon.org/doc/61962935/>

¹⁶ "Man Gets Life Term for Rape of Minor Girl," The Times of India, Mar. 26, 2025, available at <https://timesofindia.indiatimes.com/city/lucknow/man-gets-life-term-for-rape-of-minorgirl/articleshow/121421250.cms>

2. Low Digital Literacy – Difficulty in using digital tools
3. Social Stigma – Fear of discrimination
4. Legal Ambiguity – Unclear family laws
5. Data Exclusion – Lack of documentation

RECOMMENDATIONS AND SUGGESTIONS

To control dangerous online information and safeguard children from digital offences, Indian courts have also used their power to directly order the government and digital agencies like social media and search engines. Through such interventions, the judiciary has emphasised the responsibility of both State and private actors in creating a safer digital ecosystem for minors. For instance, the courts have directed online platforms to promptly remove sexually explicit content involving children and to cooperate with law enforcement agencies in identifying and prosecuting offenders. To achieve inclusive justice:

- Legal Reforms to clarify the rights of children
- Digital Inclusion Programs to improve access
- Awareness Campaigns to reduce stigma
- User-Friendly Technology for accessibility
- Institutional Accountability for fair implementation

CONCLUSION

Technology has the potential to transform access to justice, but its impact depends on inclusivity. Children in polygamous marriages remain among the most vulnerable groups, facing both legal and social challenges. Achieving justice beyond barriers requires a combination of legal reform, technological innovation, and social change. A child-centric approach is essential to ensure that no child remains invisible. In today's world, where the internet is a big part of children's lives, protecting their rights online is not just a legal duty but also the right thing to do. The Indian judiciary has played a key role in keeping children safe from online dangers like cyberbullying, grooming, harmful content, and misuse of their personal data. Courts have helped fill the gaps in the law by interpreting existing rules in a way that suits the digital age and pushes both the

government and private tech companies to take responsibility. In the famous Puttaswamy case (2017), the Supreme Court said the Right to Privacy is a basic right under the Constitution, which also applies to children and their online data. In another important case in 2024, the court said that even watching child abuse content online is a crime, showing its strong stand against digital abuse. Courts have also told the government and online platforms to take stronger steps to make the internet safer for kids. Through cases such as Prajwala (2018) and X v. Union of India (2020), courts ensured that platforms are held accountable and that the State does its part. They've even made changes in courtrooms, like video calls and child-friendly settings, to make children feel safer during legal proceedings. The courts also work closely with NGOs, which provide care to victims and help train judges and police. These efforts show that the judiciary is leading the way in building a safer digital world for children. Still, there's a need for ongoing teamwork, better laws, and new tech solutions to make sure kids can enjoy the internet without fear or harm.