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PROTECTING THE RIGHTS OF WORKING CHILDREN IN INDIA: A STUDY OF EXISTING MECHANISMS AND CHALLENGES

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Abstract

Despite India's constitutional guarantees and legislative measures, the rights of working children continue to face significant challenges. This research paper analyses the existing mechanisms – legislative, judicial, and policy-based – aimed at protecting working children and highlights the persistent barriers hindering their effective implementation. It argues that although frameworks like the Child Labour (Prohibition and Regulation) Act, 1986 and the Right to Education Act, 2009 have contributed positively, enforcement gaps, socio-economic disparities, and cultural practices perpetuate the exploitation of working children. Through empirical data and graphical analysis, this study evaluates the effectiveness of current measures and proposes recommendations for a more integrated, rights-based approach.

Despite India's constitutional guarantees and legislative measures, the rights of working children continue to face significant challenges. This research paper analyses the existing mechanisms – legislative, judicial, and policy-based – aimed at protecting working children and highlights the persistent barriers hindering their effective implementation. It argues that although frameworks like the Child Labour (Prohibition and Regulation) Act, 1986 and the Right to Education Act, 2009 have contributed positively, enforcement gaps, socio-economic disparities, and cultural practices perpetuate the exploitation of working children. Through empirical data and graphical analysis, this study evaluates the effectiveness of current measures and proposes recommendations for a more integrated, rights-based approach.

Further, this paper examines the evolving nature of child labour in the context of economic globalization and technological change. It critically assesses the role of international obligations, constitutional mandates, legislative interventions, and policy initiatives in India. By drawing on case studies and field data, it highlights the multifaceted dimensions of child labour – including bonded labour, domestic work, and hazardous occupations – and argues for a rights-based framework that addresses root causes rather than symptoms. Ultimately, this paper seeks to contribute towards creating a protective environment where every child can realize their full potential free from exploitation.

Introduction

The working child represents a paradox within Indian society: a subject of constitutional protection yet simultaneously a victim of

systemic neglect. Child labour, while constitutionally proscribed, remains an unfortunate reality, often justified by poverty, lack of education, and socio-cultural norms.

Working children in India are frequently deprived of their fundamental rights to education, health, leisure, and dignified work, as guaranteed under international conventions and domestic laws. This study explores the duality of India's commitment versus its practice, critically examining whether the mechanisms intended to protect working children are truly effective or merely symbolic.

The working child represents a paradox within Indian society: protected under constitutional guarantees yet systematically neglected in practice. Child labour, while constitutionally proscribed, remains an unfortunate reality, often justified by poverty, lack of education, weak enforcement mechanisms, and entrenched socio-cultural norms. The phenomenon is not merely a legal issue but a complex social and economic problem that demands a multidimensional response.

Working children in India are frequently deprived of their fundamental rights to education, health, leisure, and dignified work, as guaranteed under international conventions and domestic laws. The International Labour Organization (ILO) and the United Nations Convention on the Rights of the Child (CRC) have emphasized the need to eliminate economic exploitation and hazardous work among minors. Despite India's strong commitments to these international standards, implementation on the ground remains inconsistent and fragmented.

This study explores the duality of India's legal commitment versus its practical enforcement, critically examining whether the mechanisms intended to protect working children are truly effective or merely symbolic. Special focus is placed on the tension between legislative frameworks and socio-economic realities that perpetuate child labour. By dissecting current legal instruments, policies, and institutional mechanisms, this paper seeks to answer: To what extent do existing protections genuinely safeguard the rights of working children in India?

At a time when India aspires to position itself as a global economic powerhouse, protecting its most vulnerable citizens is not just a constitutional duty but a moral imperative. Addressing child labour through a rights-based lens is crucial for achieving inclusive and sustainable development.

Background: International and Constitutional Framework

International Instruments

India is a signatory to several international conventions including:

- **Convention on the Rights of the Child, 1989 (CRC)** – guaranteeing the right to protection from economic exploitation.
- **ILO Convention No. 138** on Minimum Age for Admission to Employment.
- **ILO Convention No. 182** on the Worst Forms of Child Labour.

These conventions establish a binding obligation to eliminate child labour and safeguard children's rights.

Constitutional Provisions

- **Article 21A:** Right to free and compulsory education for children aged 6 to 14 years.
- **Article 23:** Prohibition of trafficking and forced labour.
- **Article 24:** Prohibition of employment of children below the age of 14 in hazardous occupations.
- **Directive Principles** (Articles 39(e) and 39(f)): Mandate the State to ensure that children are not abused and are given opportunities to develop in a healthy manner.

Legislative Framework

India has enacted several laws to protect working children:

Recent Amendment:

Law	Year	Key Features
The Factories Act	1948	Prohibits employment of children below 14 years in factories
The Mines Act	1952	Prohibits children below 18 from working in mines
The Child Labour (Prohibition and Regulation) Act	1986	Prohibits and regulates child labour in certain sectors
The Right to Education Act	2009	Guarantees free education and indirectly combats child labour

- The Child Labour (Prohibition and Regulation) Amendment Act, 2016 prohibits employment of children below 14 years in all occupations and processes, except where the child helps his family after school hours.

Current Status: Empirical Overview

According to the 2011 Census, approximately 10.1 million children aged 5-14 years were engaged in work, despite legal prohibitions. The decline compared to previous decades reflects progress but also signals persistent challenges.

Child Labour Trend in India (1991-2011)

Graph 1: Source – Census of India

The above graph shows a noticeable reduction in child labour from 1991 to 2011, yet the numbers remain alarmingly high.

Challenges to Protecting Rights of Working Children

1. Poverty and Economic Pressures Economic necessity remains a compelling force pushing children into labour. Legislative bans, without

economic alternatives for families, are often ineffective.

2. Lack of Access to Quality Education Many regions, particularly rural and tribal areas, suffer from inadequate educational infrastructure, making the right to education theoretical rather than practical.

3. Weak Enforcement Mechanisms Inspectorial systems suffer from corruption, understaffing, and lack of training. Penalties under existing laws are often insufficient to act as deterrents.

4. Cultural Acceptance Child work is normalized in many communities. Family-based enterprises often employ children under the guise of “family help.”

5. Informal Sector Dominance A majority of child labour is hidden in the informal economy, making detection and regulation extremely difficult.

Distribution of Child Workers by Sector

Sector	Percentage
Agriculture	56%
Manufacturing	16%
Services (including domestic work)	28%

Table 1: NSSO Data 2017-18

The Psychological Impact of Child Labour: An Overlooked Dimension

While much attention is given to the economic, legal, and educational aspects of child labour, the **psychological consequences** are often marginalized in discussions. Yet, the mental scars left by early exploitation can affect children for life, impacting their emotional well-being, cognitive abilities, and social integration.

1. Emotional and Behavioral Disorders

Children engaged in labour are routinely subjected to high levels of stress, often beyond their coping abilities. Daily exposure to exploitative conditions, physical punishments, verbal abuse, and harsh work environments triggers a range of emotional disturbances:

- **Anxiety Disorders:** Constant fear of failure, punishment, or dismissal leads to generalized anxiety.
- **Depression:** Feelings of helplessness and chronic sadness are common, especially among children trapped in long-term exploitative conditions.
- **Post-Traumatic Stress Disorder (PTSD):** Children exposed to physical abuse or unsafe environments often display symptoms such as nightmares, emotional numbness, and hypervigilance.
- **Aggressive Behavior:** As a coping mechanism, some children develop aggressive tendencies, leading to future social and legal troubles.

2. Cognitive Developmental Delays

The early years of life are critical for brain development. Child labour interferes with this natural process in several ways:

- **Reduced Learning Capacity:** Working long hours leaves children physically exhausted and mentally drained, reducing their ability to concentrate or memorize.
- **Delayed Language and Mathematical Skills:** Without regular schooling, working children fall behind in fundamental skills crucial for lifelong learning.
- **Executive Function Impairments:** Skills like decision-making, problem-solving, and impulse control suffer significant setbacks.

Longitudinal studies have shown that children engaged in labour are at a higher risk of becoming economically and socially marginalized adults, perpetuating the cycle of poverty.

3. Social Alienation

Social development during childhood lays the foundation for future relationships and community integration. Labour isolates children

from their peers, denying them the opportunity to learn cooperation, empathy, and communication skills.

- **Peer Isolation:** Working children often feel "different" and stigmatized among school-going peers, which can lead to feelings of inadequacy and low self-worth.
- **Family Estrangement:** Children forced into labour may harbor resentment towards their families, particularly if they feel exploited or abandoned.
- **Vulnerability to Exploitation:** A lack of social skills makes former child workers easy targets for human trafficking, substance abuse, and criminal exploitation.

Impact Type	Specific Consequences
Emotional	Anxiety, depression, PTSD, aggression
Cognitive	Poor memory, reduced IQ, learning delays
Social	Isolation, lack of empathy, risk of exploitation

The Urgent Need for Psychological Rehabilitation

While legal rescue operations and educational reintegration are critical, **holistic rehabilitation** must also include mental health support. Rescued children carry psychological wounds that, if left unaddressed, can impair their future prospects permanently.

Key Components for Psychological Rehabilitation:

- **Trauma Counseling:** Each rescued child should receive a mandatory psychological assessment followed by trauma-informed therapy.
- **Peer Support Groups:** Community-based groups where former child

labourers can share experiences and build resilience.

- **Play Therapy:** Structured play sessions help rebuild cognitive and emotional pathways damaged by early stress.
- **Family Therapy:** Addressing the underlying family dynamics that pushed the child into labour can prevent recurrence.
- **Continuous Monitoring:** Psychological support must continue well beyond the initial rescue, integrating regular mental health check-ups into rehabilitation programs.

Without addressing these emotional and cognitive injuries, rescue efforts risk being superficial and ineffective.

Gender and Child Labour: A Differential Impact

The **gendered nature of child labour** adds another layer of complexity. Boys and girls not only engage in different types of work but also face vastly different risks and consequences.

Girls: The Invisible Workforce

- **Domestic Servitude:** Girls are often employed as domestic workers in private homes where abuse is harder to detect.
- **Agricultural Labour:** Girls contribute significantly to unpaid family work in fields, which is often excluded from official child labour statistics.
- **Sexual Exploitation:** Girls are at a higher risk of being trafficked for commercial sexual exploitation, particularly in regions where law enforcement is weak.

Girls' work is **less visible**, making intervention and rescue particularly challenging. Moreover, societal norms often normalize female child labour as an extension of household duties.

Boys: Hazardous Outdoor Work

- **Construction and Mining:** Boys are more likely to be employed in heavy, dangerous physical labour.
- **Street Vending and Ragpicking:** These occupations expose boys to criminal elements, physical hazards, and substance abuse.

Though boys face greater physical risks, they often have marginally better access to rescue and rehabilitation programs due to their visibility in public spaces.

Policy Blind Spots and Recommendations

Existing child labour laws often adopt a **gender-neutral** language, inadvertently ignoring the specific vulnerabilities of girls.

Major Gaps:

- **No gender-segregated data collection:** Official surveys rarely distinguish between boys' and girls' labour, obscuring the full scale of exploitation.
- **One-size-fits-all rehabilitation:** Current programs do not account for the different psychological and physical needs of girls and boys.

Proposed Gender-Sensitive Measures:

1. **Mandatory Gender-Disaggregated Data Collection:** Every survey and report must separately document boys and girls involved in child labour.
2. **Special Protection Units for Girls:** Rescue operations must include female officers and social workers trained to handle girl child labourers sensitively.
3. **Tailored Rehabilitation Programs:** Provide safe shelters specifically for girls, combining education, healthcare, and vocational training in a gender-sensitive environment.
4. **Community Awareness Campaigns:** Educate communities about the hidden exploitation of girl child labourers,

emphasizing the right to education and protection.

5. **Amend Existing Laws:** Update the Child Labour (Prohibition and Regulation) Act, 1986, to include explicit provisions addressing domestic labour and hidden forms of exploitation common among girls.

Case Law Analysis

The judiciary in India has played an increasingly proactive role in interpreting child labour laws and reinforcing the rights of children. Landmark judgments reflect the evolution of judicial thinking from mere regulation to holistic child protection.

1. M.C. Mehta v. State of Tamil Nadu (1996) The Supreme Court mandated that children employed in hazardous occupations be withdrawn and provided alternative education. Compensation for affected families was ordered, and a corpus fund for child labourers was created, signaling a shift towards state accountability.

2. Bandhua Mukti Morcha v. Union of India (1984) This case redefined "right to life" under Article 21 to encompass the right to live with dignity, leading to judicial activism against bonded child labour. The judgment emphasized rehabilitation as a necessary extension of fundamental rights.

3. People’s Union for Democratic Rights v. Union of India (1982) Employment of children below 14 years in construction projects was declared unconstitutional. The case reinforced the duty of both private entities and the State to prevent child labour.

4. Salal Hydro Project v. State of Jammu and Kashmir (1984) Although permitting some form of child work, the Court warned against dangerous work environments for children, encouraging strict scrutiny of hazardous industries.

These cases collectively highlight a judicial approach that increasingly prioritizes child

welfare, even directing the State to undertake proactive rehabilitation measures.

Critical Evaluation of Key Policies

1. National Child Labour Project (NCLP)

Launched in 1988, NCLP remains India’s flagship programme for rehabilitating working children through special schools providing non-formal education, vocational training, nutrition, and health care.

Component	Details
Special Training Centers	Over 6000 across 400+ districts
Monthly Stipend	₹200 per child
Bridge Education	Preparation for mainstreaming into formal schools
Health Check-ups	Regular medical services for enrolled children

Critical Observations:

- **Budgetary Constraints:** Funding is often delayed, hampering project implementation.
- **Poor Quality Assurance:** Education standards and teacher quality remain suboptimal.
- **Limited Geographical Spread:** Remote and tribal areas remain underserved.

2. Right to Education (RTE) Act, 2009

While revolutionary in theory, RTE faces practical hurdles.

Barrier	Impact
Exclusion of 14-18 age group	Vulnerable adolescents fall back into labour
Poor Infrastructure	Lack of basic facilities like toilets, drinking water
Teacher Shortage	1.2 million teacher vacancies nationally

Despite free and compulsory education, systemic deficiencies hinder full realization of RTE’s objectives.

Challenges in Implementation (Expanded Analysis)

1. Socio-Economic Determinants Extreme poverty forces families to prioritize survival over education. Without substantial economic upliftment, laws alone are insufficient to eliminate child labour.

2. Administrative Apathy and Corruption Investigations reveal that labour officers often collude with employers. Fewer than 10% of registered complaints against child labour result in convictions.

3. Lack of Accurate Data Reliable, disaggregated data on child labour trends are lacking, impeding evidence-based policy planning.

4. Informality of Work Child labour is entrenched in the informal economy, such as home-based industries, agriculture, and domestic work, making regulation extremely difficult.

Key Informal Sectors	Estimated Child Workers
Agriculture	55%
Manufacturing (small workshops)	20%
Domestic Work	15%
Street Vending, Rag-picking	10%

Recent Trends: Impact of COVID-19 Pandemic

The pandemic has reversed gains in child rights protection. School closures and economic distress have led to an increase in child labour rates by an estimated 5% globally, with India contributing significantly to this surge.

Pandemic Impact Chart

Factor	Effect
School Closures	247 million Indian children affected
Job Losses	Increase in child labour as income substitute
Migration	Children entering informal and hazardous jobs

Preliminary Recommendations (Expanded)

- Strengthen Labour Inspection Systems:**
 - Increase labour inspectors per capita.
 - Digitize inspections to improve transparency.
- Conditional Cash Transfers:**
 - Implement schemes linking direct cash benefits to school attendance.
- Skill Development for Adolescents:**
 - Provide vocational training under Skill India Mission targeted at 14-18 years.
- Community Mobilization:**
 - Establish Child Protection Committees at village and ward levels.
- Public-Private Partnerships (PPP):**
 - Encourage corporate social responsibility (CSR) initiatives focused on child welfare.
- Expand the Scope of RTE Act:**
 - Amend RTE to cover children up to 18 years and ensure inclusion of migrant children.
- Technology-Enabled Monitoring:**
 - Use AI and big data for tracking and predicting child labour hotspots.

Conclusion

The plight of working children in India reflects a profound contradiction – a nation that dreams of becoming a global economic power, yet struggles to safeguard the childhoods of its most vulnerable citizens. Despite constitutional promises, international commitments, and decades of legislative reforms, millions of children continue to toil in fields, factories, homes, and streets, robbed of their fundamental rights to safety, education, and dignity.

This study reveals that while India possesses a robust legal and institutional framework, the battle against child labour is far from won. Implementation deficits, systemic socio-economic inequalities, cultural normalization of child work, and inadequate rehabilitation efforts persistently undermine progress. Child labour is not merely a violation of law; it is a theft of potential, a betrayal of the future, and a deep wound in the moral fabric of the nation.

A child's hands are meant to hold books, not tools. Their dreams should be nurtured in classrooms, not crushed under the weight of economic survival. When a child is forced into labour, it is not just an individual tragedy but a collective societal failure. It signals the erosion of justice, equality, and humanity itself.

The findings of this research highlight that eliminating child labour requires more than enforcing prohibitions – it demands building a society where no child is forced to choose between hunger and education. Laws must be backed by robust monitoring, dedicated rehabilitation, psychological healing, community empowerment, and, above all, a cultural shift that sees every child not as an economic contributor but as a human being with infinite worth and potential.

Urgent reforms are needed. The Child Labour (Prohibition and Regulation) Act must evolve to address hidden and emerging forms of exploitation. Rescue operations must transition into holistic recovery and reintegration

programs. Education must be made universally accessible, free, and safe, extending beyond the age of fourteen. Labour inspectorates must be reformed, adequately staffed, and insulated from corruption. Economic policies must focus on breaking the intergenerational cycle of poverty, which is the single greatest driver of child labour.

Moreover, any strategy must be gender-sensitive, trauma-informed, and community-based. Girls, especially those trapped in invisible labour within homes, must be recognized as primary victims and prioritized for rescue and rehabilitation. The psychological scars borne by working children must be acknowledged, treated, and healed through sustained mental health support integrated into every child protection scheme.

Above all, society must recognize that the eradication of child labour is not merely a legal obligation – it is a moral imperative. It is about restoring lost childhoods, healing invisible wounds, and building a nation that measures its success not by its GDP but by the smiles of its children and the dreams it protects.

India stands at a crossroads. The path it chooses will define not just its economy or its global stature, but its very soul. As long as even one child is forced to work instead of study, play, and dream, the promise of justice remains unfulfilled.

The time to act decisively is not tomorrow – it is today.

Protecting working children is not charity. It is justice. It is duty. It is the truest test of who we are as a nation.

If we aspire to build an India that is truly modern, truly inclusive, and truly great, we must begin by building an India that protects every child – not in word, but in action.

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