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# CHILD LABOUR IN INDIA: PREVALENCE, LEGISLATIONS AND IMPLEMENTATIONS

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## ABSTRACT

The article "Child Labour in India: Prevalence, Legislation and Implementation" gives an overview of the problem of child labour in India, including its position, legal framework, and challenges and difficulties in implementation. It highlights the social and economic factors that is responsible to child labour, such as lack of education, poverty, and social norms. It also enumerates on the laws that are existing and policies which are aimed at addressing the problem, including the Right to Education Act, the Child Labour (Prohibition and Regulation) Act, and the Juvenile Justice Act. However, the article also points out that despite these efforts, child labour remains a major problem in India, with significant gaps and loopholes in implementation and enforcement.

**Keywords:** Child, labour, rights, implementation.

## **Introduction**

International conventions such as the United Nations Convention on the Rights of the Child recognises certain rights as children's rights, violation of some of such rights is child labour. It is engaging of children in work that is physically, mentally, emotionally, or social harmful to their well-being, or it affects their education and development. It often involves long hours working, inadequate wages or sometimes no wages at all, harmful or hazardous conditions, and exploitation, taking away their education, innocence and future.

Lack of effective enforcement mechanisms is one of the significant challenges in regulating child labour. In informal and rural sectors where children are vulnerable to exploitation, many countries have laws in place to prohibit child labour, but the enforcement is often weak. Corruption insufficient resources, and no proper access to justice hinder the effective implementation of regulations, allowing the evil of child labour to persist.

Another challenge is posed by the complexity of global supply chains. Poverty and lack of access to education are underlying issues that contribute to child labour. Cultural and societal norms also present challenges in addressing child labour.

The child labour regulation and abolition face significant challenges, including weak enforcement mechanisms, complex supply chains, poverty, and cultural norms. Addressing child labour requires a multifaceted approach involving regulation, enforcement, responsible business practices, poverty alleviation, education, and community engagement. By collectively addressing these challenges and working towards effective solutions, we can strive to eradicate child labour and ensure that every child has the right to a safe, healthy, and fulfilling childhood.

Child labour has been prevalent from time immemorial, often driven by cultural, socio-economic, and technological factors. The history is a sobering and complex tale that goes across different regions, cultures, and time periods.

It can be traced back to ancient civilizations, where children were often employed in household chores, agricultural work, and various employment trainings. For example, in ancient Egypt, , various it was various forms of labour in which children were involved, including construction, farming, and craftwork. Children worked in family mines, farms, and as apprentices in guilds, learning a trade from a young age, in medieval Europe.

In the late 18th and 19th centuries the Industrial Revolution brought many notable changes to the world of labour, including the use of machinery in factories, leading to the exploitation of child labour on a large scale, as they were often employed in labour-intensive and hazardous jobs in coal mines, textile mills, and other industries. Five or six years old children were often forced to face harsh working conditions, work for long hours, low pay or no pay, and little to no access to education.

In the 19th and early 20th centuries i.e., during colonialism and globalization, child labour became entangled with trade and exploitation globally. Child labour was something that colonial powers often relied on to extract resources and generate profits in their colonies. Rubber plantations, tea gardens, and mining operations are the industries in which children were used in various parts of the world, including Latin America, Africa and Asia.

Labour movements and social reformers began to advocate for the rights of child workers and push for legislative reforms in the late 19th and early 20th centuries. For example, the Factory Acts in Britain, were introduced to improve working conditions in factories and to regulate child labour. Other countries too made similar efforts, including Europe, the United States, to provide basic protections for young workers.

International organizations such as the the United Nations (UN) and the International Labour Organization (ILO) began to take up the issue of child labour in the 20th century at the global level,. The Minimum Age for Admission to Employment, ILO's Convention No. 138 and the Worst Forms of Child Labour, Convention No. 182 two such important international instruments aimed at protecting the rights of children and eliminating child labour.

Child labour or the exploitation of children remains a persistent challenge in many parts of the world despite significant progress in recent decades. Lack of access to education, poverty, inadequate enforcement of laws, armed conflict, migration, and other socio-economic factors continue to operate child labour in various industries, including agriculture, mining, domestic work, manufacturing, and informal sectors.

### **Definition of Child Labour**

The definition of Child labour is available in various forms depending on the different stakeholders context and the perspectives. Some of the commonly used definitions of child

labour are:

Child labour is defined by the ILO as work that deprives the children of their childhood and harms their development<sup>1</sup>. It refers to work that is mentally, physically, socially, or morally dangerous and harmful to children, and interferes with their education and development.

In many countries, including India, child labour is defined and regulated by laws. For example, in India, the Child Labour is defined as the employment of children below the age of 14 years in any occupation or process, and the employment of adolescents (between 14 and 18 years) in hazardous occupations and processes.<sup>2</sup>

Another definition describes child labour as work that is physically, mentally, morally, or socially dangerous and harmful to children, work that interferes with their education and development.<sup>3</sup> It stresses that work is not where children should be as it is likely to be hazardous or interferes with their education, or to be harmful to their health or mental, physical, spiritual, social or moral development.

Economically, child labour can be defined as the involvement of children in work paid or unpaid that takes away their play, education, or other activities that are key for their development and well-being. It may include activities such as informal labour, agricultural work, or household chores in industries or services.

A social perspective on child labour as the engagement of children in work that is unacceptable socially, exploiting, or violates their rights. It may include activities that are harmful to children's health, exhibit them to conditions hazardous in nature, or subject them to exploitation, abuse, or age discrimination.

It is significant to note that child labour is widely recognized as a breach of children's rights, including their education, wellbeing, and protection from exploitation. It is considered

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<sup>1</sup> Work that deprives children of their childhood, their potential, and their dignity, and that is harmful to their physical and mental development.

<sup>2</sup> The Child Labour (Prohibition and Regulation) Act, 1986. Section 2 (1).  
The Indian government amended the Child Labour (Prohibition and Regulation) Act, 1986, which raised the minimum age for employment to 18 years and prohibited the employment of adolescents (between 14 and 18 years) in hazardous occupations and processes.

<sup>3</sup> The United Nations

detrimental to children's health and development and is a worldwide concern that requires immediate attention.

Some examples of child labour cases that illustrate the different definitions of child labour:

1. Unpaid Work: where children are engaged in household chores or agricultural work, which can interfere with their education and well-being, child labour can also involve unpaid work.
2. Hazardous Work: Large number of countries, including India, children are often found working in industries which are hazardous such as mining, fireworks, and construction, which pose risks to their wellbeing.<sup>4</sup>
3. Exploitative Work: Where children are subjected to abuse, exploitation, and discrimination.<sup>5</sup>
4. Educational interference: education is largely affected by child labour thus further interfering with their right to education<sup>6</sup>.
5. Socially Unacceptable Work: In some parts of India, children are engaged in activities such as begging, street vending, or working in informal sectors, which are considered socially unacceptable and detrimental to their well-being. These children are often vulnerable to exploitation, abuse, and trafficking.

These instances highlight the various other dimensions of child labour, including interference with education, unpaid work, exploitative work, and socially unacceptable work, which can have adversely effects on children's well-being. It concentrates on the need for comprehensive

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<sup>4</sup> For example, in the mica mines of Jharkhand, India, children as young as 5 years old are employed to collect mica, which is used in various industries. These children work in hazardous conditions, including narrow tunnels, with no protective gear, exposing them to risks such as cave-ins, respiratory diseases, and injuries.

<sup>5</sup> For example, in the garment and textile industries in India, there have been cases of children being forced to work long hours in cramped and unhygienic conditions, subjected to physical and verbal abuse, and paid extremely low wages. These children are often vulnerable to exploitation due to their socio-economic background and lack of legal protection.

<sup>6</sup> For instance, in many parts of India, children from marginalized communities, including tribal and rural areas, are often engaged in agricultural work during peak seasons, which can result in irregular school attendance or dropouts. This hinders their ability to access quality education and limits their future opportunities.

efforts to prevent and negate child labour, addressing its different forms and contexts, and protecting the safety and rights of all children.

Child labour in India is a concerning issue with various factors responsible that are prevalent in different parts of the country. Some of such factors being:

1. **Lack of Education:** No or Limited access to good education also is majorly responsible to child labour. For instance, schools are scarce or non-existent in many rural communities and children are often denied the opportunity to educate themselves. Consequently, they are forced to work and support their families. One of the poorest states in India, i.e., Bihar, a survey shows that over 40% of children aged 6 to 14 were subjected to labour, with lack of access to education being a responsible factor.<sup>7</sup>
2. **Poverty:** one of the primary factors responsible for child labour is Poverty. Children are often forced to work in agriculture, brick kilns, and other manual labour-intensive jobs to help their families make ends meet, in rural areas where poverty is rampant,. Over 60% of child labourers in India work in agriculture, where they are exposed to hazardous pesticides, extreme weather conditions and long working hours<sup>8</sup>.
3. **Social and cultural factors:** Social and cultural factors also play a very important role in enduring child labour in India. In some communities, there are norms and traditions that sanctify child labour. For instance, in certain parts of Rajasthan, young girls, are often found in stone quarries due to prevailing social attitudes and gender biases.
4. **Displacement and migration:** Displacement and Internal migration also responsible for child labour in India. Like, families who have been displaced by natural disasters, economic factors or conflicts, often are found on construction sites where they have no proper access to basic services. Resulting in children being forced to work in hazardous or unhealthy conditions to support their families<sup>9</sup>. In Kerala, in the year 2018, for instance, After the floods there was an increase in child labour as families who lost their

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<sup>7</sup> National Sample Survey (NSS) on child labour in India conducted in 2011-12

<sup>8</sup> International Labour Organization (ILO)'s report on "Child Labour in Agriculture" published in 2019. This report provides a global overview of child labour in agriculture, with a particular focus on the Asia-Pacific region, including India.

<sup>9</sup> The Hindu newspaper in September 2018 highlighted the rise in child labour in the tea gardens of Munnar, a popular tourist destination in Kerala, where families displaced by the floods were forced to work in hazardous conditions.

livelihoods had no other option but to work on construction sites, in tea gardens and other hazardous industries.

5. Labour legislations not properly implemented: there is a weak enforcement and lack of effective
6. Monitoring despite the existence of labour laws in India, resulting in persistence of child labour in India. Children are often employed in informal workshops in cities like Delhi and Mumbai, in garment and textile industries where they work for long hours in conditions not favourable for their health.
7. Cheap labour always in Demand: Cheap labour always being in demand cause of child labour in India. For instance, children, especially girls, are often employed as cheap labour, in the domestic work sector, working long hours without proper wages or legal protections. Similarly, children from marginalized communities in states like Uttar Pradesh and Bihar in the handloom and embroidery industry, are often exploited and made to work for long hours for no or low wages.
8. Social attitudes and lack of awareness: the negative impact of child labour on children's wellbeing and development is not well known, and social attitudes prioritize economic gain over children's rights, which also contribute to the perpetuation of child labour practices. In some communities, child labour is considered a normal lifestyle and children are found working from a very young age. Changing such social attitudes and increasing awareness about the harms of child labour is crucial to combat the issue.

There are combination of factors responsible for child labour in India such as lack of access to education, poverty, migration and displacement, social and cultural factors, weak enforcement of labour legislations, demand for cheap or no wage labour, and lack of awareness and social attitudes. These causes are often interconnected and mutually reinforcing, making it a complex and challenging issue to address. The above causes are interconnected and increase the level of complexities in tackling Child labour.

Number of organizations, both governmental and non-governmental, is trying to tackle child labour in India. The National Child Labour Project (NCLP), a government initiative aims to rehabilitate and mainstream child labourers via education, vocational training, and support to

their families. Bachpan Bachao Andolan, Child Rights and You (CRY), and Save the Children, non-governmental organizations are also actively involved in advocating for children's rights and providing support and interventions to prevent and address child labour.

There are several ways in which the Indian Constitution provides for the prevention of child. Some of the important provisions related to the prevention of child labour are:

1. **Fundamental Rights:** Article 24 of the Indian Constitution protects the fundamental rights of child labourers<sup>10</sup>. This article ensures that children are protected from exploitation and are not subjected to hazardous work environments which are harmful to their livelihood. It also regulates the working conditions of children between the ages of 14 and 18. Apart from this, the Indian Constitution guarantees number of fundamental rights, including the right to education, the right to equality, and the right against exploitation. All these rights are aimed at ensuring protection of the children from all forms of exploitation, including child labour.

In the case "Bachpan Bachao Andolan v. Union of India and others"<sup>11</sup>, several directions were issued by the Supreme Court of India to the central and state governments for effective implementation of the right to education and rehabilitation of children rescued from labour<sup>12</sup>.

These directions were issued by the Supreme Court of India with the aim of ensuring that the rights of children, including the right to education and the right to be protected from exploitation, are effectively implemented and protected.

2. **Directive Principles of State Policy:** There are several Articles in part IV of the Indian Constitution titled as Directive Principles of State Policy that intend to protect children

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<sup>10</sup> The Indian Constitution 1950, Article 24 states that "No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment."

<sup>11</sup> (WP(C) 273 of 2019)

<sup>12</sup> Directions issued by the Supreme Court of India in the Bachpan Bachao Andolan v. Union of India and others case in 2019:

1. The central and state governments must ensure that all children who are rescued from labour are provided with access to education, and that they are enrolled in age-appropriate classes.
2. The central and state governments must take steps to ensure that all children who are rescued from labour are provided with vocational training and life skills training, so that they can be effectively rehabilitated.
3. The central and state governments must ensure that the right to education is effectively implemented, and that all children, including those from marginalized communities, have access to quality education.
4. The central and state governments must take steps to ensure that all schools are child-friendly, and that they provide a safe and inclusive learning environment for all children.
5. The central and state governments must take strict action against those who engage in child labour, and must ensure that children are not forced to work in hazardous conditions.



from labour. It provides for the protection of children from being abused and forced by economic necessity to enter occupations unsuited to their age or strength<sup>13</sup>, the protection of children from moral and material abandonment is highlighted<sup>14</sup>, all children upto the age of 14 years is provided with free and compulsory education,<sup>15</sup> prohibits the employment of children under the age of 14 years in any factory, mine or hazardous employment<sup>16</sup>, right to education is provided for as a fundamental right<sup>17</sup>

The above Directive Principles of State Policy are the policies to be kept in mind for protecting the rights of children and ensuring that they are not subjected to exploitative labour practices in hazardous work places, to provide a framework for the government to take initiatives to protect children from hazardous labour and to ensure that they are educated and have enough development opportunities.

In 2018, the Supreme Court of India directed the central and state governments to ensure that the Directive Principles of State Policy related to the prohibition of child labour are effectively implemented.<sup>18</sup>

3. Child Labour (Prohibition and Regulation) Act, 1986: The Child Labour (Prohibition and Regulation) Act, 1986 is a legislation that prohibits the employment of children under the age of 14 in any occupation, and regulates the working conditions of children between the ages of 14 and 18.

In 2020, in order to take measures to implement the Child Labour (Prohibition and Regulation) Act, 1986 effectively the National Human Rights Commission (NHRC) directed the government of Uttar Pradesh to ensure that children who are rescued from labour are provided with education and rehabilitation<sup>19</sup>.

4. Right to Education Act, 2009: Guarantee of free and compulsory education to all children between the ages of 6 and 14 years.

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<sup>13</sup> The Indian Constitution 1950, Article 39(e).

<sup>14</sup> The Indian Constitution 1950, Article 39(f).

<sup>15</sup> The Indian Constitution 1950, Article 45.

<sup>16</sup> The Indian Constitution 1950, Article 24.

<sup>17</sup> The Indian Constitution 1950, Article 21A.

<sup>18</sup> *Bachpan Bachao Andolan v. Union of India and others* (WP(C) 273 of 2019)

<sup>19</sup> "Inhuman Condition at Quarantine Centres in Uttar Pradesh and Bihar" heard by the National Human Rights Commission (NHRC) in 2020.

In 2017, the Delhi High Court directed the Delhi government to ensure that children who are rescued from industries or labourious work are provided with education, which is required under the Right to Education Act, 2009.

The Indian Constitution overall provides a framework comprehensively for the prevention of child labour. It is the effective implementation of these provisions that requires the efforts of all stakeholders, including the private sector, the civil society and the government.

Apart from the above, India has several legal provisions aimed at preventing child labour, as outlined below:

1. The Bonded Labour System (Abolition) Act, 1976: This Act prohibits the practice of a form of forced labour that is prevalent in some parts of the country. The Act also provides for the rehabilitation of bonded labourers.<sup>20</sup>
2. The Juvenile Justice (Care and Protection of Children) Act, 2015: One of the important law in Indian legislation system that deals with the protection and care of children, including child labour. Few of the provisions of the Act that deal with child labour are as follows:
  - a. The Act prohibits the employment of a child below the age of 14 years in any occupation, and the employment of adolescents (between the ages of 14 and 18 years) in any hazardous occupations.<sup>21</sup>
  - b. The Act provides for the rehabilitation of children rescued from labourious conditions, including access to education, vocational training, and other services.<sup>22</sup>
  - c. Punishment for violation: there are punishments including imprisonment and fines prescribed in the act for violations of its provisions related to child labour.<sup>23</sup>

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<sup>20</sup> Ibid

<sup>21</sup> The Juvenile Justice (Care and Protection of Children) Act, 2015, Section 3(1)(d) and Section 3(1)(e).

<sup>22</sup> The Juvenile Justice (Care and Protection of Children) Act, 2015, Section 14.

<sup>23</sup> The Juvenile Justice (Care and Protection of Children) Act, 2015 Section 77 .

These provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 are intended at protecting children from labour and ensuring their care and rehabilitation. It ensures that these children have access to education and other opportunities for their development and also provides a framework for the government to take appropriate measures to protect children from labour and facilitate proper development.

In 2021, the Bombay High Court directed the government of Maharashtra to provide compensation to a child labourer who had been rescued from a zari unit. The court also ordered the government to ensure that the child was provided with education and rehabilitation.<sup>24</sup>

In *State of Tamil Nadu v. K. Shyam Sunder*, the Madras High Court directed the state government to pay compensation to a child who had been rescued from bonded labour, in accordance with the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015.<sup>25</sup>

In the case of *Mukesh Kumar v. State of Uttarakhand* the Uttarakhand High Court directed the state government to take immediate steps to rescue children who were found to be working in a stone quarry, in violation of the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015.<sup>26</sup>

The above cases are demonstrations of the importance of the Juvenile Justice (Care and Protection of Children) Act, 2015 in protection of children from labour and ensuring their care and rehabilitation.

In addition to these legislations, there are several other laws and policies aimed at preventing child labour in India, including the National Policy on Child Labour, 1987, and the National Child Labour Project, which aims at elimination of child labour in select industries.

In the recent years there have been several cases of child labour, despite these legal provisions and initiatives, and therefore remains a major problem in India. The effective implementation

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<sup>24</sup> *Sandeep Indal Choudhari v. State of Maharashtra* (2021) SCC Bom 224.

<sup>25</sup> *State of Tamil Nadu v. K. Shyam Sunder* (2019) 4 MLJ 841.

<sup>26</sup> *Mukesh Kumar v. State of Uttarakhand* 2019 SCC OnLine Utt 841.

of these legal provisions and the prevention of child labour requires the cooperation and efforts of all stakeholders, including the government, civil society, and the private sector.

The major reasons why the laws protecting the rights of child labour are poorly implemented in India are:

1. **Poverty:** One of the major factor that leads to child labour is Poverty. Many poor families often send their children to work in order to meet the needs of the family. No proper alternative income sources means that children have no option but to work in order to contribute to their family's income.
2. **Lack of awareness:** In rural areas of India, many people are not aware of the protection accorded by the law to the rights of children. Therefore it becomes difficult for them to recognize child labour and report it to the concerned authorities.
3. **Weak enforcement mechanisms:** a good enforcement mechanism is the need of the hour. A weak enforcement mechanisms make it difficult to ensure compliance even when laws are in place to protect the children from labour or to protect their rights. The authorities are unable to take action in many cases against those who employ children, either because they lack the resources to enforce the law or because they are not aware of the situation.
4. **Corruption:** Corruption is a major problem in India, that comes in the way of effective implementation of laws protecting the rights of children. Officials may be influenced to turn a blind eye to child labour or bribed, which makes it difficult to hold employers accountable.
5. **Lack of political will:** There is often a lack of political will to implement the existing laws effectively for protecting the rights of children,. This can often be due to a lack of resources, competing priorities, or other factors directly or indirectly affecting the situation.

Addressing these issues requires a multi-faceted approach that involves addressing poverty, raising awareness, strengthening enforcement mechanisms, reducing corruption, and increasing political will. These factors make it difficult to effectively implement laws protecting the rights of child labour in India.

## **Conclusion**

India has made significant progress in addressing child labour through various laws and policies. The Indian Constitution prohibits the employment of children under 14 years of age in industries and hazardous occupations. The Child Labour (Prohibition and Regulation) Act of 1986 regulates the working conditions of children in non-hazardous occupations and prohibits the employment of children in certain occupations

Despite the efforts, child labour, particularly in the informal sector, remains a prevalent issue in India. There is lack of resources, corruption, and a lack of awareness among stakeholders due to poor implementation and enforcement of these laws. Also, there are challenges in providing them with appropriate rehabilitation and education let alone identifying and rescuing child labourers.

Various initiatives are being taken to improve the situation, including the National Child Labour Project, which at elimination of child labour in hazardous industries, and provides support and protection to vulnerable children through its Integrated Child Protection Scheme.