

## **ENACTMENTS CONTROLLING CHILD LABOUR IN INDIA**

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### **Introduction**

Children represent the most vulnerable and valuable section of any society. Ensuring their protection, development, and well-being is not only a constitutional mandate but also a moral obligation. India, being a signatory to the United Nations Convention on the Rights of the Child (UNCRC), has developed a robust legal framework to safeguard the rights of children across various domains including education, protection from exploitation, juvenile justice, health, and welfare.

Over the years, several child-related enactments have been introduced in India to address the unique needs and rights of children. These laws are aimed at protecting children from abuse, neglect, exploitation, and ensuring their right to a safe and nurturing environment. Key legislations such as the Juvenile Justice (Care and Protection of Children) Act, 2015, the Protection of Children from Sexual Offences (POCSO) Act, 2012, and the Right of Children to Free and Compulsory Education Act, 2009 reflect the country's commitment to upholding child rights.

These enactments not only provide preventive and protective measures but also promote rehabilitative and child-friendly procedures, ensuring that the best interest of the child remains paramount in every legal process.

### **Why the Act 1986 was amended**

The Child Labour Act was passed with the intention of achieving two conflicting goals: the prohibition and regulation of child labour. However, these objectives contradict Article 24 of the Indian Constitution, which prohibits the employment of children under 14 in factories, mines, or hazardous industries. The Act, rather than completely abolishing child labour, focuses more on its regulation, which does not fully align with the Constitution's intent to eliminate child labour.

A significant gap in the law is the lack of provisions for the rehabilitation of children who are rescued from child labour. The amendment to Section 3 has been misused by employers, who exploit the clause allowing children to work in family enterprises. By portraying children as family members, employers evade prosecution, as the burden of proof falls on them to demonstrate the child's family connection.

Additionally, there is no clear or standardized definition of a "child" across various laws. The term is defined differently in the Child Labour (Prohibition and Regulation) Act, 1986, the United Nations Convention on the Rights of the Child (1989), and the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006. This inconsistency leads to confusion and uncertainty, as there is no universal framework to determine the age of a child, further complicating enforcement.

Article 24 of the Constitution prohibits the employment of children in dangerous work but does not impose an outright ban on child labour. This creates a loophole, allowing children under 14 to be employed in non-hazardous industries. This legal grey area undermines the Right of Children to Free and Compulsory Education Act, 2009, which mandates free education for all children between 6 and 14. The absence of a clear and cohesive policy results in conflicting

approaches to child welfare and education, leaving children vulnerable to exploitation and limiting their opportunities for a better future.<sup>612</sup>

However, the Child Labour (Prohibition and Regulation) Act, 1986, which permits children under 14 to work in non-hazardous occupations, undermines the spirit of the right to education and justice for children.<sup>613</sup>

The Chairperson of National Commission for Protection of Child Rights said "The tyke work approach itself is defective and existing tyke work law was disregarding the basic ideal to instruction. In this manner, there is a need to correct the Act to make it in consonance with the Right to Education. The meaning of tyke work needs to incorporate youngsters working in the homestead lands. The National Policy on Children 1974 is currently obsolete. It ought to be more youngsters arranged and Rights situated with a specific end goal to be powerful. The laws and arrangements now need to affirm to the global models set down in the U.N. Tradition on the Rights of the Child.

### **Critical Analysis of the Amended Act, 2016**

On its substance, the revised Act of 2016 is by all accounts dynamic. Be that as it may, on watchful perusing, multiple loopholes in the new Act are uncovered. The inadequacies of the Act are as per the following:

- The reduction of the list of hazardous occupations from 83 to just 3 (mining, explosives, and certain hazardous processes) in the amendment will only lead to a decrease in the number of child workers in those specific sectors, not a significant reduction overall. This approach is unfair to children, as it still

allows them to be employed in the remaining 80 hazardous occupations. Section 4 of the Act grants the government, rather than Parliament, the discretionary power to revise the list of hazardous jobs. This creates the potential for more child labour in industries that were previously considered dangerous, further undermining the effectiveness of the law.<sup>614</sup>

- Legalizing Child work in "family venture" will brings about constrained work – Section 3 Clause 5 of the Act allows a tyke to work in family or family undertakings and in a varying media outlet. The said arrangement is impeding as it doesn't characterize the hours of work. It essentially gives that simply after school hours and amid excursion youngster can work. Such lawful arrangement is probably going to be abused in the Indian setting and would prepare for youngster work as most kids to be sure work in a family-run exchange. The term family venture is characterized as any work, calling or business performed by the individuals from the family with the assistance of different people. Such more extensive definition would advance rank based occupation. It will likewise enable temporary workers that will, thusly, result in fortified/constrained work. Such arrangement will adversary affect instruction, imaginative personalities, learning results and additionally wellbeing and general improvement of a tyke.
- The Act has totally ignored the essential qualification amongst child and adults– Non – acknowledgment of this refinement is subjective and a reasonable infringement of a privilege to balance encapsulated under Article 14 of

612 The Child Labour (Prohibition and Regulation) Act, 1986, No. 61 of 1986, India Code (1986), available at: <https://www.indiacode.nic.in>; The Right of Children to Free and Compulsory Education Act, 2009, No. 35 of 2009, India Code (2009), available at: <https://www.indiacode.nic.in>; United Nations Convention on the Rights of the Child, 1989, available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

613 The Constitution of India, art. 24; The Child Labour (Prohibition and Regulation) Act, 1986, No. 61 of 1986, India Code (1986), available at: <https://www.indiacode.nic.in>; The Right of Children to Free and Compulsory Education Act, 2009, No. 35 of 2009, India Code (2009), available at: <https://www.indiacode.nic.in>

614 The Child Labour (Prohibition and Regulation) Amendment Act, 2016, No. 46 of 2016, India Code (2016), available at: <https://www.indiacode.nic.in>

the C Further, the meaning of tyke work has been modified by the Act as it legitimizes tyke work in a privately-owned company and allows youthful to work in the non-risky occupation.

- The Act negate household enactments and in addition universal convention– The Act not just turn around the increases of past laws, yet additionally conflicts with the soul of RTE Act of 2009 as it enables a tyke to work in a family undertaking. It likewise transgresses worldwide tradition, for example, the International Labor Organization's (ILO), and UNICEF's Convention on the Rights of the Child, to which India is a signatory. UNICEF has brought up caution over kids work in family ventures and diminishment in the rundown of risky occupation.
- The Act does not have the arrangements identifying with control, examination and checking frameworks. Control will be a major test as the Act does not set out the criteria to decide if a specific venture is a family undertaking or not. The absence of such arrangements leaves the life of youngsters on account of the business.
- Penalty arrangements additionally experience the ill effects of specific provisos – The Act recommend punishment just for work of youngsters and not for awful working conditions. Punishing guardians are awful in law as it will just expand the weight of poverty-stricken guardians.

### **CONCLUSION& WAY FORWARD**

The Child Labour (Prohibition and Regulation) Amendment Act, 2016, while intended to align with the Right to Education and international conventions, still reflects several structural weaknesses. Legalizing child work within “family enterprises” and reducing the list of hazardous occupations may lead to increased exploitation under legal cover. The Act does not address the core causes of child labour such as poverty,

lack of education, and social backwardness, nor does it provide robust rehabilitation frameworks for rescued children.

For real change, India must adopt a multi-pronged strategy—strengthening enforcement, ensuring accessible and quality education, empowering families economically, and harmonizing the definition of “child” across all legal frameworks. Additionally, grassroots-level awareness and civil society participation are vital to prevent circumvention of the law. Only through genuine political will and holistic social reforms can the country hope to eliminate the evil of child labour and uphold the rights and dignity of every child.

The legislature on this front has additionally made a couple of legislations. The International Labor Organization (ILO) propelled the International Program for Elimination of Child Labors in 1991. India was the first to join the same in 1992, still the issue endures because of poor usage of the approach and projects. This awareness will go a long way in securing a better future for the millions of working children in India. In conclusion, rather than solely blaming the “supply side” of the issue, we should focus on addressing the “demand side.”

- Child labour is a widespread issue, and as citizens of India, we must collectively work towards taking strong actions against it.
- NGOs can play a crucial role in the elimination of child labour. The government often lacks the infrastructure to reach every segment of society, especially the millions who live and work in remote areas.
- NGOs can act as a bridge between these hard-to-reach areas and the government, ensuring that resources and support are directed where they are most needed.
- The media has an important role to play in the fight against child labour. By raising awareness and highlighting the

issue, the media can help shift public opinion and influence change.

- The media should also focus on exposing companies or businesses that secretly employ children and violate child labour laws, holding them accountable for their actions.
- The government should offer financial or non-financial incentives to families living Below the Poverty Line (BPL), encouraging them to send their children to school rather than forcing them into the workforce.
- States must take effective measures to address inequalities, including class and caste-based barriers, in access to employment, healthcare, and education. These interventions will significantly contribute to the eradication of child labour in the long term.

