

A Study on the Legislation of Child Labour in India and Other Countries All Over the World

Parmar Himansukumar Chhaganbhai¹, Dr. Pushpa Mehdo²

¹Research Scholar, Faculty of Law, Pacific Academy of Higher Education and Research University, Udaipur

²Principal, Faculty of Law, Pacific Academy of Higher Education and Research University, Udaipur
Corresponding Author Email: [himparmar1234\[at\]gmail.com](mailto:himparmar1234[at]gmail.com)

Abstract: *Children serve as a reflection, mirroring the future image of a country. To really understand a country, one must observe its youth. Children are not only the future of a country, but also serve as a valuable resource for a nation. These crops are essential for nourishing future generations. If the citizens possess good health and vitality, are well-educated and knowledgeable, exhibit discipline and get proper training, the future of a country is securely guaranteed. Conversely, if they lack these qualities, the future of a nation is destined for catastrophe. Labour is indeed commendable, but it should be anticipated and demanded from those who are capable of doing it. Engaging in misplaced work poses a significant risk to both the one doing it and those who benefit from its outcomes. Throughout history, there have been several examples of countries rising or falling based on how the younger generation was treated by those in power. The research aims to acquire a thorough knowledge of the phenomena of child labour in order to aid in the development of suitable policies and programs that effectively address and regulate the issue of child employment in India.*

Keywords: Child labour, Hazardous work, Child exploitation, Domestic child labour, children working on dabbas

1. Introduction

Child wellbeing is of paramount significance in a civilised society since the overall progress and advancement of the community hinge upon the physical and mental health of its young population. Children need specific safeguards due to their young age, physical vulnerability, cognitive immaturity, and inability to care for themselves. There is a growing global understanding that children need to be raised in an environment of love and compassion, receiving nurturing care and attention, in order to achieve complete emotional, intellectual, and spiritual stability. The Universal Declaration of Human Rights, adopted in 1948, demonstrates the significant global attention given to the well-being of children. The United Nations International Children's Emergency Fund (UNICEF) was created by the United Nations General Assembly in 1946 to provide care for children. UNICEF was originally founded to aid and support to children affected by the devastating effects of war in Europe. The UN general assembly officially approved the declaration on the Rights of the kid in 1959, affirming that humanity is obligated to provide the kid with its utmost capabilities. The UN convention on the Rights of the Child (1989) establishes the fundamental principles and guidelines for a progressive Human Rights system that is dedicated to safeguarding and advancing the Rights of the Child¹.

Children are exposed to several types of exploitation, mistreatment, and dehumanisation. Child work is a specific kind of exploitation. The rights of children are disproportionately concentrated in Asian, African, and Latin American nations. Millions of youngsters in India are engaged in labour instead of attending school. In Economics, any kind of labour, whether it is physical or mental, that is performed in exchange for monetary

compensation is referred to as "Labour". Child labour is the term used to describe the employment of children below the age of 15 in different jobs in order to earn money. Child labour is a widespread and undeniable reality in today's world. It is a worldwide problem that has been deeply intertwined with the socio-economic struggles of people throughout history. Children in all societies have contributed to the activities of their social group. They have assisted their parents in selecting household and family-operated companies, as well as working in factories and other large commercial establishments. Children collaborated with their parents in agricultural labour, family trades, and both household and non-household tasks².

The presence and continuation of child work is a blemish and disgrace on contemporary welfare governments that aim to foster comprehensive development for their citizens. Undoubtedly, child labour is a pernicious affliction that brings shame upon society and humanity as a whole. It is a detrimental condition that severely undermines a country's economic foundation. Above all, it is a shameful occurrence that hinders the progress of the whole human civilisation. The trajectory of the human civilisation is heavily contingent upon the protection and entitlements given to its younger generation, while the prosperity of a country is inherently linked to the well-being of its children. The governments of developing countries have been unsuccessful in achieving their desired objectives for promoting universal child immunisation and oral rehydration therapy, which aim to prevent 3.15 million deaths annually. Additionally, they have not effectively addressed the issues of combating acute respiratory infections and utilising the major opportunities provided through various welfare programs for children. Furthermore, the practice and concept of child labour are deemed economically. The World Summit for Children not

¹ Kim, Jihye, Wendy Olsen, and Arkadiusz Wiśniowski. "A Bayesian estimation of child labour in India." *Child Indicators Research* 13 (2020): 1975-2001.

² Biggeri, Mario, Santosh Mehrotra, and Ratna M. Sudarshan. "Child labour in industrial outworker households in India." *Economic and Political Weekly* (2009): 47-56.

only focused on revising the objectives set in the child welfare program, but also raised awareness among government officials and politicians in developing nations about the need of safeguarding and promoting the well-being of children worldwide.

History: Concept of Child Labour

Child work has been present throughout history, but its type and extent have changed depending on the socio-economic structure of society. Historically, child labour was a component of the societal structure where all individuals collectively contributed their work to create for basic needs and survival. This was especially evident in rural subsistence farming, where the child's activity played a crucial role in sustaining the system and contributing to the overall value of labour. The child's involvement in work also served as a means of socialising them to continue reproducing the labour force. Child employment across various time periods has a complex and varied history, providing a detailed narrative of the unfortunate circumstances faced by children. While there is less evidence of children being employed for pay, if child enslavement is included, the presence of child labour in ancient India cannot be disputed. Young children, often under the age of eight, were enslaved and forced to do menial tasks. They remained enslaved until their death, unless the owner chose to free them. It has been observed that almost all the legislators, save for Kautilya, did not address this issue and made little efforts to eliminate the cruel practice of child slavery. Child work in ancient India was prevalent in the form of child slaves. Child slaves were seen as commodities that could be bought or sold³.

Historical and sociological records of early Indian civilisation reveal that biases in the upbringing of children were prevalent during that time due to factors such as caste, kinship, age, and gender. However, rulers like Asoka (268-31 B.C.) and Chandragupta Vikramaditya (c. A.D. 375-415) attempted to counterbalance these biases by promoting moral edicts that emphasised obedience towards parents and respect for elders. In summary, the main message conveyed was that demonstrating devotion and respect towards one's elders is not only considered morally right but also socially accepted and highly appreciated conduct⁴.

During the mediaeval period, which lasted from the eleventh to sixteenth centuries, India saw a decline and deterioration in several aspects of her society and economy due to the arrival of the Arabs, Turks, Afghans, and Mughals. The foreign invaders not only looted, but also utterly devastated the prosperity and socio-cultural values of India. As a result of the general economic decline, the children also encountered unfavourable changes in their circumstances. The imposition of alien culture has a significant and far-reaching effect on all aspects of society. Due to financial constraints, families, especially those in rural areas, were no longer able to purchase nutritious food and basic necessities

for their children. The emphasis on primary education has steadily diminished, notwithstanding its previous universal prevalence. Within the Hindu community, basic education was mostly limited to the upper castes such as Brahmins, Rajputs, and Vaishyas. Muslims in aristocratic and affluent households at home received elementary education via the Maulvis. Others were required to attend the makhtabs located inside mosques. Females, meanwhile, were seldom provided with formal education and their position in relation to males remained subordinate. Neither the authorities nor the people adopted any corrective measures⁵.

Child work was prevalent throughout the mediaeval era. The increasing strain on land resulted in the dispersion of land holdings. Expanding households have to seek sources of sustenance beyond individual gardening. A group of landless labourers emerges, often being indentured to wealthy landowners. These workers employed their offspring to assist in their business endeavours. The rural craftsman seldom worked in alone. Indeed, the whole family functioned as a cohesive labour unit, with the head of the household being the skilled artisan. Occupation was mostly dictated by inheritance, with children being exposed to their customary skill at an early age. Child work was prevalent in mediaeval India on a significant scale, and the regulations even supported it with the aim of facilitating the trade of child slaves. Child work manifested in the form of child slavery, and regulations made little effort to eradicate this practice, resulting in the continuous exploitation of children for selfish purposes⁶.

Historically, children have been employed in commercial endeavours. Children were engaged in guild and trade jobs in both procapitalist and communist regimes, such as India. In these civilisations, the workplace functioned as an extension of the home, and work interactions were characterised by informality. The youngster matured and secured employment inside the familial setting, where they were not assigned perilous or arduous responsibilities. Work played a crucial role in their socialisation and training. However, this perception experienced a significant transformation as labour started to be seen as a societal issue. Capitalism's economic forces dismantled the economy that was centred on the family. A significant portion of the workforce was rendered jobless as a result of the automation of agricultural processes, leading to the farmers being disconnected from their traditional place of work. They transition into being employed workers who receive wages. The youngster was compelled to enter the work market due to extreme poverty, and the absence of schooling for children further exacerbated this phenomenon⁷.

³ Lal, B. Suresh. "Child labour in India: Causes and consequences." *International Journal of Science and Research* 8.5 (2019): 2199-2206.

⁴ Mukherjee, Diganta, and Saswati Das. "Role of parental education in schooling and child labour decision: Urban India in the last decade." *Social Indicators Research* 89 (2008): 305-322.

⁵ Dash, Bishnu Mohan, Lokender Prashad, and Mili Dutta. "Demographic trends of child labour in India: implications for policy reforms." *Global Business Review* 19.5 (2018): 1345-1362.

⁶ Singh, Pankaj. "Child Labour in India." *Combat Law Magazine* (2005).

⁷ Chaudhri, D. P. "A policy perspective on child labour in India with pervasive gender and urban bias in school education." *The Indian Journal of Labour Economics* 40.4 (1997): 789-808.

International Scenario

1948 was the year that the Universal Declaration of Human Rights was officially adopted by the United Nations. Over the course of thirty paragraphs, the statement declares its intention to protect and enhance the human rights of every single person. This includes children, who have the right to fully experience all of the entitlements guaranteed by the many international human rights accords that have arisen from the first Declaration of Human Rights. In 1989, the international community recognised the necessity for specific protection and enhancement of children's rights via the Convention on the Rights of the Child (CRC). This event occurred despite the fact that international treaties already offer coverage for children. In accordance with the Convention on the Rights of the Child (CRC), a child is defined as any individual who is under the age of 18 unless they attain maturity earlier in accordance with the laws that are applicable (UNICEF, A summary of the rights under the Convention on the Rights of the Child, 2012). The collection is comprised of 54 articles that cover practically every aspect of a child's life. These articles are arranged into the three categories that are as follows:

The provision of these rights includes the provision of access to the resources, skills, and services that are required for the survival and healthy development of children. Protecting children against any sort of exploitation or abuse, especially at the hands of adults or institutions that constitute a danger to their dignity, survival, and development is one of the primary functions of these rights⁸.

These rights provide children the ability to actively participate in the implementation of change processes that will ultimately result in the fulfilment of their rights. Additionally, they educate children for active involvement in society and the promotion of change. The United Nations Convention on the Rights of the Child is legally binding on all states that have given their formal approval to the treaty. The only governments that have not ratified the Convention on the Rights of the Child are Somalia and the United governments of America. The African Charter on the Rights and Welfare of the Child (ACRWC) was approved by the Organisation of African Unity (now known as the African Union) and went into effect in the year 1999. The ACRWC is founded on the fundamental principles of the United Nations Convention on the Rights of the Child, with a particular emphasis on addressing issues that are of significant relevance to Africa. There is just one continent in the world that has a child rights instrument that is specific to its region, and that is Africa. Article 15 of the Agreement on the Rights of the Child protects the child's right to be protected from being exploited economically. In addition to this, it has a clause that places a priority on the distribution of information to all sectors of society about the risks associated with child labour. The International Labour Organisation (ILO) is an agency of the United Nations (UN) that is committed to furthering social justice and human and labour rights that are acknowledged on a worldwide scale.

⁸ Castle, Robert, et al. "Labour clauses, the World Trade Organization and child labour in India." *The Global Economy, National States and the Regulation of Labour*. Routledge, 2014. 182-201.

The Declaration on Fundamental Principles and Rights at Work, which is legally obligatory for all 185-member states, addresses four different issues, one of which is the eradication of child labour. It is true that the presence of child labour in the mining industry was one of the driving forces for the founding of the International Labour Organisation (ILO) in 1919⁹.

In the past, nations mostly disregarded the well-being and rights of children. It is important to note that the manufacturing system in England included the exploitation of child labour, where children under the age of 18 were forced to work for extended hours. Frequently, the youngsters, who labour for extended periods, tend to fall asleep and inadvertently get entangled in the cotton bales in the machines¹⁰.

Since its establishment, the International Labour Organisation (ILO) has prioritised safeguarding children from employment and ensuring their protection while working, as stated in ILO standards up to 1973 (ILO, 1981, paras. 11 et seq.). In response to the need for protection stated in the introduction of its Constitution, the ILO enacted the Minimum Age (Industry) Convention, 1919 (No. 5), at its first session of the International Labour Conference in 1919. Subsequently, the Organisation has embraced an additional eleven Conventions and five Recommendations that establish criteria on the minimum age for admittance to employment or work in various sectors such as industry, agriculture, shipping, and other non-industrial activities. Furthermore, many additional Conventions that focus on safety, health, and/or general conditions in certain sectors also have specific minimum age requirements. The first rules (1919-32) typically established the minimum age requirement at 14 years, while later modifications (1936-37) increased it to 15. Although most basic Conventions do not cover work in family enterprises and allow for certain exceptions, there are specific Conventions that establish stricter regulations for hazardous occupations or sectors. For example, Convention No. 123 of 1965 sets the minimum age at 16 for underground work, while Convention No. 15 of 1921 and Convention No. 115 of 1960 require a minimum age of 18 for arduous work in high-risk environments and work involving exposure to radiation, respectively. Similarly, Convention No. 136 of 1971 establishes a minimum age of 18 for work involving dangerous chemicals. During its 181st Session in 1970, the Governing Body of the International Labour Organisation (ILO) determined that the "fundamental Conventions regarding the minimum age for employment are no longer an effective means of coordinated international efforts to improve the welfare of children" (ILO, 1970, Appendix II, para. 8). Despite the previous efforts of the ILO, it was clear that "child labour ... continues to be a prevalent and enduring occurrence" (ILO, 1971, p. 21). Existing mechanisms regarding minimum age were limited in their scope, focussing exclusively on certain economic sectors or

⁹ Sahoo, Barsa Priyadarsinee. "A sociological study of patterns and determinants of child labour in India." *Journal of Children's Services* 16.2 (2021): 132-144.

¹⁰ Lieten, Georges K. "Child labour in India: disentangling essence and solutions." *Economic and political Weekly* (2002): 5190-5195.

vocations. Consequently, the ILO embarked on a significant reform and consolidation of standards. As a result, the Minimum Age Convention, 1973 (No. 138) was implemented. The text refers to the Minimum Age Convention, 1973 (No. 138). Convention No. 138 diverged significantly from previous norms by incorporating a distinct methodology that included wider scope and more flexibility to accommodate varying national circumstances. While there are a few exceptions, this rule applies to all areas of economic activity and, similar to previous agreements, it includes minors regardless of whether they are working for pay¹¹.

In 1973, the ILO established a definitive position by establishing the minimum age for employment. However, the International Labour Organisation (ILO) and other international organisations dedicated to addressing the problem were unsuccessful in achieving their objectives. Child work was included in the Millennium Development Goals, which were approved by 191 countries in 2000 with the aim of being accomplished by 2015. Child work was subsequently included into the Sustainable Development Goals, which specifically demand the complete elimination of child employment by 2030¹².

Although there was a documented decrease in child labour between 1995 and 2000, it continues to be a significant issue. Approximately 150 million children under the age of 14 were expected to be involved in employment globally in 2016. The majority of these children work in conditions that deprive them of a joyful childhood and put their health at risk. The majority of child labourers fall between the age range of 11 to 14 years, while there are over 60 million children between the ages of 5 and 11 who are engaged in labour. The worldwide distribution of child labour lacks precise figures, however existing data indicates that 96% of child labourers are located in Africa, Asia, and Latin America¹³.

The origins of the child rights movement may be traced back to the mid-19th century, namely with the publishing of an essay in June 1852 by Slagvolk. The title "The Rights of Children" was introduced by Kate Kluging in 1892 in her work on "Children's Rights". As the focus started to move towards the working circumstances of children, the legal status of children in England began to alter with the implementation of factory laws that specifically aimed to improve the working conditions of workers, particularly children. In 1923, the newly formed non-governmental organisation "Save the Children International Union" expressed its first worldwide concern over the well-being of children. They issued a series of statements outlining the rights of children. The Geneva statement was endorsed in

1924 by the 50th session of the League of Nations. In 1948, the United Nations General Assembly accepted an expanded version of the aforementioned wording. Subsequently, in 1959, they adopted a revised statement specifically focused on the well-being and protection of children. The Convention on the Rights of the Child, established in 1989, represents the successful conclusion of global efforts to acknowledge and address the specific requirements of children¹⁴.

India joined the Convention on Rights of the Child at the same time as the release of UNICEF's "The State of the World's Children Report for 1993." The research cautioned that the worldwide objectives for child survival and development, which were endorsed by 150 nations, including India, at the World Summit for Children in 1990, would not be realised unless immediate action is done. The main focus of the Report was on the need to convert the worldwide targets into impactful measures, guaranteeing that every kid receives sufficient nourishment, uncontaminated water, fundamental healthcare, and primary education by the conclusion of the decade¹⁵.

The "Geneva Declaration of the Rights of the Child" was approved by the League of Nations in 1924. The Declaration of the Rights of the Child was unanimously approved by the United Nations General Assembly in 1959. The statement asserts that the kid is entitled to receive certain safeguards. It is necessary to provide the kid with possibilities and resources in order to foster their healthy and typical development¹⁶.

2. Conclusion

Currently, there is a global concern about ensuring the safety of children. The issue of child labour is a global problem that requires a shift in mindset. Today, the borders of civilisation are being destroyed. Eradicate child labour in developing countries. The phenomenon of child work has existed since the dawn of human civilisation. It was present even in ancient times, during the era of pre-industrial agrarian life. However, the detrimental consequences of child employment gained attention only during the industrial revolution in England. The rapid spread of this phenomenon was driven by the high demand for labour and the capitalist system of production. Child work mostly occurs in the informal sector across several vocations. A significant portion of the kid population is involved in activities that pose health risks. It is disgraceful that despite the existence of several national and international legislation, such as ILO, CRC, UDHR, and UN declaration, aimed at safeguarding children from child labour, there is a severe lack of efforts to rehabilitate children working in industries such as dabbas.

¹¹ Chaudhri, Dharam Pal, and Edgar J. Wilson. "The challenge of child labour in rural India: A multi-dimensional problem in need of an orchestrated policy response." (2000).

¹² Francavilla, Francesca, and Gianna Claudia Giannelli. "The relation between child labour and mothers' work: the case of India." (2007).

¹³ Caesar-Leo, Michaela. "Child labour: The most visible type of child abuse and neglect in India." *Child Abuse Review: Journal of the British Association for the Study and Prevention of Child Abuse and Neglect* 8.2 (1999): 75-86.

¹⁴ Chandrasekhar, C. P. "The economic consequences of the abolition of child labour: An Indian case study." *The Journal of Peasant Studies* 24.3 (1997): 137-179.

¹⁵ Srivastava, Rajendra N. "Children at work, child labor and modern slavery in India: an overview." *Indian pediatrics* 56 (2019): 633-638.

¹⁶ Majumdar, Manabi. "Child labour as a human security problem: Evidence from India." *Oxford Development Studies* 29.3 (2001): 279-304.

The Indian constitution and other regulations provide safeguards to children against child labour. Stringent enforcement of legislation is necessary to ban child labour. The report proposes the following proposals for the Government, economic planners, and administration to examine.

The issue of child work is intricately linked to the poverty and low levels of education among the Indian population. The government should make every conceivable effort. The government should enact action plans in regions with a much greater proportion of child labour. These locations should be given precedence.

The implementation of unemployment allowance, old age pension, and the re-card plan for providing grains at a discounted rate to the impoverished should be carried out in a just and efficient manner. The benefits should be allocated to those who are really deserving and in need. The current state of tribal development and wells has to be reevaluated. Prior to choosing beneficiaries for various programs, it is important to identify their specific requirements based on their preferences.

Poverty alleviation programs would be designed and implemented in a decentralised way, with the involvement of people at the grassroots level via village panchayats, panchayat sanities, zilla parishads, and so on. This method will aid in the identification of initiatives that are well-suited to the specific requirements of the local area, and in the integration of poverty alleviation programs with the overall development of the region. The initiative would target the most impoverished individuals, who will be determined based on an annual family income of Rs. 4800. To achieve this objective, comprehensive home surveys should be conducted, ensuring the active participation of the whole community.

References

- [1] Biggeri, Mario, Santosh Mehrotra, and Ratna M. Sudarshan. "Child labour in industrial outworker households in India." *Economic and Political Weekly* (2009): 47-56.
- [2] Caesar-Leo, Michaela. "Child labour: The most visible type of child abuse and neglect in India." *Child Abuse Review: Journal of the British Association for the Study and Prevention of Child Abuse and Neglect* 8.2 (1999): 75-86.
- [3] Castle, Robert, et al. "Labour clauses, the World Trade Organization and child labour in India." *The Global Economy, National States and the Regulation of Labour*. Routledge, 2014. 182-201.
- [4] Chandrasekhar, C. P. "The economic consequences of the abolition of child labour: An Indian case study." *The Journal of Peasant Studies* 24.3 (1997): 137-179.
- [5] Chaudhri, D. P. "A policy perspective on child labour in India with pervasive gender and urban bias in school education." *The Indian Journal of Labour Economics* 40.4 (1997): 789-808.
- [6] Chaudhri, Dharam Pal, and Edgar J. Wilson. "The challenge of child labour in rural India: A multi-

dimensional problem in need of an orchestrated policy response." (2000).

- [7] Dash, Bishnu Mohan, Lokender Prashad, and Mili Dutta. "Demographic trends of child labour in India: implications for policy reforms." *Global Business Review* 19.5 (2018): 1345-1362.
- [8] Francavilla, Francesca, and Gianna Claudia Giannelli. "The relation between child labour and mothers' work: the case of India." (2007).
- [9] Kim, Jihye, Wendy Olsen, and Arkadiusz Wiśniowski. "A Bayesian estimation of child labour in India." *Child Indicators Research* 13 (2020): 1975-2001.
- [10] Lal, B. Suresh. "Child labour in India: Causes and consequences." *International Journal of Science and Research* 8.5 (2019): 2199-2206.
- [11] Lieten, Georges K. "Child labour in India: disentangling essence and solutions." *Economic and political Weekly* (2002): 5190-5195.
- [12] Majumdar, Manabi. "Child labour as a human security problem: Evidence from India." *Oxford Development Studies* 29.3 (2001): 279-304.
- [13] Mukherjee, Diganta, and Saswati Das. "Role of parental education in schooling and child labour decision: Urban India in the last decade." *Social Indicators Research* 89 (2008): 305-322.
- [14] Sahoo, Barsa Priyadarsinee. "A sociological study of patterns and determinants of child labour in India." *Journal of Children's Services* 16.2 (2021): 132-144.
- [15] Singh, Pankaj. "Child Labour in India." *Combat Law Magazine* (2005).
- [16] Srivastava, Rajendra N. "Children at work, child labor and modern slavery in India: an overview." *Indian pediatrics* 56 (2019): 633-638.