

## ***Child Labour and its aspects in India***

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### **Abstract**

*“When a child has no trust, a nation has no future<sup>1</sup>.”*

*Children are always seen as devout versions of Almighty God who always strive to instil happiness, joy, innocence, and hope. The future of a country depends on how it treats children and women, after all, children mean hope which not only strengthens the economy of the country but also empowers the country with skilled people to provide resources and opportunities to the basics needed for survival with Indian principles of education.*

*It is the moral duty of every citizen to ensure that the childhood of our children is protected and not violated as in India where child labour is caused by poverty and helplessness.*

*Child labour and their safeguard is a very old and longstanding hurdle in the development of the country. This research article aims at analysing the data of children working as child labourers in India, the causes behind increase in the number of child labour, the laws to safeguard the rights of the child labours in India and the landmarks judgments as well as the suggestions to improve the situation<sup>2</sup>.*

**Keywords:** *Child, Child labour, Education, Moral duty, citizen*

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<sup>1</sup> Rupinder Singh, Child Labour in India: A Legal Study, IJRAR Vol 6 Issue I, E-ISBN: 2348 –1269

<sup>2</sup> N.Mitra, “The Slave Children of Mandsour” Sunday 8, 19th December, 1980, pp 10-17

## **Introduction**

With increased economic insecurity, lack of social protection and reduced household incomes, the Covid-19 pandemic is forcing children from poor households to risk engaging in exploitative labour to contribute to household income. Subsequent restrictions have exacerbated the situation, posing significant risks to progress in eliminating child labour.

The true extent of the impact of the Covid-19 pandemic on child labour has yet to be measured, but there is every indication that with children unable to go to school and parents unable to find work, the impact will be significant<sup>3</sup> However, not all factors that contribute to child labour are caused by the pandemic; most of them are pre-existing and therefore exposed or reinforced. Policy and programmatic interventions can save children despite the amplified factors of the pandemic.

## **Child vis a vis Child Labour?**

The Child Labour (Prohibition and Regulation) Act 1986 defines a child as a person under the age of 14 years.

### **Who is a Child labour?**

Child labour as defined by the International Labour Organization (ILO) is work which deprives children of their childhood, their potential and their dignity, and which harms the physical and mental development of children. The ILO has also explained that the most extreme forms of child labor involve children enslaved, separated from their families, exposed to serious dangers and diseases and/or left to fend for themselves on the streets of large cities.

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<sup>3</sup> Covid 19 may push millions more children into child labour- ILO and Unicef, At <https://www.unicef.org/press-releases/covid-19-may-push-millions-more-children-child-labour-ilo-and-unicef> , visited on 28<sup>th</sup> March, 2023

However, children or young people who perform work that does not affect their health and personal development or interfere with their studies are not child labourers. Examples include helping parents at home, helping loved ones, or earning pocket money during free time and vacations.

Child labour generally refers to the employment of children in any paid or unpaid manual work. Child labour is not limited to India, it is a global phenomenon. In the case of India, the question is delicate because Indian children have traditionally helped their parents in agricultural work and other primitive activities. Another concept worth explaining is that of debt bondage, one of the most common forms of exploitation. Debt bondage is when children are forced to work as employees instead of their parents paying off their debts due to high interest rates. Related to the concept of bonded labour in India is the concept of urban child labour, where the workers are street children who spend most of their childhood on the streets.

### **Children exploited as labour in India?**

They are not in school, play or other constructive activities, but engage in a range of activities involving repetitive low-skilled work that does not contribute to the development of future employment opportunities. Employment, where they are forced to be exposed to harmful health and safety conditions in the agricultural, industrial and service sectors.

The work required long hours to complete a dizzying array of tasks such as transferring pollen into cotton plants, picking crops by hand, moving around tea or tobacco plantations, brick factories and construction sites; being sent to dangerous mines for gold and diamond mining, or confined to cramped workshops to cut and polish precious stones; worked in slaughterhouses and tanneries with minimal protection, or worked in life-threatening conditions in fireworks factories.

Children are often assigned to work in the dark spinning mills and mills of the fashion industry and the sweatshops of garment factories, from handling silkworms in boiling water to heavy renovation work. They pick up litter on the streets - supporting the entire recycling industry, or doing chores around the

house, or as employees of other people, or girls doing chores at home, wherever they are considered free labour and not considered better educated than their brothers.

Worse is the human trafficking situation of modern slavery, in which children are dumped and face horrific abuse and lifelong trauma as bonded laborers or sold as sexual exploiters.

### **What are the statistics on child labour in India?**

- According to the 2011 Census, there are more than 10.2 million children in the age group 5-14 years are employed as children.
- Child labour has increased rapidly in cities and decreased in rural areas. The overall reduction in child labour was only 2 out of 2% per year from 2001 to 2011<sup>4</sup>.
- The largest employers of child labour in India are found in the states of Uttar Pradesh, Bihar, Rajasthan, Madhya Pradesh and Maharashtra.

### **What is the nature of child labour in India?**

Changes in the workplace: Children are heavily involved in domestic work and the informal sector.

**Rural-urban:** In urban areas, a large number of children are employed in manual household chores, quilting, restaurants, automobile repair shops, etc. In rural areas, children are employed in Agriculture, including cotton growing, Glass, Matchbox industry, Copper and lock making, Embroidery, Rag picking, Beedi-44 Cushion Manufacturing Industry, 4-4, Mining and Quarrying, Brick Kiln, Tea Plantation, etc.

**Gender-specific:** The division of labour is gender-specific, with girls performing more household and domestic chores, while boys work as wage labourers.

**Forced child labour:** refers to the employment of a person on the basis of a loan, debt or social obligation of a child or an entire family. Bonded children mainly

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<sup>4</sup> International Labour Organization, visited on 28<sup>th</sup> Feb, 2023

At [https://www.ilo.org/newdelhi/whatwedo/publications/WCMS\\_557089/lang--en/index.htm](https://www.ilo.org/newdelhi/whatwedo/publications/WCMS_557089/lang--en/index.htm)

work in agriculture or help their families in brick kilns and quarries. There are approximately 10 million child laborers in India.

**Migrant children:** Children who migrate with their families are often forced out of school and inevitably placed in the workplace.

### **What are the causes of child labor in India?**

**Poverty and debt:** Poverty is the main cause of child labour. For poor families, the child's labor income is often important for their own survival or that of the family. Children are also forced to work because of family debts.

Rural poverty and urban migration often lead to child labor trafficking. Adult unemployment and underemployment: High rates of adult unemployment and underemployment often force children to work to support their families.

**Parental illiteracy and ignorance:** The crisis is further exacerbated by the illiteracy of the children's parents. Illiteracy and lack of awareness of the harmful effects of child labour drive them to break the law and put their children at risk of inhumane exploitation.

In addition, the declining quality of education leads to higher dropout rates and forces children to work. Compulsory education (RTE) excludes the 15-18 age group (young people). However, because they are illiterate or out of school, these children are vulnerable and the most vulnerable to informal, unskilled and casual work.

**Demand for child labour:** The increased demand for child labour, especially in urban areas, is an important reason for the emergence and increase in child labour.

Children are employed because they are cheap and flexible to employers' demands and their rights are not understood.

**Cultural factors:** The expectation that children contribute to the socio-economic survival of the family and the community and to the existence of the extended family leads to child labour.

Children usually take on traditional family chores from an early age. For example, a goldsmith's son went to work as a goldsmith, or a carpenter's child started carpentry at an early age.

**Social Factors:** There is a strong correlation between India's differentiated social structure and child labour. Most working children in India belong to the so-called lower castes (SC), tribal and Muslim religious minorities<sup>5</sup>.

### **What are the international safeguards against child labour?**

#### **International Labor Organization (ILO) Convention:**

The two fundamental conventions directly related to child labour are Conventions 138 (Minimum Age Convention) and 182 (Worst Forms of Child Labour Convention) of the ILO.

#### **International Labor Organization (ILO).**

**Declaration of the Rights of the Child, 1959:** 1948 Universal Declaration of Human Rights - mentions (under Article 25) the right of children to special care and assistance.

These principles, along with others from the Universal Declaration on Children, are contained in the 1959 Declaration on the Rights of the Child.

United Nations Convention on the Rights of the Child, 1989, It sets out the rights of children - civil, political, economic, cultural, social and health. Article 32 stipulates that the government must protect children against work that is dangerous or likely to harm their health or education.

### **What measures has India taken?**

#### **Child Labor (Prohibition and Regulation) Act 1986<sup>6</sup>**

This Act was passed in 1986 on the recommendation of the Gurupada swamy Committee (1979). It has the following objectives:

- Prohibition of children from certain work.

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<sup>5</sup> Report of the Director General ILO; Youth and Work, Part – II, 1960, P-311

<sup>6</sup> Child Labor (Prohibition and Regulation) Act 1986, Act 61 of 1986

- And regulate the working conditions of children in certain other occupations.

Important Features:

- This law prohibits children from practicing any of the professions listed in Part A of the Schedule; for example: catering for railway companies, construction work anywhere on or near the tracks, plastic factories, car garages, etc.
- The law also prohibits children from working where certain processes are practiced, as listed in Part B of the Schedule; for example, bidini making, tanning, soap making, brick and tile kilns, etc.
- Part III of the Act outlines the conditions under which a child may work in an unlisted profession/process.
- Any person who employs a child in violation of article 3 of the law will be punished with a prison sentence of at least 3 months but possibly up to one year or with a fine.

### **Child Labour (Prohibition and Monitoring) Amendment, 2016**

- the amendment completely prohibits the employment of children under 14 years of age.
- This amendment also prohibits the employment of young people between the ages of 14 and 18 in dangerous trades and processes and regulates their working conditions where it does not prohibit them.
- The amendment also provides for harsher penalties for employers who violate the Act and for employers who admit an offense of engaging a child or young person in the services of the Act.

### **Child Labour Act<sup>7</sup>**

- this rule provides a broad and specific framework for the prevention, prohibition, rescue and reintegration of child and young workers.
- It also clarifies issues related to support for families and family businesses and the definition of family in relation to children.
- It states that children do no chores between school time and 7:00 p.m. 8:00am
- It also provides guarantees to artists who are allowed to work under the law in terms of working hours and working conditions.

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<sup>7</sup> Child Labour (Prohibition and Monitoring) Amendment, 2017

- It stipulates that no child can work more than 5 times a day and not work more than 3 hours without interruption.

### **National Child Labour Policy (1987)**

- Contains an action plan to combat child labour.
- It focuses more on the rehabilitation of children engaged in hazardous occupations and processes than on prevention.
- The policy has three main elements:
  1. Legal Action Plan – Emphasis will be placed on the strict and effective enforcement of the child-related provisions of the various labour laws.
  2. Focus on general development programs - Utilize as much as possible the various development programs undertaken by other ministries/departments for the benefit of working children.
  3. Project-based action plan – initiate child labour protection projects in areas with high concentrations of child labour.

### **National Child Labour Project Program**

- To reintegrate working children, the government has launched the National Child Labour Project (NCLP).

- NCLP Program Objectives:

1. Eliminate all forms of child labor by identifying and removing children from child labor and preparing them for mainstream education and vocational training
2. Help all adolescent workers to leave unsafe professions/processes and help them acquire skills and integrate into appropriate professions.
3. Establish child labor monitoring, tracking and reporting systems.  
Pencil: The government has launched a dedicated platform viz. pencil.gov.in to ensure effective enforcement of child labor laws and end child labor.

### **Juvenile Justice Act<sup>8</sup>**

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<sup>8</sup> Juvenile Justice (Care and Protection of Children) Act 2000 and Amendments to the Act 2006

- This includes working children in the category of children in need of care and protection, without any restriction of age or professional type.
- Articles 23 (abuse of young persons) and 26 (exploitation of young employees) deal specifically with child labor among children in need of care and protection. Right to Free and Compulsory Education Act (2009): This law stipulates that the state must ensure that all children between the ages of 6 and 14 receive free education in schools.

Bachpan Bachao Aadolan, Child Fund, CARE India, Talaash Association, Children's Rights and You, Global Mars Youth Children's Fund, RIDE India, Child line, Kailash Satyarthi Children's Foundation these are some NGO's which are constantly working for the welfare of children's<sup>9</sup>.

### **SUPREME COURT SAYS THROUGH ITS VARIOUS JUDGEMENTS ON CHILD LABOUR**

1. *Roshan Gupta V. The State Of Bihar & Ors*<sup>10</sup>, the writ petition has been filed challenging the orders contained in Annexures 1 and 2 by which the petitioner has been imposed a fine of Rs.20,000/-The main submission on behalf of the petitioner is that without giving him an opportunity to explain the circumstances under which Ravi Kumar was working in the shop, fine has been imposed on the ground that the petitioner had employed a child as labour in his shop. In the meantime operation of the order contained in Annexure 1 and 2 shall remain stayed. The writ petition is disposed of with the aforesaid observation and direction”.
2. *Jayakumar Nat & Anr vs State Of NCT Of Delhi & Anr*<sup>11</sup>, “Delhi High Court directs the Govt. of NCT of Delhi to come out with a proper scheme to address the issue of rehabilitation of these rescued children by providing some kind of economic help so that the parents or guardians do not force them to work as child

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<sup>9</sup> At <https://www.iasexpress.net/child-labour-in-india-upsc-essay> visited on 28th feb 2023

<sup>10</sup> On 20 March 2012 in *Roshan Gupta V. The State Of Bihar & Ors*

<sup>11</sup> On 4 September, 2015 in *Jayakumar Nat & Anr vs State Of NCT Of Delhi & Anr*,

labourers again to meet with their basic needs and to supplement their income for their basic survival”.

3. The *Court On Its Own Motion vs The State Of Jharkhand*<sup>12</sup>, “Petitioner said nothing has been done with regard to settlement of the child labour and further the State has also not disclosed anything as to how they will cope with this horrifying situation of child labour where Jharkhand High Court directs to file an affidavit about the stage of investigation which will also indicate that how many schemes have been implemented in the State of Jharkhand by the Child Welfare Department to combat and rehabilitate child labour”.

## **CONCLUSION**

Child labour amid children of 5 to 17 years of age, as well as the nature of work they execute, their working situation latent risks and property of employment on health and education of children. The study has produced consistent information for the expansion of the child guard policy and strategy It also allowed to review progress in the completion of the ILO<sup>13</sup> Conventions 138 and 182 as compared to the data of the earlier NCLS (2007). The survey has noticeably strengthened national competence in numerical measuring of child labour in accord with the international values. “even with the lessen of child labour rate, there is still high numbers of child labour and harmful child labour in the country. Government has so been taking hands-on steps to tackle this problem through firm enforcement of legislative provisions along with immediate rehabilitative events State government which are the fitting implementing authority, have been conducting regular inspections and raids to detect cases of violations. Since scarcity is the root cause of this crisis, and enforcement alone cannot help crack it<sup>14</sup>.

The Supreme Court has heading for the state government in *M.C. Mehta v. State of Tamil Nadu* to implement the constitutional necessities of the Factories Act for

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<sup>12</sup> On 11 November 2016, In *Court On Its Own Motion vs The State Of Jharkhand*,

<sup>13</sup> Basu, Dr. Durga Das: Introduction to the Constitution Of India (Lexis Nexus Pub. Delhi, 2013).

<sup>14</sup>At <https://www.ndtv.com/india-news/up-to-2-year-jail-fine-of-rs-50-000-for-child-labour-1438898> visited on 28th Feb 2023

providing frivolous facilities and medical aid to the workers of equivalent Factory act. In *Rajangam v. State of Tamil Nadu*<sup>15</sup> employment of children in beedi manufacture was considered as violating the Beedi and Cigar Workers (Conditions of Employment) Act, 1966 and the Child Labour (Regulation and Prohibition) Act, 1986. It is also been suggested that every employee working in this factory should be brought under a group of insurance scheme. Government has been lay a lot of importance on the treatment of these children and improving the economic conditions of their families. There is surplus of cases, Though India has positively made a marked progress in overall social development and implemented measures required necessary for the protection of the working children, there is still a need to make bigger the net of enforcement equipment required for enforcing various existing laws on child labour in the country. This is done, will centrally pave a long way of both the progress of the nation and saving and nourish the future of millions of children working in both formal and informal labour force in Indian.

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<sup>15</sup> State By Inspector Of ... vs Rajangam on 30 April, 2009, Indian Kanoon

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