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PROTECTION OF CHILD LABOUR IN INDIA

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Abstract

In the current situation, where international community does only grow, the unsolved problem of the childhood slavery is that you see kids working in industry. This essay argues that child labour problem is widely affected by social and economic factors. This piece of writing looks at an overall approach to the root causes shifting from addiction and poverty to illiteracy, lack of education, social and economic upturns and insufficient family income as the basic ones. Children cannot survive the financial hardships, they experience emotional issues being overly stressed, and they are at risk of getting wounded through working. At last, I believe the only reason why child labour was eradicated in our country, India (where governments has laws, governmental as well as non-governmental organizations have activities and communities had campaigns for the protection of child rights and to fight against child labour) was the role they all played. The more recent instances of weak supervisory authorities which have been unable to stop children from working disclose this aspect. The main purposes of any law pertaining to enabling children to work or involving any other forms of commitments by children to any form of employment or work have been to provide the working hours, minimum age of employment, complete physical wellness and general safety to the children. It is the much-awaited Child Labour (Prohibition and Regulation) Act of 1986 which is by far the most important of the legislations that we have on child labour, the first one being the Child Labour (Pledging of Labour) Act of 1933 and the second one being Employment of Child Act of 1986.

Introduction

The issue of child labour, which by its definition includes work that prevents a child from enjoying education, puts any child as a worker in harm's way, and this continues to be a major global concern. In spite of the prohibition of child labour by many international agreements, it is undeniable that it is somewhat alarming in developing countries of the caliber of India. The dangerous human consequences of child work on the health of children's beings and feelings make everyone understand how urgently these matters need to be treated well. Although laws have been created in order to ban the child labour, whether these laws to be effective or not is object of controversy.

A scary number of child labourers around the country face various forms of physical, mental, and social distress, which are very negative

effects of this disturbingly high frequency of child labours. The regulation of child labour has been moving at a snail's pace even though so many legislations have been passed to speed up its prohibition. Besides taking away from them the childhood they deserve, they are denied the constant school learning which breaks down the vicious cycle of poverty. The point is, the negative influence that on children's education is one of the main concerns. This, of course, is not the case with all forms of child labour that may not have an effect on academic achievement or attendance, but more of a full time job filter out the possibility of continuing education. Deciding what sort of child labour limits should be allowed is still a challenging task to get even though it is clear that kids shouldn't be working for more than a certain number of hours which might be the reason for them not attending school.

It's hard to know the full problem because there are not enough good facts about child work. The 1931 count showed that some kids work, but we don't have all the data. Still, a lot of kids work in things like crafts and farming. In India, about 33 million kids are at work, so we need to help now. Most child workers, about 80%, are in the country, where it's more common. Kids who are at risk in far-off areas are more likely to be used and hurt. The big state of Uttar Pradesh has the most child workers. This shows we must act in a clear way.

There are various forms of child labour, such as working in factories, on farms, or doing household chores. Wealthy families often hire children to work as babysitters or maids, making the problem worse. Despite efforts to stop child labour, millions of children are still working in dangerous conditions, depriving them of their childhood and dignity. The International Labour Organization (ILO) defines child labour as any type of work that harms a child's physical or mental well-being and takes away their youth, potential, and dignity. This includes jobs that are risky, disrupt education, or are morally or mentally damaging. In its most extreme cases, child labour involves slavery, separation from family, and exposure to dangerous situations.

As a result of child labour, millions of children in countries like India are being denied their rights and forced to work. In order to address this issue, it is crucial for governments, international organizations, and civil society to collaborate. By prioritizing education, enforcing labour laws, and addressing the root causes of child labour, we can ensure a better future for these children.

Problems of Child Labour in India

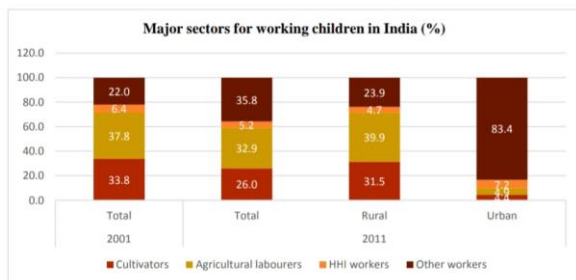
India's child labour rate has significantly decreased in the last several decades, indicating that efforts to solve this enduring problem are making headway. Data from the National Sample Survey Organization (NSSO) shows that the number of child labourers has significantly decreased over time. For example, the number of projected child labourers in the

workforce in 2004–05 was 9.07 million, down from 21.55 million in 1983—a significant decline to 12.48 million. Even with this decrease, there are still a significant number of youngsters working; 1.26 crore economically active children between the ages of 5 and 14 were counted in the 2001 census. Further evidence of a declining trend in the frequency of child labour comes from the 2009–10 NSSO survey, which estimated 49.84 lakh children to be working. Of the 259.6 million children in the 5–14 age range, according to 2011 census statistics, 10.1 million (3.9%) work as "main workers" or "marginal workers." The fact that more than 42.7 million kids are not in school further emphasizes the variety of difficulties that Indian kids encounter.

Notwithstanding these obstacles, there is good news about the decrease in the prevalence of child labour: between 2001 and 2011, there were 2.6 million fewer child labourers. In contrast to urban regions, where there is a rise in child labourers, this reduction is more noticeable in rural areas, suggesting that there is a growing need for child workers in urban menial employment. Child labour is a problem that presents differently in rural and urban settings, requiring treatments that are specifically designed to meet the unique difficulties that children in each environment confront.

There are some states in India where child labour is more prevalent than others. With a share of 20.6%, Uttar Pradesh (U.P.) is the highest state, followed by West Bengal (5.4%), Gujarat and Rajasthan (5.8%), Bihar (10.4%), Andhra Pradesh (9.3%), Madhya Pradesh (6.6%), and Maharashtra (11.4%). Over time, there have been shifts in the proportion of each state in the nation's overall child labour force. As the most populous state, U.P.'s share climbed from 12.3% in the 1991 census to 15.2% in 2001 and then to 20.6% in 2011, indicating this trend. On the other hand, Maharashtra's proportion dropped from 9.3% in 1991 to 6.0% in 2001 and then increased to 11.4% in 2011. In the same way, Bihar's portion increased from 8.2% in 1991 to 8.8% in 2001 and ultimately to 10.4% in 2011.

These figures highlight the ongoing problem of child labour in India and the necessity of focused initiatives to deal with the root causes and effects. Although there has been a decrease in the prevalence of child labour, especially in rural regions, more work has to be done to end this evil and protect the rights and welfare of all children in the nation.



Types of Child Labour

Child labour is a complex problem that includes a range of jobs performed by minors, each with its own special requirements and difficulties. Comprehending the subtleties of child labour is imperative in order to design efficacious legislative frameworks and policies that tackle this intricate social issue.

First of all, child labour refers to the employment of minors for pay or without pay in a variety of industries, including manufacturing, construction, mining, and the service industry, which includes domestic work. However, according to the Ministry of Labour, Government of India, the phrase "child labour" is frequently used explicitly in reference to dangerous job. When children labour on tasks that are not dangerous, they are usually referred to as performing "child work."

Second, youngsters living on the streets are a vulnerable population that engages in beggarly, newspaper sales, shoeshining, and ragpicking. In contrast to the majority of children who have homes to return to, street children live in temporary shelters or public areas like sidewalks, bus stops, and train stations. They frequently lack regular housing arrangements and are at the whim of their employers.

Thirdly, children who are labouring to pay off inherited debts or who have been promised by their parents for small amounts of money are considered bonded children. Since they are essentially obligated to their creditors or employers and are unable to leave their current situation without outside help, these youngsters confront considerable obstacles when trying to get help.

Fourthly, children who assist their families in domestic and agricultural tasks are considered working children. Alongside their parents, many of these kids put in lengthy work hours, forgoing an education in the process. Gender gaps in school and career prospects are sustained by the fact that girls, in particular, frequently shoulder excessive labour loads.

Fifthly, adults from a variety of social and economic backgrounds subject minors used for sexual exploitation to horrifying maltreatment. Commercial sexual exploitation of children frequently takes place in connection with other kinds of child labour exploitation, and popular locations for this type of exploitation include homes, street corners, factories, and workshops. Sexual exploitation is one of the most dangerous types of child labour because of the damage that is done to young kids on a physical and psychological level.

Sixth, the hardship of seasonal migration, which pushes millions of families to abandon their homes in quest of employment, presents special difficulties for migrant children. Alongside their family, these kids are frequently forced to labour in construction sites, building bricks, manufacturing salt, harvesting sugar cane, quarries stone, fisheries, and plantations. Last but not least, kids who participate in home activities—especially girls—complete vital jobs including taking care of younger siblings, cooking, cleaning, and other duties. Even though they aren't typically seen as economic endeavors, these chores nonetheless count as work and help houses run more smoothly. Furthermore, these kids could eventually enter the workforce in one of the previously listed

categories of child labour if they are not allowed to receive an education.

Causes of Child Labour

The issue of child labour in India is complex and has its roots in socioeconomic conditions that support the practice. Child labour is mostly caused by poverty, as a considerable proportion of the population lives below the poverty line. From an early age, parents who cannot afford to send their children to school are forced to turn to child labour as a way to support the family income.

Moreover, the issue is made worse by social and economic regression, which prevents children from underprivileged groups from accessing education. Long-term financial investments in their children's education are frequently subordinated to current financial requirements by parents, particularly those from socially disadvantaged backgrounds. Parental illiteracy exacerbates this problem since parents may not be aware of government programs and activities that support education for their children. Child labour is perpetuated by a lack of knowledge about children's rights and the advantages of education.

In addition, a family history of addiction, illness, or handicap may encourage kids to enter the labour. Children frequently become the family's only source of income when the primary earner is unable to support them due to illness, alcoholism, or a handicap. This problem is made worse by the growing population and rising unemployment rates, which lead to parents choosing to send their kids to work rather than school in order to ease their financial burdens.

In India, child labour is also accepted as normal due to deeply ingrained family traditions and practices. Labour is considered a customary and cultural activity that has been carried down through the centuries in many households. The idea that a life of work is inevitable and better than pursuing education and greater possibilities is perpetuated by this way of

thinking. Furthermore, discrimination based on gender makes the issue worse, especially for females. Social standards ingrained in society dictate that females are less valuable than boys and, as a result, do not have equal access to education. Because of this inequality, girls are compelled to work alongside their parents and are excluded from education. The cycle of exploitation and poverty is further strengthened by the persistence of gender stereotypes and unfair treatment.

Furthermore, a difficult atmosphere where fundamental necessities like leisure, healthcare, and education are frequently ignored is created by big family sizes and poor earnings. Families find it difficult to support their children, which makes them dependent on child labour to survive. Future generations are caught in a cycle of poverty and child labour due to a lack of resources and opportunity for upward mobility.

Therefore, in India, socioeconomic issues like poverty, social regression, addiction, disability, family customs, gender discrimination, and high family sizes are closely linked to the frequency of child labour. Comprehensive legislative frameworks and social initiatives that target the underlying causes of the problem and advance economic empowerment, knowledge, and education are needed to address this complicated issue. Policymakers may endeavor to end the cycle of exploitation and poverty by tackling these fundamental causes, guaranteeing a better future for the children of India.

States with high incidences of Child Labour

| States | Percentage | Numbers (In million) |
|----------------|------------|----------------------|
| Uttar Pradesh | 21.5 | 2.18 |
| Bihar | 10.7 | 1.09 |
| Rajasthan | 8.4 | 0.85 |
| Maharashtra | 7.2 | 0.73 |
| Madhya Pradesh | 6.9 | 0.70 |

*Source – Census 2011

Legislations, Policies, Programmes & Efforts

In India, the widespread problem of child labour is mostly addressed by laws and constitutional restrictions. A deliberate attempt to address this social issue is seen in the historical

development of protective laws and constitutional provisions intended to protect the rights of working children.

The Indian Factories Act of 1881 was the first major piece of legislation regulating child labour in India. This regulation was enacted during the colonial era with the intention of regulating factory working conditions. It included rules that forbade the employment of children under the age of seven. It also required rest periods and holidays, and it set a 9-hour daily labour restriction for youngsters. But it's crucial to remember that the main goal of these laws was to reduce output in India.

The International Labour Organization's (ILO) conventions and recommendations have had a significant impact on India's labour laws over time, particularly those that deal with child labour. The basis for the creation of state laws intended to safeguard children in a variety of professions has been supplied by these worldwide standards.

In India, constitutional protections are crucial in eliminating child labour and safeguarding the rights of children who work. The state may enact specific laws pertaining to minors without going against the right to equality under Article 15(3). In a similar vein, the Supreme Court has construed Article 21 to encompass freedom from exploitation and the right to a life of dignity. It also ensures the right to life and personal liberty.

The right to education is established under Article 21A, which requires the state to offer all children between the ages of six and fourteen free and compulsory education. This clause emphasizes the need of education in preventing and ending child labour and the responsibility of employers to guarantee that their employees have access to education. Human trafficking and forced labour, including begging and other types of exploitative work, are forbidden under Article 23. It highlights that it is the state's duty to outlaw these activities and prosecute perpetrators.

Moreover, Article 24 expressly forbids hiring minors under the age of 14 for jobs in mines, factories, or other dangerous jobs. According to the Supreme Court's expansive interpretation, hazardous employment encompasses a variety of jobs, such as manufacturing matchboxes, pyrotechnics, and construction. This clause represents a commitment to protecting children from dangerous and exploitative work environments.

Articles 38, 39, 42, 43, 45, 46, 47, and 51A(e), among other clauses in the constitution, offer a thorough framework for advancing children's welfare and preventing child labour. These provisions provide the state instructions to maintain social, economic, and political fairness; shield children from abuse and exploitation; guarantee access to healthcare and education; and advance the financial interests of underserved groups.

The frequency of child labour in India is still a serious problem even with strong legal and constitutional protections. Inadequate enforcement tools, socioeconomic obstacles, and implementation gaps persist in impeding the successful eradication of child labour. Going forward, greater efforts are required to address core issues including poverty, social injustice, and limited access to education, as well as to enhance enforcement mechanisms and increase awareness. India may strive toward establishing a society in which every kid is given the chance to live a respectable and happy life free from exploitation by respecting the spirit of protective laws and constitutional guarantees.

Laws for Children

A number of laws intended to safeguard children's rights and welfare have established the legal framework governing child labour in India.

To stop the practice of promising children under the age of fifteen for work, the Children promising of Labour Act, 1933, was created. Any arrangement pertaining to the pledge of a child's service is invalid under this Act, and

individuals who enter into such agreements risk penalty.

Children under the age of 14 are not allowed to work in factories, according to the 1948 Factories Act. Teens between the ages of 15 and 18 are not permitted to work unless they have a fitness certificate from a licensed medical professional. Furthermore, the Act restricts youth between the ages of 14 and 18's employment hours to four and a half hours per day and prohibits night work.

Comparably, the Plantation Labour Act, 1951, among other welfare laws, sets down a mandate for one day of leave for every seven days of employment when it comes to the working hours of minors on plantations.

According to the Mines Act of 1952, a child is anybody under the age of 15, and an adolescent is someone between the ages of 15 and 18. Adolescents sixteen years of age and older are limited in their working hours and are only permitted to work in specific areas of mines with a medical certificate.

Children under the age of fifteen are not allowed to work in motor transport operations, according to the Motor Transport Workers Act of 1961, and teenagers need a certificate of physical fitness.

With the exception of apprentices pursuing vocational training, the Apprentices Act of 1961 establishes a minimum age of 14 for apprenticeship training.

The Child Labour (Prohibition and Regulation) Act of 1986 and the Employment of Children Act of 1938 both seek to identify and outlaw child-injurious jobs and procedures. The latter Act, as stated in its schedule, expressly forbids hiring minors under the age of 14 for 13 professions and 57 procedures that are considered dangerous to their life or health. Hence, these legal initiatives aim to protect kids from abusive labour practices and promote their growth and well-being.

Children's Rights

A critical step in acknowledging and defending children's rights in all spheres of society—economic, political, and cultural—has been taken with the adoption of the Children's Rights Agreement as an international justice treaty on September 2, 1990. This agreement upholds a number of children's fundamental rights, such as:

Right to Life: Preserving a high level of life and providing access to necessary medical facilities in order to support their survival and well-being.

The right to protection entails giving steps to stop exploitation, such as bonded labour and other types of maltreatment. The constitutional provisions that aim to safeguard children from exploitation and harm entrench these protections.

Right to Development: This statement upholds children's right to a well-rounded upbringing, which includes possibilities for social security, education, and amusement. This right includes a number of measures intended to promote children's general development and wellbeing.

Right to Participation: Encouraging children to actively participate in decision-making processes, respecting their perspectives, and providing opportunities for them to express themselves freely are ways to acknowledge children's agency and autonomy. These right highlights how crucial it is to value children's opinions and voices when it comes to decisions that impact their life.

Efforts to Overcome

The Indian government's commitment to ensuring the rights and wellbeing of children is demonstrated by the numerous laws and efforts that have been put in place to combat child labour. These projects cover a broad spectrum of activities, such as international partnerships, social welfare programs, educational campaigns, and legislative actions. Here are a few important programs and directives:

The governmental Policy for Children, which was established in 1974, provides the framework for a number of governmental initiatives and policies that aim to meet the various needs of kids. It was adopted on August 22, 1974, and it offers the general foundation for tackling the problem of child labour in India.

Ensuring the Right to Food, Even for Street Children: In India, malnutrition is still a major public health issue that affects children. Sufficient nourishment is imperative for the healthy growth, development, and cognitive capacities of youngsters. In order to promote child welfare, efforts must be made to eliminate malnutrition, especially among female children who are disproportionately impacted.

National Child Labour Project (NCLP): By offering assistance and rehabilitation to rescued child labourers, the NCLP seeks to end child labour. After starting in 12 districts, the initiative has spread to 271 districts in 21 states, significantly contributing to the fight against child labour and the advancement of child welfare

The NHRC works to end child labour and uphold children's rights through a variety of mechanisms, including visits, special reporters, sensitization programs, and collaboration with stakeholders. Education is recognized as a fundamental right, and efforts to ensure access to quality education are integral to combating the effects of child labour. In 2001, the Parliament passed the 93rd Constitution Amendment Bill, making education a fundamental right in India.

Day Care: It is crucial to have day care facilities for children in both rural and urban settings, especially those whose mothers work, in order to ensure their general growth, health, and nutrition. A child's future well-being is greatly influenced by the early childhood care they get.

IPEC Action: The International Labour Organization (ILO) and the Government of India are working together to gradually end child labour through the IPEC initiative. Established in 1992, this collaboration concentrates on many

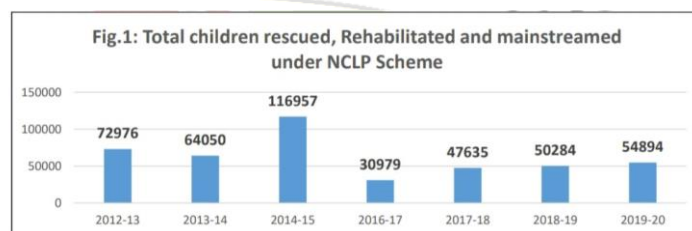
domains and approaches to efficiently tackle child labour.

INDUS Child Labour initiative: Funded jointly by the US and Indian governments, this initiative attempts to combat child labour within the context of increased collaboration between the two nations. It emphasizes initiatives to eliminate child labour and promote child welfare.

Child Welfare Programs: A number of government initiatives, like the Integrated Child Development Scheme (ICDS), are designed to support children's general growth and welfare. In order to promote holistic development and lower infant mortality, morbidity, malnutrition, and school dropout rates, these programs concentrate on early childhood care, health, nutrition, and education.

Plans for Children's Health and Nutrition: Initiatives like the Nutrition Programme for Adolescent Girls and the Prime Minister Gramodya Yojana are designed to help children's health and nutrition. These programs offer extra centralized support to encourage healthy eating and deal with children's nutritional inadequacies.

Child workers are the focus of efforts made possible by the NCLP plan, which aims to rescue, rehabilitate, and integrate them into formal schooling and skill-development programs. In order to help rescued children integrate into society at large, the program attempts to give them access to social services, education, and vocational training.



Therefore, these programs and laws highlight the multifaceted strategy the Indian government has used to fight child labour and protect children's rights. India is still working

hard to end child labour and improve the lives of its children through international cooperation, social welfare programs, educational initiatives, and legal measures.

Conclusion

India has a formidable task as a result of the intricate and pervasive nature of the child labour issue. Children who work are denied their right to a living wage and have delays in their physical and mental growth. Numerous reasons, such as poverty, unemployment, poor educational infrastructure, and the growth of the informal sector, all have an impact on this widespread problem. Consequently, child labour continues to be a global issue that requires immediate attention as well as all-encompassing solutions.

Article 24 of the Indian Constitution defines a "child" as any person under the age of fourteen and forbids them from working in mines, factories, or other dangerous jobs. This concept is further clarified by the kid Labour (Prohibition and Regulation) Act of 1986, which states that an individual who has not yet turned 14 years old is considered a kid. Furthermore, all children between the ages of six and fourteen must receive free and obligatory education from the state, according to Article 21-A. Furthermore, the state's obligation to provide early childhood care and education for kids up to age six is emphasized by an addition to Article 45.

According to Article 24 of the Indian Constitution, a person under the age of 14 is considered a "child" and is not allowed to work in mines, factories, or other dangerous jobs. A person who has not yet turned 14 years old is considered a kid, according to the kid Labour (Prohibition and Regulation) Act of 1986, which goes into additional detail on this concept. In addition, Article 21-A requires the state to offer all children between the ages of six and fourteen free and obligatory schooling. Additionally, a revision to Article 45 highlights the state's obligation to offer early childhood education and care to children under the age of six.

Realizing how serious the problem is, the Indian government has taken aggressive measures to end child labour through laws and programs. A number of child labour initiatives have been started in an effort to help and educate kids who work in dangerous jobs. Furthermore, the government has made these kids' wellbeing a top priority and is working to help their families' financial situation.

Enforcing laws strictly is one way to combat child labour; other strategies include taking quick corrective action to save and assist impacted children. In addition, it is imperative that each and every person understand their role in stopping child labour and take constructive steps to resolve this humanitarian and societal crisis. A comprehensive strategy including legal changes, educational initiatives, social welfare programs, and international cooperation is needed to end child labour. India may make progress toward its objective of ending child labour and guaranteeing a better future for its younger generations by placing a high priority on the safety and welfare of children and taking aggressive steps in this regard.

References

- In 2018, B. Suresh Lal. "Child Labour in India: Causes and Consequences." 2319–7064 is the ISSN for the International Journal of Science and Research (IJSR).
- India's 2001 and 2011 census results. Government of India.
- In 2019, Jaspal Kaur published "Child Labour in India: Causes, Impacts, and Preventive Measures." Volume 7 of the International Journal of Management Review.
- In 2019, Meenu published "Legislative Provision with Respect to Child Labour." Trends in Scientific Research and Development International Journal (IJTSRD), Volume: 3.
- Naresh Kumar Gupta (2015). "Child Labour in India: A Brief Study of Law and Its Implementation." International



Journal of Advanced Research in Social Sciences and Management, Volume 4, Issue 7, pp.

- Nirmalendu Barman and Bhupen Barman (2014). Journal of Humanities and Social Science, Volume 19, Issue 2, "A Study on Child Working Population in India."
- Anukriti Rao (2021) Ph.D. "Study of Causes and Impact of Child Labour." Volume 9, Issue 11 of the International Journal of Creative Research Thoughts.
- In 2019, Rupinder Singh published "Child Labour in India: A Legal Study." Volume 6, Issue 1 of the International Journal of Research and Analysis.

