

## CHILD LABOUR IN INDIA: LEGAL FRAMEWORK AND JUDICIAL RESPONSE

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### Abstract

Child labour continues to be a deep-rooted social and legal issue in India. Despite numerous constitutional safeguards, legislative provisions, and international commitments, the exploitation of children in various forms of labour persists. This research paper delves into the causes, legal framework, and judicial responses concerning child labour in India. It evaluates the effectiveness of the existing laws, analyzes landmark judicial decisions, and suggests reforms for eradicating child labour and ensuring child welfare.

**Keywords:** Child Labour, Constitution of India, Child Rights, Judicial Activism, POCSO, Juvenile Justice, Right to Education, ILO Conventions

### 1. Introduction

Child labour, the engagement of children in economic activities, often at the cost of their education and health, has been a matter of grave concern in India. Children are employed in both formal and informal sectors under exploitative and hazardous conditions. Though the country has taken legislative and judicial steps to curb child labour, its persistence indicates the need for more effective enforcement, public awareness, and socio-economic reform.

### 2. Causes of Child Labour in India

- **Poverty:** The primary cause; poor families rely on income from children.
- **Lack of education:** Illiteracy and non-availability of schools contribute.
- **Social norms:** Acceptance of child work in certain communities.
- **Cheap labour demand:** Employers prefer children for low wages.
- **Ineffective enforcement:** Weak implementation of laws leads to impunity.

### 3. Constitutional and Legal Framework

#### 3.1 Constitutional Provisions

- **Article 24:** Prohibits employment of children below 14 years in factories, mines, or hazardous employment.

- **Article 39(e) & (f):** Direct the State to protect children from abuse and exploitation.
- **Article 21A:** Ensures right to free and compulsory education to all children aged 6 to 14 years.

### 3.2 Legislative Measures

- **Child Labour (Prohibition and Regulation) Act, 1986** (*amended in 2016*):
  - Prohibits employment of children below 14 in all occupations and adolescents (14–18) in hazardous occupations.
  - Permits child work in family enterprises after school hours.
- **The Right of Children to Free and Compulsory Education Act, 2009**
- **The Juvenile Justice (Care and Protection) Act, 2015**
- **The Bonded Labour System (Abolition) Act, 1976**
- **Factories Act, 1948 and Mines Act, 1952**

### 4. International Conventions Ratified by India

- **ILO Convention No. 138 (Minimum Age Convention)**
- **ILO Convention No. 182 (Worst Forms of Child Labour Convention)**
- **United Nations Convention on the Rights of the Child (UNCRC), 1989**

India ratified both key ILO conventions in 2017, reinforcing its commitment to eliminate child labour.

### 5. Judicial Response to Child Labour

Indian courts have taken proactive steps to protect children from exploitation:

#### a) **M.C. Mehta v. State of Tamil Nadu (1996)**

Directed prohibition of child labour in hazardous industries and ordered creation of Child Labour Welfare Fund.

#### b) **Labourers Working on Salal Hydro Project v. State of Jammu & Kashmir (1983)**

Recognized child labour as a violation of Article 24 and emphasized the need for socio-economic upliftment.

#### c) **Bandhua Mukti Morcha v. Union of India (1984)**

Acknowledged bonded child labour as a violation of fundamental rights under Articles 21 and 23.

#### d) **Bachpan Bachao Andolan Cases (2011 onwards)**

The Supreme Court stressed on identifying and rescuing child labourers and ensuring their rehabilitation and education.

#### e) Court on Its Own Motion v. State of NCT of Delhi (2012)

Stressed child-friendly procedures during trials and emphasized rehabilitation through education and support.

### 6. Role of the Judiciary in Eradicating Child Labour

- **Judicial activism through PILs** has played a key role in addressing child exploitation.
- Courts have interpreted **Article 21** to include the right to live with dignity, which includes the right to education and protection from exploitation.
- Emphasis on **rehabilitation, not punishment**.
- Monitoring of implementation of statutes and welfare schemes.

### 7. Challenges in Eradication

- **Lack of awareness** among parents and employers.
- **Inadequate enforcement** by labour departments.
- **Loopholes in law**: Family enterprises exception creates ambiguity.
- **Urban-rural divide**: Greater incidence in unregulated informal sector.
- **Child trafficking and migration**: Linked to labour exploitation.

### 8. Suggestions and Way Forward

- **Strengthen enforcement mechanisms** with dedicated task forces.
- Increase **awareness programs** in rural and semi-urban areas.
- **Strict penalties** and monitoring of employers.
- **Social security and financial aid** to poor families to reduce dependency on child labour.
- Integrate **education and skill training** for rescued children.
- Promote **child helpline numbers**, NGOs, and community participation.

### 9. Conclusion

Child labour, despite being constitutionally and morally indefensible, continues to plague Indian society. The Indian judiciary has significantly contributed to curbing this evil by

expanding the scope of fundamental rights and ensuring the rehabilitation of victims. However, legislation and litigation alone cannot end child labour. What is needed is a **multi-dimensional approach** involving enforcement, education, empowerment, and empathy to ensure every child enjoys a life of dignity, safety, and opportunity.

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