

How the Indian Constitution Safeguards Children against Exploitative Labour through Fundamental Rights and State Policies

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Abstract

India has enacted several laws and constitutional provisions aimed at protecting children from exploitation and ensuring their right to education and a safe childhood. Several legislative and constitutional measures have been introduced by India to prevent exploitation of children and ensure that children can attain education and be provided a protected childhood. These measures over the years have undergone changes to suit various aspects like newer modes of labour, stronger enforcement mechanisms and international parameters. Knowledge regarding legal provisions on child labour is imperative for parents, teachers, policy makers and NGO's to implement child rights in the country. The caste and Varna systems have segregated society in various social sections. Some sections do not have the benefits and rights of having power or position but some groups of individuals receive benefits. The weaker sections have been called weaker sections. Rights were denied to these sections. Child labour is a serious issue which is faced by developing countries like India, a very deep-rooted problem of social system, poverty, illiteracy and many others, under the Indian Constitution-the Supreme law of the land, it has prohibited child labour and provided protections to the children. The several constitutional provisions on child labour and actions

which has been taken against child labour have been discussed in this paper under Indian constitution and various other legislations.

Keywords: Child labour, Indian Constitution, Child Labour Right to Health and Safety, Factories Act.

1. Introduction

Children are very vulnerable. They rely on adults for everything and can't tell right from wrong. Their bodies, minds, and organs are delicate, so they need special protection. The problems facing the kids are varied. Consequently, certain rights have been bestowed upon children who are facing difficulties on a global scale. Child face many different problems. Because of this, children around the world who are struggling have been given certain rights. It's society's job to raise children and help them become good citizens.

In most places, younger children are more vulnerable both mentally and physically. A child's age often dictates what they can do: when they finish school, when they can get married, when the law sees them as adults, when they can work, or join the military, and so on. These age limits change depending on the activity and the country. Activity and country-specific age limits vary. A 'child' is defined as someone under 14 in the Indian Constitution and Child Labour (Prohibition and Regulation) Act 1986. However, under the Juvenile Justice Act, updated in 2015, teenagers aged 16 to 18 can be treated like adults for serious crimes such as rape, acid attacks, or murder.

1. NEED FOR THE STUDY

Article 23 of the Indian Constitution addresses the prohibition of human trafficking and forced labour. Historically, practices such as bonded labour, begging, human trafficking, and prostitution were prevalent in India. Individuals subjected to these practices often experienced severe exploitation, frequently being compelled to labour without equitable remuneration, which significantly impeded their ability to fulfil basic needs. These practices were subsequently abolished through the provisions of Articles 23 and 24 of the Constitution. These articles explicitly prohibit human trafficking, forced labour, and related forms of exploitation. Any violation of these provisions is subject to legal penalties. Under Article 35, Parliament is empowered to enact specific legislation detailing punishments for infringements of these fundamental rights, thereby mandating the state to eradicate such practices.

Article 23(1) specifically prohibits human trafficking, begar, and comparable forms of involuntary service. This provision aims to safeguard the right to life and dignified labour for all individuals by targeting the abolition of practices where persons are subjected to conditions of servitude, which represent social injustices that disregard fundamental human rights.

Begar refers to compulsory labour exacted without compensation. This practice was widespread prior to the enforcement of the Constitution. Children were primarily affected, often compelled to beg and undertake forced labour. Such practices constituted a direct violation of individuals' fundamental rights.

2. RESEARCH METHODOLOGY

The 2024 ILO-UNICEF Global Estimates of Child Labour employed a rigorous statistical methodology to quantify child labour worldwide, utilizing data from 107 countries. This approach established standardized definitions, specified data sources, and integrated advanced modelling techniques to produce reliable and comparable estimates. It further detailed procedures for identifying, measuring, and imputing child labor data in nations with incomplete records, thereby ensuring comprehensive global coverage. Developed collaboratively by the ILO and UNICEF, this methodology supports evidence-based policymaking and facilitates the monitoring of progress toward Sustainable Development Goal 8.7, which aims for the eradication of all forms of child labour.

The research design of this paper is descriptive. It incorporates both primary and secondary data sources. The second objective of the study was addressed using the observation method. To achieve the third objective, an analytical approach was applied to data spanning five decades, from 1971 to 2011.

a). Socio-economic factors influencing child labour

1) Poverty: Research indicates that poverty is a primary determinant of child labour (Bhat and Rather, 2009). Parental decisions concerning child labour and education are often shaped by economic constraints. When family income falls below the poverty threshold, parents frequently perceive a necessity for children to contribute financially. Basu (1998) proposed a theoretical framework suggesting that low income is the fundamental driver for parents engaging their children in labor. Consequently, impoverished households often cannot afford to enroll their children in school, compelling them toward work instead.

2) Family size: Child labor participation is generally observed to be higher in larger impoverished households than in smaller ones, suggesting a correlation between family size and child labor. This often stems from parents' difficulties in meeting the needs of numerous dependents. Furthermore, child labour involvement is modulated by the child's age and gender; for example, boys typically exhibit higher school attendance rates than girls.

3) Family condition: Children who have lost one or both parents, or those affected by familial HIV/AIDS, are frequently compelled to work to support themselves and their siblings. The population of orphaned children is increasing, particularly in Sub-Saharan Africa, where many are forced into street life and subjected to severe conditions (Vandenberg, 2007).

4) Traditional or cultural factors: Cultural factors also contribute to child labor. Traditional and cultural norms in various societies can lead to children entering the labor market at an early age. This is often predicated on the belief that early work enables children to acquire skills beneficial for their future. For instance, Tauson (2009) observed that parents in rural Guatemala favor their children's engagement in work due to its perceived advantages for skill development.

5) Corruption: Corruption represents a significant factor in the misappropriation of resources, with Murphy (2005) suggesting its presence is often correlated with poverty. The United Nations Development Programme (UNDP) (2012) states, "Corruption exacerbates poverty and inequality, undermines human development and stability, sustains conflict, violates human rights, and erodes the democratic functioning of countries." This profoundly impacts children's rights by depriving them of essential services such as healthcare, education, and infrastructure. Consequently, corruption obstructs children's pathways out of

poverty. The estimates were derived from data collected across 107 countries, encompassing approximately 60% of the global child population aged 5–17. Primary data sources included Child Labour Surveys (ILO-supported), Multiple Indicator Cluster Surveys (MICS, UNICEF-supported), Labour Force Surveys, and Demographic and Health Surveys. Recognizing the inherent variations in scope and age coverage among these datasets, efforts were undertaken to harmonize them, thereby enhancing cross-country comparability.

b). DATA SOURCE

To mitigate data coverage gaps, particularly in countries lacking recent or comprehensive surveys, a sophisticated imputation strategy was implemented. This strategy involved modeling six key indicators—including employment rates, child labour rates, hazardous work rates, and distributions by sector and school attendance—using linear regression techniques. Model selection employed adaptive LASSO (Least Absolute Shrinkage and Selection Operator) and cross-validation to optimize predictive accuracy and prevent overfitting. Globalization is identified as a contributing factor to child labour. Although globalization presents opportunities for developing countries to enhance gross domestic product (GDP) per capita through new trade avenues and increased foreign direct investment (FDI), it has also been associated with negative impacts on child labour in these regions. A recent trend involves international corporations relocating production overseas, where children are frequently employed as low-cost labour due to their perceived compliance and amenability to employer directives, often enduring abuse and exploitation (Mapaure, 2009). Mishra (2012) specifically argues that in India, globalization has contributed to an increase in child engagement in hazardous occupations, including those in brick kilns, motor garages, hotels, shops, transportation, and manual loading.

3. REVIEW OF LITERATURE

Findings from the literature review, which encompassed 30 studies meeting the inclusion criteria, revealed several insights. Of these studies, 17 investigated intervention impacts on learning outcomes, 17 on school participation outcomes, and only 4 on child work outcomes.

Interventions focusing on children were evaluated in ten studies. These included school feeding programs, skills development and awareness-building initiatives, and the provision of free transportation, such as bicycles. While nine studies examined effects on school participation and completion, only two studies assessed impacts on both children's learning and work outcomes. The evidence indicated that school feeding programs generally improved school enrolment and attendance, particularly at lower grade levels and among children from socio-economically disadvantaged households. Positive impacts on children's learning outcomes were also observed in the reviewed studies, with program effectiveness influenced by specific operational modalities of school feeding. However, no study on the effect of school feeding on child labour outcomes in India was identified in this review. Although limited, evidence suggests that life skills education programs represent a promising approach for reducing school discontinuation, especially among girls. The singular study that measured the effect of a life skills education program on children's work outcomes reported no statistically significant impact. Further research is necessary to fully elucidate how such programs enhance school continuation and completion among girls. Potential mechanisms include enabling girls to overcome social barriers to school attendance, increasing their agency regarding school exit decisions, and enhancing social-emotional support. Two studies examining the provision of

free bicycles to adolescent girls demonstrated positive effects on both education and work outcomes. These impacts are likely mediated by shifts in social norms, particularly concerning girls' mobility.

Ten of the 30 identified studies assessed household-targeted programs, broadly categorized into microfinance programs, parental awareness-building initiatives, and cash transfers. These studies predominantly focused on school participation and completion outcomes, with less emphasis on learning and child work outcomes. Among the three studies evaluating the impact of microfinance and livelihood support on school participation, one reported positive effects while two found no significant impact. Parental engagement activities have been shown to have positive effects on children's learning outcomes in some studies; however, isolating these specific effects is challenging due to the frequent integration of parental engagement with other intervention components. For cash transfers, only one study was identified, which indicated positive effects on school completion at Class 8, but not at Class 10 or 12.

Only five of the 30 studies in the review assessed interventions targeting communities or systems. These studies examined the effects of the enactment of the Right to Education Act and school- and community-based monitoring of educational systems. Four studies, all evaluating community- and/or school-based monitoring, reported positive or mixed effects on school participation, completion, or learning outcomes. Conversely, one assessment of the Right to Education Act's enactment indicated negative effects on learning outcomes. These findings warrant cautious interpretation due to the presence of numerous omitted variables, such as teaching quality, pedagogical methods, curriculum design, children's school readiness, and household income. The study's inability to control for these factors may have introduced bias into the results.

4. Child Labour and the Right to Health and Safety

According to data from the International Labour Organization (ILO) and UNICEF, approximately 160 million children globally are engaged in child labour. More than one-third of these children are involved in hazardous work, which directly compromises their health and development.

Children may be compelled into labour due to various factors. Predominantly, child labour arises from household financial instability or uncertainty, often stemming from poverty, a caregiver's sudden illness, or the loss of a primary wage earner's employment.

The consequences of child labour are severe, including profound physical and psychological harm, and in some instances, fatalities. It can also lead to forms of slavery, sexual exploitation, or economic exploitation. Furthermore, child labour almost invariably deprives children of access to education and healthcare, thereby infringing upon their fundamental rights.

Migrant and refugee children, many displaced by conflict, disaster, or poverty, face an elevated risk of forced labour and trafficking. This risk is particularly pronounced for those migrating unaccompanied or via irregular routes with their families. Trafficked children frequently experience violence, abuse, and other human rights violations. Girls are particularly susceptible to sexual exploitation, while boys may face exploitation by armed groups.

Child labour encompasses work that children are either too young to perform or that, due to its nature or specific circumstances, poses hazards. In contrast to age-appropriate developmental activities—such as light household chores or holiday employment—child labour detrimentally affects a child's health, safety,

or moral development. In its most severe manifestations, child labour can constitute slavery or akin practices, including the sale and trafficking of children. In certain contexts, children may also be forcibly recruited into armed conflict, exploited in drug production and trafficking, or compelled into prostitution.

Where is child labour declining?

Recent data indicate a reduction of over 20 million children in child labour since 2020, thereby reversing the upward trend observed between 2016 and 2020. Despite this positive development, the global objective of eliminating child labour by 2025 has not been met. Furthermore, global estimates conceal substantial regional disparities. In Asia and the Pacific, both the percentage and absolute numbers of children in child labour have declined since 2020. Latin America and the Caribbean experienced a decrease in the affected child population, though the overall prevalence of child labour has stabilized. Sub-Saharan Africa continues to bear the highest burden, with approximately 87 million children in child labour, representing nearly two-thirds of the global total. While prevalence in this region has decreased since 2020, the absolute number of children involved remains constant, attributed to population growth, persistent and emerging conflicts, extreme poverty, and overstretched social protection systems. The most prevalent forms of child labour, affecting both boys and girls, are concentrated in the agricultural sector. Approximately 61% of children engaged in child labour globally work on farms or in other agricultural pursuits, primarily within family subsistence contexts and on smallholder farms. Services, encompassing domestic work, small-scale commerce, and other activities, account for another 27% of child labour. The industrial sector, including construction, manufacturing, and mining, constitutes the remaining 13%. The sectoral distribution of child labour varies regionally. In Sub-Saharan Africa, child labour is predominantly agricultural. In Northern Africa and Western Asia, children are engaged in the service sector—such as selling goods or domestic work—at a similar rate to agricultural activities. Services are also more prevalent in Latin America and the Caribbean, and in Eastern and South-Eastern Asia. In Central and Southern Asia, over 25% of child labour occurs in industry, which is twice the global average, with a comparable proportion in services.

What is UNICEF doing to stop child labour?

UNICEF implements interventions to prevent and respond to child labour, with a particular focus on strengthening the social service workforce. Social service workers are crucial in identifying, preventing, and managing risks that contribute to child labour. UNICEF's efforts develop and support this workforce to address potential child labour situations through case management and social protection services, including early identification, registration, interim rehabilitation, and referral services. The organization also emphasizes strengthening parenting and community education initiatives to counter detrimental social norms that perpetuate child labour, while concurrently collaborating with national and local governments to prevent violence, exploitation, and abuse. In partnership with the International Labour Organization (ILO), UNICEF assists in data collection to enhance the visibility of child labour for decision-makers. These activities complement efforts to reinforce birth registration systems, ensuring all children possess birth certificates to substantiate their age below legal working limits. Children removed from labour are supported in their safe return to school or training. UNICEF advocates for increased access to quality education and provides comprehensive social services to ensure children's protection and family reunification. To address child trafficking, UNICEF collaborates with United Nations partners and the European Union on initiatives spanning 13 countries across Africa, Asia, Eastern Europe, and Latin America.

Article 24 in the Indian Constitution was driven by several key objectives

1. **Protecting Physical Safety:** Children's developing physiology is particularly vulnerable. Engaging in heavy labour, exposure to dangerous chemicals, or working in hazardous environments can inflict permanent damage on their growing bodies.
2. **Ensuring Mental Development:** Child labour often deprives children of educational opportunities, thereby impeding their cognitive development and the acquisition of critical thinking skills.
3. **Preserving Childhood:** Childhood is recognized as a period for play, learning, and overall development, which should not be usurped by premature engagement in labour.
4. **Breaking the Cycle of Poverty:** By foregoing education for work, children frequently perpetuate a cycle of poverty into adulthood. Education is considered a vital mechanism for disrupting this cycle.

Clearly Prohibited Work includes:

Factory work involving machinery operation, assembly lines, or chemical processing. Mining such as in coal mines, stone quarries, or tunnel excavation. Construction including work on buildings, roads, or bridges. Chemical industries involving the handling of pesticides, paints, or other toxic substances. Metalwork including welding, foundry operations, or working with hot metals. Gem cutting and polishing often associated with harmful dust and chemical exposure. Carpet weaving: characterized by long hours in poor conditions and exposure to harmful dyes. Match and fireworks manufacturing: which inherently poses extreme dangers due to explosive materials.

Constitutional safeguards

The Indian Constitution incorporates several provisions dedicated to the advancement, development, and safety of children, primarily articulated within Part III (Fundamental Rights) and Part IV (Directive Principles of State Policy). These constitutional articles specifically address child welfare and prohibit activities such as child labour, underscoring the nation's commitment to children's protection. Key articles include:

Article 15(3): Authorizes the State to enact special provisions for women and children, thereby enabling specific measures for child welfare.

Article 21A: Mandates the right to free and compulsory education for all children aged 6 to 14, as determined by state law.

Article 23: Prohibits forced labour, begging, and other forms of human trafficking.

Article 24: Explicitly prohibits the employment of children under 14 in factories, mines, or any other hazardous occupation, constituting a critical safeguard against underage labour in dangerous sectors.

Article 39(f): Directs the State to ensure that children are provided with opportunities and resources for healthy development, freedom, and dignity, and are protected from exploitation and moral or material abandonment.

Article 39(e) and (f): Oblige the State to protect children from abuse during their formative years and prevent their coercion into occupations detrimental to their physical development due to economic hardship, ensuring their healthy growth and development.

Article 45: Stipulates that the State shall endeavor to provide early childhood care and education for all children until they reach the age of six years.

Article 51A(k): Establishes the fundamental duty of parents or guardians to provide educational opportunities for their child or ward between the ages of six and fourteen.

The Child Labor Act, 1986

The Child Labour (Prohibition and Regulation) Act of 1986 represents a culmination of legislative efforts initiated in 1881 to incrementally extend legal protections to working children. This Act superseded two key prior statutes: the Children (Pledging of Labour) Act of 1933 and the Employment Children Act of 1938. Its enactment was informed by recommendations from various commissions, notably the Sanat Mehta Committee in 1984 and the Gurupad Swamy Committee on Labour in 1976. These commissions often advocated for legal reforms balancing both prohibition and regulation.

7.Challenges to Child Rights Under the Indian Constitution

India's legal and constitutional provisions for child rights face substantial implementation challenges. Despite progressive legislation such as the Juvenile Justice Care and Protection of Children Act, 2015, and the Protection of Children from Sexual Offences POCSO Act, 2012, enforcement is hindered by systemic obstacles. A notable impediment is the limited awareness of rights among children in rural and marginalized communities, coupled with inadequate access to legal aid, which increases their vulnerability to exploitation.

Poverty remains a primary determinant of child rights violations. A significant proportion of children from economically disadvantaged families are compelled into child labour or early marriage, thereby undermining legal prohibitions and infringing upon their rights to education, health, and protection. Although the Right to Education Act mandates free and compulsory education, its enforcement is notably weak in economically backward regions. Child labour persists extensively, particularly in the informal sector, despite the Child and Adolescent Labour Prohibition and Regulation Act, 1986 (as amended in 2016). This persistence is attributed to insufficient monitoring and regulation, understaffed enforcement mechanisms, and minimal prosecutions.

Children with disabilities, orphans, and those in conflict with the law encounter further compounded challenges, with legal safeguards often poorly implemented and care institutions inadequately maintained or staffed by unsensitized personnel. An emerging concern is digital exploitation, including online abuse and cyberbullying, which necessitates better integration of the Information Technology Act with child protection legislation.

Landmark Case Laws

Indian courts have significantly shaped child rights jurisprudence through several landmark judgments. *Sheela Barse v. Union of India* (1986) was pivotal in establishing the requirement for humane treatment

of children in custodial institutions and delineating guidelines for their protection, thereby recognizing the state's responsibility towards children in conflict with the law.

In M.C. Mehta v. State of Tamil Nadu (1991), the Supreme Court prohibited child employment in hazardous industries, mandated the implementation of the Child Labour Prohibition and Regulation Act, and directed the provision of education for rescued child laborers, reinforcing the right to protection from economic exploitation.

Gaurav Jain v. Union of India (1997) addressed the rights of children of sex workers, advocating for their rehabilitation and societal integration and emphasizing their right to equality and education within the expanded ambit of Article 21A of the Constitution. **Vishal Jeet v. Union of India (1990)** focused on child trafficking and forced prostitution, prompting state governments to implement preventive measures, establish rehabilitation centres, and conduct regular inspections.

The Bandhua Mukti Morcha v. Union of India (1984) case was crucial in deeming bonded labour, including child labor, unconstitutional, interpreting Article 21 to encompass the right to live with dignity and strengthening the enforcement of the Bonded Labour System Abolition Act, 1976. **Unnikrishnan J.P. v. State of Andhra Pradesh (1993)** affirmed the right to education as a fundamental right under Article 21, subsequently paving the way for Article 21A through the 86th Constitutional Amendment, which mandates free and compulsory education for children aged 6 to 14.

People's Union for Civil Liberties v. Union of India (2001) addressed child malnutrition and hunger, leading to court directives for state governments to provide mid-day meals.

Sampurna Behura v. Union of India (2011) involved the Supreme Court scrutinizing the Juvenile Justice Act's implementation and directing the establishment of Child Welfare Committees and Juvenile Justice Boards across states to enhance monitoring and compliance. Lastly, in **Exploitation of Children in Orphanages in the State of Tamil Nadu v. Union of India (2017)**, the Supreme Court, taking suo motu cognizance of abuse in child care institutions, issued comprehensive guidelines for improved monitoring, inspection, and functioning, also emphasizing the necessity of psychological counselling and rehabilitation for affected children.

Child labour and exploitation persist as significant challenges in India, infringing upon the fundamental rights of millions of children. Despite the existence of legislative frameworks and constitutional safeguards, a substantial number of children continue to be involved in arduous, frequently hazardous, work. This deprivation affects their access to education and healthcare, restricts their childhood, and negatively impacts their physical, emotional, and psychological development. The underlying causes of child labour are complex, deeply rooted in poverty, insufficient access to education, and regional societal acceptance. The issue is particularly prevalent in rural and economically disadvantaged areas, where children often contribute to family income from an early age.

Ensuring children's access to education, health, and nutrition is fundamental for realizing their rights and fostering equitable development. The Indian Constitution and various statutory frameworks prioritize children's holistic development by safeguarding these fundamental rights. Despite numerous government schemes and constitutional guarantees, millions of children in India still face considerable challenges in

accessing these rights, primarily due to poverty, social discrimination, gender inequality, and inadequate infrastructure.

Education, recognized as a crucial tool for poverty alleviation and empowerment, is enshrined as a fundamental right under Article 21A of the Constitution, mandating free and compulsory education for all children aged 6 to 14 years. The Right of Children to Free and Compulsory Education Act RTE Act, 2009, further establishes norms for school infrastructure, teacher-student ratios, and prohibits physical or mental harassment. However, persistent implementation challenges mean many children, particularly from marginalized communities, remain out of school or experience premature dropout due to socio-economic pressures and limited accessibility.

Nutrition is indispensable for child survival and development. Malnutrition, manifesting as stunting (35.5%), wasting, and underweight (32.1% for children under five, as per NFHS-5), affects a substantial number of Indian children. Programs like the Integrated Child Development Services ICDS, Mid-Day Meal Scheme MDMS, and Poshan Abhiyaan endeavor to address malnutrition through supplementary nutrition, growth monitoring, and health education. The effectiveness of these programs, however, is contingent on robust local implementation, active community involvement, and sustained political commitment.

Conclusion

Child labour remains a persistent global challenge, demanding sustained efforts for its eradication. While the Indian government has made incremental progress in this domain, the prevalence of child labour is significantly influenced by pervasive socio-economic factors such as poverty. In certain places, education is either unaffordable or deemed insufficient. Children work because they have no other options. As a result, India needs to implement its child protection legislation adequately.

Furthermore, limited access to affordable and adequate schooling in many regions leaves children with few alternatives, often compelling them into labour. There is no rule defining the minimum age at which children may work in agriculture.

While the International Labor Organization (ILO) Convention specifies a minimum age of 15 for any employment, the Factories Act of 1948 sets a minimum age of 14. The minimum age for employment in non-industrial jobs ranges from 12 to 14 years, unlike plantations where the age of employment has been set at 12. As a result, Indian laws pertaining to Consequently, robust implementation of child protection legislation in India is imperative. An analysis of relevant statutory provisions concerning child labour also reveals inconsistencies in the prescribed minimum age for employment across different industries.

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