

India's Child Labour Legislation: Gaps, Challenges and the Need for Change

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Abstract

Child labour continues to be a vexing socio-legal issue in India, despite a complex legal and constitutional framework designed to stop it. This paper evaluates the impact of child labour laws in India, with a specific emphasis on the disconnect between policy and implementation. It examines major laws including the Child Labour (Prohibition and Regulation) Act, 1986 (amended in 2016) and constitutional provisions under Articles 21A, 23 and 24 that together seek to prevent child labour, and uphold the rights to education and dignity for children. This analysis highlights key challenges in implementation, such as weak enforcement mechanisms, coordination among regulatory bodies, socio-economic pressures, and the existence of informal employment sectors where regulatory gaps exist. It also examines the role of poverty, illiteracy and societal acceptance of child labour practices in constraining the impact of legal measures. Moreover, the article assesses India's adherence to international commitments, namely International Labour Organization (ILO) conventions and the United Nations Convention on the Rights of the Child (UNCRC). Through a socio-legal analysis, the article identifies policy and judicial gaps. It contends that merely prohibiting child labour is not enough without solving the underlying issues. The paper concludes with holistic reform recommendations, which includes institutional accountability, rehabilitation, education and community awareness. Overall, the paper calls for a more holistic and child-friendly legal framework that meets the reality.

Keywords: Child Labour, Legal Framework, Implementation Failure, Child Rights, Law Enforcement.

I. Introduction

India remains plagued by the socio-legal issue of child labour, which is symptomatic of poverty, inequality, and governance deficits. Despite several decades of legal and policy reforms, millions of children continue to be involved in work that denies them access to education, health and a decent life. Child labour rates are concentrated in the informal economy, including agriculture, domestic work, small industries and street-based activities, where regulatory frameworks are weak and enforcement is lax. It is not just an economic problem, but also one that is influenced by social and cultural perceptions, family demands, and ignorance of children's rights. Despite improving education rates and alleviating extreme poverty in India, these developments have not led to a consistent decline in child labour. The co-existence of legal bans and the prevalence of child labour underlines a disconnect between the law and reality. This demands a closer look at the legal framework and the socio-economic environment that allows child labour to persist.

II. Legislative Framework on Child Labour: Constitution and Acts

India has a well-developed framework on child labour enshrined in constitutional provisions that seek to protect children from exploitation. The Constitution bans the employment of children under the age of 14 years in any hazardous employment, and recognises the right to education as a fundamental right. The Directive Principles also place the State under an obligation to ensure that children are not engaged in an occupation unsuited to their age or strength for which they are compelled by economic necessity to abandon their studies. Legislatively, the main child labour law is the Child Labour (Prohibition and Regulation) Act, 1986, which was amended in 2016 to impose stricter prohibitions and widen the scope of child labour. It outlaws the employment of children under the age of 14 in all

sectors except in family businesses and entertainment industry (with certain conditions), and limits adolescents from hazardous employment. Supplementary legislation, including the Right of Children to Free and Compulsory Education Act, 2009, the Juvenile Justice (Care and Protection of Children) Act, 2015, and the Bonded Labour System (Abolition) Act, 1976, further strengthen the legal framework by tackling related aspects of child rights and exploitation. These regulations establish a strong normative framework; however, the success of this framework rests on the ground.

III. Weak implementation

Despite a robust legal framework, implementation and enforcement is the critical weak link in the battle against child labour in India. Bureaucratic inefficiencies such as inadequate resources, training and coordination of enforcement agencies, lead to intermittent and ineffective inspections. The prevalence of the informal sector also poses challenges, with many cases of child labour taking place in unregistered workplaces, which are inaccessible to labour inspectors. Laxity and corruption also play a role in poor enforcement, enabling smuggling around of legal restrictions. Moreover, the exemptions in the law, especially in relation to family businesses, have provided grounds for child labour. Programmes for rehabilitating children are also often weak, with under-funding, poor monitoring and lack of follow-up. This has resulted in reintegration into labour for many children due to poverty. Although judicial activism is progressive in some instances, it has not led to significant reform as court orders do not translate into effective administrative action. So, the disconnect between legal provisions and practice is a significant challenge in eliminating child labour in India.

IV. Socio-Economic Factors and Structural Inequities

The prevalence of child labour cannot be explained purely in legal terms; it is intricately linked with socio-economic realities that necessitate the use of children as a source of income for their families. Poverty is the most pressing issue, especially in rural and disadvantaged populations where opportunities for sustainable livelihoods and social protection are scarce. Lack of education and awareness among parents also contributes to the issue, with many not understanding the long-term value of education for their children. Urbanisation and migration have also played a role in the growth of child labour, as migrant communities often do not have access to formal education and social support in urban areas. Socio-economic inequalities such as caste, gender and region have also played a significant role in perpetuating the practice of child labour, disproportionately affecting the marginalised. Gender inequalities are striking, with girls often engaged in unpaid household work, which is unregulated and invisible. The lack of an effective education system that offers quality, accessible, and inclusive education also plays a role, with school dropouts being more likely to work. These issues raise questions about the need for a more comprehensive approach to addressing the issue of child labour, rather than solely relying on legal bans.

V. India's Global Commitments

India's response to child labour is also guided by its obligations under international conventions that seek to safeguard children's rights. India has ratified major international treaties like the United Nations Convention on the Rights of the Child and core conventions of the International Labour Organization, which require the elimination of child labour and the protection of children from economic exploitation. These treaties not only prohibit but also advocate for rehabilitation, education and reintegration of children. India has made considerable progress in bringing its laws in line with international regimes, but there are shortfalls in implementation and reporting. Recent reviews have raised concerns about the persistence of child labour, particularly in dangerous and informal work settings. Moreover, the international agenda of sustainable development, including the goal of eliminating all forms of child labour, demands greater efforts from India. Therefore, meeting international obligations means not only aligning laws, but also ensuring their enforcement, data collection and integration into policy frameworks to drive progress.

VI. Reforming for Child Labour Eradication

To combat the endemic problem of child labour in India, a comprehensive reform agenda is needed, which extends beyond prohibition to socio-economic change and institutional reforms. First, the enforcement system needs to be

strengthened through an increase in the effectiveness of labour inspection systems, the introduction of technology to monitor child labour, and inter-agency coordination. Second, laws need to be fine-tuned to remove ambiguities and loopholes, especially in relation to family-based enterprises, which undermine the goal of total prohibition. Third, re-integration programs for rescued children need to be strengthened by allocating sufficient resources, facilitating skills development and providing long term support to avoid re-integration into labour. Fourth, access to quality education needs to be universal, with particular focus on disadvantaged groups, migrants and girls. Cash for education and social protection programs can help alleviate the financial need for children to work. Fifth, public awareness and community engagement are needed to shift social norms and foster a values-based approach to education and children's rights. Lastly, policies need to be more in sync with international agreements for long-term success. The key to eradicating child labour and promoting the rights and dignity of all children in India lies in a holistic and integrated approach.

VII. Conclusion

India's child labour problem remains multifaceted, as a result of a gap between progressive legal frameworks and their implementation. Although the constitution and laws create a robust framework for the rights of children, implementation gaps, along with socio-economic disparities, persist. Child labour in the informal economy and in families underscores the inadequacy of legal frameworks. This problem cannot be solved simply through prohibition; it requires a holistic strategy that combines legal reform, enforcement, and provision of quality education, along with socioeconomic empowerment of vulnerable families. Improving institutional responsiveness, plugging legal gaps and facilitating rehabilitation are key. In the end, the abolition of child labour should not be seen just through the eyes of the law, but as a moral and developmental priority, integral to the pursuit of social justice and inclusive development in India.

References

1. Constitution of India 1950, arts 21A, 23, 24, 39(e), 39(f), 45.
2. The Child Labour (Prohibition and Regulation) Act 1986, as amended by the Child Labour (Prohibition and Regulation) Amendment Act 2016.
3. Right of Children to Free and Compulsory Education Act 2009.
4. Juvenile Justice (Care and Protection of Children) Act 2015.
5. Bonded Labour System (Abolition) Act 1976.
6. International Labour Organization, Minimum Age Convention (No 138) 1973.
7. International Labour Organization, Worst Forms of Child Labour Convention (No 182) 1999.
8. United Nations, Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990).
9. Bandhua Mukti Morcha v Union of India (1984) 3 SCC 161 (SC).
10. M C Mehta v State of Tamil Nadu (1996) 6 SCC 756 (SC).
11. People's Union for Democratic Rights v Union of India (1982) 3 SCC 235 (SC).
12. Government of India (Ministry of Labour and Employment) National Child Labour Project (NCLP) Scheme (Rev. 2016).
13. Government of India, Census of India 2011: Child Labour Data.
14. International Labour Organization, Global Estimates of Child Labour: Results and Trends 2012-2016 (ILO 2017).
15. United Nations Children's Fund (UNICEF), The State of the World's Children 2019.
16. Jean Drèze and Amartya Sen, An Uncertain Glory: India and its Contradictions (Princeton University Press 2013).
17. Upendra Baxi, The Future of Human Rights (3rd edn, Oxford University Press 2008).
18. Myron Weiner, The Child and the State in India (Princeton University Press 1991).
19. National Policy for Children 2013, Ministry of Women and Child Development, Government of India.
20. Planning Commission of India, Twelfth Five Year Plan (2012-2017).