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# Child Labour: A Socio-Legal Issue

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## ABSTRACT

*Child labour poses a pervasive issue in Indian society, adversely impacting the mental health development of children by depriving them of their rightful childhood. This article begins by elucidating the meaning and causes of child labour. A primary driver is the widespread unemployment and underemployment among the economically disadvantaged adult population, exacerbated by the rapid growth of the population. The consequences of subjecting a child to such conditions are then outlined, encompassing issues like malnutrition, susceptibility to sexual harassment due to limited awareness, and a lack of understanding about societal norms, laws, and basic knowledge.*

*The article subsequently delves into the economic ramifications of child labour, highlighting that while a select few may experience short-term gains, the long-term negative effects on the nation's economy are profound. Illiterate children who are deprived of education and forced into labour do not contribute to their full potential, hampering overall economic growth. Turning to the legal perspective, international conventions have sought to establish a global legal framework addressing child labour. The Constitution of India, 1950, specifically under Article 21(A), mandates free and compulsory education for all children aged 6–14. Notably, the law prohibits children under the age of 14 from working in any government or private sector, with exceptions made for certain situations, such as when a child is involved in running a family business.*

*The article concludes by exploring societal measures to prevent the escalation of child labour. It suggests various approaches, including analyzing the prevailing situation, reviewing national laws pertaining to child labour, and implementing protective measures such as verifying the age of employees and identifying hazardous forms of work.*

**Keywords:** *child labour, population, Rights, Convention.*

## I. INTRODUCTION

Child labour represents a significant global challenge intricately linked to poverty, limited educational opportunities, gender inequality, and various health risks. International conventions, such as UNICEF's Convention on the Rights of the Child and the International Labour Organization (ILO), provide definitions for child labour. It is characterized as the employment of children in activities that deprive them of their childhood, impede regular

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school attendance, and pose mental, physical, social, or moral dangers. According to the Child Labour (Prohibition and Regulation) Act, 1986, a "child" is defined as an individual who has not yet reached the age of 14.

In this tender phase of life, where children should ideally grow, enjoy their childhood, pursue education, and develop a robust value system, they are compelled to work for their livelihood and that of their families. This practice is universally condemned as exploitative, leading to the prohibition of child labour in various international legislations.

India addresses the issue of child labour through the Child Labour Act of 1986 and the National Child Labour Project. Presently, over 10.12 million children in India engage in activities like carpet-weaving, beedi-rolling, domestic labour, agriculture, firework and apparel manufacturing, foregoing the opportunity for formal education. Child labour, as defined, involves work that harms children or hinders their access to education.

Globally, the International Labour Organization estimates that 215 million children between the ages of 5 and 17 are engaged in work considered illegal, hazardous, or extremely exploitative. The distribution of child labour is widespread, with 53% in Asia and the Pacific, 7% in Latin America, and 30% in sub-Saharan Africa. Notably, the global number of child labourers has decreased by one-third since 2000, from 246 million to 168 million, with more than half involved in hazardous work.

#### **(A) Causes of child labour**

Despite the existence of numerous laws aimed at preventing child labour and safeguarding children from exploitation, the incidence of child labour is increasing, and children continue to be subjected to exploitation. Several factors contribute to this surge in child labour, including illiteracy, poverty, rapid population growth, displacement, and unemployment. Among these factors, poverty holds particular significance, as highlighted in the NITI Aayog report on SDG 2019, revealing that one-fifth of the population in India falls below the poverty line. In rural areas, 25.7% of the population, and in urban areas, 13.7%, live below the poverty line. Consequently, economic hardships position children as essential contributors to their family's income, with their earnings serving as a vital component of the family budget. Parents view their children as sources of support to secure the necessities for survival.

The landmark judgment in *M.C Mehta vs State of Tamil Nadu* acknowledged poverty as the fundamental cause of child labour and stressed the government's responsibility to assist families in removing their children from hazardous activities. However, poverty is not the sole factor contributing to child labour; other elements such as illiteracy and unemployment also

play a role. While the state often attributes child labour to poverty, there is recognition that the state, as a silent observer, may hold a vested interest in the situation. Consequently, domestic and multinational companies engaged in the production of items like bangles and bulbs opt for child labour due to its cost-effectiveness. Notably, Monsanto and Unilever were reported to use child labour for producing cotton seeds in India, as revealed in a study conducted for the Indian Committee of the Netherlands.

Biggeri and Mehrotra conducted a study on the macroeconomic factors influencing child labour in five Asian nations, including India, Pakistan, Indonesia, Thailand, and the Philippines. Their research indicates that child labour is a long-standing issue influenced by macroeconomic causes globally throughout human history. They propose that both the supply and demand sides contribute to the causes of child labour. While poverty and the absence of quality schools explain the supply side, they emphasize that the growth of the low-paying informal economy, rather than the higher-paying formal economy, is a crucial factor on the demand side. Other scholars argue that an inflexible labour market, the size of the informal economy, the inability of industries to scale up, and a lack of modern manufacturing technologies are major macroeconomic factors influencing the demand for and acceptance of child labour.

### **(B) Effects of child labour:**

Child labour is not a phenomenon that warrants acknowledgment; rather, an increase in child labour signals a failure of the country to provide fundamental necessities to its citizens, particularly children. In such instances, the repercussions on childhood are unequivocally adverse. Child labour not only strips a child of a proper and nurturing childhood but also subjects them to the potential for physical and mental torment. The child is compelled to mature emotionally and mentally at an early age, a development not conducive to their overall well-being. Furthermore, this perpetuates poverty, as the child is unable to access basic education, earning a minimal income that contributes little to their family. Additionally, the child is remunerated inadequately.

The consequences of child labour extend beyond economic hardships and encompass various detrimental effects:

- Children may suffer from malnutrition, drug dependency, and depression.
- The practice may jeopardize children's dignity and moral development.
- Children may be coerced into employment and subjected to sexual exploitation.
- They may become victims of sexual and physical violence.

## **II. IMPACT ON THE ECONOMY**

The role a child assumes in nation-building when they become an adult is contingent upon their upbringing, with profound implications for both society and a country's economy. While the short-term gains of employing child labour may benefit a select few, the long-term consequences for a nation's economy are decidedly negative. The preference for child labour, driven by its cost-effectiveness compared to adult labour, adversely affects adult employment, leading to increased unemployment rates among adults.

Child labour not only impacts economic dynamics but also contributes to a rise in fertility rates. Employers often exploit children as a cheap source of labour, leading impoverished families to believe that more children will result in higher earnings. However, this increased fertility rate not only elevates the overall population but also exacerbates unemployment and depletes essential resources. The consequences of child labour extend beyond physical growth, significantly affecting the mental and personality development of the children involved. The harsh working conditions and continual mental and physical strain hinder their growth, rendering them unfit for alternative occupations, forcing them to persist in the work they started out of necessity.

Children engaged in labour instead of attending school face a grim future of illiteracy, limiting their capacity to contribute not only to their personal well-being but also to the broader community. The long-term repercussions of child labour pose serious challenges for India, especially in terms of human capital accumulation. A key factor in sustaining economic prosperity is cultivating an educated workforce with relevant skills aligned with industry needs. Today's child labourers will form part of India's human capital in the future, creating a trade-off in terms of human capital accumulation.

In India, child labour is prevalent across various sectors, with 70% employed in agriculture and others engaged in low-skilled, labour-intensive endeavors such as sari weaving or domestic work. Some children are even involved in heavy industries like coal mining. The International Labour Organisation (ILO) emphasizes the considerable economic benefits for developing nations by prioritizing education over child labour. Without education, children lack essential skills such as English literacy and technical aptitude, limiting their productivity and ability to secure higher-skilled jobs with better wages, thereby hindering their escape from poverty.

### **(A) Indian Constitution And Child Labour:**

Article 23 (1) of Indian Constitution prohibits the trafficking in human beings and forced labour. And Article 24 (1) prohibits the employment of children in factories. It says 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.

The general understanding was that right secured by Article 24 will hardly be effective in the absence of legislation prohibiting and penalising its violation. However, Supreme Court clearly stated that Article 24 “must operate proprio vigore” even if the prohibition lay down in it is not “followed up by appropriate legislation.” In *Labourers, Salal Hydro Project v. State of J&K*<sup>2</sup> it was again held that the employment of children below 14 in construction work violates Article 24.

It was noted in *M C Mehta v. State of Tamil Nadu*<sup>3</sup> that menace of child labour was wide spread. Therefore it issued wide ranging directions in the context of employment and exploitation of children in Sivakasi, prohibiting employment of children below the age of 14 and making arrangement for their education by creating a fund and providing employment to the parents or the able bodied adults in the family. These directions were reiterated in *Bandhu Mukti Morcha v. Union of India*<sup>4</sup>, concerning the employment of children in carpet weaving industry in U.P.

### **(B) Child labour and international legislation:**

Global Efforts to Address Child Labour Efforts to combat child labour on a global scale have been channeled through various international conventions. These conventions aim to establish a comprehensive legal framework for addressing the issue. Key instruments in this endeavor include the UN Convention on the Rights of the Child (CRC) (1989), which addresses both child labour and the right to education, along with two International Labour Organization (ILO) conventions: the Minimum Age Convention (No. 138, 1973) and the Worst Forms of Child Labour Convention (No. 182, 1999). While the UN Universal Declaration on Human Rights (1948) and the International Covenant on Economic, Social and Cultural Rights also touch upon the right to education, the CRC and ILO conventions stand out as the primary international instruments addressing the rights of children.

#### **1. UN Convention on the Rights of the Child (CRC)**

The CRC serves as a comprehensive human rights treaty, delineating the rights of children globally. According to the CRC, a child is defined as anyone under the age of 18 years, unless specified otherwise in national legislation. The Convention establishes, in international law,

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<sup>2</sup> 1984 AIR 177, 1983 SCR (2) 473

<sup>3</sup> AIR 1997 SUPREME COURT 699

<sup>4</sup> 1(1997) 10 SCC 549

the obligation for States and Parties to ensure that all children, without any form of discrimination, receive special protection measures and assistance. These measures include access to essential services such as education and healthcare, the opportunity to develop their personalities, abilities, and talents to the fullest potential, growing up in an environment of happiness, love, and understanding, and being informed about and actively participating in the realization of their rights.

## **2. International Labour Organization**

ILO, founded in 1919,) operates as a United Nations agency with the mission of promoting social and economic justice through the establishment of international labour standards.

ILO Minimum Age Convention (No. 138) The ILO Minimum Age Convention No. 138 sets 15 years as the minimum age for employment, with some cases allowing for 14 years for a specified period. The convention deems 18 years as the minimum age for work that may jeopardize the health, safety, or morals of a young person, while permitting light work that does not harm health or interfere with school for children aged 13–15 years.

ILO Worst Forms of Child Labour Convention (No. 182) The ILO Worst Forms of Child Labour Convention No. 182 mandates countries that ratify it to promptly take action to prohibit and eliminate the worst forms of child labour. These worst forms include all types of slavery, commercial sexual exploitation of children, and any work that, by its nature, is harmful to the health, safety, or morals of children.

## **III. CHILD LABOUR LAWS IN INDIA**

The Constitution of India, 1950 under Article 21(A) mandates free and compulsory education for all children in the age group 6–14 years. Article 24 also specifically prohibits the employment of children below the age of 14 years in dangerous factories which may cause them physical as well as long-term mental harm. Every person, including the parent or guardian of children, has a fundamental duty under Article 51 of the Constitution – a part of the Directive Principles of State Policy – to provide opportunities for education for his or her child between the ages of 6–14 years.

As long ago as 1979 the Government formed the first committee (called the Gurupadswamy Committee) to study the issue of child labour and to suggest measures to tackle it. The Child Labour Prohibition and Regulation Act was enacted based on the recommendations of the committee in 1986.

There was a new amendment in 2016 named the Child Labour (Prohibition and Regulation)

Amendment Act, 2016, which introduced the concept of adolescent labour for the first time for children aged between 14 and 18 years. This new Act aimed at filling the deficiencies of the earlier Act of 1986.

**(A) Case laws relating to child labour:**

**1. Hosanna-Tabor Evangelical Church and School V. EEOC<sup>5</sup>**

In this landmark case, the US Supreme Court grappled with the intersection of religious exemptions and labour laws. It raised questions about whether religious schools could employ children in violation of child labour laws, highlighting the complexities surrounding child labour issues within religious contexts.

**2. Bachpan Bachao Andolan V. UOI<sup>6</sup>**

the Indian supreme court, responding to a public interest litigation and filed by Bachpan Bachao Andolan, directed the Indian government to take rigorous measures to combat child labour. This included the identification and rehabilitation of child labourers in addressing child labourers. This case set a significant precedent for judicial activism in addressing child labour.

**3. Child and woman labour Prohibition group v. Union of India (1991)**

in this case, the Supreme Court emphasised the need for immediate action to eliminate child labour. The court directed the Central and state government to take steps to identify and rehabilitate and child labourers and provide free education to them.

**4. State of Karnataka V. Umadevi<sup>7</sup>**

While not a child labour specific case, this case is noteworthy for its impact on the employment of children. The judgement clarified that children of government employees could not be employed in government jobs under the principle of equal opportunity and fairness

**(B) Other major national legislative developments:**

**1. The Factories Act of 1948**

The Act prohibits the employment of children below the age of 14 years in any factory. The law also placed rules on who and for how long pre-adults aged 15–18 years could be employed in any factory.

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<sup>5</sup> 565 U.S. 171 (2012)

<sup>6</sup> AIR 2011 SC 3361

<sup>7</sup> AIR 2006 SC 1806



## **2. The Mines Act of 1952**

The Act prohibits the employment of children below 18 years of age in a mine.

## **3. The Juvenile Justice (Care and Protection) of Children Act of 2000**

This law made it a crime, punishable with a prison term, for anyone to procure or employ a child in any hazardous employment or in bondage.

## **4. The Right of Children to Free and Compulsory Education Act of 2009**

This law mandates free and compulsory education for all children aged between 6 and 14 years. The legislation also mandated that 25% of seats in every private school must be allocated for children from disadvantaged groups and physically challenged children. India formulated a National Policy on Child Labour in 1987. This Policy seeks to adopt a gradual and sequential approach with a focus on rehabilitation of children working in hazardous occupations. It envisioned strict enforcement of Indian laws on child labour combined with development programmes to address the root causes of child labour such as poverty.<sup>47</sup> In 1988, this led to the National Child Labour Project initiative. Under this legal and development initiative, the Indian Government has currently issued funding targeted solely to eliminate child labour in India.

## **5. The Apprentices Act, 1961**

Unless a child attains the age of 14 years and satisfies the standard of education and physical fitness test, he or she cannot undergo apprenticeship training.

## **6. The Plantation Labour Act, 1951**

This Act prohibits the employment of children below the age of 12 years; a child above the age of 12 years can be employed only when an appointed doctor issues a fitness certificate for that child.

## **7. Child Labour (Prohibition & Regulation) Act, 1986**

Recognizing the increasing problem of child labour in India, the Parliament passed „The Child Labour (Prohibition and Regulation) Act, 1986’. The purpose of this Act was to declare child labour as illegal and make it a punishable act by any citizen of India. The Act is to bring to the notice of the people of this nation that there are child labour laws to protect the child. However, in spite of this the situation has not improved, nor has it been brought under control.

### **(C) Role played by non – governmental organisations:**

Many NGOs like Bachpan Bachao Andolan, ChildFund, CARE India, Talaash Association,

Child Rights and You, Global march against child labour, Bundelkhand matra bhumi samaj sevi sansthan project stop working with child labour in India, GoodWeave India, RIDE India, Childline etc. have been working to eradicate child labour in India.

Many public interest litigations have also been filed on the problem of child labour like “PIL on child labour” which is also known as “Hemant Goswami vs. Union of India”.

#### **IV. CHILD LABOUR (PROHIBITION AND REGULATION) ACT, 1986**

This Act provides the definition of a child. It states that a child is a person who has not yet completed 14 years of age. This Act not only regulates the hours of work but also the working conditions of child labourers and prohibit employment of child labour in hazardous industries. Article 24 of the Indian Constitution provides that no child who is less than 14 years of age should be employed in any hazardous industries.

This Act is divided into four parts which include 26 Sections and two Articles A&B. The act is as follows:

1. **Part I:** Preliminary. It includes Section 1 which talks about the short title, extent and commencement of this Act and Section 2 talks about the various definitions that are included in this Act.
2. **Part II:** Prohibition of Employment of Children in Certain Occupations and Processes. It includes Section 3,4,5 of this Act. There are two Articles A&B that are concerned with Section 3. Section 3 lists down various occupations and processes that are already mentioned whereas Section 4 talks about the power to amend this Act and Section 5 states that the Central Government is empowered to form a Child Labour Technical Advisory Body.
3. **Part III:** Regulation of Conditions of Work of Children. It includes Section 6 to 13 in it. Section 6 includes an application that can be filed, Section 7 talks about the hours and period of work whereas Section 8 talks about the weekly holidays. Section 8 states that how can a notice to the inspector is filed and Section 10 talks about what to do when there is a dispute as related to the age. According to Section 11 maintenance of register is compulsory and Section 12 and 13 talks about other formalities.
4. **Part IV:** Miscellaneous consists of Section 14 to Section 28 of the Act. This part talks about provisions related to penalties, the appointment of inspectors, the power to make rules, the power to remove difficulties etc.

## **V. CHILD LABOUR DURING COVID 19**

As previously stated, global child labour has been gradually declining over the last two decades, but the COVID-19 pandemic, according to the International Labour Organization (ILO), threatens to reverse this trend. As many as 60 million people are expected to fall into poverty this year alone, enabling families to send their children to work. According to a joint report by the ILO and United Nations Children's Fund estimates that a 1% point rise in poverty leads to at least a 0.7% point increase in child labour.<sup>12</sup>

As the whole world is grappling with COVID-19, data from India show that children are still being exploited for child labour, despite the fact that the pandemic was followed by a lockdown. Somewhat ironically, while the coronavirus pandemic forced India's children out of school (as they were officially closed), many children were clandestinely relocated to farms and factories to work, worsening the child labour problem.

In March (the national Indian lockdown came into effect on 25 March 2020) there were 2473 interventions related to child labour, dipping steeply to 446 in April, but starting to increase as lockdown restrictions eased, reaching 734 in May. However, this fall does not necessarily reflect the actual numbers of children working, merely those who have been identified. Thus, the lower numbers may merely reflect disruption of the normal reporting processes and investigation of cases caused by the pandemic. The Childline help number in India carried out 3653 interventions for child labour across the states. Out of these 3653 interventions, 35% (1264) were for begging, 21% (763) were for activities categorized as hazardous, 14% (513) were working in restaurants, 10% (371) as domestic workers, 8% (286) in family units and 4% (156) as bonded labour<sup>8</sup>.<sup>17</sup> Recently, on 29 August 2020, a district task force in Ludhiana, Punjab, India rescued 13 child labourers from two factories.

### **(A) Age Limit for Employment in India**

Employing children under the age of 14 for any type of labour is illegal and penalised. A maximum 2-year prison sentence will be imposed on a person who is found guilty of the same offence. However, some family-based jobs are exempt from the rule. Additionally, youths between the ages of 14 and 18 are not permitted to work in hazardous occupations. The Child Labour (Prohibition and Regulation) Amendment Bill, 2012 states that parents who put their children's life in danger will also face punishment and be required to pay a fine.

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<sup>8</sup> Navpreet Kaur and Roger W Byard, Prevalence and potential consequences of child labour in India and the possible impact of COVID-19 – a contemporary overview, Volume 61, Issue 3, <https://doi.org/10.1177/0025802421993364>

**(B) Exceptions of Child Labour Law**

Children under the age of 14 are not allowed to work in any government or private sector in India, as was previously mentioned. In some circumstances, there are, nonetheless, exceptions to this provision. When a child is running the family business, the law does not apply to them.

Hazardous jobs do not involve this kind of work. They are able to continue their careers after school or during breaks. The kid's father, mother, sister, brother, paternal uncle or aunt, and maternal uncle or aunt are all considered family members under the law when it comes to protecting children from child labour.

Children under 14 years who appear as actors or actresses in the audio-visual entertainment sector are likewise protected from the regulation. Therefore, they are free to work in commercials, TV series, movies, or any other activities in the entertainment or sports industries. Circuses, on the other hand, are not regarded as part of India's entertainment industry because they are subject to safety regulations and guidelines.

**(C) Work Permission for Teenagers Under the Child Labour (Prevention and Regulation) Amendment Act**

According to the Child Labour (Prevention and Regulation) Amendment Act, young people between the ages of 14 and 18 are permitted to work in occupations that are not linked to difficult or dangerous tasks. The following standards must be upheld by any organisation that hires teens in order to guarantee their safety:

- Organisations should ensure that each working period must not exceed more than three hours each day
- Organisations are prohibited from employing adolescents during the night shift or from 7 PM to 8 AM
- According to the act, the maximum working time for a teenager is six hours each day, except for the waiting time
- After working for three hours, the organisation must allow the adolescent to take a break for at least an hour
- Teenagers between the age of 14 to 18 cannot work in more than one organisation simultaneously
- The organisation must allow teenagers to get a holiday at the weekends
- Adolescents are not allowed to work overtime.

## **VI. SOLUTIONS TO PREVENT IT**

The eradication of child labour can be achieved through various measures. Examining the situation and reviewing national laws pertaining to child labour are essential steps. Implementing protective measures such as verifying the age of employees, identifying hazardous tasks, and conducting workplace risk assessments are crucial for bringing child labour under control. Immediate actions, such as refraining from hiring children below the age of 14, eliminating children from hazardous work, or reducing work hours for children while ensuring compliance with minimum age standards, can significantly contribute to reducing child labour rates and improving the societal position of these children.

Strategic initiatives, including the implementation of a safety and health management system, utilization of collective bargaining agreements, and adherence to a code of labour practices, are effective in addressing this issue. Furthermore, promoting education and providing assistance to children ensnared in child labour are essential aspects of alleviating the problem. Businesses should adapt to a child-labour-free environment and ensure that new suppliers refrain from employing children. Installing monitoring systems, if necessary, is a crucial step in enforcing these measures.

## **VII. CONCLUSION**

Child labour constitutes a detrimental impact on both society and the economy. The government has implemented various measures to actively combat this issue. However, the prevalence of socio-economic challenges, particularly poverty and illiteracy, which serve as the primary drivers of child labour, has transformed it into a socio-legal problem. Addressing this issue requires collective effort from all segments of society. Only through united action can this problem be effectively resolved, paving the way for India to emerge as a more developed and improved nation. If every individual assumes responsibility for combating child labour, a significant transformation can be achieved. Public support for government initiatives is crucial in substantially diminishing the problem of child labour. Raising awareness about the perils of child labour is essential, emphasizing the significance of allowing children to experience and enjoy their childhood, as they represent the future of our nation.

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