



## AN EFFECTIVE ROLE OF GOVERNMENT IN TACKLING CHILD LABOUR

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### **Abstract**

*Child labour takes place when children are forced to work at an age when they are expected to work study and enjoy their phase of innocence. It implies lost or deprived childhood that leads to exploitation of children in various forms: mental, physical, social, sexual and so on. Child labour is one of the gravest problems faced by the Indian society for a long time. It has been around for decades. When a child is pushed into work, it snatches from him his chances of getting a happy and fulfilling childhood. At the same time, it robs children of their true potential, hampers their physical and mental health and goes against their dignity. Poor education that goes hand in hand with child labour plagues India and is a big roadblock in India's economic development.*

**Keywords:** Child Labour, Exploitation, Indian Society, Childhood, Education

### **Introduction:**

Child Labour is the practice of having children engages in economic activity, on a part- or full-time basis. The practice deprives children of their childhood, and is harmful to their physical and mental development. Poverty, lack of good schools and the growth of the informal economy are considered to be the key causes of child labour in India.

India formulated a National Policy on Child Labour in 1987. This Policy seeks to adopt a gradual & sequential approach with a focus on rehabilitation of children working in hazardous occupations. It envisioned strict enforcement of Indian laws on child labour combined with development programs to address the root causes of child labour such as poverty. In 1988, this led to the National Child Labour Project (NCLP) initiative. This legal and development initiative continues, with a current central government funding of Rs. 6 billion, targeted solely to eliminate child labour in India. Despite these efforts, child labour remains a major challenge for India. No, child below age of 14 years shall be employed to work in any factory or mine or engaged in any hazardous employment.

About 1.4 million child labourers in India in the age group of 7-14 years can't write their names, analysis of Census data by CRY- Child Rights and You reveals. This means one in three child labourers in the said age group are illiterate. This is the grim reality of children who work for more than six months in a year. Even for children who support the family economy by working for less than six months in a year, which is very common in a country like India, the situation is equally, if not more, worse. A shocking 2 million of these marginal workers have compromised their education as well. There is a high potential of early school leavers and those not learning at school to remain outside the world of employment. These children when they grow remain at a risk of not having secured jobs and thus remain trapped in the intergenerational cycle of poverty and deprivation. It is imperative to relook at what we as a nation are investing in our children's education. The situation is also reflected in the



state figures. While 45% of child labourers in Bihar are illiterate, in Rajasthan and Jharkhand the figure stands at 40%. Madhya Pradesh and Andhra Pradesh also have about 38% child labourers as illiterate.

With the education indicators for these children plummeting, the reasons why we face this challenge needs to be addressed. India's legal framework is based on the assumption that children can work and still be educated. The numbers stated earlier blatantly contradict this assumption and are evidence enough that this needs to change, for main as well as marginal child labourers. In 1992 when India ratified the United Nations Convention on the Rights of the Child (UNCRC), a reservation was made in article 32, wherein the Government of India articulated that it would progressively ban all forms of child labour. Now, after 30 years since the Child Labour Law came into force, India has the opportunity to amend the law in favour of its children.

However, the proposed amendment in the Child Labour law leaves a glaring gap in the prohibition of labour for children under the age of 14. The new law also allows children in this age group to work in family occupations after school hours. The Census 2011 data for children in labour, states that 6.5 million children in India in the age group of 5 to 14 years work in agriculture and household industries. This makes a staggering 64.1% of child labourers in this age group.

#### **Government Initiatives since independence:**

After its independence from colonial rule, India has passed a number of constitutional protections and laws on child labour. The Constitution of India in the Fundamental Rights and the Directive Principles of State Policy prohibits child labour below the age of 14 years in any factory or mine or castle or engaged in any other hazardous employment (Article 24). The constitution also envisioned that India shall, by 1960, provide infrastructure and resources for free and compulsory education to all children of the age six to 14 years. (Article 21-A and Article 45).

India has a federal form of government, and labours being a subject in the Concurrent List, both the central and state governments can and has legislated on child labour. The major national legislative developments include the following:

##### **a) The Factories Act of 1948:**

The Act prohibits the employment of children below the age of 14 years in any factory. The law also placed rules on whom, when and how long can pre-adults aged 15–18 years be employed in any factory.

##### **b) The Mines Act of 1952:**

The Act prohibits the employment of children below 18 years of age in a mine.

##### **c) The Child and Adolescent Labour (Prohibition and Regulation) Act of 1986:**



The Act prohibits the employment of children below the age of 14 years in hazardous occupations identified in a list by the law. The list was expanded in 2006, and again in 2008. In May 2015, a major amendment was made to this Act which stipulated that children between 5-14 years are not to be employed in any occupation (except in the entertainment industry). But much to the chagrin of child rights activists, who sought a blanket ban on child labour, the amendment also, mandated that children may be allowed to work in non-hazardous family enterprises. In 2016, the Act was amended (not in force as of 30 July 2016) to prohibit employment of child below 14 years in all occupation (except for helping in non-hazardous family business and of child artists in the entertainment industry and sports). Further, adolescents between 14–18 years will not be allowed to work in hazardous industries and processes. The previous law allowed children to be employed in family enterprises without restriction.

**d) The Juvenile Justice (Care and Protection) of Children Act of 2015:**

This law made it a crime, punishable with a prison term, for anyone to keep a child in bondage for the purpose of employment.

**e) The Right of Children to Free and Compulsory Education Act of 2009:**

The law mandates free and compulsory education to all children aged 6 to 14 years. This legislation also mandated that 25 percent of seats in every private school must be allocated for children from disadvantaged groups and physically challenged children.(It is not applied through).

Government of India has initiated various measures and realization of a multipronged strategy on ground to move firmly towards a child labour free society. A landmark step in the endeavour to have a child labour free society as the enactment of the Child labour (Prohibition and Prevention) amendment Act, 2016 in August 2016 that provides for complete prohibition on employment of children below 14 years in all occupations and processes and prohibits employment of adolescents (14-18 years) in hazardous occupations and processes. The age of admission to employment has been linked to the age of compulsory education under Right to Education Act (RTE), 2009.

In order to facilitate compliance of the provisions of the Act, Government of India has also notified the amendment in the Child Labour (Prohibition and Regulation) Central Rules after extensive consultation with the stakeholders. The Rules for the first time provide broad and specific framework for prevention, prohibition, rescue and rehabilitation of child and adolescent workers. To clarify on issues related with help in family and family enterprises and definition of family with respect to child, specific provisions have been incorporated in rules. Further, it also provides for safeguards of artists which have been permitted to work under the Act, in terms of hours of work and working conditions. The rules provide for specific provisions incorporating duties and responsibilities of enforcement agencies in order to ensure effective implementation and compliance of the provisions of the Act. In order to clarify the issues on Schedule of hazardous occupations and processes, the Schedule has been



reviewed and the intent notification has been issued to include a comprehensive list of about 118 occupation and processes.

For fulfilment of the objective of a strong legislation, it requires equally strong tools on field to be implemented and to provide this, the Ministry of Labour and Employment has already prepared a comprehensive strategy for effective enforcement. Labour being in the concurrent list, an elaborate Action Plan was sent to all State Governments' after enactment of the Legislation for implementation and all the State Governments' have been sensitised about the major shift in the legislation with the direction to spread the same to the ground level. To remove all ambiguities a Standard Operating Procedure (SOP) is being framed for all stakeholders particularly, enforcing agencies and this would be supported by IT Platform "PENCIL" which has components ensuring enforcement of the Act, mechanism for redressal of complaints, child tracking system and a monitoring mechanism. This platform would integrate all the State Governments with the Central Government for effective coordination and convergence of various measures being taken for compliance of the Act.

### **Understanding the Problem of Child Labour through Numbers**

The 2001 Census of India figures pegged the number of children involved in child labour (age group of 5-14 years) at a staggering 1.26 crore! This was out of the total child population of 25.3 crore at that time. Out of this, approximately, 12 lakh children worked in hazardous occupations/processes which are covered under the Schedule of the Child Labour (Prohibition & Regulation) Act (the Schedule includes 18 occupations and 65 processes). In 2004-05, the National Sample Survey Organisation (NSSO) conducted a survey and determined the number of working children to be 90.75 lakhs. But real good news emerged in the findings of 2011 Census which revealed that the number of working children in the age group of 5-14 years had plummeted significantly to 43.53 lakh. This was the result of several grass root level initiatives taken by the government (both Central and State) and NGOs like Save the Children to tackle the menace of child labour.

### **Committees Taken up by the Government to Prevent Child Labour**

In 1979, the Central Government formed the first statutory committee to analyse and research on the issue of child labour in India - the Gurupad swamy Committee. The committee was also tasked with making certain recommendations to curb child labour. The Committee studied the problem in great detail and made some truly insightful recommendations. One of their major observations was that the problem of child labour is inextricably linked to poverty. Helping poor to come out from the shackles of poverty was important to curtail the level of child labour. The Committee stated that till the time poverty continues, it would be not be possible to fully eliminate child labour and therefore efforts to abolish it through legal means will not yield the desired results. The Committee felt that in these circumstances, the only alternative left was to ban child labour in hazardous areas and to regulate and improve the conditions of work in other areas.

Taking into the account the findings and recommendations of the Gurupad swamy Committee, the Union Government enacted the Child Labour (Prohibition and & Regulation)



Act in 1986. The Act prohibited children from being employed in specified hazardous occupations and at the same time regulated their working condition in other non-hazardous occupations and processes. The Act had a 'Schedule' which would enlist the hazardous occupations and processes. This Schedule was progressively expanded during the next many years on the basis of the recommendations of the Child Labour Technical Advisory Committee constituted under the Act.

### **Child Labour Free India- Initiatives taken along with ratification of ILO Conventions on Child Labour**

The former Minister of State for Labour and Employment (Independent Charge), Shri Bandaru Dattatreya briefed the press about the initiatives taken for Child Labour free India along with ratification of ILO Conventions on Child Labour. India ratified International Labour Organization's Convention No 138 (minimum age for employment) and Convention No 182 (worst forms of child labour) to symbolise its commitment and initiatives for eradication of child labour and attainment of Sustainable Development Goal 8.7 related with curbing of child labour. The ratification of both conventions coincided with the World Day against Child Labour expressing India's commitment along with global partners to fight the menace of child labour and providing the childhood back to them. With ratification of these two core ILO conventions, India has ratified 6 out of 8 core ILO conventions, with the other 4 core ILO conventions relating to abolition of forced labour, equal remuneration and no discrimination between men and women in employment and occupation, thus reaffirming its commitment for promoting and realizing fundamental principles and right at work. This action is in sync with the Government's broader intent for social equality and growth for all.

Ratification of these 2 core conventions by India has not only national but international ramifications for eradication of child labour as it means that almost all children (99%) in the world are covered by Convention 182, while coverage of Convention 138 enhanced from approximately 60 percent to almost 80% of the world's children population. India is the 170th ILO Member State to ratify Convention No 138, which requires States to set a minimum age under which no one shall be admitted to employment or work in any occupation, except for light work and artistic performances. Similarly, for Convention No 182, India is the 181st member state to ratify and reaffirm its commitment for the prohibition and elimination of worst forms of child labour, including slavery, forced labour and trafficking; the use of children in armed conflict; use of children for prostitution, pornography and in illicit activities ( such as drug trafficking); and hazardous work.

To meet the objective of child labour free society, the National Child Labour Project (NCLP) has been aligned with changes in the Act. NCLP is a rehabilitative scheme for child and adolescent labour. Under the scheme, children are provided bridge education, vocational training, mid-day meal, stipend, health check-up etc. This scheme has been strengthened recently in terms of improving its quality and extending its coverage to all the districts of the country. The annual expenditure under the Scheme for FY 2016-17 was approx Rs. 105 Crore and budget allocation for the current FY 2017-18 is Rs. 150 Crore.



Child labour in India, somehow, has become a social norm that we accept and tolerate in our society. This exploitative and abusive practice will continue unless society adopts a zero tolerance attitude towards it. Children continue to be exploited and abused because the State and people do not address children's issues comprehensively and effectively.

However, only 'rescuing' children, often will not help. What is required is addressing the reasons that force children to work. Children work mainly to help their families because the adults do not have appropriate employment and adequate income. Children also work because there is a demand for cheap labour in the market. When children are forced to work long hours their ability to get adequate nourishment and to attend school is limited, preventing them from gaining education.

### **Conclusion**

Childhood is the biggest important phase of a child's life and considered as an initial learning period for them which directly affects their future. Children require love, care, education, health, morals and financially secure future from their parents, and if a parent is not capable to give them such life; it gives rise to the "child labour".

Collective efforts are needed on the part of society and the government to put an end to the practice of child labour. In fact, every citizen should take a pledge to never employ child labourer, rather discourage others too from doing so. We should create awareness amongst people employing child labourers and the parents sending their children to work. We need to provide our children a happy childhood where they are able to enjoy the best period of their lives with a merry and carefree attitude. The government should make efforts to increase the incomes of parents by launching various development schemes. Efforts should be made towards poverty eradication combined with educational reforms to provide free or affordable access to quality education. Only by taking comprehensive steps, the Government can hope to eliminate all forms of child labour by 2020.

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