



## CHILD LABOR IN INDIA: LEGAL FRAMEWORK AND GROUND REALITY

---

Harshita Kashyap\*

### ABSTRACT

*Despite legislative actions and constitutional provisions, child labor is still a problem in India. This essay examines India's legal framework regarding child labor, evaluates how it is being applied, and examines real-world circumstances. The study identifies the socioeconomic factors, assesses the government's and civil society's contributions, and makes policy recommendations to end child labor. Child labor prevents kids from getting the education and skills they need to have good jobs when they grow up. Child labor is still prevalent in India due to a number of factors, including inequality, a lack of educational opportunities, a slow demographic transition, and customs and cultural expectations. According to ILO experience, addressing the underlying causes of child labor can be achieved through a combination of social protection, universal education, decent work, respect for labor standards, stable economic growth, and an awareness of children's needs and rights.*

**Keywords:** Legislative Actions, Constitutional Provisions, Child Labor, Essay, India, Socioeconomic Factors, Civil Society, Recommendations Demographic Transition, Customs, Cultural Expectations, Universal Education, Decent Work, Awareness.

### INTRODUCTION

It is not appropriate to categorize all child labor as something that needs to be eradicated. The involvement of children or adolescents who are older than the minimum age required for employment in jobs that do not interfere with their education or negatively impact their personal growth and well-being is typically seen as a good thing. This covers things like helping out at a family business or earning pocket money on the weekends and after school. Activities

---

\*BA LLB, FOURTH YEAR, TEZPUR LAW COLLEGE, GAUHATI UNIVERSITY.

of this nature benefit children's growth and the well-being of their families; they give them experience and skills that help them become better adults and contribute to society.

Work that harms a child's physical and mental development and robs them of their childhood, potential, and dignity is commonly referred to as "child labor." It alludes to the following:

Is harmful to children's mental, physical, social, or moral development; and/or interferes with their education by denying them the chance to go to school, forcing them to leave early, or making them try to balance going to school with unduly demanding and time-consuming work.<sup>1</sup>

### **CONCEPT AND DEFINITION OF CHILD LABOR**

Child labor does not have a single, widely recognized definition. The International Labor Organization (ILO) defines child labor as any employment that harms a child's physical or mental development and robs them of their childhood, potential, or dignity.

According to the Child and Adolescent Labor (Prohibition and Regulation) Act, 1986, as amended in 2016, a child in India is defined as a person under the age of 14 and is not allowed to work in any profession or process, with the exception of certain situations in which they may assist in family businesses or work as entertainers.

### **LEGAL FRAMEWORK IN INDIA**

Article 24: 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. Editorial Comment - Article 24 of the Indian Constitution pertains to the prohibition of child labor. It aims to protect the rights and welfare of children by prohibiting their employment in certain hazardous occupations or processes.

Article 24 prohibits the employment of children below the age of 14 years in any factory, mine, or hazardous occupation. The intention is to prevent exploitation, safeguard the health and development of children, and ensure their access to education. The article allows for certain exceptions where child labor may be permitted, such as engaging children in non-hazardous

---

<sup>1</sup> (International labor organization)

family-based work, work as part of a school's curriculum, or in any other harmless or innocent occupation.

This article also empowers the government to enact legislation to determine the specific occupations and processes that are considered hazardous for children. The government has the authority to impose necessary restrictions and regulations to enforce this provision effectively.

Article 24 is closely linked to Article 21A, which guarantees the right to education for children between the ages of 6 and 14 years. By prohibiting child labor, Article 24 promotes the realization of the right to education and ensures that children have the opportunity to develop their potential and skills through proper schooling.

In this landmark case, *M.C. Mehta v. State of Tamil Nadu* (1997), the Supreme Court addressed the issue of child labor in the firecracker industry. The court prohibited the employment of children in hazardous industries, including the manufacture of firecrackers. It emphasized the importance of enforcing Article 24 to protect the rights and welfare of children and directed the government to take necessary measures to eradicate child labor.

In *People's Union for Democratic Rights v. Union of India* (1982), The Supreme Court dealt with the issue of child labor in matchbox factories. The court recognized that child labor in hazardous industries was a violation of their fundamental rights. It held that the prohibition on child labor under Article 24 must be effectively enforced to ensure the well-being and development of children.

In *Bachpan Bachao Andolan v. Union of India* (2011), the Supreme Court addressed the issue of child labor in various industries, including carpet weaving. The court reiterated the importance of implementing and enforcing the provisions of Article 24 to eradicate child labor and protect the rights of children. It directed the government to take measures for the rescue, rehabilitation, and education of children involved in labor.<sup>2</sup>

Article 21A: All children between the ages of six and fourteen are entitled to free and compulsory education as a fundamental right, as determined by the State through legislation, according to Article 21-A of the 86th Constitutional Amendment Act, 2002. Only elementary education—not higher or professional education—is now considered a

---

<sup>2</sup> (Indian kannon)

fundamental right under this clause. The Parliament passed the Right of Children to Free and Compulsory Education (RTE) Act, 2009, in accordance with Article 21A.

## **SIGNIFICANCE**

### **A. The right to education guaranteed by the constitution**

The right to education is specifically stated as a fundamental right in Article 21A of the Indian Constitution, which was added by the 86th Amendment Act in 2002. It declares that "all children between the ages of six and fourteen shall receive free and compulsory education from the State in such a manner as the State may, by law, determine."

### **B. Article 21A's designation as a fundamental right**

Prior to the addition of Article 21A, Article 21, which protects the right to life and personal liberty, implicitly covered the right to education. Although it is not legally binding, it serves as motivation and a desired constitutional objective to be accomplished. It is already included in the Directive Principle of State Policy (Part IV) of the Indian Constitution. Nevertheless, it became a specific and enforceable fundamental right with the addition of Article 21A. In India's quest for universal education, this shift represented a significant turning point.

### **C. Article 21A's effects on the Indian educational system**

India's overall literacy rate has significantly increased since the implementation of Article 21A, especially in rural areas.<sup>3</sup>

## **Statutory provisions**

### **Child and adolescent labour(prohibition and regulation) Act, 1986(amended 2016):**

Act of 1986 on the Prohibition and Regulation of Child Labor: According to the Child Labour (Prohibition and Regulation) Act of 1986, an individual who has not reached the age of 14 is considered a child. It seeks to outlaw child labor in dangerous industries and regulate the working conditions and hours of child laborers.

The 2016 Amendment to the Child Labor (Prohibition and Regulation) Act

---

<sup>3</sup> (De Facto IAS)

"An Act to prohibit the engagement of children in all occupations and to prohibit the engagement of adolescents in hazardous occupations and processes and the matters connected therewith or incidental thereto" is the exact wording of the Constitution's 2016 amendment.

The Government of India will impose harsher penalties on employers who break the Act as a result of this amendment. Additionally, it will make the employer liable for hiring any child or adolescent in violation of the Act. The Act also gives the government the authority to prohibit the hiring of minors who are engaged in dangerous jobs.<sup>4</sup>

### **Factories Act, 1948:**

The 1948 Factories Act establishes the safety requirements for factory workers. It is used in factories that make textiles, knit hosiery and other knitwear, make clothes, make footwear, dye and finish textiles, and perform other manufacturing tasks. All employees' working hours are governed by the Factories Act of 1948. The Act states that a workweek shouldn't consist of more than 60 hours. The purpose of this Act is to control factory working hours in order to prevent overwork and excessive fatigue among employees. Protecting the health and safety of employees is another of the Act's primary goals. The safety standards for factory workers are established by the 1948 Factories Act. It is utilized in factories that produce textiles, clothing, footwear, knit hosiery and other knitwear, dye and finish textiles, and carry out other manufacturing operations. The Factories Act of 1948 governs the working hours of all employees. According to the Act, there should be no more than 60 hours in a workweek.

This Act's goal is to regulate factory working hours to avoid employee overwork and excessive fatigue. Another of the Act's main objectives is to safeguard workers' health and safety. The 1948 Factories Act establishes the safety requirements for factory workers. It is used in factories that make clothing, shoes, knit hosiery and other knitwear, manufacture textiles, dye and finish textiles, and perform other manufacturing tasks. All employees' working hours are governed by the Factories Act of 1948. The Act stipulates that a workweek should consist of no more than sixty hours.

The purpose of this Act is to control factory working hours in order to prevent excessive fatigue and overwork among employees. Protecting the health and safety of employees is another of the Act's primary goals. The safety standards for factory workers are established by the 1948

---

<sup>4</sup> (BYJUS)

Factories Act. It is utilized in factories that produce textiles, dye and finish textiles, knit hosiery and other knitwear, make shoes, clothes, and another manufacturing task. The Factories Act of 1948 governs the working hours of all employees. According to the Act, there should be no more than sixty hours in a workweek. This Act's goal is to regulate factory working hours to avoid employee overwork and excessive fatigue. Another of the Act's main objectives is to safeguard workers' health and safety.<sup>5</sup>

### **Mines Act,1952:**

An important piece of Indian law, the Mines Act 1952, establishes guidelines for protecting the health, safety, and welfare of employees working in coal, metalliferous (metal-bearing), and oil mines. The Act, which is administered by the Ministry of Labor and Employment, lays out the responsibilities of mine owners in overseeing mining activities and protecting the health and safety of mine employees. In order to promote safe and equitable working conditions in mines, it also regulates minimum wage rates, working hours, and other relevant issues.

The Mines Act 1952, a significant piece of Indian legislation, lays out rules for safeguarding the welfare, health, and safety of workers in coal, metalliferous (metal-bearing), and oil mines. The Act outlines mine owners' obligations to supervise mining operations and safeguard the health and safety of mine workers. It is administered by the Ministry of Labour and Employment. It also regulates minimum wage rates, working hours, and other pertinent matters to ensure safe and fair working conditions in mines.<sup>6</sup>

### **Right of Children to Free and Compulsory Education Act,2009(RTE ACT):**

The RTE Act of 2009 is the Children's Right to Free and Compulsory Education Act. All children between the ages of six and fourteen are entitled to free and compulsory education as a fundamental right under Article 21-A of the Indian Constitution. Every child has the right to full-time elementary education of acceptable and equitable quality in a formal school that complies with certain fundamental norms and standards, thanks to the Right of Children to Free and Compulsory Education (RTE) Act, 2009, which is the consequential legislation envisioned under Article 21-A.

---

<sup>5</sup> (unacademy)

<sup>6</sup> (yogricha, 2024)

All children between the ages of 6 and 14 are entitled to free and compulsory admission, attendance, and completion of elementary education under the 2009 Right to Free & Compulsory Education Act. Based on the ideas of equity and nondiscrimination, it guarantees children the right to an education of fair quality. Above all, it protects children's right to an education free from stress, anxiety, and fear.

### **Key elements of the 2009 Right to Education Act-**

All Indian children between the ages of 6 and 14 are entitled to free and compulsory education. Until elementary school is finished, no child may be delayed, expelled, or forced to pass a board exam. A child over the age of six will be placed in a class suitable for their age if they have not been accepted into any school or were unable to finish their elementary education. However, in the event that a child is placed directly in an age-appropriate class, that child will have the right to special training within the time constraints that may be specified in order to be on par with others. As long as the child is admitted to elementary school, they will continue to receive free education until they finish, even if they are 14 years old. Age verification for admission: The birth certificate issued under the Provisions of Birth, Deaths, and Marriages Registration Act of 1856, or any other document that may be prescribed, will be used to determine a child's age for the purposes of admission to elementary school. No child's age cannot be used to deny them admission to a school.

After completing elementary school, a child will receive a certificate. For a set student-teacher ratio, a call must be made. All private schools must make a 25% reservation for economically disadvantaged communities when it comes to admission to Class I. Raising the standard of education is crucial. Within five years, school teachers must have a sufficient professional degree or risk losing their jobs. Every three years, school infrastructure that needs improvement must be fixed; otherwise, recognition will be revoked. The state and the federal government will share the financial load.<sup>7</sup>

## **INTERNATIONAL INSTRUMENT**

### **ILO Convention No 138:**

Adopted in 1973, the Minimum Age Convention (No. 138) went into force in June 1976. In order to end child labor, the Convention mandates that State Parties set a minimum age for

---

<sup>7</sup> (VIKASPEDIA)

employment. Although the Convention specifies a minimum age of 15, State Parties may set a minimum age of 14 if they are constrained by a specific period of time. Younger children (less than 15 years old) are permitted to perform light labor under the Convention. The Committee of Experts is in charge of keeping an eye on and overseeing the Convention's efficient execution. Every three years, State Parties are required to submit a report that evaluates the state of implementation. The GSP regulation covers 15 fundamental conventions, including the Minimum Age Convention.<sup>8</sup>

### **ILO Convention No.182:**

Over 250 million children between the ages of 5 and 14 are compelled to work in order to survive and support their families, according to ILO estimates. Over 70% of them operate in hazardous environments. Furthermore, the "invisible" child laborers—of which there are a million—who are concealed by their employers and endure working conditions that border on slavery are not included in these figures. The ILO introduced a new convention and a number of action plans to end the most severe types of child labor as a result of this concerning situation.

**UN Convention on the Rights of the Child (UNCRC):** A human rights treaty known as the UNCRC establishes children's political, civil, economic, social, health, and cultural rights. The members are bound by the terms of this international agreement. Its 54 articles outline a variety of children's rights as well as the steps that governments should take to ensure that children have access to these rights. In 1989, the United Nations adopted the CRC. After obtaining at least 20 ratifications, it came into effect in 1990. With the exception of the US, every UN member has ratified it. It is the human rights treaty with the greatest number of ratifications worldwide.<sup>9</sup>

---

<sup>8</sup> (GSP hub)

<sup>9</sup> (byjus.com)



## **GROUND REALITY: THE IMPLEMENTATION GAP**

### **Statistics and Trends**

More than 10.1 million children in India are involved in child labor, according to the 2011 Census. According to recent estimates, informal and hidden labor may be the reason why this number is underreported.

### **Sectors Involved**

Agriculture, domestic work, brick kilns, clothing factories, tea plantations, and unofficial urban industries like street vending and rag-picking are all common places for children to work.

### **Causes of child labor**

The primary cause of child labor in India is poverty. Families in poverty are frequently forced to depend on the labor of their children in order to survive. Child labor is viewed as a means of economic survival by parents who are finding it difficult to provide for their children's basic needs, including clothing, food, and shelter. At CRY India, we recognize that tackling the underlying causes of child labor requires initiatives to reduce poverty. Our initiatives emphasize raising parents' awareness of the value of education and how it can improve their children's future employment prospects.

Child labor may be used by families who are struggling financially as a way to augment their meager income because of underemployment, unemployment, or growing debt. This is frequently a devastating decision made in a moment of extreme need.

By introducing parents to MNREGA employment opportunities and other social welfare programs, CRY India aims to end this cycle. By empowering parents to increase their financial security, we hope to lessen their reliance on child labor.

One major obstacle to ending the cycle of child labor is the lack of high-quality education. In India, a large number of children lack access to adequate schools, or if they do, the instruction they receive may be of poor quality. Lack of access to high-quality education increases the likelihood that children will enter the workforce before their time.

At CRY India, we think that the secret to changing people's lives is education. We put forth endless effort to guarantee that every child has access to high-quality education, empowering them to dream bigger than their current situation by facilitating their access to government benefits like educational materials and scholarships.

The issue is sustained by a lack of knowledge about the negative consequences of child labor. It's possible that some families are unaware of the emotional, psychological, and physical toll that child labor has on their kids. Campaigns for awareness by CRY India are essential in informing communities about the negative effects of child labor. We educate families, communities, and legislators about the significance of ending child labor through workshops, seminars, and awareness campaigns.

Whether as a result of economic instability, natural disasters, or internal conflict, mass migrations and conflict situations upend families and expose kids to the harsh realities of labor. Children frequently find themselves in these circumstances without an adequate support network.

In order to help them rebuild their lives, CRY India actively supports children in areas affected by conflict and during mass migrations by giving them access to education, counseling, and other necessities<sup>10</sup>.

## **JUDICIAL APPROACH**

The Indian judiciary has significantly influenced the development of child labor law:

- MC Mehta v. State of Tamil Nadu (1996): The Supreme Court ordered compensation and rehabilitation as well as established rules for hiring minors in dangerous jobs.

The Court stressed the importance of identifying, rescuing, and rehabilitating child laborers in *Bachpan Bachao Andolan v. Union of India*

## **GOVERNMENT INITIATIVES**

Education, career training, and rehabilitation are offered by the National Child Labor Project (NCLP).

---

<sup>10</sup> (child rights and you, 2024)

- Mid-Day Meal Program: Promotes attendance at school. The goal of the Integrated Child Protection Scheme (ICPS) is to shield kids from exploitation.

Nevertheless, due to a lack of public awareness, poor coordination, and corruption, implementation is still weak.

### **CRITICAL ANALYSIS AND CHALLENGES**

The 2016 amendment has drawn criticism because it permits child labor in family businesses, potentially justifying exploitation.

- There are insufficient resources for enforcement mechanisms.
- Often, fines are not enough to discourage infractions.
- Legal restrictions are frequently superseded by social norms and economic pressures.

### **RECOMMENDATIONS**

Rigorous monitoring and enforcement of the law at the local level

- The outright and total prohibition of child labor in all its manifestations.
- Fortifying local governance structures and child welfare committees.
- Education and poverty reduction investments.
- Increasing stakeholder involvement and public awareness.

### **CONCLUSION**

Although India has taken important legal action to end child labor, there is still a large discrepancy between policy and practice. Social and economic initiatives must be implemented in tandem with legal reforms. To guarantee that every child has a secure, healthy, and respectable upbringing, a multifaceted strategy involving the government, civil society, and the community is necessary.