
CHILD LABOUR: AN UNACCEPTABLE REALITY OF INDIA

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ABSTRACT

Children are a country's true wealth. Children can quickly determine how much a country has advanced. It is generally accepted that a country's future is secure if its children are educated, healthy, and active. Child labour is an issue in any society that is unable to provide for the fundamental needs of its citizens. Child labour is regarded as a kind of contemporary slavery. Child labour is not an issue in developed nations since they have already managed to control poverty and population growth, but in developing nations, poverty is still a concern, and there is also no population control. The issue of child labour is one that developing and impoverished countries must deal with. India is one of the nations dealing with the issue of child labour. Children who lack the essentials for survival enter the labour force without receiving an education, which ends their chances of growing up to be well-educated citizens of the nation. In India, there are near about 10.1 million children who are slaves. People favour hiring children for work over adults because they think children can be easily managed and there is no need to give them higher wages. This paper discusses the factors that contribute to child labour, its prevalence in India and in the world, a critical examination of a legislation that was approved by the legislature to address the issue, and recommendations for ending it.

Key Points-Child Labour, Causes , forms of child labour , effects, Law and policies

1. INTRODUCTION

The phenomenon of child labour is age old in India. Children are subjected to various forms of exploitation and child labour is one of such forms. It seems rational to send children to work to augment family income in economic stricken societies but it is at the cost of their physical, intellectual and emotional development. Despite condemnation by international community children continues to be sizable section of work force. The rights of the child are marginalized. The increasing incidence of child labour in India is a critical problem lurking on the face of the nation. Despite the efforts made by the Government in this direction the problem continues unabated. This problem is a complex and multi-dimensional. It is dependent on several variables. In India, more than 42.7 million kids do not attend school. In the past four years, 10,826 instances of breach of the Child Labour Act were reported nationwide, according to a research published in February 2019. Only 6032 (or 56%) of these cases reached the point of prosecution. According to the authorities only 25% of the cases where the Child Labour Act was violated between 2015 and 2018 resulted in convictions.

2. WHAT IS CHILD LABOUR ?

Child labour is defined differently by UNICEF. According to UNICEF, a child engages in child labour activities if, between the ages of 5 and 11, they perform at least one hour of economic activity or at least 28 hours of household chores per week, and in case of children between 12 to 14 years if they perform at least 14 hours of economic activity or at least 42 hours of economic activity and house work per week, respectively.¹

The term “child labour” is often defined as **work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development.** It refers to work that: is mentally, physically, socially or morally dangerous and harmful to children.²

India's Census 2001 office defines Child labour as "participation of a child less than 17 years of age in any economically productive activity with or without compensation, wages, or profit".

¹ In a different report, UNICEF makes the following recommendation: "Children's work has to be regarded as going along a continuum, with positive work - encouraging or strengthening children's development without interfering with their schooling, recreation, and rest - at the other end. Between these two extremes, there are enormous fields of activity that need not harm a child's growth

² <https://www.ilo.org/ipec/facts/lang--en/index.htm>

Part-time assistance or unpaid work on a farm, family business, or in any other type of economic activity, such as farming and producing milk for sale or domestic use, is included in this category.³

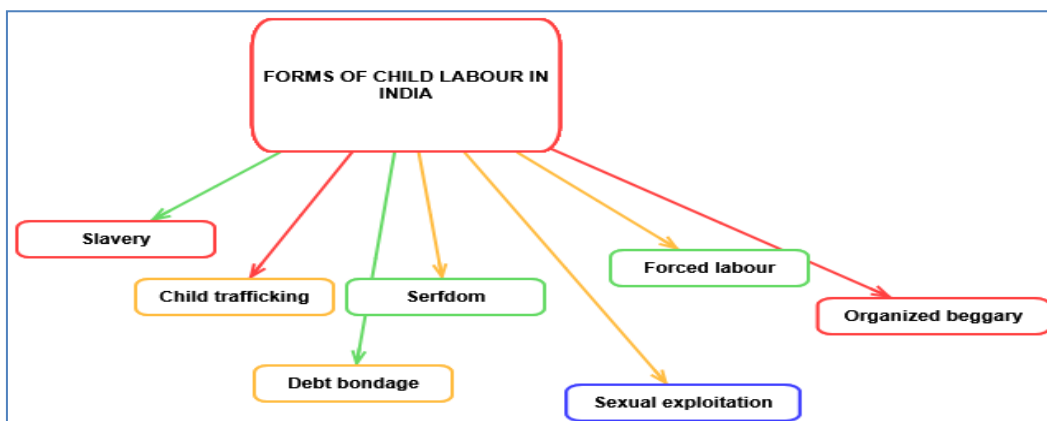
Under Section 2 of Child Labour (Prohibition and Regulation) Act, 1986, a 'child' is defined as a person who has not reached his fourteenth year of age.

"Child labour," according to the International Labour Organization, is defined as employment that deprives children of their youth, their potential, and their dignity, as well as harming their physical and mental development. It refers to work which is physically, mentally, socially, or morally hazardous to children. Which interferes with their education by denying them the chance to attend school, forcing them to leave school early, or forcing them to attempt to keep school attendance with unnecessarily hard work?

MINIMUM AGE FOR WORK

Setting a legal age at which children can legally be permitted to work is one of the most effective ways of preventing child labour. It is 18 years, according to the International Labour Organization's Convention and India's Child Labour (Prohibition and Regulation) Act, 1986. This implies that any task that is likely to risk the physical, mental, or moral health, safety, or morality of children should not be done by anybody under the age of 18 in accordance with national and international standards.⁴

3. FORMS OF CHILD LABOUR



³ <https://blog.ipleaders.in/laws-related-child-labour-india/>

⁴ Basic Minimum Age – According to ILO, it is 15 years of age whereas Indian law Sets 14 years of basic minimum age

i) Slavery- Slavery is defined as a situation in which one person is owned by and forced to labour for another without having any control over their fate. Slaves are kept against their will from the moment they are kidnapped, bought, or born, and they are not able to escape or refuse to labour.

ii) Child trafficking - The illicit dealing (buying, selling, and moving) of children for the sake of labour or sexual exploitation is known as child trafficking. For a variety of causes, children are trafficked, including forced labour, prostitution, and recruitment as child soldiers and beggars.⁵ Children who produce or traffic drugs are at great risk of abuse and many also become addicted to it at a very young age.⁶

iii) Debt bondage - Debt bondage is a form of forced labour in which individuals are forced to work in exchange for loans that they cannot repay with money or commodities. A poor family, for example, may give their child to someone to pay off their debt, and that youngster will be forced to labour for years until the loan is paid off.⁷

iv) Serfdom- is when a person is forced to live and work on land belonging to another person, often with little or no pay.⁸

v) Forced labour-When someone is forced to work against their will, this is known as forced labour. Children in armed conflicts, for example, are compelled to fight or labour as chefs, porters, and couriers. These youngsters are abused and exploited, and they are frequently compelled to murder or maim other people.⁹

⁵ The United Nations defines **human trafficking** as the recruitment, transportation, transfer, harboring, or receipt of persons by improper means (such as force, abduction, fraud, or coercion) for an improper purpose including forced labor or sexual exploitation. It takes on many forms today.

⁶ Children are also involved in other crimes as defined in national laws, such as buying stolen goods, shoplifting, robbery, hijacking cars, theft and burglary. They may be forced with threats and violence to take part in criminal activities, or be under pressure to find money for their survival and that of their family. Some children get involved in crime through gangs, or because they think this is a way to obtain respect.

⁷ Bonded labour is most widespread in South Asian countries such as India and Pakistan. Often entire families have to work to pay off the debt taken by one of its members. Sometimes, the debt can be passed down the generations and children can be held in debt bondage because of a loan their parents had taken decades ago..

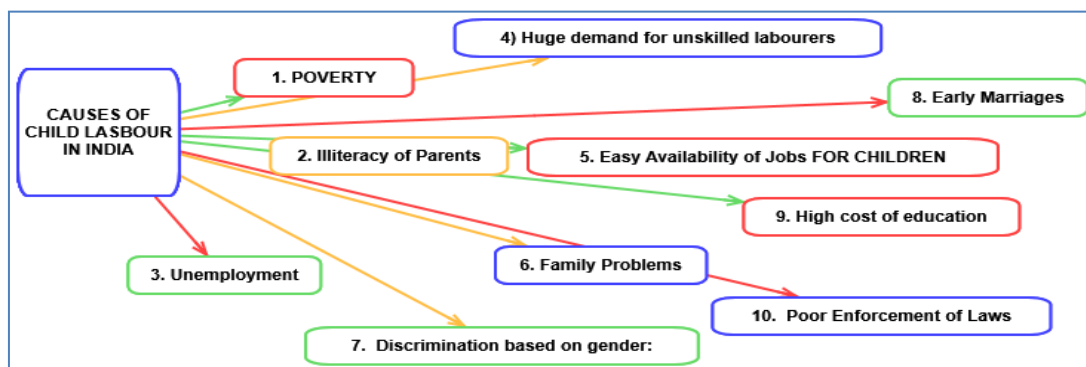
⁸ *Serfdom* is a legal and economic system. A *serf* is a worker who has to stay in a lords area. *Serfs* were the lowest social class of the feudal society. *Serfs* were different from slaves. *Serfs* could have property.

⁹ forced labour affects millions of men, women and children around the world. It is most often found in industries with a lot of workers and little regulation

vi) Sexual exploitation- Sexual exploitation is when someone is mistreated, abused, and/or exploited for personal benefit and profit, such as through prostitution or commercial sexual activity. The exchange of sexual acts for money is known as prostitution.¹⁰

viii) Organized beggary : Street children, runaways or children living in poverty are also used in organized beggary. Children are sometimes even intentionally disfigured to attract more money from passers by, and they may be beaten if they don't manage to collect enough money.

4. CAUSES OF CHILD LABOUR



i) Poverty : Poverty is the single most important factor influencing children's decision to work in factories, stores, or construction sites rather than play and receive an education. Families do not have enough finances, thus children are frequently used as a source of more cash, even if it means foregoing childhood advantages.¹¹ Most frequently, child labour happens when families have financial difficulties or uncertainty, whether as a result of poverty, or the loss of their principal source of income..¹²

ii) Illiteracy : A society with a large educated population recognises the value of going to school and pursuing one's aspirations. Children have the capacity and time to achieve any goals they choose for themselves. On the other side, illiteracy makes it difficult for many individuals to comprehend the value of education. Illiterate individuals see education as a privilege

¹⁰ This form of child labour has serious short and long term consequences. Children are at a high risk of physical abuse, malnutrition, and sexually transmitted diseases. It is extremely difficult for children to get out of this situation and very hard for them to deal with what they have experienced physically and mentally.

¹¹ Children who come from poor families are forced to work to support their siblings and parents or supplement the household income when expenses are more than the parents' earnings. It is a huge problem especially in developing countries where parents are unable to generate income due to the lack of employment opportunities or education.

¹² <https://www.unicef.org/protection/child-labour>

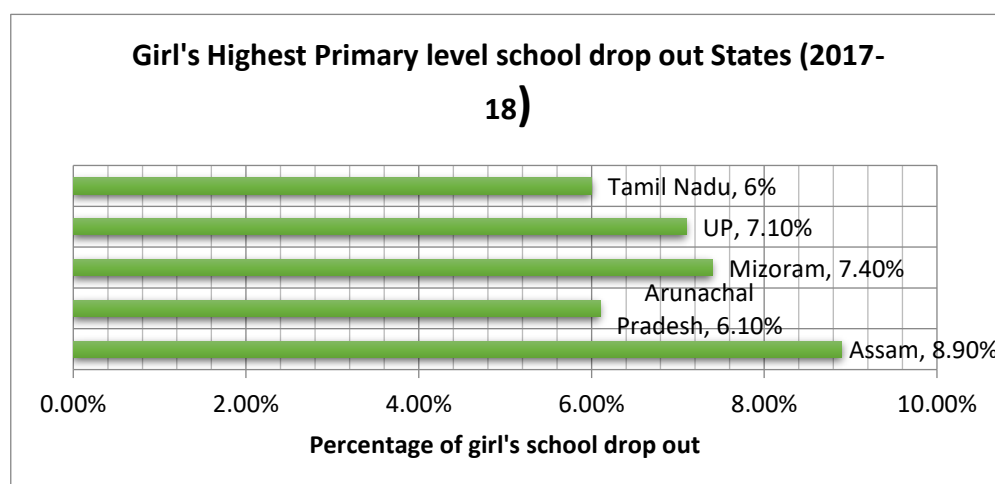
reserved for the wealthy.¹³ As a result, they will not offer financial assistance to children so that they may attend school and lay solid foundations for future success.

iii) Unemployment: The parents believe that people from all socioeconomic backgrounds are affected by unemployment. Therefore, investing in the child's education is not necessary. They believed that working is better than going to school. This kind of thinking encourages child labour in the nation.

iv) Huge demand for unskilled labourers: Another reason for child labour is the demand for unskilled labourers. Because children are typically untrained and represent a low-cost supply of labour, they are an appealing alternative for many selfish employers.¹⁴

v) Easy Availability of Jobs: The children find it easy to get jobs as unskilled labourers. They are silent workers. They do not create problem and they do not fight with the employers. They are available at a low wages.

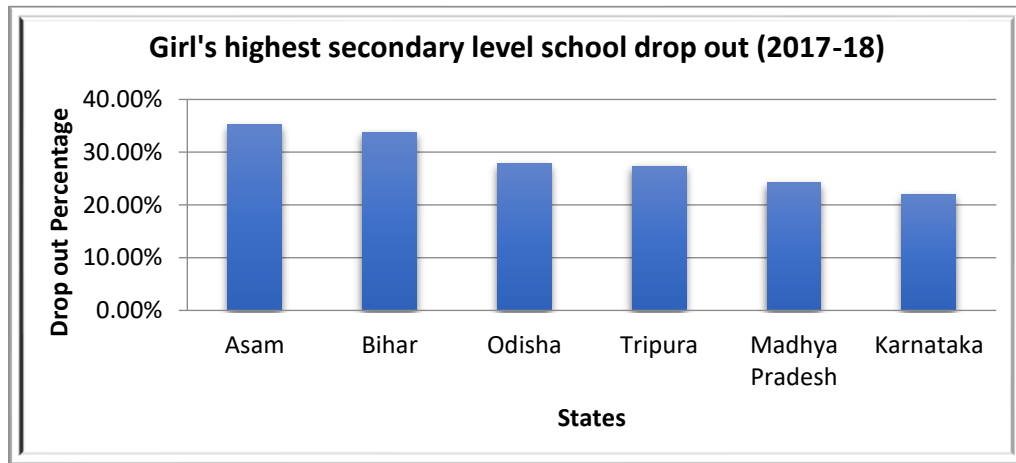
vi) School dropout to increase family income by forced labour : Many girls are forced to drop out of school and forced to labour to augment their family's income until they are married off. This is also a common occurrence among normally susceptible classes.



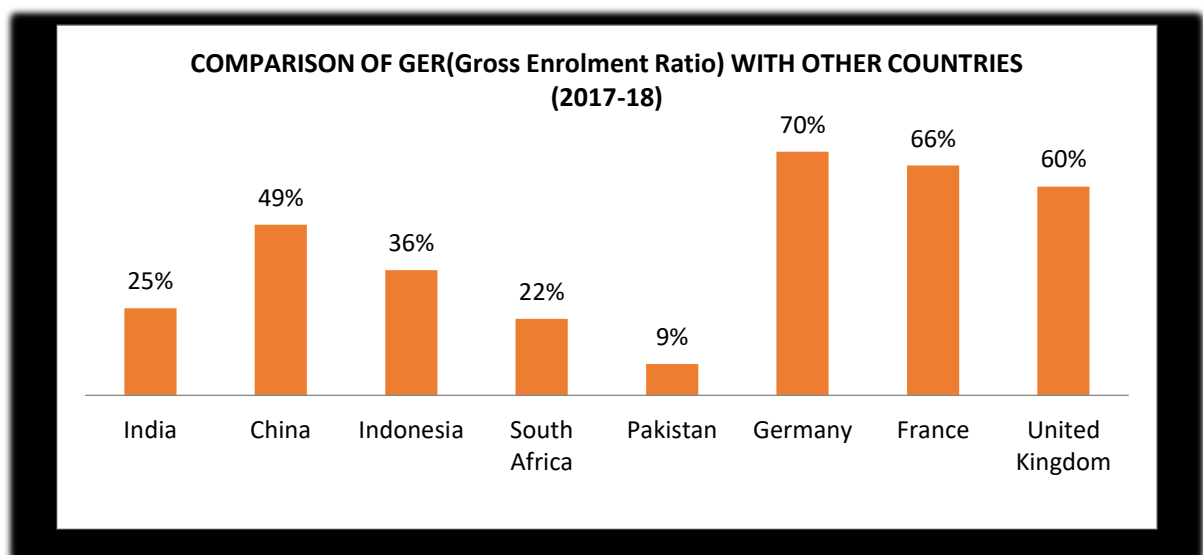
¹³ Some parents don't consider child labour bad, hence, they can be directly held responsible for the ill effects suffered by them. Illiteracy prevents them from taking right decisions about their children. Because of excessive number of children, issues such as health, education, social activities etc.

¹⁴ Child labour, by virtue of being cheap, increases the margin of profits for such entrepreneurs whose only objective is profit maximization even if it comes at the expense of ethics and good business practices. These types of employers can also force children to work under unfavourable conditions through manipulation or blatant threats.

India has a higher rate of female primary school dropouts than males. Assam, with an 8.9% dropout rate, is among the top five states in India for this demographic. Tamil Nadu is 6%, Mizoram is 7.40, UP is 7.10, and Arunachal Pradesh is 6.10%.¹⁵



At secondary level education in India , the dropout rates for boys were 32.1% in Assam, followed by Bihar (30.3), Odisha (28.7), Tripura (27.1) and Karnataka (26.4). Among girls in secondary school, the highest five dropout rates were in Assam (35.2%), followed by Bihar (33.7), Odisha (27.8), Tripura (27.3) and Madhya Pradesh (24.2).¹⁶



Source-All India Survey on Higher Education (2018-19)

¹⁵ <https://indianexpress.com/article/explained/telling-numbers-in-primary-and-secondary-schools-dropout-rates-highest-in-assam-6253181/>

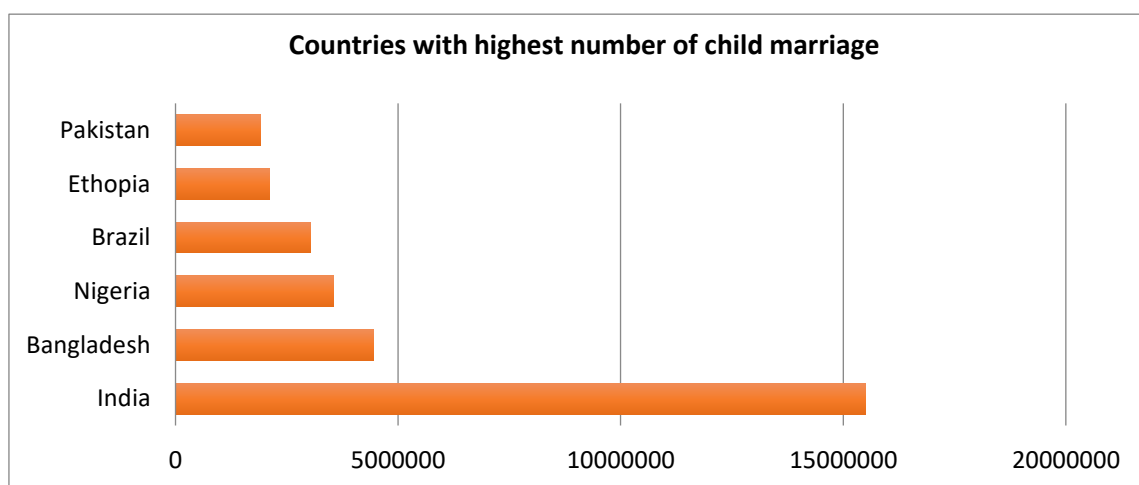
¹⁶ Ibid

In comparison to other wealthy nations, India's GER is quite low. India's GER is only 25%, yet nations like Germany, France, and the United Kingdom have GERs that are far greater than India at 70%, 66%, and 60%, respectively.

vii. Child labour and gender inequality

Boys are far more likely than girls to be involved in child labour, with around 11.2% of boys involved in child labour compared to 7.8% of girls. According to the most current ILO-UNICEF 2020 report on child labour, there are an estimated 89.3 million children aged 5 to 11, 35.6 million aged 12 to 14, and 35 million aged 15 to 17. (ILO report, 2020). This gender difference widens with age, as girls are more likely to be involved in underpaid and under-reported domestic child labour. On the issue of child, labour girls outnumber boys in many countries such as Congo, Yemen, Nepal, Peru, Mozambique, Chad, and Somalia .¹⁷

viii) Early Marriages: Marrying at an early age is a major contributing factor to overpopulation. Having many children with little or no resources to support them leads to child labour. Older children are forced to work in order to help their parents support the family.¹⁸



Countries with the greatest rate of child marriage include India (155,090,000), Bangladesh (44,510,000), Nigeria (35,380,000), Brazil (30,340,000), Ethiopia (21,040,000), and Pakistan (19,090,000).

¹⁷ <https://www.humanium.org/en/child-labour/>

¹⁸ Child marriage is not merely a harmful traditional practice: it is a crime, it is child labour in its worst form, and it is a complete violation of a girl's human rights. It is illegal because it puts girls in jeopardy, violates their rights as children, and distorts the rest of their lives.

ix) Inadequate or weak national educational systems

Child labour is largely a result of inadequate or underdeveloped national educational systems. Communities with poor educational resources, such as a shortage of instructors and supplies, provide an unstable atmosphere where children lack access to an education, which in turn encourages them to engage in child labour. Because some families cannot pay school fees, they turn to child labour as a more lucrative use of their children's time.. Some societies place less value on girls attending school and instead favour that they be equipped to handle domestic duties (ILO)¹⁹

x) Ingrained cultural traditions and attitudes surrounding child labour

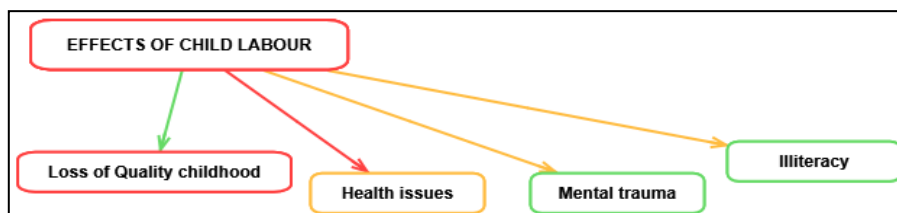
Around the world, many cultural norms and traditions subtly support child labour by emphasizing the value of employment to a child's growth. For instance, despite the potential implications on a child's understanding of their human rights, some cultures value employment as a means of character and skill development. Children are expected to study a certain skill in order to support their families, following in their parents' footsteps. Other customs push kids to labour to repay loans of their families

xi) Poor Enforcement of Laws

Despite the fact that the country has various laws protecting children, children are frequently exploited. The Industries Act, for example, restricts the employment of youngsters in factories. However, because there is no strong enforcement, youngsters are still working in industries.

xii) Family tradition: Many families with companies or traditional vocations such as the arts, for example, require their offspring to work so that they can pass down the traditional arts or company exclusively via experience.

5. CONSEQUENCES AND EFFECTS OF CHILD LABOUR



¹⁹ <https://www.humanium.org/en/child-labour>

i) Loss of Quality childhood-Child labour results in a loss of quality childhood because children are robbed of the wonderful experiences that come with being young. Children are frequently encouraged to play since it aids in their development and growth. Many of the positive aspects of childhood will be lost if a youngster is pushed to work.²⁰

ii) Health issues: Working in settings like mines and poorly ventilated factories can cause long-term health problems for children. A youngster who is assigned physically hard tasks may experience bodily trauma that may fear him or her for the rest of his or her life.²¹

iii) Mental trauma: The likelihood of depression rises with adverse event experience. According to psychological research, stressful or traumatic experiences as a child might have a detrimental effect on one's mental health as an adult. Bullying, sexual exploitation, and unfavourable working hours all have the potential to cause emotional damage in youngsters. They will have a difficult time forgetting their history and may become social outcasts as a result of their negative childhood experiences. Child labour can also lead to a lack of emotional development and, as a result, insensitivity.²²

iv) Illiteracy: Employed children do not have the time to attend school. As the days and years pass, they spend more and more time at their desks. They have restricted work prospects due to their lack of education and illiteracy. Education also prepares a person for a variety of societal obstacles, and without it, one may find themselves lacking in the fundamental abilities needed to solve many of life's problems.²³

6. AREAS WHERE CHILD LABOUR IS RAMPANT

²⁰ It is important for human beings to enjoy every stage of their development. A child should play with friends and make memories for a lifetime. Youths should explore life and form strong foundations that would define their adult lives. <https://www.jatinverma.org/child-labour-an-indian-perspective#:~:text=Loss%20of%20Quality%20childhood%3A%20Child,labour%20leads%20to%20health%20complications>.

²¹ Child labour can also lead to health complications due to undernourishment and poor working conditions. It is highly unlikely that people who employ children also have the moral capacity to ensure that they have good working conditions. At employment, kids are at risk for accidents and other injuries. So it is important to safeguard kids from injury that will continue to afflict them throughout their lives on the social, economic, and physical levels. These injuries consist of Common child injuries and maltreatment include cuts, burns, lacerations, fractures, exhaustion and light headedness, as well as excessive worries and nightmares.

Sexual abuse includes rape, prostitution, early and undesired pregnancies, abortion, sexually transmitted diseases (STDs) including HIV/AIDS, drug and alcohol abuse, and sexual exploitation of girls by adults.

²² <https://link.springer.com/article/10.1007/s00181-022-02241-5>

²³ An individual who has gone to school may be aware of how to approach certain situations in life without resorting to brute force. An illiterate person, on the other hand, considers force to be the only answer to nearly all of the challenges experienced.

Bidi making, Carpet weaving, Garages, As Servants at Homes, Farming, Building and construction industry, Tea Stalls, Cement manufacture including bagging, Cloth printing, dyeing, and weaving, Manufacture of matches, explosives, and fireworks, Diamond Industry Soap making, Tanning, Wool-cleaning, Manufacture of slate pencils (including packing), Shoe Polishing

7. CHILD LABOUR: GLOBAL STATISTICS (2020)

1 in 10 children aged 5 and older engaged in child labour globally by the beginning of 2020, which equates to an estimated 160 million children, or 63 million girls and 97 million boys. Over the past 20 years, tremendous global progress has been made in eliminating child labour (ILO and UNICEF 2021). Between 2000 and 2020, the number of youngsters working as children decreased by 85.5 million, from 16% to 9.6%.²⁴



According to a recent assessment by the International Labour Organization (ILO) and UNICEF, there are now 160 million children working as minors globally, an increase of 8.4 million children in the past four years, with millions more at danger owing to COVID-19's effects.²⁵

8. STATISTICS OF CHILD LABOUR IN INDIA

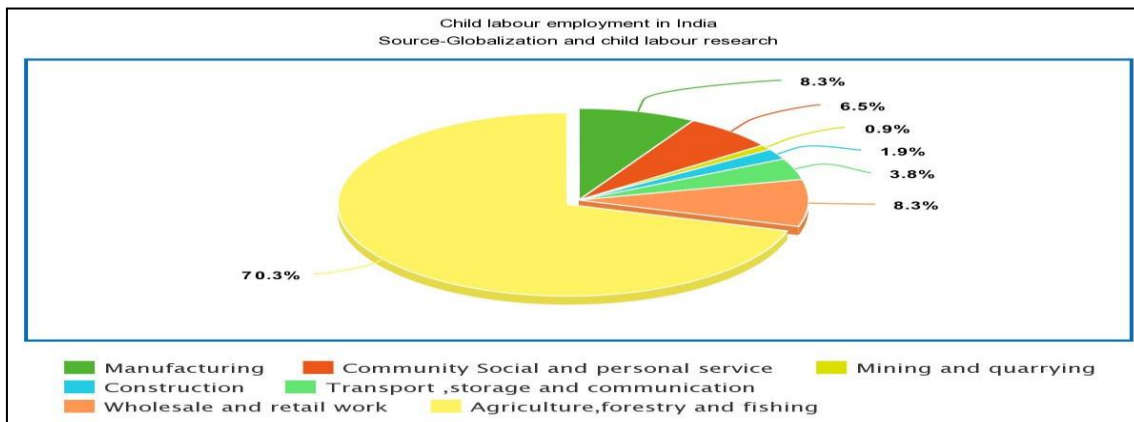
i) Employment of child labour in different sectors in India

Child labourers are employed in a number of different sectors throughout India, including agriculture, fishing, mining, carpet weaving, wholesale and retail work, Construction work

²⁴ [https://www.un.org/en/observances/world-day-against-child-labour#:~:text=At%20the%20beginning%20of%202020,\(ILO%20and%20UNICEF%202021\).](https://www.un.org/en/observances/world-day-against-child-labour#:~:text=At%20the%20beginning%20of%202020,(ILO%20and%20UNICEF%202021).)

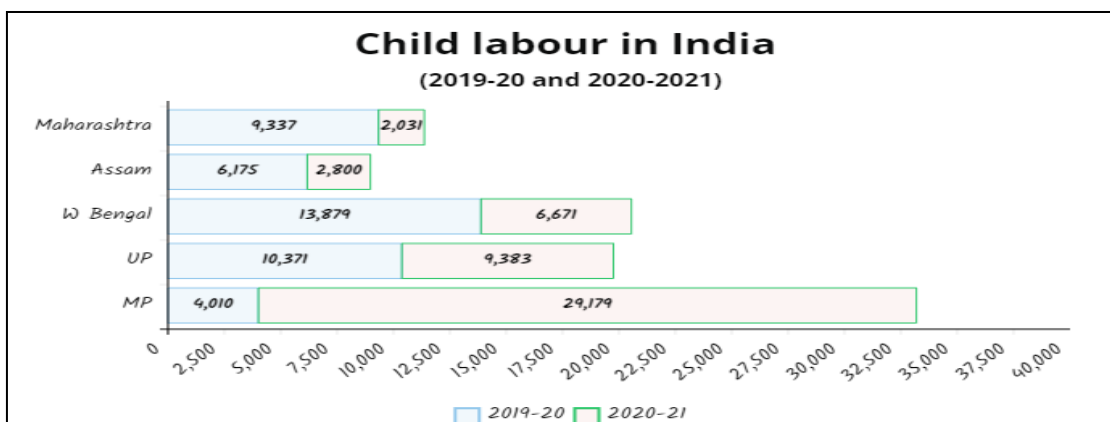
²⁵ <https://www.unicef.org/india/press-releases/child-labour-rises-160-million-first-increase-two-decades>

,garment manufacturing, domestic work, food and refreshment services (such as tea shops), and brick kilns.



ii) Child labour in India during 2019-20 and 2020-21

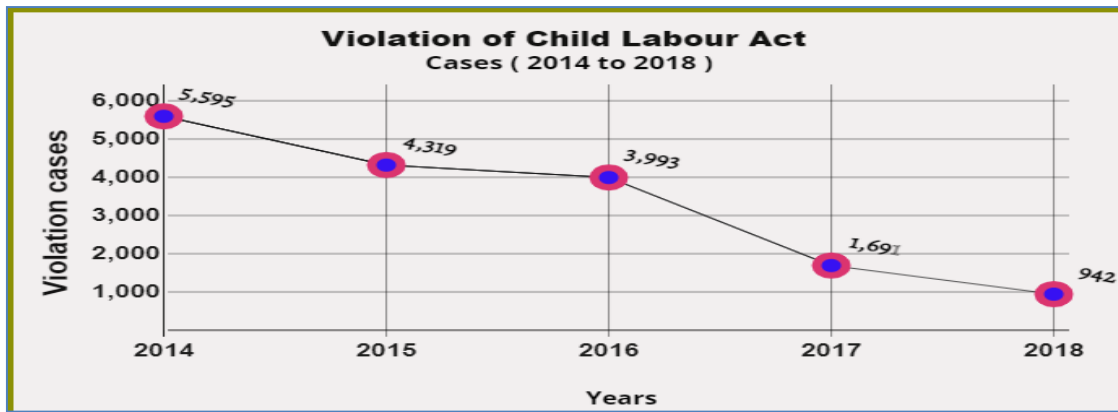
According to data presented in the Lok Sabha by Rameshwar Teli, Minister of State for Labour and Employment nearly 58,000 children were rescued from labour in India in 2020–21, rehabilitated, and mainstreamed under the National Child Labour Project.²⁶



iii) Violation of Child Labour Act Incidents In India between 2014 to 2018

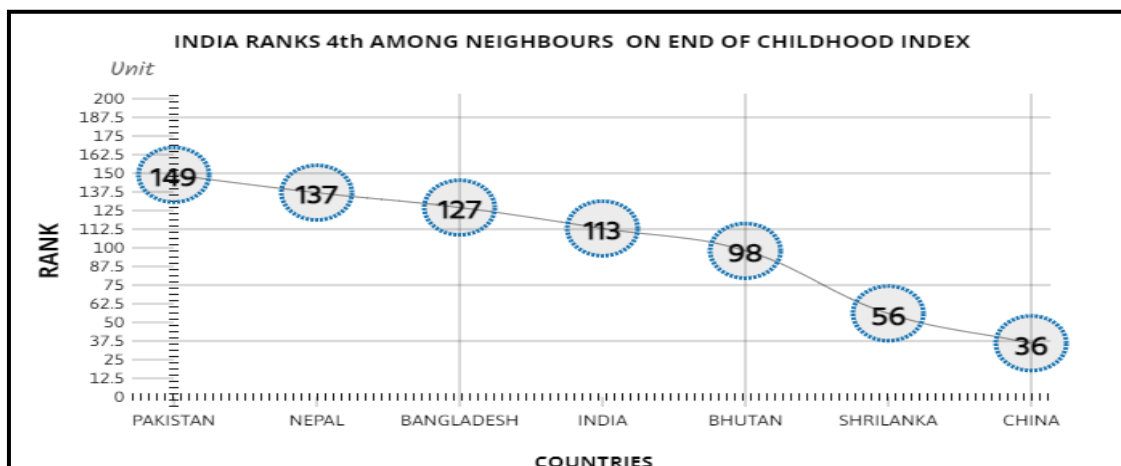
The Child Labour Act is frequently violated. People in India favour using children as labourers. The main cause is that children receive lower wages than adults. Although there are numerous instances of child labour in India, few of them are reported. A total of 5595 incidents of child labour Act violations were reported in 2014, although fewer violations of the child labour Act were reported in 2015, 2016, 2017, and 2018 as well.

²⁶ <https://indianexpress.com/article/explained/india-child-labour-2020-7435998/>



iv) India ranks 4th on end of childhood index

India was ranked 113 in 176 countries on the well-being of children with 769 scores out of 1000. The index was published on May 28, 2019 by "Save the Children," a non-profit organisation based in the UK that advocates for children's rights. India is ranked fourth among the neighbours.²⁷



9. CHILD LABOUR AND COVID - 19

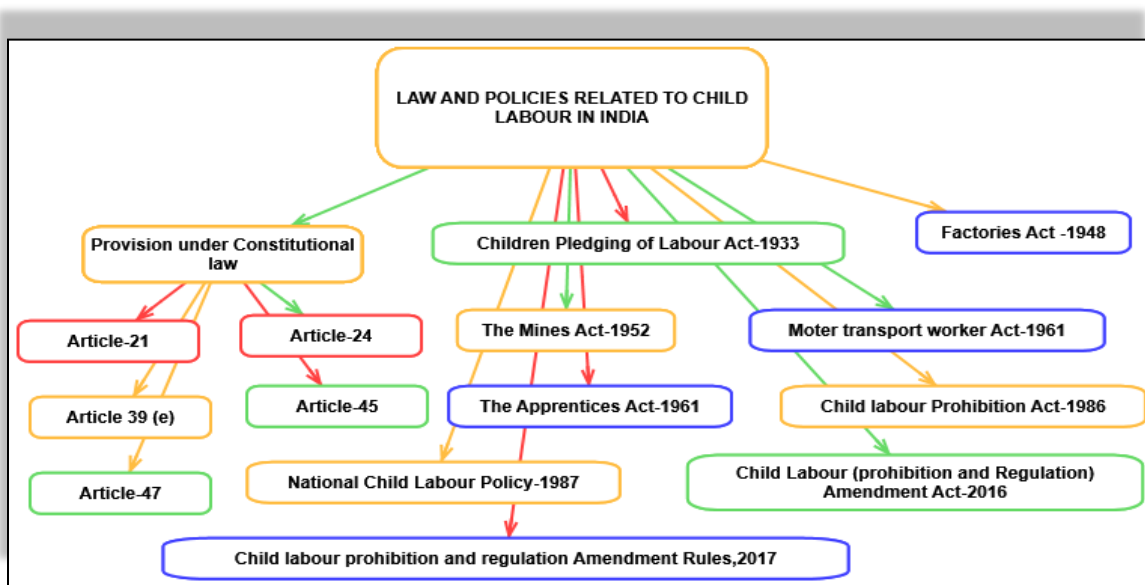
Because of COVID-19's additional economic shocks and school closings, children who are already engaged in child labour may work longer hours or in worse conditions, and many more children may be compelled to engage in the worst forms of child labour as a result of job and income losses among vulnerable families.²⁸

²⁷ <https://affairscLOUD.com/india-ranked-113-out-of-176-countries-in-end-of-childhood-index/>

²⁸ <https://www.unicef.org/india/press-releases/child-labour-rises-160-million-first-increase-two-decades>

Since the epidemic, there has been a surge in unemployment, which has led to a greater propensity for families to use child labour as a coping strategy. This was made worse by school closings, which put youngsters in a vulnerable position and increased their danger of child labour. African non-governmental organisations have observed that school closures have forced youngsters into employment since they were expected to support their families (ilo, 2020)²⁹

10. LAW AND POLICIES IN INDIA TO PREVENT CHILD LABOUR



The necessity for laws and regulations to forbid the harmful practise of child labour was recognised when it grew so prevalent in the 20th century that reports of industrial accidents and dangerous killing of innocent children flashed across the press. There are now enough laws that forbid and condemn child labour.)

i) Provision under constitutional law.

The Indian Constitution makes special provisions for proper development of children. The following articles of Constitution of India deal with protection of children:

a) Article 21A – The State should make every effort to offer free and compulsory education to all children aged 6 to 14 years in the manner determined by law.

²⁹ <https://www.humanium.org/en/child-labour/>.

b) Article 24 – Employment of youngsters in workplaces is prohibited. No kid under the age of fourteen years old may be employed in a factory or mine, or in any other dangerous occupation.

c) Article 39(e) – Workers' health and strength, as well as the young age of children, are not exploited, and people are not compelled by economic necessity to engage in occupations that are unsuitable for their age or strength..

d) Article 39 (f) - Children are provided with opportunity and facilities to grow up in a healthy, free, and dignified way, and childhood and youth are safeguarded from exploitation and moral and material abandonment.

e) Article 45- The state shall make every effort to provide all children with early childhood care and education until they reach the age of six.

f) Article 47- The main goal of this Article is to improve public health. The right to health is now viewed as being essential to all other rights. The government should take the necessary actions to raise the level of living, eradicate child labour, reduce poverty, and improve the quality of life for women in society.³⁰

ii) Children Pledging of Labour Act, 1933.

This Act was enacted to prevent the practice of pledging the child under 15 years of age. According to this Act any agreement relating to the pledge of the service of a child is void and any person entering into any such agreement is to be punished.³¹

iii) Factories Act, 1948.

³⁰ Raising the quality of nutrition and the standard of life of its citizens, as well as improving public health, are among the state's key responsibilities. Legislations related to child labour in India, Article 47 gives the state instructions on how to improve standards of life and nutrition. It implies that the state's main responsibility is to seek to improve public health. Since alcoholic beverages and medications that cause intoxication are harmful to health, states should work to ban them unless absolutely necessary. The fundamental responsibility of the state is outlined in Article 47, which is the most crucial element in striving to improve society. The obligations of the state are increased by this and its extension to maternity benefits, old age, improved working conditions, and justice protection. <https://legodesk.com/legopedia/article-47/#:~:text=Article%2047%20is%20a%20direction,prohibition%20except%20for%20medical%20purposes>.

³¹ Whoever makes with the parent or guardian of a child an agreement whereby such parent or guardian pledges the labour of the child shall be punished with fine which may extend to two hundred rupees, Section 5 of Children (Pledging of Labour) Act, 1933

This is an important piece of central legislation which prohibits the employment of children below 14 years, in factories employing 10 or more persons with the use of power and 20 or more without the use of power.³²

iv) The Mines Act, 1952.

A kid is defined as someone who has not reached the age of 15, while an adolescent is someone who has reached the age of 15 but is under the age of 18. This Act also stipulates that an adolescent who has reached the age of 16 can only work in an underground mine after receiving a competent medical certificate and for a maximum of four and a half hours each day, except between the hours of 9 p.m. and 6 a.m. This Act also specifies the penalties for breaking the law's requirements..³³

v) The Motor Transport Workers Act, 1961 - This Act prohibits employment of children below 15 years of age in motor transport undertakings; however, an adolescent can work subject to production of certificate of physical fitness in such organization.³⁴

vi) The Apprentices Act, 1961.

This Act provides that a person who is less than 14 years of age will not qualify for apprenticeship training but this rule is not applicable for those apprentices who are receiving vocational training.³⁵

vii) The Child Labour (Prohibition and Regulation Act, 1986.

Until now, the vast collection of labour rules listed above could give protection to minors from their job or working hours. These are all excellent provisions, but their execution is woefully inadequate. This may be due to a perception that labour regulations do not provide any deterrent consequence. The Indian government, on the other hand, has approved a new Act with the express goal of providing stronger protections to child workers. The latter strives to identify

³² No Child can be employed or permitted to work in any factory: (1) For more than four and a half hours in any day; (2) During the night i.e., a period of at least twelve consecutive hours including the interval between 10 p.m. and 6 a.m. (3) On any day on which he has already been working in any other factory

³³ Section 40 of the act prohibits employment of children in underground or open cast mine. Section 45 prohibits persons below eighteen years of age to be present in any part of a mine above ground, where any operation connected with or incidental to any mining operation is being carried out

³⁴ Section 21 of the act prohibits employment of children

³⁵ <https://www.teamleaseregtech.com/resources/acts/article/28/the-apprentices-act-1961/>

more dangerous procedures and industries with the goal of prohibiting child labour in these areas while also regulating working conditions for children in non-hazardous areas.³⁶

Children under the Age of 14

Any youngster under the age of 14 will not be allowed to work in any occupation. But if the child works for the family business and his or her education is unaffected, this limitation does not apply. A child of this age is also eligible to work as an artist in the audio-visual entertainment, advertising, cinema, television, or any other sports, but the circus is not one of these.

Adolescents (14 to 18 years old)

The Child Labour (Prohibition and Regulation) Act of 1986, Section 7, states that no child may work more than the allotted number of hours. No child will work between the hours of 7 p.m. and 8 a.m., nor will they engage for more than three hours each day; however, this limit may be increased provided the child receives an hour of rest in between. No extra time is permitted.

viii) National child labour Policy 1987

The National Policy on Child Labour, August 1987 contains the action plan for tackling the problem of child labour. It envisages:

- A legislative action plan
- Focusing and convergence of general development programmes for benefiting children wherever possible, and
- Under the Scheme, after a survey of child labour engaged in hazardous occupations & processes has been conducted, children are to be withdrawn from these occupations & processes and then put into special schools in order to enable them to be mainstreamed into formal schooling system.

³⁶ The new Act of 1986 has prescribed various valuable provisions for prohibiting and regulating the child labour. The main objects of this Act are as under:- 1. To bring uniformity in the definition of child in the related laws. 2. To ban the employment of children in specific occupations and processes. 3. To enable modification of scope of banned industries and processes by laying down a procedure.

ix) Juvenile Justice (Care and Protection of Children) Act - 2000

According to the Juvenile Justice (Care and Protection of Children) Act of 2000, anybody who employs a child for any dangerous task or as bonded labour will be punished.³⁷

x) Right of Children to Free and Compulsory Education Act -2009

In accordance with the 2009 Right of Children to Free and Compulsory Education Act: Every kid under the age of 14 must have access to free and compulsory education. In reality, to effectively implement this Act, 25% of seats are also set aside in every private school for physically challenged and members of underprivileged groups of pupils.³⁸

xi) Child Labour (Prohibition and Regulation) Amendment act ,2016

The Child Labour (Prohibition and Regulation) Amendment Act, 2016, was approved by the government and went into effect on January 1, 2016. The Amendment Act makes it illegal to hire minors under the age of 14. The amendment further outlaws the employment of teenagers between the ages of 14 and 18 in dangerous jobs and procedures, while also regulating their working conditions in those cases where they are not forbidden.³⁹

xii) Child labour prohibition and regulation Amendment Rules,2017

The Government of India has amended the Child Labour (Prohibition and Regulation) Central Rules following extensive consultation with stakeholders. The Rules give wide and explicit framework for prevention, prohibition, rescue and rehabilitation of child and adolescent employees.⁴⁰

11. JUDICIAL RESPONSE

i) In **Peoples Union for Democratic Rights vs. Union of India**⁴¹: Known as the 'Asian labourers case,' it was brought to the Supreme Court's attention that children under the age of

³⁷ <https://blog.ipleaders.in/child-labour-laws-in-india/>

³⁸ Ibid

³⁹ This Act makes child labour a punishable offence. Employers that hire children under the age of 14 are subject to fines of \$20,000, \$50,000, or both the first time they do so, as well as jail sentences ranging from six months to two years. However, if the perpetrator is a repeat offender, the employer might face up to three years in jail. If a parent is the offender, they must pay a fine of Rs. 10,000 and are subject to lenient punishment guidelines.

⁴⁰ <https://abcaus.in/labour-laws/child-labour-prohibition-and-regulation-amendment-rules-2017.html>

⁴¹ (1982) 3 SCC 235 .Cite to Article 24, Justice P.N. Bhagavathi and Justice Bahrul have held that “apart from the need of International Labour Organization Convention No.59, we have Article 24 of the Constitution which even

14 were working in the construction industry. Construction labour is clearly a risky job, according to experts, and it is critical that children under the age of 14 are not employed in any construction duty.

ii) In **Francis Coralie Mullin vs. Union Territory of Delhi**⁴² : Article 21 of the Constitution protects employees' health and strength, as well as men, women, and minorities of children, against abuse, according to the court. The opportunity and services for children to grow and develop in a healthy manner, in order of freedom and decorum, as well as educational benefits, according to the court.

iii) On 25 April 1984 in **Laborers Working on Salal vs. the State Of Jammu And Kashmir**⁴³ a bench of Justice P Bhagwati, R Misra directs "That no child under the age of 14 years is employed by any contractor/sub-contractor on any factories in the schemes. In case any child labourer is included by any contractor/subcontractor prompt orders for their break should be furnished forthwith and an outline report provided to the sanction".

iv) In **Bandhua Mukti Morcha v. Union of India and others**⁴⁴, "It is not appropriate on the part of the concerned governments to close their eyes to the brutal exploitation to which the bonded labourers are exposed," Justice Bhagwati said. It is consequently critical that, wherever bound labour exists, the state government acknowledges the presence of such bonded labour and makes every effort to remove it. It will not only be fulfilling a humanitarian role, but also fulfilling a constitutional requirement and strengthening the country's participatory democratic foundations."

v))In **Sheela Barse v. Union of India**⁴⁵, In this case, the court determined that a kid is a state blessing, and it is the state's job to focus behind the child with the goal of ensuring optimal personality development. Judicial institutions have played an important role not only in resolving conflicts, but also in attempting to grow and expand the law in order to meet the desires and hopes of those who turn to the court to bring the law to life and fulfilment."

if not attend up by suitable legislation, must "Proprio vigour" and construction act plainly and absolutely a hazardous employment, it is open that by ground of constitutional prohibition no child under 14 years can be allowed to be unavailable in construction work.

⁴² 1981 Cri LJ 306(SC)

⁴³ AIR 1984 SC 177.

⁴⁴ (1997) 10 SCC 549

⁴⁵ (AIR 1993 SC 175)

vi) In the year 2002, In **TMA Pai Foundation v. Union of India**⁴⁶, “The court stated that it is a parent's or guardian's fundamental obligation to give educational opportunities to his or her kid under the age of 14. In order to complete this growth in the field of education and to recognise it as a basic right, the Parliament passed the Right of Children to Free and Compulsory Education Act, 2009, which provides for free and compulsory education for all children aged 6 to 14 years.”

vii) On 10 December 1996 in **M.C. Mehta vs State Of Tamil Nadu And Others**⁴⁷, a bench of Kuldip Singh, B.L. Hansaria, S.B. Majmudar observed, “Taking advice therefrom, we are of the vision that the affront employer must be demand to pay compensation for every child employed in violation of the provisions of the Act a sum of Rs. 20,000 and the inspectors, whose arrangement is envisioned by Section 17 to secure consent with provisions of the Act, should do this task. Under Section 17 inspector scheduled to examine that each child employed under violation of this act, each concerned employer will pay Rs. 20,000 given amount will be deposited in a fund to be known as “Child Labour Rehabilitation-cum-Welfare Fund”.

viii) In **Bandhua Mukti Morcha v. Union of India and others**⁴⁸, “public interest litigation was filed alleging employment of children aged below 14 in the Carpet Industry in the State of Uttar Pradesh. Reports of a Commissioner/Committee appointed by the Supreme Court confirmed forced employment of a large number of children, mostly belonging to SCs and STs and brought from Bihar, in carpet weaving centres in the State. It was held by the Court that the State is obliged to render socio-economic justice to the child and provide facilitates and opportunities for proper development of his personality”.

ix) On 6 June 1997 in **A. Srirama Babu Vs. The Chief Secretary**⁴⁹, a bench of V M Kumar court has observed, “This needs a relook and an abolition of such difference would certainly go a long way in increasing employment potential for grown up and dissuade the employer from employing child labour”. So it is essential that the state should step in to retard the trend to employ child labour and directs that the State shall take every step to educate the people to prevent child abuse and child labour and the State should create a separate independent

⁴⁶ 1995 SCC (5) 220

⁴⁷ AIR 1991 SC 417.

⁴⁸ AIR 1984 SC 802.

⁴⁹ ILR (1997) Kar, 2269.

department concerned with child welfare. Moreover, the State should maintain a record of the birth and progress of the child.

x) On 11 April 2000 in **Mahesh Kumar Garg and Ors. Vs. State Of U.P. And Ors**⁵⁰, a bench of Pradeep Kant held “I, therefore, provide that in all cases of like nature an inspection has to be made by the Inspector and in case, the Inspector is of the view that the Child Labour has been engaged in contravention of the Act, a show-cause notice shall be issued to the offending employer/occupier who within the time stipulated, may file objection against the said inspection report raising the plea regarding the age or any other relevant objections”.

xi) On 12 January 2001 in the **State Of Guj. vs Bhupendrakumar Jagjivandas**⁵¹, a bench of D Mehta held “the sentence imposed by the Trial Court shall stand modified as – it is ordered that the accused shall pay a fine of Rs. 10,000/- (Rupees Ten Thousand only) for violation of provisions of **Section 27 of the Factories Act, 1948**, in default thereof the accused shall undergo simple imprisonment of three months. It is clarified that the amount of fine that may have already been paid shall be deducted and only the balance amount shall be payable by the accused”.

xii) Ganesh Ram vs State Of Jharkhand And Ors⁵²,

On 5 April 2006 in Ganesh Ram vs State Of Jharkhand And Ors, a bench of S Mukhopadhaya, N Tiwari held “If a person, below 14 years of age, is appointed, penal order can be passed against the employer under the Child Labour (Prohibition and Regulation Act 1986) but no order, penal in nature, be passed against the employee”.

xiii) Bachpan Bachao & Ors. vs Union Of India & Others⁵³

On 24 December 2010 in **Bachpan Bachao & Ors. vs Union Of India & Others**⁵⁴, “Delhi High Court decides upon the duties of the Commission and the Committee.

- The Bench and the Jury shall entertain complaints made by the domestic workers herself/himself or through her/his guardian, NGOs managing Child line services, the employer

⁵⁰ (2000) 2 UPLBEC 1426

⁵¹ (2001) IILLJ 1517 Guj

⁵² 2006 (2) JCR 489 Jhr

⁵³ (2011) 5 SCC 1

⁵⁴ (2011) 5 SCC 1

or the police in appropriate cases.

- The Commission and the Jury may hear the following types of cases
 1. Abusive working conditions which are after the physical extent of the child in situations where persons between the ages of 14 and 18 are employed;
 2. Long hours of work;
 3. Absence of principal services including medical care and food.
- The Bench or the Committee shall determine the objection build within a duration of 30 days”

xiv) Roshan Gupta V. The State Of Bihar & Others⁵⁵

On 20 March 2012 in Roshan Gupta V. The State Of Bihar & Others, the writ petition has been filed challenging the orders contained in Annexure 1 and 2 by which the petitioner has been imposed a fine of Rs.20,000/-The main submission on behalf of the petitioner is that without giving him an opportunity to explain the circumstances under which Ravi Kumar was working in the shop, fine has been imposed on the ground that the petitioner had employed a child as labour in his shop. In the meantime operation of the order contained in Annexure 1 and 2 shall remain stayed. The writ petition is disposed of with the aforesaid observation and direction”.

xv) Jayakumar Nat & Anr vs State Of NCT Of Delhi & Another⁵⁶,

On 4 September, 2015 in Jayakumar Nat & Anr vs. State of NCT of Delhi & Anr, “Delhi High Court directs the Govt. of NCT of Delhi to come out with a proper scheme to address the issue of rehabilitation of these rescued children by providing some kind of economic help so that the parents or guardians do not force them to work as child labourers again to meet with their basic needs and to supplement their income for their basic survival”.

xvi) Court On Its Own Motion vs. The State Of Jharkhand⁵⁷,

⁵⁵ Cr.Misc. No.41099 of 2012 (2) dt.20-03-2015

⁵⁶ W.P.(CrI.) 1548/2015 and W.P

⁵⁷ W.P. (PIL) No. 6718 of 2016

On 11 November 2016, In Court On Its Own Motion vs The State Of Jharkhand, the petitioner said that nothing has been done with regard to settlement of the child labour and further the State has also not disclosed anything as to how they will cope with this horrifying situation of child labour where Jharkhand High Court directs to file an affidavit about the stage of investigation which will also indicate that how many schemes have been implemented in the State of Jharkhand by the Child Welfare Department to combat and rehabilitate child labour”.

The Supreme Court reviewed the definition and extent of the word "dangerous work" in *People Union for Democratic Rights vs. Union of India*⁵⁸. The Supreme Court was asked in this case, among other things, whether the employment of minors in construction work amounted to hazardous employment and if it was in violation of the 1938 Employment of Children Act. The Union of India, the Delhi Administration, and the Delhi Development Authority argued that this Act does not apply to construction work because construction is not a process listed in the Schedule and thus does not fall under the provisions of section 3 of the Act's sub-section (3), which prohibits the employment of children under the age of 14 in hazardous situations. The Supreme Court stated that this was a tragic and regrettable omission that every state government must correct promptly by modifying the Schedule to include the building industry. This might be done under the authority granted by section 3A of the 1938 Employment of Children Act.⁵⁹

xvii) Bandhua Mukti Morcha vs. Union of India ⁶⁰

In this case court acknowledged that child labour could not be eliminated immediately owing to budgetary constraints, but the practical efforts might be done to protect and enhance the rights of children in India's impoverished and underdeveloped populations. The Court referred to various basic rights and order standards in the Indian Constitution, including Article 21 (the

⁵⁸ AIR 1982 SC 1473.

⁵⁹ Because construction work is clearly a hazardous occupation, the Supreme Court hoped that every state government would take the necessary steps in this regard without undue delay, because it is absolutely essential that employment of children under the age of 14 be prohibited in all types of construction work. This would be in accordance with the International Labour Organization's Convention 59, which India has ratified. Apart from the requirements of Convention No.59, we also have Article 24 of the Constitution, which states that no child under the age of 14 shall be employed in any industry or mine, or in any other dangerous occupation. Through these decisions, the Supreme Court explored the doctrine of Locus Standi, holding that not only aggrieved parties have a right to approach the court to seek redress for their problems, but also public spirited institutions or anyone affected by the interests of others can do so on behalf of aggrieved parties who are unable to come forward for relief.

⁶⁰ AIR 1984 SC 802.

right to life and personal liberty), Article 24 (which prohibits children under the age of 14 from working in plants, mines, or other dangerous enterprises), and Article 39 (e) (which prohibits children under the age of 14 from working in plants, mines, or other dangerous enterprises) (disallows forcing residents into jobs unsatisfactory for their age or strength),⁶¹

xviii) Neerja Chaudhary vs. State of Madhya Pradesh⁶²

The petitioner claimed that despite the passage of time, many of the workers rescued from Faridabad quarries had not been rehabilitated. The petitioner argued that the State Government was compelled to supervise the rehabilitation of rescued labourers, and that such rehabilitation is required to ensure the Right to Life given to them under the Indian Constitution of 1950. The Hon'ble court ruled that bonded labourers must be identified, rescued, and rehabilitated in accordance with Articles 21 and 23. The court emphasized the significance of rehabilitation, stating that if no tangible steps for rehabilitation are taken, rescued laborers will be forced back into poverty and terrible conditions, perhaps leading to re-entry into the bonded labour system.⁶³

⁶¹ The petitioner was a non-profit organization dedicated only to the rights of bound workers in the nation. The petitioner conducted a review of certain stone quarries in the Faridabad District, near Delhi, and discovered that a number of workers from various areas of the country were working in those quarries under inhumane and terrible conditions, with the bulk of them being bonded labourers. The bonded labourers' signatures and thumb markings were included in a letter addressed to one of the supreme court's justices. The petitioner claimed that the Constitution's provisions were being infringed, as well as the rules governing the workers in these stone quarries not being followed. All of these people were discovered to be bonded labourers who were not allowed to quit the workplace. The majority of the labourers complained that the mine lessees or owners of the stone crushers paid them very little because they had to buy explosives with their own money. The report concluded that these workers "presented a picture of helplessness, poverty, and extreme exploitation at the hands of moneyed people," and that they "were found living in a most miserable life, and perhaps beasts and animals could lead a better life."

⁶² AIR 1984 SC 1099, 1984

⁶³ The petitioner further said that several of the released bound laborers formerly possessed land, but had lost it to a money lender, and that some of them had pledged their jewelry and other modest possessions to earn money for their livelihood. As a result, the petitioner asserted that the State Government had a legislative responsibility to ensure the rehabilitation of free bonded laborers, and that failing to do so amounted to a breach of the released bonded laborers' basic right under Article 21 of the Constitution. 174 The petitioner requested that the State Government take efforts to assist the freed bonded laborers discharged in March 1982 with their economic and social rehabilitation. It is contended that the Apex Court's observations in Neerja Chaudhary, which were made in the context of the rehabilitation of free bonded laborers, provide a new impetus to the observance of provisions of labor welfare legislations, as any failure on the part of the State to do so would be in violation of Article 21 of the Constitution. It was a one-of- case in which the court ordered the state to carry out the court's orders in favor of the bound laborers.

xiix) Labourers Working on Salal Hydro Project vs. State of Jammu and Kashmir and others⁶⁴

In this case, the Honourable Supreme Court acknowledged that child labour is a challenging matter, and that parents frequently desire their children to work to supplement their modest incomes for economic reasons. And child labour is an economic issue that cannot be handled just by law. Because child labour will be difficult to eradicate in this country due to poverty and destitution, efforts should be made to reduce, if not eliminate, child labor because it is critical that a child receive proper education in order to equip itself to become a useful member of society and to play a constructive role in the country's socio-economic development.

xix) Lakshmi Kant Pandey vs. Union of India⁶⁵

The importance of child welfare cannot be overstated in a civilized society, according to the court, because the welfare of the entire community, as well as its growth and development, is dependent on the health and well-being of its children. Children are a vital national asset, and the nation's future well-being is dependent on how well its children grow and develop. The great poet Milton phrased it brilliantly when he stated, "Child show the man as sunrise shows the day," and the Study Team on Social Welfare said much the same thing when it observed that the nation's physical and mental health is primarily influenced by how it is moulded in its early stages.

xx) M.C. Mehta vs. State of Tamil Nadu and others⁶⁶

The Honourable Supreme Court recognized that working circumstances in match factories are such that they pose health risks in the ordinary course of business, and that, aside from the unique danger inherent in the production process, the detrimental effect is a major issue. We believe that child labor in match factories directly related to the manufacturing process, such

⁶⁴ AIR 1984 SC 177.

⁶⁵ AIR 1984 SC at p. 183.

⁶⁶ AIR 1991 SC 417. In this case, the Supreme Court of India initially decided Mehta's 1983 plea in 1990. According to the portioner Children's employment in the match and fireworks sector in Sivakasi, , was a violation of the Indian Constitution, the Factories Act of 1948, the Minimum Wages Act, and the Employment of Children Act. According to the Supreme Court, children can be engaged in the packing process in accordance with the Constitution's restriction on the employment of children in hazardous occupations, although packaging should be done in an area distant from the location of manufacturing to prevent exposure to accident.

as the elevation of finished match sticks or fireworks, should not be authorized at all, as Article 39 (f) bans it.

The Supreme Court of Tamil Nadu has directed the state to offer recreational and medical amenities. The supply of a basic meal throughout the working hours, as well as medical care to ensure normal physical growth, were among the services to be provided. 194 The state should collaborate with UNICEF to make these facilities available, according to the recommendations.⁶⁷

12. CONCLUSION

Poverty is one of the important factors for this problem. Hence, enforcement alone cannot help solve it. The Government has been laying a lot of emphasis on the rehabilitation of these children and on improving the economic conditions of their families. The child labour can be stopped when knowledge is translated into legislation and action, moving good intention and ideas into protecting the health of the children. The endurance of young children is higher and they cannot protest against discrimination. Focusing on grassroots strategies to mobilize communities against child labour and reintegration of child workers into their homes and schools has proven crucial to breaking the cycle of child labour. A multidisciplinary approach involving specialists with medical, psychological and socio-anthropological level is needed to curb this evil.

⁶⁷ The Court considers that special education facilities (both formal and on-the-job training), recreation, and specialization should be made available to working children to improve their quality of life. The Court ordered the establishment of a welfare fund to which registered match manufacturers would be required to contribute in order to pay for these services. The Court further directed that the government pay a matching grant to the fund, based on the suggestion of the State of Tamil Nadu's legal counsel. The court ruled that both adults and children working at the Sivakasi match factory be covered by a mandatory insurance plan. All employees were to be covered for 50,000 rupees in insurance, with the employer paying the payments.