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CHILD LABOUR: A STUDY OF LEGAL FRAMEWORKS AND SOCIAL REALITIES

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Abstract:

Child labour is one of the biggest and most intractable problems in India's socio-economic and legal arenas, with millions of children engaged in exploitative labour practices in a wide range of industries, including agriculture, manufacturing, domestic work, and street vending. This is despite India's commitment to international conventions such as the ILO Convention No. 138 (Minimum Age Convention) and Convention No. 182 (Worst Forms of Child Labor) stringent domestic child labour bans, and robust constitutional provisions in Articles 21, 24, 39(f), and 45, which underscore the right to life, the need to protect children from hazardous labour, and the state's responsibility to ensure free education and the welfare of the child. However, the problem persists because of a number of factors, including widespread poverty, illiteracy among parents, and the socio-economic divide between the rich and the poor, which has led to a wide gap between the urban and the rural.

This research paper critically examines the legal structure in India with respect to the issue of child labour, which includes the Child Labour (Prohibition and Regulation) Act, 1986, amended in 2016, banning child labour below the age of 14 and regulating adolescents in hazardous work, the Juvenile Justice Act, 2015, and the various schemes implemented in the country, such as the National Child Labor Project. It also includes the judicial interpretations, such as the Supreme Court decisions in the *M.C. Mehta v. the State of Tamil Nadu*, 1996, which held the state accountable for providing education in a non-exploitative manner, and the *Bandhua Mukti Morcha v. the Union of India*, 1984².

However, the study, while appreciating the comprehensiveness of the framework, assesses its low efficacy, which is hampered by socioeconomic factors like migration, caste-based discrimination, and the growing gig economy, as well as factors like poor inter-agency

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² *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161.

coordination and lack of rehabilitation funds. The study concludes that, in spite of the legal framework's strength, it is highly unlikely to eliminate child labour unless these underlying causes are addressed. Thus, in conclusion, the paper suggests a number of measures that, if implemented, might at last eliminate the scourge of child labour and protect the rights of children to a childhood, an education, and a bright future.

Introduction:

Child labour is a severe violation of the fundamental rights of children and a major obstacle to India's social and economic development. According to the International Labour Organization, child labour is "work which deprives children of their childhood, their potential, and their dignity and is harmful to their physical and mental development, especially when this work interferes with their schooling." Child labour in India is a product of deeply rooted problems, including poverty, social disparities, adult joblessness, and illiteracy. Children's income is seen as a means of survival for their families. India has one of the highest numbers of working children in the world. According to the 2011 Census and recent data from the NSSO, over 10 million children below 14 years of age are currently engaged in child labour, accompanied by millions of others in hazardous child labour. They include children in agricultural activities, where 70% of them work in the fields as unpaid family workers, small-scale industries, domestic servitude, and street vending or scavenging. Regrettably, girls are overrepresented in unpaid household work, and boys in hazardous manual activities, making them vulnerable to health risks, accidents, and stunted development. In recognition of this crisis, the Indian Constitution incorporates several protective provisions, including Article 24, which prohibits the employment of children below 14 years of age in any factory, mine, or hazardous employment; Article 21A, which makes free compulsory education a fundamental right up to the age of 14; and several directive principles of state policy, including Articles 39(e), 39(f), and 45, which require the state to provide for the welfare of children and provide them with opportunities to develop in a healthy environment. Several other legislative enactments, such as the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 (amended in 2016), which bans child labour altogether and restricts adolescents from engaging in 88 hazardous occupations, along with the Juvenile Justice Act, 2015, which focuses on rehabilitation, complement the constitutional provisions. Several judgments of the Supreme Court, including its directive in *People's Union for Democratic Rights v. Union of India* (1982),³ the supreme

³ *People's Union for Democratic Rights v. Union of India*, (1982) 3 SCC 235.

court held that non-payment of minimum wages amounts to forced labour under Article 23, thereby strengthening labour protections, including for children and to eradicate bonded labour, along with *M.C. Mehta v. State of Tamil Nadu* (1996)⁴, the Supreme court issues detailed directions for the withdrawal, rehabilitation, and education of child labours, and it focused on educational reforms, have also strengthened the enforcement of child rights. However, the prevalence of child labour, as seen in the recent surge in the wake of the pandemic and the rise of the informal sector, points to the lack of proper implementation of the laws in the areas of labour inspection, corruption, lack of stringent penalties, and other socioeconomic factors. This paper examines the issue of child labour from the point of view of labour laws in India and dissects the provisions of the constitution, the relevant enactments, and the judicial pronouncements on the subject along with the socioeconomic factors responsible for its prevalence.

Meaning:

Child labour is not only the employment of a child but is a broad concept that refers to any work that interferes with the education, health, and development of the child as a whole. According to the International Labour Organization Convention No. 138 and No. 182, "child labour" refers to the employment of a child in any work that is economically exploitative and interferes with the physical, mental, or moral development of the child or that deprives the child of their childhood, dignity, and future potential. "In India, the issue of child labour is not only confined to the factories but is linked with a number of exploitative practices." Significant changes in the definition of child labour in India have been made over the years with the introduction of various legislation. Initially, the Employment of Children Act of 1938 provided limited protection. However, the Child Labour (Prohibition and Regulation) Act of 1986 was a significant step in the protection of Indian children from the perils of child labour. It forbade the employment of children below the age of 14 in 13 hazardous occupations and 57 processes. It also regulated "family-based work." The amendment of the act in 2016 was a significant step in the protection of Indian children from the perils of child labour. It forbade the employment of children below the age of 14 in any occupation. It prohibits adolescents (14- 18 years) from engaging in hazardous occupations, now limited to specific categories such as mines, explosives, and hazardous processes. It provides for rehabilitation of rescued children, primarily funded through fines imposed on employers, along with support from government

⁴ *M.C. Mehta v. State of Tamil Nadu*, (1996) 6 SCC 756.

schemes. It was in accordance with the provisions of the International Labour Organization and the Factories Act of 1948, the Minimum Wages Act of 1948, and the Bonded Labour System (Abolition) Act of 1976.

Child labour manifests itself in a variety of ways, some of which are quite insidious, in the informal sector of the Indian economy, including agricultural drudgery, which employs 60-70% of the country's child labour as unpaid labourers in the fields, domestic servitude, in which young girls are subjected to solitary confinement and abuse, street vending or rag-picking in the face of traffic hazards, small-scale industry, including bangle-making in Firozabad or lock-making in Aligarh, and hazardous occupations, including work in construction, slate mines in Madhya Pradesh, carpet weaving in Uttar Pradesh, and firework factories in the notorious firework hub of Sivakasi in Tamil Nadu, which is infamous for explosions that claim the lives of young workers. These work situations expose child labourers to toxic substances, heavy machinery, long hours, sexual exploitation, and physical abuse, which contribute to a variety of illnesses, including respiratory diseases, stunted growth, malnutrition, and psychological trauma, including anxiety and depression.

Hence, the issue of child labour calls for an economic perspective as a social evil bred by cheap labour demands and a grave violation of human rights as defined by the UN Convention on the Rights of the Child, ratified by India in 1992. The issue affects dignity, equality, and national progress by creating an unskilled underclass. The solution to it does not only require a strict approach but also a socioeconomic approach.⁵

Constitutional framework:

Article 24 – Prohibition of Employment of Children in Factories, etc. 584 This provision prohibits the employment of children under age of 14 years in factories, mines, or other such hazardous activities. However, this provision is limited to hazardous occupations and does not impose a complete prohibition on all forms of child labour.⁶

The employment of children below 14 years of age in any factories is prohibited under section 67 of The Factories Act, 1948.⁷

⁵ Nagar, N., & Roy, B. (Year). *A critical analysis of child labour in India. International Journal of Current Research in Multidisciplinary (IJCRM)*, 1(5), 8.

⁶ INDIA CONST. art. 24.

⁷ Factories Act, 1948, § 67 (India).

The presence of persons below 18 years of age in any mine is prohibited under section 45 of The Mines Act, 1952.⁸

The engagement of children below 16 years of age in any kind of shipping activities is prohibited under section 109 of The Merchant Shipping Act, 1958.⁹

The employment of children below the age of 14 years in any motor transport undertaking is prohibited under section 21 of The Motor Transport Workers Act, 1961.¹⁰

Legislative Framework:

India has developed a wide range of legislation to prohibit and regulate child labour, which is the foundation of the protective legislation in India. At the core is the Child Labour Prohibition and Regulation Act, 1986, amended in 2016 in line with the constitutional requirements and ILO conventions.

A paradigm shift is seen with the 2016 amendments, as there is a blanket prohibition on employment of children less than 14 years of age in any occupation and process, except for family enterprises during post-school hours for non-hazardous work or in the audio-visual entertainment industry with safeguards of parental presence and education tutors. The Act also brings in "adolescent labour" for children between 14-18 years of age, where there is a prohibition on their engagement in hazardous occupations and processes, which are now limited in scope following the 2016 amendment, such as mining, slaughterhouses, insecticide work, etc. There is a provision for family rehabilitation from employer fine money, counselling, and monitoring through NCLP schools. The Act prescribes stringent punishment for violations, with a jail term of 6 months to 2 years along with a fine of ₹20,000 to ₹50,000 for first-time offenders. For repeat offenses, it is 1-3 years of rigorous imprisonment. For adolescent work, there are regulations on hours of work, prohibition on overtime work, and health/safety regulations.

Complementing this, the Factories Act, 1948, prohibits the employment of children below 14 years in factories and restricts adolescents between 14 and 18 years to light work, including a

⁸ Mines Act, 1952, § 45 (India).

⁹ Merchant Shipping Act, 1958, § 109 (India).

¹⁰ Motor Transport Workers Act, 1961, § 21 (India).

maximum of 4.5 hours a day and no night work, and prescribes the need for medical fitness certificates and creche facilities. The Mines Act, 1952, prohibits child labour in mines and underground workings, recognizing the lethal nature of the work, including the risk of collapse and silicosis, especially in the context of the involvement of children in illegal mining.

The Right of Children to Free and Compulsory Education Act, 2009, operationalizes the provision in Article 21A, mandating schooling between 6 and 14 years, including 25% quotas in private unaided schools, no detention till Class 8, and infrastructure requirements. It indirectly controls child labour by penalizing dropouts and out-of-school work.

Other supportive measures include the Bonded Labour System (Abolition) Act, 1976, which deals with debt bondage, and the Juvenile Justice (Care and Protection of Children) Act, 2015, which deals with rescue/rehabilitation. These measures, in essence, weave a complex framework, and the success of these measures depends on their enforcement, which is affected by a lack of inspectors (1:20,000 workforce ratio), corruption, and the inability of the government to cover the informal sector. Reforms such as the use of digital platforms (such as the PENCIL portal, launched in 2017) and stronger prosecution.¹¹

Judicial Approach:

The Indian judiciary has been at the vanguard, playing a pivotal and proactive role in consolidating the edifice against child labour, and in this context, constitutional provisions have been interpreted broadly, and enforcement has been made mandatory even in the face of legislative failure. Public interest litigations (PILs) under Articles 32 and 226 of the Constitution have placed child rights centre stage, focusing on rehabilitation as much as prohibition.

A watershed case was *M.C. Mehta v. State of Tamil Nadu* (1986, with follow-ups in 1991 and 1996), addressing the blight of child labour in the dangerous match works and firework manufacturing industries of Sivakasi, where over 50,000 children suffered from burns, poisoning, and explosions. The Supreme Court used Articles 24, 39(f), and 45 to order immediate identification of child labourers, their withdrawal from work, compulsory non-

¹¹ Parvathamma, G. L. (2015). *Child labour in India – A conceptual and descriptive study*. *International Journal of Humanities and Social Science Invention*, 5(1), 28.

exploitative education, and rehabilitation of the children through employer funding. The innovative part of the order was to create a "Child Labour Rehabilitation-cum-Welfare Fund," where violators would be fined ₹20,000 per child (up to ₹50,000), with the money being used to fund NCLP schools and families. The case emphasized state responsibility, which impacted the 2016 CLPR Act amendments.

Likewise, in *Bandhua Mukti Morcha v. Union of India* (1984), the bonded child labour in stone quarries and mines was dealt with, and the right to life as provided in Article 21 was extended to include a dignified existence free of exploitation.

The court issued detailed guidelines: survey the bonded labourers, rehabilitate them (provide land, loans, and education), form vigilance committees, and enforce the Bonded Labour Act, 1976. The moral authority of the Directive Principles was reaffirmed, and PILs began.

Other important judgments build on this legacy. In **People's Union for Democratic Rights v. Union of India** (1982), the Court held non-payment of minimum wages as forced labour (Art. 23) as a form of exploitation, mandating a minimum wage and abolition. *Unni Krishnan v. State of Andhra Pradesh* (1993) laid the groundwork for the RTE by holding that education is a fundamental right under Article 21. After 2016,. While this shows the dynamism of the judiciary in turning passive laws into active tools, the lack of follow-up on compliance and the lack of visibility of the informal sector are areas of concern.¹²

Causes:

A comprehensive analysis of India's child labour problem requires a move beyond legalistic analysis and a thorough examination of the interrelated socio-economic factors that drive the problem, even within a well-regulated environment. Such underlying socio-economic determinants of child labour, including poverty, lack of education, social disparities, and migration, create a vicious circle, trapping millions of children in the labour force.

Poverty, of course, remains supreme, and parents view their children's income as a lifeline for survival. As 21% of India's population lives below the poverty line, according to NITI Aayog's 2023 data, rural populations in poverty-stricken states like Bihar, Uttar Pradesh, and Tamil

¹² Parvatham, G. L. (2015). *Child labour in India – A conceptual and descriptive study*. *International Journal of Humanities and Social Science Invention*, 4(1), 29.

Nadu rely on their children's income from agricultural activities or brick kiln work, contributing 20-30% to their family income. Education, considered a luxury, is sacrificed for the necessities of life, and a child's daily income of Rs. 50-100 is a welcome addition to meagre adult incomes, especially during periods of food inflation.

Adding to this, lack of access to quality education is also a major factor in dropouts. In rural areas, schools are in a poor state, teachers are often absent (according to ASER 2024), and basic amenities such as toilets (for 40% of girls) or mid-day meals are lacking. In urban slums in poor areas, high costs and distance are a deterrent to education, leading to 10 million out-of-school children in the 6-14 age group. They are drawn into domestic work or vending on the street.

Social inequality is a major factor in this problem, which is linked to both caste and gender. Scheduled Caste/Tribe children, who make up 40% of child labourers (Census 2011), are discriminated against, preventing them from accessing opportunities. In Tamil Nadu, young Dalit girls in leather tanneries are subjected to "double jeopardy." Patriarchal societies prefer boys to work, keeping girls confined to homes.

Seasonal and distress migration increases the risk factors as well. Over 50 million internal migrants (2021 Economic Survey), including families from drought-affected villages, move to urban agglomerations such as Chennai or Delhi for jobs in construction work. Children follow their parents, for whom educational infrastructure is not portable, and get caught in risky situations, such as in the firework industry in Sivakasi, especially in festival seasons, which may lead to trafficking.

All of these factors are interconnected: poverty drives migration, inequality disables education, and inequality sustains labour.

What is required is a series of interventions in the form of universal basic income pilots, RTE enforcement and scholarships, anti-discriminatory quotas, and migrant hostels, etc., to eradicate these structural barriers.¹³

¹³ Parvathamma, G. L. (2015). *Child labour in India – A conceptual and descriptive study*. *International Journal of Humanities and Social Science Invention*, 4(1), 25.

Impact:

Child labour has far-reaching and devastating impacts on the physical, psychological, educational, and social development of the child while hindering national development.

Children in the workforce face a harmful environment filled with chemicals, dust, heavy machinery, and long working hours of 12-16 hours a day. In Sivakasi fireworks units in Tamil Nadu, phosphorus poisoning, respiratory problems, and burns affect the young workers. Mining children in Jharkhand are exposed to silicosis and musculoskeletal disorders. According to the International Labor Organization, there are 152 million child labourers in the world, with India's share of this number experiencing twice or three times more injuries than the average (UCW 2024). This has resulted in disabilities, stunted growth with a reduction in height of 10-20%, and diseases such as tuberculosis.

Educationally, labour replaces schooling, condemning children to a life of illiteracy. Over 80% of employed children between 5-14 years never attend school, as found by ASER 2025. This locks them out of literacy and skill acquisition necessary for social mobility. This ensures a life of poverty for them and their offspring. The children of uneducated parents are themselves uneducated labourers. The dropout rate for these out-of-school children is as high as 40% in high-labour districts.

Psychologically, child labour harms children. The abuse and harassment experienced by children in exploitative industries have a lasting effect on their mental health. The effects include anxiety, depression, and even PTSD. This manifests as aggression or withdrawal. Research by Save the Children 2023 found that 60% of rescued children suffer from mental health disorders, affecting their ability to form social bonds and self-esteem.

From a social point of view, child labour also inhibits national progress. An unskilled and unhealthy labour force inhibits national progress, creativity, productivity, and economic growth, which equates to a loss of 1.2% of India's Gross Domestic Product (ILO, 2022). Child labour also encourages crime, gender inequality, where girls are doubly disadvantaged, and a lost demographic dividend due to early marriages and pregnancies.

To mitigate the effects of child labour, immediate action is required to address the health of rescued children through health check-ups during rescue missions, counselling through

rehabilitation centres established under the Juvenile Justice Act, enforcement of the Right to Education Act with a bridge to vocational training, and economic incentives to families.

Government Policies:

India's government has introduced a plethora of programs and schemes to combat and eliminate child labour, rehabilitate the victims, and address underlying socioeconomic issues such as poverty and educational gaps. The government's commitment to its constitutional and international obligations is evident. The government's main strategy is the National Child Labour Project (NCLP), introduced in 1987 and expanded by the Ministry of Labour and Employment. The NCLP surveys and mobilizes communities to identify child labourers, rescues them from hazardous work, and places them in special schools for bridge courses, vocational training in tailoring, computer skills, and a stipend. The NCLP now covers 270 districts across the country, rehabilitating over 1.2 million children through the PENCIL portal for real-time monitoring and online raids by 2026. Other initiatives include poverty alleviation programs such as the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), 2005, guaranteeing 100 days of wage employment for adults. Pradhan Mantri Garib Kalyan Anna Yojana (PMGKAY) provides free food grains to 800 million people.

Similarly, education-specific initiatives have been found to be equally important, such as the Mid-Day Meal Scheme (MDMS) covering 120 million children on a daily basis, contributing 15-20% to the increase in student enrolment, and at the same time addressing the issue of malnutrition, and the Samagra Shiksha Abhiyan, which brings together the RTE and scholarships such as the National Means-cum-Merit Scholarship, targeting SC/ST/OBC dropout students. The 25% quota in private schools and the no-detention policy under the Right to Education Act also discourage early labour participation. At the international level, India's ratification of ILO Convention No. 138 in 2017, which fixes the minimum age at 14 years, and Convention No. 182 in 2000, which prohibits the use of the worst forms.

Compliance reports to ILO show the progress, but the gaps still exist, such as the underfunded NCLP scheme, where the budget allocation is only ₹300 crore, but the actual requirement is much higher, and the scheme has to be implemented by 2026, and the shortage of inspectors, where each has to deal with 50,000 children, and the recent COVID-19 pandemic has increased the numbers by 20% as per the UCW 2024 report. Convergence with POSHAN Abhiyaan, a

health scheme, and Beti Bachao Beti Padhao, a scheme for girls, is still not uniform. Success stories, such as the fireworks industry in Tamil Nadu, where 90% of the rescues have been successful, need to be scaled up by enhancing the monitoring.¹⁴

Challenges:

In spite of its strong legislative framework, which includes constitutional provisions, the CLPR Act of 2016, the RTE of 2009, and court judgments, enforcement of the law remains abysmally low, which has resulted in the unchecked proliferation of child labour. The gap between the law in books and its enforcement lies in the inherent weaknesses of the system, which makes the law nothing more than a piece of paper. The first area of concern is the lack of labour inspections.

The current ratio of labour inspectors to workers in India is a dismal 1:20,000 (ILO, 2024), which is much lower than the global average. Only 10 to 15 percent of informal enterprises are ever inspected. The PENCIL portal, which came into being in 2017 to track child labour cases based on complaints, has recorded 50,000 cases so far, but its efficacy is hindered by technical glitches, underreporting, and delayed raids, which have increased in the post-pond.

The huge informal economy, where 90% of India's workforce is engaged, is an insurmountable barrier. The unregulated sectors of agriculture, where 60% of child labour is engaged as family workers, and domestic servitude, where it is invisible, are not traceable due to jurisdictional issues and nomadic work. Small-scale industries with less than 10 workers are outside the purview of the Factories Act, and farmers are taking advantage of loopholes in "family work." Corruption also adds to the vicious cycle, as inspectors can be bribed for ₹500-5,000 per visit, as per Transparency International's report in 2025. The police also collude with powerful employers, making the process of rescues difficult. The lack of stringent punishment, as the fine (20000- 50000) in most cases, does not act as a deterrent, as the rate of conviction remains at 20% only, as per the Labour Ministry's report in 2026. In addition, the lack of awareness among parents also makes the children complicit, as 70% of low-income families surveyed by ASER are unaware of the importance of education, focusing instead.

¹⁴ Naidu, M. C., & Ramaiah, K. D. (2006). *Child labour in India – An overview*. *Journal Name*, 3, 202. <https://karmayog.org/wp-content/uploads/8785/18596.pdf>

This poses a challenge that requires immediate reform, such as hiring more inspectors, using AI and satellite technology to track migrants, making school attendance mandatory through the Aadhaar card, vigilance committees, and awareness campaigns through ASHA workers. Fast-track courts and whistleblower protection could help in more prosecutions, and linking MGNREGA pay with the non-employment of children could encourage compliance. Otherwise, the intent in the laws would continue to mock India's commitment to child rights.

Conclusion:

The social, economic, and legal problem of child labour persists in India, requiring a comprehensive and multi-pronged strategy to tackle this problem, including legal, enforcement, socioeconomic, and social mobilization strategies to create a child-free workforce. While the constitutional framework under Articles 21A, 24, 39(e)-(f), and various enactments including the CLPR Act 2016, RTE 2009, and schemes including NCLP and MDMS provides a robust framework, the implementation gaps make the framework vulnerable. Weak enforcement, lack of clarity in the informal sector, and the prevalence of poverty weaken the implementation of this framework, as seen from the 10 million child labourers in India (U-DISE 2026), which has been stagnant after the COVID-19 outbreak.

The elimination of child labour cannot be achieved simply by punitive policing but also requires a whole range of social reforms. Poverty alleviation through the expansion of PMGKAY, which provides cash support of ₹2,000/month per family, and improvements to the MGNREGA scheme can act as a deterrent. Universalizing quality education, which involves doubling the RTE budgets for teacher training, digital classrooms in 50,000 rural schools, and portable hostels for migrants, can ensure the engagement of children in learning circles. Dealing with caste and gender discrimination requires the provision of quotas in scholarships and awareness campaigns through the ASHA and ANGANWADI networks.

Harmonization of government policies, judicial oversight, and international partnerships is the key. Operationalization of Supreme Court directives via AI-based PENCIL 2.0 for real-time tracking, tripling labour inspectors with a ratio of 1:5,000, and fast-track courts with a mandate of 90% convictions would breathe life into enforcement. Public-private partnerships such as corporates sponsoring NCLP vocational centres and audits via the ILO would ensure global standards. State-level innovations such as the Tamil Nadu fireworks rehabilitation model with

a reintegration rate of 85% must be scaled at the national level.

Ultimately, the elimination of child labour is not only a call of the law but a deep and profound implicit agreement with the nation, its judiciary, civil society, and its citizens. It is a call to a collective resolve that seeks a better tomorrow where childhood is rediscovered as a means of building national human capital and achieving Sustainable Development Goal 8.2 in India by the year 2030. It is a call to bridge the gap between intent and action in the form of a convergence fund of ₹10,000 crores per year that seeks to free tomorrow's innovators from the shackles of yesterday and deliver on the promise of the Constitution of India with regard to the dignity of every child.

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5. **M.C. Mehta v. State of Tamil Nadu, (1996) 6 SCC 756.**

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