

## **“CONSTITUTIONAL PROTECTION OF CHILD LABOUR LEGISLATION: IN INDIA”**

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### **Abstract;**

India is being widely recognized as one of the most exciting emerging economics in the world, besides becoming a global hub out-of sourcing. Indian industries are spreading their wings globally. Indian companies have bought 34 companies for about US \$ 11 billion in 1997. This is impressive development with reference of labour and capital growth in the nation as well as world, including world productivity and development. India is expected 250 million to its labour by the year of 2020, the labour-pool at rate of about 18 million a year. This is the more than the entire labour force of Germany. This is so called demographic dividend has drawn a new interest in the human capital management and practices in India. Child labour in India is addressee by the Child Labour Act 1986 and national Child Labour project. Today in India, there are more than 10.12 million children who are spending their childhood learning carpet-weaving, beedi-rolling, domestic labour, agriculture, firework apparel manufacturer and countless other occupations instead of going to school and receiving quality education. In this back ground, in this paper traces notable evidence of economic sickness of labours and miserable condition of child and their life paper present status of human capital and required capital of nation including entire world. The man power is the main challenge in front of the social and industrial universe. Researcher things to see the economic social and administrative causes related to child labour and Analyses the Problem of Child Labour in India including the major contribution of governance in area of policy and legislative based protection of all communities child laborers'

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including the bonded child labour consequences and exploitation of child labour. Researcher mainly focused on policy based initiatives by government of India, concerning legislative protection of child Labour in various sectors and vicinity of nation.

**KEYWORDS:** Constitutional provision, national policy, ILO, policy, international child labour policy, Child labour

## INTRODUCTION

A global phenomenon of industrialization in its formative years has been the exploitation of child labour. Long working hours, meager wage unhealthy and dangerous working conditions contributed to making life pitiable for child labourers. The pitiable conditions of child labour were the first to receive attention of the makers the factory legislation, who took the lead in providing protection to child labour against the excesses of early industrialism. The first of such legislation was adopted in England in 1802 in the form of Health & Morals of Apprentices Act which marked the beginning of factory legislation in the world.

In India, a beginning in the regulation of child labour was made in 1881 when the Indian factory Act of the year prohibited the employment of children less than 7 years of age in factories and fixed their maximum working hours at 9 in a day. A series of factory Actsthat were subsequently enacted gradually raised in minimum age of employment to 14 years, and progressively lowered their daily and weekly hours of work. Other regulation related to night work, employment on dangerous machines, intervals, weekly holiday, and medical examination. Similar provisions were incorporated in 1901 in the mine Act and other trade business including Minimum wage Act 1948. Prior to the enactment of the child labour (prohibition & Regulation) Act 1986labour Laws dealing exclusively with child labour has been (I) children (pleading of labour) Act 1933. (ii) Employment of children Act 1938, child labour legislation in the India has been influence by the standards established by ILO, provisions of the Indian constitution and resolutions of committees, commissions and conferences adopted from time to time. silent features of the laws dealing exclusively with child labours, relevant conventions of ILO ratified by India provisions of the Indian constitution and description of the existing labour laws relating to the child labour and their implementation in Indian establishments are mention in the paper.

Child refers to hope of the nation. Child labour refers to the enrolments of children work with reference of monetary compensation whichever of work that dispossess their babyhood, obstruct ability to attend regular school, and improved himself in the status of mentally, physically, socially or morally dangerous and harmful. Of an estimated 215 million child laborers around the globe: approximately 53% are in Asia and the Pacific; 7% live in Latin America; and 30% live in sub-Saharan Africa. Global number of children in child labor has declined by one third since 2000, from 246 million in 2000. Asia and the Pacific still has the largest numbers 9.3% of child population, but in Sub-Saharan Africa continues to be the region with the highest incidence of child labour 21%. There are 8.9% of children in child labour in Latin America and the Caribbean and in the Middle East and North Africa there are 8.5%. Agriculture remains by far the most important sector where child laborers can be found 59%, but the problems are not negligible in services (54 million) and industry (12 million) – mostly in the informal economy. Child labour among girls falls by 40% since 2000, compared to 25% for boys. Child labour in India is addressed by the Child Labour Act 1986 and national Child Labour project. Today in India, there are more than 10.12 million children who are spending their childhood learning carpet-weaving, beedi-rolling, domestic labour, agriculture, firework apparel manufacturer and countless other occupations instead of going to school and receiving quality education.

**Child labour** refers to the employment of children in any work that deprives children of their childhood, interferes with their ability to attend regular school, and that is mentally, physically, socially or morally dangerous and harmful. This practice is considered exploitative by many international. Legislations across the world prohibit child labour. These laws do not consider all workers by children as child labour; exceptions include work by child artists. In Indian tertiary is addressed by the Child Labour Act 1986 and National Child Labour project. Today in India, there are more than after 10.12 million children who are spending their childhood learning carpet –weaving, beedi-rolling, domestic labour, agriculture, firework and apparel manufacture and countless other occupations instead of going to school and receiving quality education. Child labor is work that harms children or keeps them from attending school. Around the world and in the U.S., growing gaps between rich and poor in recent decades have forced millions of young children out of school and into work.

The international Labor Organization estimates that 215 million children between the ages of 5 and 17 currently work under conditions that are considered illegal, hazardous, or extremely exploitative. Underage children work at all sorts of jobs around the world, usually because they and their families are extremely poor. Large numbers of children work in commercial agriculture, fishing, manufacturing, mining, and domestic service. Some children work in illicit activities like the drug trade and prostitution or other traumatic activities such as serving as soldiers. Of an estimated 215 child laborers around the globe: approximately 114 million (53%) are in Asia and the Pacific; 14 million (7%) live in Latin America; and 65 million (30%) live in sub-Saharan Africa. Global number of children in child labour has declined by one third since 2000, from 246 million to 168 million children. More than half of them, 85 million, are in hazardous work (down from 171 million in 2000). Asia and Pacific still has the largest numbers (almost 78 million or 9.3% of child population), but Sub-Saharan Africa continues to be the region with the highest incidence of child (59 million, over 21%). There are 13 million (8.8%) of children in child labour in Latin America and the Caribbean and in the Middle East and North Africa there are 9.2 million (8.4%). Agriculture remains by far the most important sector where child laborers can be found (98 million, or 59%), but the problems are not negligible in services (54 million) and industry (12 million) - mostly in the informal economy. Child labour among girls fell by 40% since 2000, compared to 25% for boys.

According to International Labour Organization The ILO refers to child labour as work that deprives children of their childhood, their potential and dignity, and that harmful to physical and mental development. It refers that is mentally, physically morally dangers and harmful.

UNICEF the unicef define A child is involved in child labour activates of between 5 to 11 years of age.

According to Indian censuses 2001 office, child labour as participant of a child less than 17 years of age in any economically productive activities with or without compensation wages or profit such participation could be physical mental or both. Indian Government classified child labour in to two group main workers are those who work 6 month or more in a year and marginal child workers are those who work less than 6 month per years.

After independence from colonial rule, India has pass a number of constitutional protection and laws as per the constitution of India's fundamental right and directive principal of state policy prohibits child labours the age of 14 years in any factory, mine, castle or engage in any other hazardous employment (Article-24), constitution also envisioned that India shall by 1960., provide infrastructure and resource for free and compulsory education to all children of age 06 – 14 years (Article – 21A &45) india has federal form of Government and labour being a subject in the concurrent list both the central and state government can have legislated on child labour the major national legislative developments include the fallowing

The factory Acts 1948 prohibits the employment of children below the age of 14 years in any establishment. The law also placed rules on which when and how long can pre adults ages 15 – 18 years can be employed in any factory.

The Mine Act 1952 prohibited the employment of children below 18 years of age in a mine.

The child and adolescent labour (prohibited and regulation) Act of 1986 The Act prohibited employment of child below the age of 14 years in hazardous occupations identified in a list by the law 2006, 2008. In 2016 the Act was amended not in forced by 30 July 2016 to prohibited employment of child below 14 years in all occupation except for helping in non-hazardous place, family business, artists, sports, entertainment industry.

The juvenile justice (care and protection) of children Act 2000 this law was made it a crime punishable with a prison term for anyone to procure or employ a child in any hazards employment. The rights of children free and compulsory education Act 2009 protect to all children and legislation also include 25% mandatory reservations in every private school to all children. India formulated a national policy on child labour in 1987 which focus on rehabilitation of children working in hazardous occupation. In 1980 this led to nation child labour project (NCL) initiatives for funding rs 6 billion targeted solely to eliminate child labour in India. According to national wide survey found child labour prevalence had reduced to 4.98 million children's less than 2%of children 5-14 age group. In 2011 NCL reported 4.35 million of age 5-14 to be of the total child population to be 259.64 million as per worldwide censes report about

217million children work full time. In 2014 the US employment of labour listed 23 goods producer freely used as manpower in the establishment among the 74manufacturing sector.

**Distinctiveness of Child labour:** status in different sector:

Involves intolerable abuse, such as child slavery, child trafficking, debt bondage, force labor, or illicit activities (ii) Violates a nation's minimum wage laws (iii) Threatens children's physical mental , or emotional well-being (iv) Prevent children from going to school (v) Uses children to undermine labor standard.

**Pose in industrial sector;** Near about 61% of child labour involved in agriculture sector, fishing, hunting, and forestry. Children have been involved harvesting, bananas in Ecuador, cotton Egypt and Benin, cut flowers in Colombia, oranges in Brazil, cocoa in the Ivory Coast, tea in Argentina and Bangladesh, Fruits and vegetables in the U.S. Children in commercial agriculture can face long hours in extreme temperatures, health risks form pesticides, little or no pay and inadequate food, water and sanitation. Manufacturing: Near about 14.3 million childrens are predictable to directly gripe in manufacturing goods, including: Carpets form India, Pakistan, Glass and bricks made in India, Fireworks made in china, the Dominican Republic, El Salvador, Gautemala, India and Peru, Surgical instruments made in Pakistan. In the sector of Mining and Quarrying: Child laborers are ill with tremendously high illness and injury rates in underground mines, opencast mines, and quarries. Children as young as 6 or 7 years old break up rocks, and wash, sieve, and carry ore. Nine-year-old work underground setting explosives and carrying loads, children work in a range of mining operations, including the Gold mine in Colombia, Charcoal in Brazil and EI Salvador, Chrome in Zimbabwe, Diamonds in Cote d'Ivoire, Emeralds in Colombia , Coal in Mongolia.

According to HAQ, Centre for Child rights, child labour is uppermost among schedule tribes (S.T), Muslims. Schedule castes (SC), OBC children; including the general community children. The persistence of child labour is due to the inefficiency of law, administrative system of governance either democratic or any other types of administration of the nations, because it is directly benefited to employers, who used to uncontrolled power of industrial administration in reference of wage they can reduce levels of wage without any fear of governance regulatory

authority. HAQ advocates that discriminate between hazardous and non-hazardous employment which is counter in productive to the abolition of child labour. Various growing concerns have pushed children out of school and into employment such as forced displacement due to development projects, special Economic zones, failure of jobs of their parents in a decelerate, farmers suicide, armed conflict and utmost cost of health care. Girl children are often used in domestic labour within their homes. There is lack of political will to actually see to complete ban of child labour.

### **Child labour related factor;**

**Focal factors:** International Labour Organization (ILO) suggests paucity is the utmost factor in the wake of child labour, which impoverished households' related conditions and their income when a child's work in presence of crucial situation for his or her own survival. Income from working children, even if small may be between 25 to 40% of the household income. Other scholars such as Harsch on African child labour, and Edmonds and Pavcnik on global child labour have reached the same conclusion. Lack of meaningful alternatives, such as affordable schools and quality education, according to ILO, is another major factor driving children to harmful labour. Children work because they have nothing better to do. Many communities, particularly rural areas where between 60-70% of child labour is prevalent, do not possess adequate school facilities. Even when schools are sometimes available, they are too far away, difficult to reach, unaffordable or the quality of education is so poor that parents wonder if going to school is really worth it.

**Socio-behavioral factors:** In European history when child labour was common, as well as in contemporary child labour of modern world, certain cultural beliefs have rationalized child labour and thereby encouraged it. Some view that work is good for the character-building and skill development of children. In many cultures, particularly where informal economy and small household business thrive, the cultural tradition is that children follow in their parents' footsteps; child labour then is a means to learn and practice that trade from a very early age. Similarly, in many cultures the education of girls is less valued or girls are simply not expected to need formal schooling, and these girls are pushed into child labour such as providing domestic services.

Child labour in Brazil, leaving after collecting recyclables from a landfill. Agriculture employs 70% of the world's child labour.

**Macro-economic factors:** According to Biggeri and Mehrotra the macroeconomics factors that encourage child labour. They focus their study on five Asian nations including India, Pakistan, Indonesia, Thailand and Philippines. They suggest that child labour is a serious problem in all five, but it is not a new problem. Macro-economic causes encouraged widespread child labour across the world, over most of human history. They suggest that the causes for child labour including the demand and the supply side. While poverty and unavailability of good schools explain the child labour supply side, they suggest that the growth of low paying informal economy rather than higher paying formal economy is amongst the cause of the demand side. Other scholar too suggests that inflexible labour market, size of informal macroeconomics factors affecting demand and acceptability of child labour. Other causes are; (i) have or increase the income of a poor family (ii) to reduce the labor cost in a production organization (iii) reasons of engaging as domestic aid as the children are less doubtful about dishonestly or less liable to misbehave or be violent.

**Child Labour related problem in India:** Child Labour has become a big problem in India. It is no doubt, a socio-economic problem. A national survey had shown that more than 16 million children under age eight to fourteen are largely appointed in hotels and boarding houses, in tea-shops, restaurants, in commercial firms, in factories and fisheries. They are engaged into all sorts of work for the sake of earning something for the family. As a result, they are also depriving of primary education, without which chance of success in life is remote. Children are employed in agricultural labour; they drive cart and take care of cattle. Girl children have to act as maid servants and baby sitters. They cook and clean, they wash clothes and collect fuel. It is true that a number of laws have been imposed to prevent child labor. But they are more flouted than obeyed. The ban has been imposed to prevent child labor. But they are more flouted than obeyed. The ban has been imposed to save the children from hazardous work and to restore their care-free childhood. But some opines that if the ban is imposed without the arrangements of proper rehabilitation of the child workers, it would be of no effect. There is no state which is free from the evil of the curse of child labour is not continued to India alone. It has widely spread to such



developing countries as Nepal, Pakistan, Bangladesh, Burma and Sri Lanka. Poverty is not the only factor responsible for children being engaged as labor. They came cheaper and their parents don't have employment opportunities. Appropriate social security measures should be adopted for ensuring enactment of the law. Indian Government must come forward to remove this curse with adequate financial help to the poor family. The Government must arrange for free education and treatment for the children. Child Labor Act must be properly maintained and followed to protect child labour.

**Bonded child labour:** Bonded child labour is hidden phenomenon as majority of them are found in informal sector. Bonded laborers means the employment of a person against a loan or debt or social obligation by the family of the child or family as whole. It is form of slavery. Children who are bonded with their family or inherit debt from their parents are often found in agriculture sector of assisting their families in brick kilns, and stone quarries. Individual pledging of children is growing occurrence that usually lead to trafficking of children urban areas for employment and have children working in small production houses versus factories. Bonded laborers in India are mostly migrants' worker, which open them up to more exploitation. So they mostly come from low caste groups'. Bonded laborers are at very high risk for physical and sexual abuse and neglect sometime leading to death. They often are psychologically and mentally disturbed and have not learnt many social skills or survival skills. In 2000 the ILO estimated 5.5 million children had been forced in labour in Asia. While the bonded labour liberation Front placed 10 million bonded children in India alone. In 1998 the government of India labeled bonded child labour as marginal problem with only 3000 or so cases. A survey in Tamil Nadu in 1995 found 125,000 bonded laborers in state alone. Child bonded labour in India is mostly in the agriculture sector but has recent times been moved into other sectors such as beedi-rolling, brick kilns, carpet weaving, commercial sexual exploitation, construction, fireworks and matches factories. Hotels, Leather, mines, quarries, silk and synthetic gems etc.

According to Srivastava bonded child labour as a system of forced, or partly forced under which the child, or usually child's parent enter into an agreement, oral or written, with a creditor. The child performs work as in-kind repayment of credit. In this 2005 ILO report, Srivastava claims debt-bondage in India emerged during the colonial period, as means to obtain reliable cheap

labour, with loan and land-lease relationships implemented during that era of Indian history. There were regionally called Hali, or Halwaha, or Jaura systems; and by colonial administration the indentured labour system. These systems included bonded child labour. Over time claims the ILO report, these traditional forms of long-duration relationships have declined.

In 1977, India passed legislation that prohibits solicitation or use of bonded labour by anyone, including children. Evidence of continuing bonded child labour continue. A report by the Special Rapporteur to India's National Human Rights Commission, reported the discovery of 53 child laborers in 1996 in the state of Tamil Nadu during a surprise inspection. Each child or the parent had taken an advance of Rs. 10,000 to 25,000. The children were made to work for 12 to 14 hours a day and received only Rs. 2 to 3 per day as wages. According to an ILO report, the extent of bonded child labour is difficult to determine, but estimates from various social activist groups range up to 350,000 in 2001. Despite its legislation, prosecutors in India seldom use the Bonded Labour System (Abolition) Act of 1976 to prosecute those responsible. According to one report, the prosecutors have no direction from the central government that if a Child Labour (Prohibition & Regulation) Act, 1986, the case should include charges under the Bonded Labour Act of India. The few enforcement actions have had some unintended effects.

**Consequences of Child:** The presence of a large number of child laborers is regarded as a serious issue in terms of economic welfare. Children who work fail to get necessary education. They do not get the opportunity to develop physically, intellectually, emotionally and psychologically. In terms of the physical condition of children, children are not ready for long monotonous work because they become exhausted more quickly than adults. This reduces their physical conditions are even in worse condition. Children who work, instead of going to school, will remain illiterate which limit their ability to contribute to their own wellbeing as well as to community they live in. Child labour has long term adverse effects for India. To keep and economy prospering; vital criterion is to have an educated work force equipped with relevant skills for the needs of the industries. The young laborers today will be part of India's human capital tomorrow. Child labour undoubtedly results in a trade-off with human capital accumulation. Child labour in India are employed with eth majority (70%) in agriculture some in low-skilled labor-intensive sectors such as sari weaving or as domestic helpers which require

neither formal education nor training , but some in heavy industry such a coal mining. According to the International Labour Organization (ILO), there are tremendous economic benefits for developing nations by sending children to school instead of work. Without education, children do not gain the necessary skills such as English literacy and technical aptitude that will increase their productivity to enable them to secure higher-skilled jobs in future with higher wages that will lift them out of poverty.

**Mistreatment of child labour:** Nearly quarters of a million children, or 16 out of every 100 children worldwide, are engaged in exploitative child labour- in violation of Convention on the Rights of the Child and international labour standards. Almost three-quarters of them work in hazardous environments, such as mines or factories, or with dangerous substances, such as chemical. The majority of child laborers are “invisible”- hidden from sight and behind the reach of the law. Many of these children are not only being exploited, they are often being denied education, basic health care, adequate nutrition, leisure time and the safety and security o their families and communities. In generals, girls’ domestic work is the most invisible of all and there is some evidence that girls may constitute the majority of child workers .UNICEF regards education as a powerful means of preventing child labour. Conversely, children who are working and have an opportunity to learn are in a better position to improve their situation. Since 1986 UNICEF has sponsored and inter-regional programmer called “Education as Preventive Strategy,” which seeks to respond to three main challenges:

- Right of entry getting working children into the classroom. Strategies to achieve this include early childhood programmes, distance learning, bilingual education and flexible scheduling of classes, so that children who are working can also attend school.
- Opportunities. Getting working children in school often requires transitional arrangements, including non-formal education and accelerated classes.
- Retention. Keeping children at risk of dropping out because of economics, cultural and social reasons, in school. Interventions include financial incentives to families, and improving the quality of education by integrating life skills and livelihood components.

Among the 35 countries where the programme is operating is India. In Firozabad in Uttar Pradesh, for example, children are often employed in the glass bangle industry to help their families make ends meet. Although child labour is strictly prohibited by law, enforcement rarely

occurs in the homes or small informal enterprises where most of these children can be found. Making a bangle involves 32 steps, many of which can be hazardous to children: heating and joining the ends of the bangle over a kerosene flame; cutting designs in the bangles using fast moving blades; and using chemical-based silver and gold polish for decoration. Project Chirag, supported by UNICEF and other partners, uses education as a lever to support children and their families who depend on this trade. Raising awareness about the dangers of child labour and the value of education is carried out through street plays, door-to-door canvassing, folk songs, dances and magic and video shows. Following such campaigns, children between the ages of six and 14, especially girls in hard-to-reach areas, are encouraged to attend Alternative Learning Center after work, as a stepping stone to formal education. In Benin, children from impoverished families are often sent to urban areas to become domestic workers or to find employment in other areas. Some of these children are illegally “trafficked” within and between countries. The lucky ones are intercepted at border crossings and sent home. Others mostly the poorest children with the lowest levels of education slip through the cracks. To prevent this from happening in the first place, UNICEF sponsored training for 170 village committees in Benin in subjects including child labour, child trafficking and child rights. Committee members, in turn, alerted parents to the dangers of trafficking and of the value of education. Radio broadcast and TB spots-many of which were produced with or by children-also helped to spread the word. As a result, trafficking of children in areas governed by village committees has declined dramatically over the last three years, in part because of vigilant monitoring and surveillance efforts by committee members themselves. In Lebanon, 128 teachers and school advisers were trained in counseling techniques to identify potential dropouts and to keep them in school. While most children in that country attend primary school, dropout rates for secondary school tend to high in northern and southern regions and in the Bequaa Valley. The “sentinel system” programme has been so successful that a similar training module for teachers will be integrated into the pre-service training of all teachers in Lebanon. Another aspect of the vocational instructors from private and public schools and social workers linked children in training with employment opportunities in their communities.

**Enormity of Child Labour in India tertiary:** The magnitude of child labor in India has been witnessing enormous decline in the last two decades, both in terms of magnitude and workforce

participation rates. Evidence drawn from the National Sample Survey data suggest that India's child workforce during 2004-05 was estimated at little over nine million (9.07 million) as against twenty-one and half million (21.55 million) in 1983. During this period, the number of child employment has declined sharply by 12.48 million. There is considerable fall in child workforce is observed among boys than girls. The corresponding fall in boys and girls workforce doing 1983 to 2004-05 is observed to have decreased from 12.06 to 4.76 million, and 9.49 to 4.31 million, respectively. In effect, the gender difference that existed between boys and girls (adverse against boys) during the early 1980s has almost dissipated recent years the difference being slowed down from 2.57 million to roughly 0.45 million. However, in absolute numbers, the problem is large. As per the Census 2001, there are 1.26 cores economically active children in the age-group of 5-14 years. It was 1.13 cores in the 1991 Census. As per NSSO survey 2009-10, the working children estimated 49.84 lakh which shows a declining trend. As per the Global Report on Child Labor Published by International Labour Organization last year, the activity rate of children in the age groups of 5-14 years is 5.1 percent in Latin America and Caribbean Region, this is the lowest in the world. In the Asia-Pacific Region, it is 18.8 per cent. In comparison to that, the activity rate of children in India, as per 2001 census is 5 percent.

**Table-1**

Employment & Unemployment based data Survey According to NSS 66<sup>th</sup> Round (2009-10)16

S. no.	Major states all India	Age group 5-14			
		RURAL URBAN	Male	Female	Male
1	Andhra Pradesh	88156	11091	20767	15548
2	Assam	144655	31909	11833	757
3	Bihar	224292	38665	11017	2548
4	Chhattisgarh	3669	<b>7321</b>	<b>636</b>	<b>0</b>
5	Delhi	-----	-----	-18576	0
6	<b>Gujarat</b>	150487	<b>207973</b>	15945	16282
7	Haryana	22664	<b>17471</b>	<b>28073</b>	3988
8	Himachal	2300	2942	<b>21560</b>	0

	Pradesh				
9	Jammu & Kashmir	11274	16872	<b>1139</b>	0
10	Jharkhand	63684	14661	<b>4123</b>	0
11	Karnataka	89796	113429	<b>20763</b>	<b>2479</b>
12	Kerala	1182	0	<b>0</b>	<b>1583</b>
13	Madhya Pradesh	91454	32812	57688	<b>9063</b>
14	Maharashtra	66370	127996	54230	<b>12077</b>
15	Orissa	54390	38288	36522	<b>5363</b>
16	Punjab	16802	6433	15664	<b>9937</b>
17	Rajasthan	93055	261871	43184	<b>7826</b>
18	Tamil Nadu	0	13880	3471	<b>0</b>
19	Uttra Khand	14810	7239	3219	<b>2103</b>
20	Uttar Pradesh	1012294	546320	147820	<b>68899</b>
21	West Bengal	357265	134657	31946	<b>27716</b>
	All India	2511101	17272771	546897	<b>198602</b>

India, Ministry of Labour and Employment, Annual Report 2012-13, p.

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### Governance scheme

#### Constitutional Provisions regarding child labours;

The framers of the Constitution of India deemed it necessary to include special Provisions in the Constitution for the protection of the rights of working children<sup>4</sup>

Article	Refer to	Explanation
21A & 45	Right to Education, (fundamental right & DP)	The state shall provide free and compulsory to all children of the age of 6 to 14 years in such manner as the State by law, may determine
24	Prohibition of employment of	No child below the age fourteen years shall be employed in work in any factory or mine or engaged in any other

	Children's in Factories	hazardous employment
39 & 41	The state shall in Particular direct its policy towards securing	That the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter a vocations unsuited to their age or strength

**Indian child labour Legislation:** The first protective legislation for child labour in India was seen 1881 in the form of Indian factories Act which had the provisions prohibiting employment of children below 7 years, limiting the working hours for children to 9 hours a day and providing 4 holidays in a month and rest hours. This was actually made by the ruling British Government to decrease the production in Indian industries through some legal restrictions. It may be submitted that the labour legislations in India including protective legislation for the children have been greatly influenced with the result of various Conventions and Recommendations adopted by International Labour Organization. Besides constitutional provisions, there are several legislative enactments which

Constitutional protection of child labour in various establishments regarding employment;

- The Children (Pledging of Labour) Act, 1933, The Employment of children Act 1933, The Minimum Wages, Act 1948 and rules made hereunder by the government, The Factories Act, 1948, The Plantations Labour Act, 1951, The mines Act, 1952, The Merchant Shipping Act, 1958, The Motor Transport Workers' Act, 1961, The Apprentice Act, 1961, The Atomic Energy Act, 1962, The Beedi and Cigar Workers( Conditions of Employment) Act, 1966, The Shops and Establishment Act in Various States, and Child Labour (Prohibition and Regulation) Act, 1986.

Child Labour (Prohibition and Regulation) Act (1986) was the culmination of efforts and ideas that emerged from the deliberations and recommendations of various committees on child labour. Significant among them were the National Commission on Labour (1966-1969), the Gurupadswamy Committee on Child Labour (1979) and the Sanat Mehta Committee (1984). The Act aims to prohibit the entry of children in non-hazardous occupation. In particular it is aimed at (i) the banning of the employment of children, i.e. those who have not completed their 14<sup>th</sup> year, in 18 specified occupations and 65 processes; (ii) laying down a procedure to make

additions to the schedules of banned occupations or processes; (iii) regulating the working conditions of children in occupations where they are not prohibited from working; (iv) laying down penalties for employment of children in violation other provisions of this Act and other Acts which forbid the employment of children; (v) bringing uniformity in the definition of the child in related laws. The Child Labour (Prohibition and Regulation Amendment Bill, 2012 was introduced in Rajya Sabha on 4 December, 2012 further to amend the Child Labour (Prohibition and Regulation) Act 1986. The amendment also seeks a blanket ban on employing children below 18 years in hazardous industries like mining .The Bill is referred to Standing Committee on Labour and Employment<sup>8</sup>.

### **Jurisdictional contribution with reference of child labour tribulations**

On 10<sup>th</sup> December 1996 in Writ Petition (Civil) No.465/1986 on MC Mehta verses State of Tamil Nadu, the Supreme Court of India, instruct on the certain issue in favor of elimination of child labour. The core facial appearances of judgments are as underneath

- Assessment and identification of working children and their work conditions including Educational facility by appropriate manner in institutions;
- Extraction of those children who are working in hazardous place/industry and ensuring their proper safety related provision as per legislations.
- Amount and rate of Contribution of employers Rs.20,000/- per child must be paid by offending employers of children to a welfare fund to be established for his purpose;
- Employment to one adult member of the family of the child so withdrawn from work and it that is not possible a contribution of Rs.5,000/- to the welfare fund to be made by State Government;
- Financial assistance to the families of the children so withdrawn to be paid-out of the interest earnings on the corpus of Rs.20,000/25,000 deposited in the welfare fund as long as the child is actually sent to the schools;
- Regulations hours of work for children working in non-hazardous occupations so that their working hours do not exceed six hours per day and education for at least two hours is ensured. The entire expenditure on education is to be borne by the concerned employer.
- The implementation under the direction of the Hon'ble Supreme Court is being monitored by the Ministry of Labour and Compliance by the direction which has been reported



in the form of Affidavits on 05.12.97, 21.12.1994, 04.12.2000, 04.07.2001 and 04-12-2003. The Hon'ble Court instruct on the basis of the information which received from different State, Govern under government of India.

- **Provisions regarding national policy on child labour;** providing protection to children against employment has been elaborated in the National Child Labour Policy announced in 1987. The policy addresses the complex issue of child labour in a comprehensive, holistic and integrated manner. The action plans under this policy is multi-pronged and mainly consist of:
  - I concretely implement established legislation by administrative system regarding child labour.
  - II Established Good Governance based strategy on overall development of the families of children.
  - III Strict governance action plan for highly protect to the child labour.

**National Child Labour Project Scheme:** For rehabilitation of child labour, Government had initiated the National Child Labour Project (NCLP) Scheme in 1988 to rehabilitate working children in 12 child labour endemic districts of the country. Its coverage has increased progressively to cover 271 districts in the country presently. As on date the Scheme is in operation 266 districts. Under the NCLP Scheme, children are withdrawn from work and put into special schools, where they are provided with bridging education, vocational training, mid-day meal, stipend, health-care facilities etc. and finally mainstreamed to the formal education system. At present, there are around 7,000 NCLP schools being run in the country with an enrolment of 3 lakh children. Till date more than 9 lakh working children have already been mainstreamed to regular education under the NCLP Scheme. The NCLP scheme is a Central Sector scheme. Under the scheme, project societies are set up at the district level under the Chairpersonship of the Collector/ District Magistrate of overseeing the implementation of the project. Instruction to involve civil society and NGOs has also been issued.

**Table -2**

**Number of child laborers rescued, rehabilitated and Mainstreamed through NCL project scheme**

SL.NO.	State	2009-10	2010-11	2011-12	2012-13
1	Assam	3685	274	227	10848
2	A.P	13689	1858	13202	7840

3	Bihar	7998	8552	19673	1162
4	Chhattisgarh	1063	5164	4914	2004
5	Gujarat	1473	2129	609	569
6	Haryana	1354	1293	1895	1722
7	J & K	Nil	43	184	132
8	Jharkhand	1816	1015	2216	4003
9	Karnataka	3217	135	3761	742
10	Maharashtra	5150	5113	4532	4328
11	M. P	9,692	13344	17589	5044
12	Orissa	10,585	14416	13196	10309
13	Punjab	1,023	123	168	0
14	Rajasthan	12,326	4415	1020	4155
15	Tamil Nadu	6,321	6325	5127	3537
16	Uttar Pradesh	40,297	28243	29947	10617
17	West Bengal	13,187	2215	7456	3117

Ministry of Labour and Employment, Annual Report 2012-13, p.91, India.

**Convergence of Ministries convergence:** of services from different government department is one to h key components of the NCLP which leads to the overall success of the programme. The NCLPs make efforts to utilize the services of other departments at various levels. Most important among the different departments has been the Department of Education's. Since different forms of child labour cannot be ended only improving school enrolment and educational rehabilitation, efforts for improvement of Socio-economic environment of the child labour families will be strengthened. Some of the prominent schemes of these Ministries and department, which could have and explicit component of child labour and their family are given below and could be utilized for government interventions for eliminations of child labour. This is however, only and indicative list and could be extended to other programmes to:

- Educational Scheme by Government of India;  
Sarva shiksha Abhiyan (SSA) (I) Mid Day Meal Scheme
- Ministry of Women & Child Development

(I) in Balika Samridhi Yojna admission of children withdrawn from into residential (ii) in ICPS scheme For providing food and shelter to the children withdrawn from work (iii) Through their schemes of Shelter Homes, etc(iv) Schools under SC/ST/OBC Schemes.

- Ministry of Rural Development; (I) Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA).(ii) Swarnajayanti Grameen Rozgar Yojna (SGRY) (iii) Indira Awas Yojna(IAY)

- Ministry of Labour & Employment  
Skilled Development Initiative Scheme (SDIS) (ii) Rashriya Swasthiya Bima Yojna (RSBY)

- Social security related programme.

(i) Indira Gandhi National Old Age Pension Scheme-9- (ii) National Family Benefit Scheme(iii) Janani Surakshi Yojna (iv) Handloom Weavers' Comprehensive Welfare Scheme(v) Handcraft Artsans' Comprehensive Welfare Scheme(VI)Pension to Master craft persons (VII) National scheme for Welfare of Fisherman and Training and Extension of Janashree Bima Yojana

According to scarcity and literacy are most important factor for child labour, a joint and harmonized endeavor of the different departments would seriously facilitate to mitigate this crisis. The National Policy on Child Labour prescribes and to focus on general development programme for the promoter to the families of child Labour .Providing income generation opportunities to the parents of child labour would enable them to send their children to school rather than work. Encouraging child labours parents of the working children to form Self Help Groups. (SHGs). This would also help to bring children from these families to the fold of education.

**ILO approbation regarding child Labour in India:** The International Labour Organization (ILO) launched the International Programme for Elimination of Child Labour (IPEC) in the year 1991 with the objectively to end child labour problems worldwide. In India which is first country sign the Memorandum of Understanding (MOU) in 1992. During the 11<sup>th</sup> Plan, mainly three Projects, (i) INDUS Project, Andhra Pradesh Phase-II & Karnataka Project were implemented in the country under ILO-IPEC. Jointly funded by the Ministry of Labour, Government of India and the Development of Labour, United States of America (USDOL), the INDUS Child Labour Project were implemented in ten hazardous sectors in 21 districts across five viz. Delhi(NCT Delhi), Maharashtra (Districts of Amravati, Jalna, Aurangabad, Gondia and Mumbai Suburban),

Madhya Pradesh (District of Damoh, Sagar, Jabalpur, Satna and Katni), Tamil Nadu (Districts of Kanchipuram, Thiruvannamalai, Tiruvalluar, Nammakkal and Virudhunagar) and Uttar Pradesh (District of Moradabad , Allahabad, Kanpur Nagar, Alligarh and Ferozabad). The project adopted a participatory method to identify beneficiaries and enrolling child workers in schools, transitional education centers and vocational training centers was seen as a key strategy or rehabilitation of child and adolescent workers withdrawn from workers withdrawn from work. The project was instrumental in the operational zing the public education component of the field. The project also developed income generation strategies for child labour elimination by linking child labour families with the ongoing government schemes that provide access to micro credit and subsidies. The project has systematically worked at developing a comprehensive multipronged communication strategy. A variety of tools have been developed to aid awareness raising efforts at the field level. Through its Action Programmes, the INDUS project worked towards sensitizing and building capacities of key government agencies and civil society partners in project states on child labour. The project, through an action research to study the occupational health and safety made effort to develop interim solutions to protect adolescents and young adults from hazards at work places. The project has also operational zed a beneficiary tracking system, for tracking and following up on the progress of all project beneficiaries. Through this project, an estimated 103,152 children and adolescent workers were withdrawn and rehabilitated. The project was conducted in March 2009.

## **CONCLUSION**

The legislative protection regarding child labours, by the Indian Government has been taking positively stepladder to embark upon child labours crisis through strict enforcement of governance planning by policy based implementation under legislative protection along with instantaneous rehabilitative proceedings. Governments appoint the appropriate authority for implementation of child labour legislation in all states of India, which have been conducting various programmes for child laborers protection and maintains standard by inspections of implementations regarding unfair labour practices and recognize problems regarding the child laborers violations. Governments has been laying a lot of importance on the rehabilitation of these children and protect on humanizing and improved child labours socio-economies standers

in the society as per the national human development index and trying to improve its as per the international standers.

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