

## COMBATING CHILD LABOUR IN INDIA: LAWS, CHALLENGES AND SUGGESTIONS

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### ABSTRACT

Child Labour remains as a persistent problem in India. It deprives the fundamental rights of millions of children in the country. Children were forced to work which prevents them from enjoying their childhood. This article provides a comprehensive analysis of various laws that regulate child labour, historical background for the enactment of the Child Labour (Prohibition and Regulation) Act, 1986, statistics of child labour in India based on census conducted by various national and international organizations, and the directions of Supreme Court of India in the case of M C Mehta v. State of Tamil Nadu. This article identifies various problems which lead to child labour and provides suggestions to overcome those problems. This study concludes that a multi-faceted approach is necessary to eradicate child labour in India.

**Keywords:** Child labour, Fundamental rights, India, Supreme Court, Problems, Suggestions

### INTRODUCTION:

Child Labour is a challenging and constant issue in India which sabotages the country's progress toward achieving the United Nations' Sustainable Development Goals (SDGs). Despite the remarkable economic growth, India has the largest number of child labourers globally. Millions of children were deprived of their fundamental rights to education, health and protection. The notion of child labour is deeply engraved in India's socio-economic structure.

The Government of India has passed various laws to fight against child labour, including Child Labour (Prohibition and Regulation) Act, 1986 and the Right of Children to Free and Compulsory Education Act, 2009. The Supreme Court of India has shaped the country's child labour laws through various landmark judgments. However, child labour remains a pressing concern in India despite various actions taken by the Government.

### CHILD LABOUR:

Child Labour refers to the exploitation of children through employment or work which prevents them from enjoying their childhood, intrudes with their right to attend school, and is mentally, physically, socially or morally harmful.

The definition given by **International Labour Organization (ILO)** is as follows –

“Work that deprives children of their childhood, their potential and their dignity, and that is harmful to their physical and mental development”.<sup>583</sup>

### TYPES OF CHILD LABOUR

1. Hazardous Work  
It includes exposure to physical, emotional or moral harm
2. Unconditional Worst Form  
It includes forced labour, slavery, trafficking and commercial sexual exploitation
3. Non-hazardous Work

<sup>583</sup> <https://www.ilo.org>

It includes excessive working hours and interference with education

### PROVISIONS UNDER THE CONSTITUTION OF INDIA:

**Article 24** – Prohibition of Employment of Children in Factories, etc<sup>584</sup>

This provision prohibits the employment of children under age of 14 years in factories, mines, or other such hazardous activities.

However, this article does not forbid the employment of children in harmless or non-hazardous activities.

### GURUPADASWAMY COMMITTEE ON CHILD LABOUR:

During the 1970's, the problem of child labour prevailed in the country. So, to address this problem, a committee named 'Gurupadasawmy Committee' was constituted in 1979. This committee played a crucial role understanding the complications of child labour and proposing solutions to address it. **The Child Labour (Prohibition and Regulation) Act** was enacted as a result of the recommendations made by the committee in 1986.

The committee identified the main reason for the wide-spread problem of child labour is poverty making it challenging to eliminate it entirely through legislation. Instead, they suggested banning child labour in hazardous areas and regulating working conditions in other areas. This committee also recommended that multiple policy approach is needed to deal with the problems of working children.<sup>585</sup>

Some key recommendations made by the committee include –

- Banning of child labour in hazardous areas
- Regulating working conditions
- Multiple policy approach

### PARLIMENTARY ENACTMENTS:

The Parliament has enacted various laws to implement Article 24 of the Constitution.

- Child Labour (Prohibition and Regulation) Act, 1986 & its Amendments
- Employment of Children Act, 1938
- The Factories Act, 1948
- The Mines Act, 1952
- The Merchant Shipping Act, 1958
- The Plantation Labour Act, 1951
- The Motor Transport Worker Act, 1951
- The Beedi and Cigar Workers (Conditions of Employment) Act, 1966

### LEGAL PROVISIONS:

Provisions related to the prohibition of child labour under various laws enacted by the parliament are as below:

- The employment of children below 14 years of age in any factories is prohibited under **section 67 of The Factories Act, 1948.**
- The presence of persons below 18 years of age in any mine is prohibited under **section 45 of The Mines Act, 1952.**
- The engagement of children below 16 years of age in any kind of shipping activities is prohibited under **section 109 of The Merchant Shipping Act, 1958.**
- The employment of children below the age of 14 years in any motor transport undertaking is prohibited under **section 21 of The Motor Transport Workers Act, 1951.**
- The employment of children below the age of 14 years in any plantation is prohibited under **section 24 of The Plantation Labour Act, 1951.**
- The employment of children below the age of 14 years in any industrial premises is prohibited under **section 24 of The Beedi and Cigar Workers (Conditions of Employment) Act, 1966.**

### DIRECTIONS OF SUPREME COURT:

In the case of **M C Mehta v. State of Tamil Nadu**<sup>586</sup>, the Supreme Court gave certain directions to eliminate child labour in the country.

1. Survey for identification of working children.

<sup>584</sup> Article 24 of The Constitution of India

<sup>585</sup> <https://labour.gov.in/childlabour/about-child-labour>

<sup>586</sup> AIR 1997 SC 699

2. Withdrawal of children working in hazardous industry and ensuring their education in appropriate institution.

3. Contribution of Rs.20,000 per child to be paid by the offending employers of children to a welfare fund to be established for this purpose.

4. Employment to one adult member of the family of the child withdrawn from work and if that is not possible a contribution of Rs.5,000 to the welfare fund to be made by the state government.

5. Financial assistance to the families of the children so withdrawn to be paid-out of the interest earnings on the corpus of Rs.20,000/25,000 deposited in the welfare fund as long as the child is actually sent to the schools.

6. Regulating hours of work for children working in non-hazardous occupations so that their working hours do not exceed 6 hours per day and education for at-least 2 hours is ensured. The entire expenditure on education is to be borne by the employer.

#### ENFORCEMENT AUTHORITIES:

1. Ministry of Labour and Employment – It is responsible for the implementation of child labour laws.

2. State Government – The provisions of the Child Labour (Prohibition and Regulation) Act, 1986 are enforced by the State Government.

3. District Magistrate – The government can give District Magistrate the powers and duties needed to enforce the Act.

4. National Commission for Protection of Child Rights – It is the statutory body which monitors the enforcement of the laws relating to child rights and child labour.

5. Judicial Authorities – Special courts were set-up to deal with cases related to child labour law violations.

#### STATISTICS:

- 10.1 million child labourers in India (Census 2011)
- 33% of children aged 5-14 engaged in child labour (NCRB 2020)

• 70% of child labourers work in agriculture (NCRB 2020)

• 50% of child labourers are illiterate (Census 2011)

Between 2009-2013, a total of 10,73,471 inspections on child labour have been held; 55,180 violations have been identified; 24,718 prosecutions have been made and 6,186 were convicted under the Child Labour (Prohibition and Regulation) Act, 1986.<sup>587</sup>

#### PROBLEMS:

1. Many families rely on the income earned by their children to survive, which leads in the increasing number of child labour.

2. Inadequate access to education pushes children into workforce instead of attending school.

3. In some communities, child labour is normalized as a culture and children are sent to work.

4. Children are often paid less than adults. It makes the employers to employ children than adults.

5. Although law against child labour exist in our country, the enforcement is often weak due to lack of resource and corruption.

6. Many child labours are working in unregulated sector such as agriculture and house work making it hard to monitor and regulate.

#### SUGGESTIONS:

1. The need for child labour can be reduced by providing free education to children. Initiatives like scholarships can change the mindset of the families to send their children to school.

2. Intensify the enforcement of existing laws against child labour and ensuring stricter penalties for violators can decrease child labour and their exploitation.

3. Awareness programs can be conducted to educate people about the importance of education and the long-term benefit of sending children to school can change the mindset of the people.

<sup>587</sup> <https://labour.gov.in/childlabour/directions-supreme-court>

4. Toughening of monitoring and surveillance is necessary to identify hidden labours, especially in unregulated sectors.

5. Implementing more social welfare programs that provide financial assistance to low income families can reduce the need of child labour in their families.

6. Monitoring, awareness, and rehabilitation programs for children involved in labour can be done effectively by pairing up with non-governmental organizations such as NGO's.

#### CONCLUSION:

Child Labour is a never ending problem in the society. Even after enacting many laws to eradicate child labour, it is not enforced effectively. To effectively combat child labour, a comprehensive approach is needed involving government initiatives, community engagement, and pairing up with non-governmental organizations. By addressing the root causes and promoting awareness, we can work towards a future where every child has opportunity to enjoy a safe and fulfilling childhood, free from exploitation.

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