

## **AN ANALYSIS OF CHILD LABOUR IN INDIA**

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### **INTRODUCTION**

*“Child labour and poverty are inevitably bound together and if you continue to use the labour of children as the treatment for the social disease of poverty, you will have both poverty and child labour to the end of time.”<sup>1</sup> ~ Grace Abbott*

Child Labour is a harsh reality of today's world which has been cloaking the Indian land from decades ago. Today, however, we have marked a significant reduction in the estimates of the child labour workforce but still, there is a great need to usher efforts in this regard. The fact that the government has introduced many policies and schemes to uplift the child workforce is true but still, satisfactory results have not been recorded till now. The Grim Reaper of Child Labour has snatched the dreams of millions of Captain America and Cinderella that were supposed to become the bright leaders of our country.

### **HISTORY OF CHILD LABOUR IN INDIA**

The menace of child labour in India has been ever-present in Indian Society. During the 1980s, the statics of the child labour workforce in the country touched the sky. However, in recent years, there is a decreasing trend in the number of child labourers in the country. According to the records of the National Sample Survey Organisation (NSSO), it is evidenced that during 1983, the child workforce accounted for 21.55 million while during 2004-05, it was 9.07 million. The data also suggested the considerable fall of the workforce among male child labourers as compared to female child labourers. Between the period 1983 and 2004-05, there was a reduction from 12.06 million to 4.76 million in boys and from 9.49 million to 4.31 million in girls.<sup>2</sup>

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<sup>1</sup> Convention 182 and World Day against Child Labour, INTERNATIONAL LABOUR ORGANIZATION, [https://www.ilo.org/century/history/iloandyou/WCMS\\_180170/lang--en/index.htm](https://www.ilo.org/century/history/iloandyou/WCMS_180170/lang--en/index.htm).

<sup>2</sup> Government of India, Planning Commission, Working Group for Social inclusion of Vulnerable Group like Child Labour and Bonded and Migrant Labour in the 12th Five Year Plan (2012-17).

As per the Census of 2001, Uttar Pradesh has the highest number of active child labourers within the state boundary of about 19,27,997 workers. The second in the list is Andhra Pradesh with 13,63,339 workers, followed by Rajasthan, Bihar and Madhya Pradesh.<sup>3</sup>

It was also found out that around 36.43 lakh children in the age group of 5-14 years have been working in non-agricultural occupations of which 12.19 lakh are employed in hazardous occupations.<sup>4</sup>

## CAUSES OF CHILD LABOUR IN INDIA

The causes that amount to the prevalence of child labour in India are many. Some of them include;

- **The bane of Poverty**

Poverty is the primary cause of the large child labour workforce in India. As per the last official estimate of poverty released by the Planning Commission in consonance with the Tendulkar Committee in the year 2011, the statistic of poverty was about 21.92%.<sup>5</sup> The existence of rural and urban poverty in India led children to work in miserable and hazardous work conditions to support their family income and become a bread earner from a very small age.

- **Lack of educational institutions**

The Indian government has formulated numerous educational policies for underprivileged children from time to time, however, the ineffective implementation and execution of such schemes has caused much havoc in the society and deprived underprivileged children to not eat the fruits of the same. The lack of proper educational institutions, the proximity of such institutions and unaffordability issues cause poor families to engage their young children in the occupational world rather than education.

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<sup>3</sup> Government of India, Introduction on Child Labour, MINISTRY OF LABOUR AND EMPLOYMENT, [https://www.google.com/url?sa=t&source=web&rct=j&url=https://labour.gov.in/sites/default/files/WorkingGroup12th\\_plan\\_on\\_Child\\_Labour.pdf&ved=2ahUKewj695bxxPnyAhWJYisKHTgMAoEQFnoECAQQAQ&usg=AOvVaw3RFrxC2VncslCxFlmq0oS](https://www.google.com/url?sa=t&source=web&rct=j&url=https://labour.gov.in/sites/default/files/WorkingGroup12th_plan_on_Child_Labour.pdf&ved=2ahUKewj695bxxPnyAhWJYisKHTgMAoEQFnoECAQQAQ&usg=AOvVaw3RFrxC2VncslCxFlmq0oS).

<sup>4</sup> Ibid.

<sup>5</sup> Joyita, Poverty Estimation in India, PRS Legislative Research (Aug. 5, 2013), <https://prsindia.org/theprsblog/more-privatisation-on-the-cards>.

- **Culture and Social norms**

Culture and social norms play a very crucial role in enlarging the child labour workforce. Occupation sometimes becomes the identity of the family and the coming generations are supposed to follow the same from a very tender age. It is believed that as early as children start working, they become proficient in the specific occupation which then generates heavy income for the family.

## **CONSTITUTIONAL PROVISIONS ON CHILD LABOUR**

Article 21A<sup>6</sup> of the Indian Constitution has made it mandatory for State Governments to provide free and compulsory education to every child between 6 to 14 years of age.

Article 24<sup>7</sup> of the Constitution prohibits the employment of children in factories. The Article mentions that any children below the age of fourteen years shall not be employed in any hazardous works, such as in factories and mines or any other activities.

Article 39<sup>8</sup> of our Constitution delineates that the health (physical or mental) and strength of any worker, be it male or female or children of small age must not be degraded by any outside force.

## **CHILD LABOUR (PROHIBITION AND REGULATION) ACT, 1986**

Child Labour (Prohibition and Regulation) Act, 1986<sup>9</sup> provides for the issues relating to child labour in India. It prohibits the employment of children in hazardous activities and makes regulations for those in which they are allowed to get employed.

Section 2(i)<sup>10</sup> of the Act explicitly defines the term child and says any person who doesn't complete fourteen years of age is a child.

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<sup>6</sup> INDIA CONST. art. 21A.

<sup>7</sup> INDIA CONST. art. 24.

<sup>8</sup> INDIA CONST. art. 39.

<sup>9</sup> Child Labour (Prohibition and Regulation) Act, 1986, No. 61, Acts of Parliament, 1986 (India).

<sup>10</sup> Child Labour (Prohibition and Regulation) Act, 1986, § 2, cl. i, No. 61, Acts of Parliament, 1986 (India).

Section 3<sup>11</sup> of the Act prohibits the employment of children in any of the occupations mentioned in Part A of the Schedule or any workshop mentioned under Part B of the Schedule. In *M.C. Mehta v. State of Tamil Nadu*<sup>12</sup>, the honourable Supreme Court opined that children can be employed in the packaging work but the packaging area must be situated away from the place of manufacturing to avoid the exposure of accidents to children.

Section 5<sup>13</sup> of the Act mentions constituting a Child Labour Technical Advisory Committee whose main purpose is to advise the Central Government regarding the addition of occupations and processes in the Schedule.

Section 14<sup>14</sup> of the Act provides for the penalties to be levied on those who allow or employ any child to work in the processes which are prohibited for them. Anyone found guilty of the same is liable to get punished with imprisonment of not less than three months and can extend to one year or fine up to twenty thousand rupees or with both.

The Child Labour (Prohibition and Regulation) Amendment Act, 2016<sup>15</sup> had amended the Act of 1986 and inserted a new Section 3A to the Act. Section 3A<sup>16</sup> of the Act stipulates that no adolescent person will be employed in any hazardous occupation mentioned under the Schedule of the Act.

## **NATIONAL CHILD LABOUR PROJECT SCHEME**

National Child Labour Project Scheme had been initiated by the Central government in 1988 to rehabilitate working children. Under the banner of this scheme, District Project Societies are constituted at the district level and are managed by District Magistrates. Under this initiative, children between the age of 9 to 14 years have been withdrawn from work and admitted into NCLP Training Centres where they are given elementary education, vocational training, health care, stipend, mid-day meals and so on. After this, these children are admitted into formal

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<sup>11</sup> Child Labour (Prohibition and Regulation) Act, 1986, § 3, No. 61, Acts of Parliament, 1986 (India).

<sup>12</sup> *M.C. Mehta v. State of Tamil Nadu*, AIR 1991 SC 417.

<sup>13</sup> Child Labour (Prohibition and Regulation) Act, 1986, § 5, No. 61, Acts of Parliament, 1986 (India).

<sup>14</sup> Child Labour (Prohibition and Regulation) Act, 1986, § 14, No. 61, Acts of Parliament, 1986 (India).

<sup>15</sup> Child Labour (Prohibition and Regulation) Amendment Act, 2016, No. 35, Acts of Parliament, 2016 (India).

<sup>16</sup> Child Labour (Prohibition and Regulation) Amendment Act, 2016, § 3A, No. 35, Acts of Parliament, 2016 (India).

schools for further education. Children between 5 to 8 years are admitted to formal education systems. Also, for the better implementation of the scheme, an online portal has been developed, named PENCiL (Platform for Effective Enforcement of No Child Labour) that works for harvesting the benefits of the scheme to large masses with effectiveness. At present, approx 7,000 schools are working under NCLP Scheme that is providing education to almost 3 lakh children.<sup>17</sup>

### **SHORTCOMINGS OF CHILD LABOUR INITIATIVES**

The Constitution of India safeguards the interests of children in respect to education, prohibition, protection and other things. Apart from this, Government on its part enacted and formulated a plethora of acts, policies and schemes to curtail the evil of child labour. However, after struggling for decades, the evil of child labour is still prevalent in our society and swallowed the lives of numerous children. Many lacunas exist in our approach and execution. The main being that the acts are not comprehensive and exhaustive. They do not provide a holistic approach to counter this evil. Some acts are conflicting with the international frameworks such as the Factories Act, 1948 and ILO Convention that provide different ages for employment of children in an agricultural occupation.<sup>18</sup>

Also, the negligence on the part of the administration contributes to the strengthening of the roots of the evil of child labour in Indian society. The schemes formulated such as NCLP Scheme is a great initiative to develop the active child workforce but the inefficiency of the authorities to implement the scheme has been compelling thousands of innocent lives to sacrifice their bright futures.

### **SUGGESTIONS AND CONCLUSION**

There is an alarming need to contribute towards the evil of child labour. Rather than formulating new Child Labour Policies, the government should focus on the effective implementation of these policies. Another effective approach to curb this menace of child labour may be the vigilance on the part of Panchayats. As almost 80% of child workers hail

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<sup>17</sup> Supra note 3.

<sup>18</sup> Dr. Shilpa N. Gaikwad, Critical Analysis of Laws Relating to Child Labour in India, RESEARCH FRONT, [https://www.google.com/url?sa=t&source=web&rct=j&url=http://www.shram.org/uploadFiles/20171030075419.pdf&ved=2ahUKEwj3xqvHtPnyAhUFfisKHa0qCCIOFnoECAMQAO&usg=AOvVaw2CW\\_LJ4XC6LaYYpLRpwpK8](https://www.google.com/url?sa=t&source=web&rct=j&url=http://www.shram.org/uploadFiles/20171030075419.pdf&ved=2ahUKEwj3xqvHtPnyAhUFfisKHa0qCCIOFnoECAMQAO&usg=AOvVaw2CW_LJ4XC6LaYYpLRpwpK8).

from rural areas, Panchayats can contribute a lot to curtail this evil by encouraging parents to send their children to school and must also disseminate awareness regarding fruitful policies of government to rural folk. Apart from that, administrative and executive authorities should concern themselves with the issue which is mushrooming incessantly and behave responsibly to garner the benefits to the large masses. All these approaches may prove a boon to our country and eliminate this menace of child labour soon. The path of success consists of many obstacles and defeats but we have to travel it rationally and efficiently to attain our ultimate goal.