

# Child Labour in India: Law, Policy and Program

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**Abstract:** *The spreading of child labour is one of the crucial problems confronting the world at great, in particular developing countries such as India. In many cases, child exertion is mainly necessitated by monetary compulsions of the parents. The major factor which gives increase to child labour is widespread unemployment and under employment between the mature poor strata of the population, inters alia, due to sharp rise of population. Large families with low incoming and often reduction of instructional facilities, illiteratness and persistence of parents about the weightage of learning as well as about the influence of labour on the health of their children are some of the cause which species child labour.*

**Keywords:** Child labour, Right of Children, Youth Affairs Department, Women and Child Development, population

## 1. Introduction

Child labour is an integral part of labour force, especially in poor countries. These children are the most deprived section of population forced to enter labour market at tender age to earn a pittance or to contribute to family work, sacrificing personal development. Poverty coupled with rapidly growing population, ignorance and increasing dependency load are behind the grim incidence of children employment in the villages and towns of developing countries. The exploitative structure, lopsided development, iniquitous resource ownership with its correlation of large scale unemployment and abject poverty have contributed towards increasing child labour among the countries (Ali, N. (1987)

Child labour hampers the normal physical, intellectual, motional and moral development of a child. Children who are in the growing process can permanently distort or disable their bodies when they carry heavy loads or are forced to adopt unnatural positions at work for long hours. Children are more vulnerable because they are less resistant to diseases and suffer more readily from chemical hazards and radiation than adults. In India, child labour is not a new phenomenon. It has been in existence since time immemorial in one form or the other and has been changing from time to time. With the advent of industrialization and urbanization in the early 19<sup>th</sup> century, the factory and industry began taking the place of handicrafts. Agriculture became more mechanized. This gave rise to landless laborers'. And consequently, there was an unbroken stream of the rural poor migrating to urban centers in search of livelihood. Factory, on the other hand, required cheap and plentiful labour. Children started being employed both on farms and in factories because they provided a cheap and uncomplaining labour force as against adults who could be more demanding and hence more difficult to handle (Gupta, 1979). Children are preferred as they are not unionized, can be easily controlled, tortured, and exploited without any fear of backlash. Moreover, children are better suited to jobs like brick making, carpet weaving, and silk spinning etc.

Their cheapness and remote possibility of collective bargaining on their part makes them vulnerable and induced producers to employ and exploit the child labour. The importance of education is neglected for the child and replaced with necessity of providing food and shelter i.e.

children work to supplement meager family income or otherwise to help the family business. In doing so, they are being denied of basic rights such as the right to education, to freedom from abuse, and to proper health.

Therefore, there is a need to look the problem of child labour from a multi ensional aspect to understand and address the same in a society where the parents are programmed to undermine the value of education, poverty persists and century old traditions upheld.

### 1.1 What is Child Labour?

Among adults the term "child labour" conjures up a particular image: children chained to looms in dark mills and sweatshops, as if in a long nightmarish line running from Lancashire in the 1830s right through to the South Asia of today.

In reality, children do a variety of work in widely divergent conditions. This work takes place along a continuum, from work that is beneficial, promoting or enhancing a child's development without interfering with schooling, recreation and rest to work that is simply destructive or exploitative. There are vast areas of activity between these two poles. It is at the most destructive end, where children are used as prostitutes or virtual slaves to repay debts incurred by their parents or grandparents or as workers in particularly hazardous conditions, that efforts are focused to stop such abuse.

### 1.2 Child Labour in India

India continues to host the largest number of child laborers' in the world today. According to the Census 2001, there were 12.7 million economically active children in the age-group of 5-14 years. The number was 11.3 million during 1991 (Population Census) thus showing an increase in the number of child laborers. Workers in general are classified into main and marginal workers by the population census. Census data shows that there is a decline in the absolute number as well the percentage of children (5-14) to total population in that age group classified as main workers from 4.3 percent in 1991 to 2.3 percent in 2001. But there was a substantial increase in marginal workers in every category of worker irrespective of sex and residence. As a result, despite the number of main workers declining from 9.08

million in 1991 to 5.78 million in 2001, the total number of children in the work force increased. A large part of the increase was accounted for by the increase in marginal workers, which increased from 2.2 million in 1991 to 6.89 million in 2001. The trends between 1991 and 2001 of declining main child workers along with increasing marginal workers may indicate the changing nature of work done by children. This is also to be seen in the context of decelerating employment growth in general in the economy during the last decade. According to NSSO estimates WPR for children in the 5-9 age groups is negligible and for children in the age group of 10-14, it still continues to be significant though declining.

## 2. Literature Review

A study of the Committee on child labour (1979) appointed by the Ministry of Labour, Government of India examined various dimensions of child labour in different occupations. The study revealed that the incidence of child labour was highest in Andhra Pradesh, where it accounted for about 9 percent of the total labour force, 9.2 per cent of the total child population and 3.7 percent of the total population of the state in 1971. The child labour was more prevalent in rural areas than in urban areas. The participation of children in the labour force in the age group of 10-14 years was very high (28.9%) for males as compared to females (20%).

A study by Singh, R. (1980) revealed the implementation of various laws for the working conditions and welfare of child labour is concerned that employees had colossal ignorance about the existing laws. Only 20 were in favor of legislation for regulating employment of children. Similarly, the study by Sharma (1982) reveals on the working children to examine the extent of exploitation and socio-economic background of child labour found that 565 of the respondents had to work for 15 to 18 hours per day for earning their livelihood 44% for 10 – 15 hours per day. As for as payment of wages, 815 of the respondents were receiving up to Rs.50/- per month, while only 35 respondents received more than Rs 100/- per month.

The study by Weiner (1990) reveals that, historically in our country child labour has been seen as an economic phenomenon. As per his study the relationship between children and work is dictated to a great extent by the state of economic development or the system of production prevalent in the country. Another survey conducted by Vemuri and Anand (1998), reveals that child labour contributes to over 20 percent of GNP in India.

Rao's edited work 'Exploited Children' (2000) analyses the dimensions of child labour in India and the broad trends and multidimensional approaches to the problem of child labour. The nature, magnitude, working conditions, causes and consequences are discussed at length. It presents the position of child labour engaged in different industries in different parts of the country. It also reveals and analyses the socio-economic characteristics of child labour, their levels of earning, levels of living and impact on household income. Further, various aspects of migrant child workers are discussed and suggest strategies to eliminate the problem of child labour.

## 3. Main Causes of Child Labour

Child labour is a socio-economic problem. The socio-economic backwardness allowed by poverty, unemployment, demographic expansion, deep social prejudices and above all the Government apathy are commonly considered as the most prominent causative factors for large-scale employment of children. It has been officially stated that "child labour is no longer a medium of economic exploitation but is necessitated by economic necessity of the parents and in many cases that of the child himself." Gangrade (1978) believes that child labour is a product of such factors as customs, traditional attitude, lack of school or reluctance of parents to send their children to school, urbanization, industrialization, migration etc. The above mentioned factors responsible for child labour, there are several other causes too.

- The provisions of the protective labour legislations are lopsided and do not cover agriculture and small-scale industries.
- The enforcing machineries, which are provided by the state governments, are inadequate almost everywhere and fail to check up on child labour. The children are mostly silent listeners or non-listeners of the policies / programmes meant for them and hence, their problems are not properly realized, for which nobody pays serious attention to their plights and the safeguards extended for the prevention of child labour are not implemented effectively.

## 4. National Legislation Child Labour in India

- Article 24 Says that no child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment
- Article 21 .A Says that the State shall provide free and compulsory education to all children of the age six to 14 years.
- Article 39-eThe State shall direct its policy towards securing that the health and strength of workers, men and women and the tender age of children are not abused and that they are not forced by economic necessity to enter vocations unsuited to their age and strength Article 39-e
- Article 39-fChildren shall be given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth shall be protected against moral and material abandonment.
- The Right of Children to Free and Compulsory Education Act, 2009: Provides for free and compulsory education to all children aged 6 to 14 years. This legislation also envisages that 25 per cent of seats in every private school should be allocated for children from disadvantaged groups including differently abled children

**M.C. Mehta case (1996)** an important judicial intervention in the action against child labour in India was the Supreme Court, directed the Union and state governments to identify all children working in hazardous processes and occupations, to withdraw them from work, and to provide them with quality education. The Court also directed that a Child Labour Rehabilitation-cum-Welfare Fund be set up using

contributions from employers who contravene the Child Labour Act. Additionally, in 1993, the Supreme Court in **Unnikrishnan v. State of Andhra Pradesh** ruled that each child has the right to free education until he or she completes the age of 14 years. **Article 21-** which was incorporated into the Constitution reflects this standard. In 2005, the M.V. Foundation, an NGO working on child rights brought a public interest litigation petition which argues that child labour up to the age of compulsory education is unconstitutional and is aneagation of rights under Article 21-A which provides for compulsory education up to the age of 14. This case is still pending before the Supreme Court. Notably however, under this case the Court has asked the Government to file a status report on the implementation of Sarva Shiksha Abhiyan, a government programme providing free and compulsory education to all children.

## 5. Child Labour Programme

A National Policy on Child Labour was announced in 1987 which emphasized the need for strict enforcement measures in areas of high child labour concentration. In order to translate the above policy into action, the Government of India initiated the National Child Labour Project Scheme in 1988 to rehabilitate the working children starting with 12 child labour endemic districts of the country. Under the Scheme, working children are identified through child labour survey, withdrawn from work and put into the special schools, so as to provide them with enabling environment to join mainstream education system. In these Special Schools, besides formal education, they are provided stipend @ Rs.100/- per month, nutrition, vocational training and regular health checkups. In addition, efforts are also made to target the families of these children so as to cover them under various developmental and income/employment generation programmer of the Government. The Scheme also envisages awareness generation campaigns against the evils of child labour and enforcement of child labour laws. It is seen that the level of enforcement in the States of Tamil Nadu, Andhra Pradesh, Maharashtra & West Bengal is encouraging, whereas that in UP, Rajasthan, Madhya Pradesh & Orissa it is very low.

## 6. Definition of Child Labour

An analysis of the situation of child labour in India provided in Part I of this document shows that children are working in different sectors across the country. They are to be found working in. Given the varied situations in which children are working, strategies for the elimination of child labour need to be inclusive and non-negotiable. In order to effectively abolish child labour it is necessary to remove the artificial distinction between 'child labour' and 'child work'.

### 6.1 Contribution by National Institutions

A number of national institutions such as the V.V. Girl National Labour Institute (VVG NLI) and the National Institute of Rural Development (NIRD) and some state level institutes have played an important role in the areas of training and capacity building of government functionaries, factory inspectors, and officials of panchayati raj institutions, NCLP project directors, and heads of NGOs. These institutions have also made a significant contribution in the

area so fresear chand surveys, awareness raising and sensitization, thus bringing the discussions on this issue to the forefront.

## 7. Synergy between all Concerned Departments

Ministries and departments have different roles to play in order to ensure that children removed from work are properly rehabilitated and do not go back into the work force.

### 7.1 Labour Department

The department of Labour's function is to identify and rescue child labour and ensure that all the children who are out of school in an area are covered; Enforce law- and action against employers of children; Counsel rescued children and mainstream them into formal schools; Coordinate all the concerned departments of education, police, youth, welfare panchayat raj, and women and child development and establish protocols for collaborative action; Establish TECs for children rescued from labour.

### 7.2 Education Department

The department of education has the task of integrating all out of school children which includes child labour and school dropouts into the school system and ensure that children enjoy their right to education. Their function is to prevent children from joining the labour force the education department must ensure that all children in the 5-8 years age group are enrolled and retained in schools; through SSA pay attention to children in the 9-14 age groups like child labour, migrating children, street children, domestic child workers and school dropouts and never enrolled children and provide for residential and non-residential bridge courses, seasonal hostels, mobile schools and work-site schools for children who migrate with their families must from the very beginning be linked to a formal government school.

### 7.3 Home/Police Department

The role of the police is, booking the right cases under the Child Labour Act and all other relevant Acts; take complaints all missing children and track them and follow up in the best interest of the child and their right to education.

### 7.4 Youth Affairs Department

The Nehru Yuvak Kendra Sangatanas (NYKS) under the Ministry of Youth Affairs and Sports has a huge network of youth clubs across the country. They must spearhead a campaign against child labour and for children's right to education in the entire country.

### 7.5 Panchayat Raj Department

The Ministry for Panchayat Raj /Rural Development is to ensure that all gram panchayats fully monitor the status of children in their area. It must also provide training for the gram panchayats to track children and protect their rights

## 7.6 Women and Child Development

The Ministry must strengthen Child line and expanded to every district of the country. A juvenile Justice Board and a Child Welfare Committee (CWC) must be set up in every district as required in the JJ Act of 2000.

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