

CHILD LABOUR IN INDIA (A BIG STANDING PROBLEM TOWARDS INDIA)

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INTRODUCTION

The term “child labour” is often defined as work that deprives children of their childhood and their dignity, and that is harmful to physical and mental development.¹

According to UNICEF, child labour refers to work that children are too young to perform or that -by its nature or circumstances can be hazardous. Child labour involves activities that cause health, safety, or moral development, and harm mental development. More than 40,000 children work in mines extracting cobalt that powers the batteries of mobile phones and other electronic devices. The toxic dust of the mines is lost in the dazzle and shimmer of the shops.

In India “child labor is available in most areas”. According to the Indian Census, 2001 reports that the “participation of child labour is less than 17, or in any economic activity with or without compensation. Such participation could be physical or mental. This kind of activity includes unpaid work on the farm or enterprise.

In India, the definition of child labour is guided by national laws and international conventions to which India is a signatory. According to the Child Labour (Prohibition and Regulation) Act, of 1986, child labour refers to the employment of children below the age of 14 in any occupation, excluding those considered hazardous under the law.

HISTORICAL CONCEPT OF CHILD LABOUR IN INDIA (POST & PRE-INDEPENDENCE)

Child labour in India has historical roots in the colonial era. The British colonial administration set up industries that required cheap and abundant labour, which often included children. Children worked in factories, mines, plantations, and other industries that demanded a low-wage workforce. In spite of the independence movement, child labor continued in India. Many precedents and revolutions occurred, but child labour persists due to economic and social factors.

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¹ <https://www.ilo.org/international-programme-elimination-child-labour-ipecc/what-child-labour>

In the post-independence era, the government has taken many initiatives to address the problem of child labour in India. Numerous laws and revolutions have been enacted against child labour, but these solutions have not had a significant impact because most child labourers are engaged in rural areas where awareness of these laws and initiatives does not reach them. In society, factors such as poverty and lack of education play a major role in perpetuating child labour.

TYPES OF CHILD LABORING IN INDIA

1) Agricultural Labour

There is a significant amount of child labour in agriculture, where children are forced to do family work or are hired to work on farms.

- Planting and harvesting crops
- Tending to livestock
- Operating farm machinery
- Applying pesticides and fertilizers

Many children in rural areas miss school during harvest seasons to work in the fields. The loss of study by children is most detrimental to their lives.

2) Industrial Labour

Most children in India work in factories below the legal age of 18. Most in the Hazardous industry. There are many industries work some of them:

- Brick Kilns: Children work long hours under extreme conditions, often exposed to toxic materials.
- Garment Factories: The garment industry employs many children for sewing and finishing tasks with their nimble fingers
- Mining: Child miners face dangerous conditions while extracting minerals and stones.
- Fireworks Industries: In fireworks factories, children are supposed to fill the gunpowder in rolls without any security or medical assistance. They fill these chemicals in

cracker sulfur, black powder, and aluminium powder.

3) Domestic Child Labour

In domestic child labour children are forced to work on their household. Mainly because of poverty, there are also such reasons. In most cases, poverty is the main cause. The children do not to right to play with their friends due to the burden of work on their shoulders. According to UNICEF between boys and girls, Girls are two times more likely to work to do domestic chores., cook food, work in the household, etc.

4) Street Work

Children working as street vendors, rag pickers, and beggars are a common sight in Indian cities. The rag pickers or beggars are a problem and some of the mafia who engage or abate the children to do these types of works are also engaged in the trafficking of children. These children are exposed to various dangers, including traffic accidents, exploitation by adults, and health hazards due to a lack of sanitation.

5) Bonded child labour

A bonded child labour means a child who is forced to work as a slave to pay off their guardian's loan or loan taken by him. Bonded Child Labor is an acute form of exploiting child labour. In Bonded child labour the children have been forced to work in conditions? On conditions means at the daily time routine. No That means the family of children take debts from big Sahukar at the arbitrate interest which exploits them and fails to pay the loan the sahuakar tells them to force their children on farms or their homes as a servant.

Illiterate or uneducated people are the main problem in supporting child labour Main problem is exploitative agreements without understanding their terms or consequences.

LEGAL AGE OF WORKING IN INDIA

The legal age for working in India is a critical subject and concerning for governed by various laws and regulations aimed at protecting children and young people from exploitation, The government has ensured access to education and promoted safe working conditions for all workers. The primary legislation that deals with the legal age of working in India includes the Child Labour (Prohibition and Regulation) Act, of 1986, The Factories Act, of 1948, The

Mines Act, of 1952, and The Juvenile Justice (Care and Protection of Children) Act, 2015, among others. These laws collectively define who is permitted to work, the conditions under which they may work, and the sectors in which employment is allowed.

LEGAL FRAMEWORK GOVERNING WORKING AGE

1. The Child Labour (Prohibition and Regulation) Act, 1986 (Amended in 2016)²

This act is one of the cornerstone pieces of legislation aimed at regulating child labour in India. Initially, the law prohibited children under the age of 14 from working in certain hazardous occupations, but the Child Labour (Prohibition and Regulation) Amendment Act, of 2016 extended these provisions with stricter regulations. Here's a breakdown:

- **Prohibition of Employment Children Below 14:** The law prohibits child employment for those under 14 in all types of labour or industry. The Indian government mandates compulsory education for children below 14 and provides access to free education through the Right of Children to Free and Compulsory Education Act, 2009 (RTE Act)
- **Working Age (14-18 years):** The act introduces the concept of "adolescent labour," which refers to children between the ages of 14 and 18. While adolescents are allowed to work, they are strictly prohibited from engaging in hazardous occupations or processes. Hazardous sectors include industries such as mining, those involving flammable substances, explosives, and any work that exposes children to physical or moral risks.
- **Exemptions for Family Businesses A Big Loophole:** The family business is more engaging nowadays. Many children are forced into their family businesses, which exploit their education. A big example is child artists and local wage workers.

2. The Factories Act, 1948

The Factories Act is another critical law that sets the minimum legal working age and conditions in factories:

- **Prohibition of Employment of Children Under 14:** No child below 14 is allowed to

² <https://labour.gov.in/whatsnew/child-labour-prohibition-and-regulation-amendment-act-2016>

work in any factory.

- **Adolescent Workers (14-18 years):** Adolescents are permitted to work in factories, but only under strict regulation. They must provide a certificate of fitness issued by a qualified medical practitioner. Furthermore, adolescents are only allowed to work during daytime hours, and their working hours must not exceed 4.5 hours per day. They are also not permitted to work at night or in hazardous environments.

3. The Mines Act, 1952³

This act imposes even stricter restrictions in the mining sector:

Adult means who has completed the age of eighteen.

- **Minimum Age for Employment in Mines:** Children below the age of 18 are prohibited from working in any mining operations, whether underground or on the surface.
- **Work Hours:** Adolescents between the ages of 16 and 18 can work in surface mining, provided they do not exceed the prescribed working hours.
- The employer is responsible for taking precautions for the labour.

4. The Juvenile Justice (Care and Protection of Children) Act, 2015

The Juvenile Justice Act supports the protection of child rights against child labour. It classifies the exploitation of child labour as a punishment and with strict penalties.

Working Hours and Conditions for Adolescents (14-18 Years)

For children between 14 and 18 years of age (classified as adolescents under Indian law), strict regulations apply to ensure their safety and well-being. These include:

- **Working Hours:** Adolescents are not allowed to work more than **six hours** a day, inclusive of a compulsory one-hour daybreak.
- **Night Shifts:** Adolescents are prohibited from working between **7 PM and 8 AM** in any form of employment.

³ <https://vvnli.gov.in/sites/default/files/Mines Act%2C 1952.pdf>

- **Weekly Day Off:** They must receive at least **one day off** per week.
- **Workplace Safety:** Adolescents must not be employed in hazardous environments, such as exposure to chemicals, machinery, or physical risks like mining or construction.

Data on Child Labor and Working Adolescents in India

Despite strong legal frameworks, child labour remains a significant issue in India, driven by poverty, lack of education, and societal inequality. According to the Census 2011, over 10.1 million children in India were engaged in child labour. Of these, 8.1 million were boys, and 2 million were girls, primarily in rural areas, working in agriculture, construction, domestic work, and manufacturing.

According to ILO estimates, over 5.8 million children aged 5-17 years are in forced labour worldwide, with a significant number in India. Although the number of child labourers has declined due to government interventions and awareness campaigns, bonded labour, street work, and informal employment in hazardous sectors continue to persist.

THERE ARE SOME FACTS ABOUT CHILD LABOUR IN INDIA

1 in 10 Child Labourers Globally is from India

According to the 2011 census data, India has become home to a significant issue of child labour. It is reported that approximately 10.1 million children in India are engaged in child labour, which represents about 3.9% of the total child population aged 5 to 14. In major markets in India, such as Chandni Chowk and Sadar Bazar, it is common to see children working in shops. Among these children, approximately 5.6 million are boys, while about 4.65 million are girls. Additionally, there are children who neither attend work nor school. These types of Data indicate that the trend of child labour in India how increasing.

Disproportionate Impact on Girls

Research from UNICEF highlights a significant disparity between boys and girls regarding educational opportunities and domestic responsibilities. Girls are reported to be twice as likely as boys to be out of school and have fewer chances to pursue their studies. They often bear the burden of household chores, such as cleaning, cooking, and caring for family members, including younger siblings. This trend underscores the unique challenges faced by girls in

India, particularly in balancing education with domestic responsibilities. Many girls are forced into marriage as teenagers, a practice that is prohibited by law but still persists in many areas of India.

Regional Concentration of Child Labour

Child labour is most pronounced in specific regions of India, with Bihar, Uttar Pradesh, Rajasthan, Madhya Pradesh, and Maharashtra.⁴ Identified as the primary states where this issue is prevalent. Collectively, these states account for over half of the total child labour population in the country, highlighting significant regional disparities in child welfare and labour practices.

Sectors Notable for Child Labour Employment

Various sectors across India are notorious for employing child labourers under poor working conditions. Key industries where child labour is prevalent include brick kilns, carpet weaving, garment manufacturing, domestic service, and the unorganized sector (which encompasses food and refreshment services such as tea stalls). Additionally, sectors such as agriculture, fisheries, and mining also rely on child labour, raising serious ethical and legal concerns.

Legislative Measures and Improvements

In response to the issue of child labour, the Indian government has enacted several policies aimed at combating this pervasive problem. The Child Labour (Prohibition & Regulation) Act of 1986 was a landmark legislation that prohibited the engagement of children under the age of 14 years in certain hazardous occupations and processes. Building upon this foundation, the Child Labour (Prohibition & Regulation) Amendment Act of 2016 expanded the scope of prohibition to include a complete ban on the employment of children below 14 years in all occupations and processes.

The Indian government has taken significant steps to address the issue of child labour in accordance with crucial international conventions. These include the ILO Convention 182, which defines the worst forms of child labour, and Convention 138, which establishes the minimum age for employment. Ratifying these conventions legally compels the government to

⁴ https://en.wikipedia.org/wiki/Child_labour_in_India#:text=Uttar%20Pradesh%2C%20a%20state%20in,Madhya%20Pradesh%20and%20Uttar%20Pradesh.

actively work towards eradicating child labour.

To support child labour laws, the Ministry of Labour and Employment has implemented the National Child Labour Project (NCLP). This central government scheme has developed an online portal aimed at tackling child labour by rehabilitating children from hazardous environments and raising awareness about the issue. The portal also facilitates surveys of children engaged in hazardous industries.

This digital platform serves as a means for government officials, law enforcement agencies, and non-governmental organizations (NGOs) to collaborate and coordinate efforts to combat child labour at national, state, and local levels.

Progress and Future Challenges

Encouragingly, there has been a notable decline in the incidence of child labour in India, with a decrease of **2.6 million** child labourers reported between the years **2001 and 2011**. While these statistics indicate positive trends in reducing child labour, efforts mustn't wane. Continued vigilance and proactive measures are essential to ensure that progress is sustained and that the rights and well-being of all children in India are safeguarded.

COVID-19 A BIG IMPACT ON CHILD LABOUR

The COVID-19 pandemic has had a significant and concerning impact on child labour in India, exacerbating an already serious issue. Before the pandemic, India had made progress in reducing child labour, but the economic and social disruptions caused by COVID-19 have reversed many of these gains. In a COVID, many people lose their jobs and are not able to fulfil their basic needs. These families need extra hand to get to improve the financial problems of the family and the second hand of that family is a child. Many children are engaged in child Labouring during the period of COVID-19.

The closure of schools during lockdowns also contributed to the rise in child labour. With educational institutions shut down for extended periods, millions of children were left without the structure and protection that schools provide. This not only disrupted their education but also made them more vulnerable to exploitation. Some children who have migrated to their town will never return their school. Migrants had suffered more loss due to COVID-19 and the main cause was financial which is caused by covid.

The other reason is children are considered cheap labour, children do have not a mind about how their employer pays them. They get only money.

Rural areas of India have been particularly affected. With many migrant workers returning to their villages due to job losses in cities, rural economies have struggled to absorb this influx of labour. This has led to increased competition for jobs and lower wages, pushing more families to rely on child labour to make ends meet.

National Framework of India in Child Labour

Child labour in India remains a critical social issue, affecting millions of children who are deprived of their rights to education, health, and safe childhood. The national framework to address child labour in India is multi-faceted, encompassing constitutional provisions, laws, policies, and initiatives aimed at preventing child labour and promoting the welfare of children. This framework also involves various stakeholders, including the government, civil society, non-governmental organizations (NGOs), and international bodies. This article provides an overview of the national framework addressing child labour in India.

1. Constitutional Provisions

The Constitution of India serves as the foundation for protecting children's rights and addressing child labour. Several articles explicitly focus on children's welfare and their protection from exploitation:

- **Article 24:** Prohibits the employment of children below the age of 14 in factories, mines, and hazardous occupations, establishing a fundamental legal basis for the protection of children from exploitation.
- **Article 21A:** Guarantees the right to free and compulsory education for children aged 6 to 14 years. This provision emphasizes the importance of education as a means to combat child labour by ensuring that children are in school rather than at work.
- **Article 39(e) and (f):** Directs the state to ensure that children are not forced by economic necessity to engage in work unsuitable for their age and to provide opportunities for healthy development.

These constitutional provisions lay the groundwork for subsequent legislation and government

policies aimed at eliminating child labour.

2. Legislative Framework

India has enacted various laws to address child labour and protect the rights of children. The key legislations include:

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

This Act was the first comprehensive law aimed at addressing child labour in India. It consists of two primary components:

- **Prohibition of Child Labour:** It prohibits the employment of children under the age of 14 in certain hazardous occupations, including factories and mines. However, it initially allowed children to work in non-hazardous occupations, leading to criticism regarding its effectiveness.
- **Regulation of Working Conditions:** For occupations where child labour was not prohibited, the Act sought to regulate working conditions, such as the number of hours children could work.

In 2016, the Act was amended to further extend its prohibitions and regulation of child labour.

b. The Child and Adolescent Labour (Prohibition and Regulation) Act, 2016

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This amendment to the 1986 Act significantly strengthened the legal framework against child labour:

- **Complete Ban on Employment of Children Under 14:** The 2016 amendment prohibits the employment of children under 14 in all occupations, ensuring that children are not subjected to any form of work that interferes with their education.
- **Regulation of Adolescent Labour:** The Act prohibits the employment of adolescents (ages 14 to 18) in hazardous occupations while allowing them to work in non-hazardous jobs under regulated conditions.
- **Penalties for Violations:** The Act prescribes stringent penalties for employers who violate child labour laws, including imprisonment and fines, thereby enhancing enforcement measures.

c. The Right of Children to Free and Compulsory Education (RTE) Act, 2009

The RTE Act complements child labour laws by ensuring that all children between the ages of 6 and 14 have access to free and compulsory education. The Act includes provisions for:

- **Infrastructure and Quality Education:** Mandating the provision of adequate infrastructure, trained teachers, and basic learning materials in schools.
- **Protection against Discrimination:** Ensuring that children from marginalized backgrounds, including those from economically disadvantaged families, have equal access to education.

By emphasizing education as a fundamental right, the RTE Act aims to reduce the economic incentives for child labour by encouraging families to send their children to school.

d. The Juvenile Justice (Care and Protection of Children) Act, 2015

This Act focuses on the care and protection of children, including those involved in child labour. Key provisions include:

- **Definition of Child Labour:** Recognizing child labour as a form of exploitation, the Act mandates the rescue, rehabilitation, and reintegration of child labourers into society.
- **Establishment of Child Welfare Committees:** The Act establishes Child Welfare Committees (CWCs) to address the needs of children in difficult circumstances, including those engaged in child labour.

3. National Policy for Children, 2013

The **National Policy for Children, 2013** reaffirms the government's commitment to ensuring the rights and welfare of children in India. It emphasizes:

- **Holistic Development:** Recognizing children as valuable human resources, the policy aims to promote their physical, mental, emotional, and social development.
- **Protection from Exploitation:** The policy emphasizes the need to protect children from exploitation, including child labour, trafficking, and abuse.

- **Inclusivity:** Ensuring that marginalized and vulnerable children, including those from economically disadvantaged backgrounds, are prioritized in developmental initiatives.

4. The Beedi and Cigar Workers Act, 1966

The Beedi and Cigar Workers Act, of 1966 ensures basic amenities such as drinking water⁵, latrines, urinals, canteens, first-aid facilities, washing facilities, and overcrowding.

Simultaneously, the Government of India enacted the Beedi Workers Welfare Fund Act in 1976 and some welfare schemes have been prescribed therein.

5. National Child Labour Project (NCLP)

The National Child Labour Project (NCLP) is a key initiative launched by the Indian government in 1988 to combat child labour. The project aims to provide:

- **Rescue and Rehabilitation:** Identifying and rescuing children involved in child labour and providing them with rehabilitation services, including education, vocational training, and healthcare.
- **Education:** Establishing special schools and educational facilities for child labour to provide better educational opportunities for a better life. This aims to cultivate a keen interest in subjects, making life easier.
- **Community Awareness:** Raising awareness among communities about the harmful effects of child labour and the importance of education especially in rural areas.

IMPORTANT JUDICIAL JUDGEMENT

M.C Mehta v. State of Tamil Nadu and others

The case relates to Article 24 which prohibits child labour and states that children below the age of 14 years shall not be employed in any factory or mine or any such hazardous place. Apart from the Fundamental rights, the constitution also contains several provisions in the directive Principle of State policy which provide the welfare of children.

Ensuring that children should be educated in appropriate institutions. Withdraw the children

⁵ Section 11 of The Beedi and Cigar workers act, 1966

from hazardous places.

The court directed that a child labour rehabilitation welfare fund be set up in which the employers should deposit Rs. 20,000 for each child as compensation which is used for their study

The responsibility for employment will not end after the child is released from work but the government has been directed to ensure that an adult from the child's family is given a job in the factory or someone elsewhere.

In case where is not possible to provide such work, the appropriate Government shall credit a sum of Rs, 5,000 in the account of each child welfare fund wherever the child is working.

Salal Hydro electric project v. State of Jammu & Kashmir and others(1983)

In this case, the issue at hand involves child labour, particularly in construction projects. The Bench, led by P.N. Bhagwati and R.B. Mishra, firmly stated that no child under the age of 14 should be employed by any contractor or subcontractor in factories or any type of project. The court also ordered that any children under age 14 engaged in hazardous activities should be surveyed and rehabilitated as soon as possible.

Bachpan Bachao Andolan V. Union of India & Others⁶

Bachpan Bachao Andolan is a non-governmental organization that advocates for children's rights and protection. The organization submitted a petition to the Supreme Court of India to take action against child labour in travelling circuses. These circuses exploit children through mental, physical, and sexual abuse. Such practices violate child labour laws and infringe upon children's right to education, as well as other national and international regulations.

The Supreme Court ruled to prohibit the employment of children in circuses. This case represents a significant victory in India concerning child labour.

CONCLUSION

Child labour in India is a serious issue that negatively impacts children. Many uneducated individuals, including parents, contribute to the acceptance of child labour. Society must

⁶ AIR 2011 SUPREME COURT 3361

recognize children's rights and the laws designed to protect them and work to implement these laws effectively. Increasing awareness about the harmful effects of child labour is essential to combat this problem.

