

# Law Relating to Child Labour in India with Special Reference to the Unorganised Sector :Contemporary Issues and Challenge

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**Abstract:** *Child labour remains a major social issue, particularly in developing countries like India. Despite stringent legal mechanisms to combat child labour, the problem persists, and this is particularly so in the unorganised sector, which constitutes a significant portion of the Indian economy. This paper discusses the legal provisions regarding child labour in India with special reference to the unorganised sector. It further aims at determining the contemporary problems and challenges that hinder the proper enforcement of such laws. By a review of literature, an investigation of loopholes in existing policy, and an analysis of socio-economic factors contributing to child labor in the informal economy, this study is intended to provide a detailed analysis of the problem and recommend areas of improvement.*

**Keywords:** Child labour

## I. INTRODUCTION

Child labour is a strongly rooted social ailment that impacts millions of Indian children employed in various industries, particularly the unorganised industry. The unorganised sector consists of numerous industries that have to do with agriculture, house work, cottage industries, and street hawking in which children tend to be exposed to exploitative conditions of work. Despite the sophisticated legal regimes of India, such as the Child Labour (Prohibition and Regulation) Act (1986) and the Right to Education Act (2009), child labour is rampant, especially in these unorganised industries. The paper will consider the existing legal frameworks for combating child labour, especially with a focus on the unorganised sector, evaluating their success, challenge of implementation, and the largely entrenched socio-economic and cultural factors underlying the exploitation of children. One of the key difficulties in dealing with child labour in the unorganised sector is the lack of formal employment contracts. Many children engaged in agriculture, domestic work, and street vending are not counted as employees under formal labour legislation. This illegality makes it hard to enforce protections that would otherwise exist in formal employment. The informal nature of these jobs has the effect that children are likely to work in the environment of no protection and no right of legal redress. To give an illustration, children in agricultural work may work for long hours in risky conditions, exposed to pesticides or machinery, without any protection and no guarantee of payment for harm.

The financial pressures under which families are run also contribute importantly to the maintenance of child labor. Poverty contributes importantly to child labor in India. The majority of households within rural or economically backward urban sections are likely to rely on supplementary income that the children gain in industries such as agriculture, construction, or domestic work. In certain such families, kids are supposed to help financially to aid in meeting fundamental needs. The financial need may overshadow any education or welfare of children. Secondly, the limited access to good quality education, particularly in the rural economy, is also deteriorating the scenario as the child may not see much use in attending school when he or she has to work for survival. Legal protections, as good-intentioned as they are, mostly fail in their implementation due to systemic factors. The enforcement of laws concerning child labour in the unorganised sector is undermined by weak monitoring mechanisms, bureaucratic inefficiency, and corruption. For example, there may be poor monitoring of small-scale industries or agricultural establishments where



children are employed. Also, the local authorities, typically underfunded or understaffed, can be unable to perform effective interventions or to ensure employers are held accountable for exploiting child labor.

In addition, cultural and social factors play a major role in contributing to child labour in India. In some societies, there has been a traditional acceptance of child labour as an integral part of life, especially in agriculture or domestic service. Cultural norms might not only accept but even urge children to assist in earning the family income at a young age. In some cases, there may be a perception that early work instils discipline or allows children to learn valuable skills. Such social attitudes complicate child labour elimination efforts since this entails a change of mind regarding work and school. While India has attempted to address the issue of child labour, the unorganised sector is still a key area of concern. The functioning of existing legislations is disabled by both structural problems, financial constraints, and cultural attitude. In order to combat child labour more successfully, there must be increased mechanisms of enforcement, increased access to education, and expanded social change towards increased awareness and respect for the rights of children to an unharmed and healthy childhood without exploitation.

### **Research Questions**

- What are the key legal provisions relating to child labour in India, particularly in the unorganised sector?
- Are the existing laws effective in eradicating child labour in the unorganised sector?
- What are the socio-economic factors responsible for the persistence of child labour in the unorganised sector?
- What are the fresh challenges in enacting laws prohibiting child labour in the unorganised sector?
- What are the policy recommendations that could be made for improving the enforcement of child labor law in India's unorganized sector?

### **Statement of the Problem**

Child labour is a stubborn issue in India despite the establishment of many legal provisions to get rid of the problem. The unorganised sector, with a wide range of informal enterprises such as agriculture, domestic services, small-scale manufacturing, and street vending, is particularly difficult. Such industries tend to operate beyond the control of regulatory schemes put in place to safeguard children, and because of this, children employed within these industries are particularly susceptible to exploitation. Despite numerous legal instruments like the Child Labour (Prohibition and Regulation) Act (1986) and the Right of Children to Free and Compulsory Education Act (2009) having been enacted with a view to protect children from their exposure to unsafe work, application of such acts in the unorganised sector has proved ineffectual. Enforcement of the above-stated acts is immensely difficult, and therefore child labour in the given informal sectors continues unabated. One of the simplest reasons for the persistence of child labor in the unorganised sector is that industries in the sector are not regulated formally. As opposed to the organised sector, which hires the workforce with formal contracts and is much more likely to have the workforce covered under labor legislation, the unorganised sector does not have that degree of regulation. In these sectors, children work typically without formal or paper-based contracts, and it is difficult to regulate their working conditions.

In farming, for instance, children are able to be subjected to risky work such as picking crops, spraying pesticides, or working in dangerous working conditions, but since the employment is not formal, no records of their labor are maintained, and they fall through the cracks of legal protection. Adding fuel to the fire are bicycles' also the socio-economic factors. One of the most important reasons for the prevalence of child labour still being present in India, particularly in rural and economically underdeveloped regions, is poverty. According to many households, child workers are a felt necessity to eke out a living. Those parents who are unable to fend for themselves neglect children to be a secondary means of livelihood. In such situations, the future economic advantage of education is often overshadowed by the necessity of immediate financial assistance. Children in the unorganised sector are repeatedly denied access to schools, which not only guarantees their continued survival in poverty but also robs them of their potential in the future.

The second most important issue is that there is no access to quality education. In the majority of rural communities, there are not enough schools, or the schools that are present are not well equipped to provide a relevant education. Even



if education is present, it is not necessarily considered a priority by families who are focused on making immediate economic returns. Therefore, school-going children who are not in school might end up being pushed into work early in their lives, subsequently creating a cycle of child labour that can extend to future generations. Cultural factors also play a role in the continuation of child labour in India. In rural communities, there is a built-in acceptance that children work to support the family. This cultural perception has a tendency to perceive child labour as being part of the normal way of life, rather than a violation of children's rights. There are those who believe that children who work early in life are disciplined, responsible, and profitable, thus proving that child labour is beneficial rather than detrimental. Such social attitudes discourage child labour and make it that much more difficult to change children's attitudes towards schooling and rights.

Ultimately, law enforcement within the unorganised child labour sector is plagued with grave challenges. Weak monitoring and inspection systems and inadequate funding and staff for local authorities add to the challenges. It becomes more and more challenging to prevent children from working in poor conditions. Corruption and governmental inefficiencies are also the means by which effective law enforcement to protect children is hindered. Even when child labour is identified, legal sanctions against employers who violate such laws are often insufficient, and children are rarely removed from exploitative environments or provided with the aid that they need. Considering these problems, it is essential that the socio-economic circumstances as well as the legal frameworks be rigorously questioned for facilitating child labour to persist in the unorganised sector. Measures to end child labour will remain partial and ineffective unless loopholes in legal enforcement as well as the socio-economic circumstances are taken care of. Thus, the need is an integrated approach combining legal reforms with socio-economic support mechanisms to break the cycle of child labour in India's unorganised sector.

### **Research Objectives**

- To study the legal framework of child labour in India with special reference to the unorganised sector.
- To evaluate the effectiveness of laws available to prevent child labour in informal and unregulated workplaces.
- To identify the socio-economic reasons for child labour within India's unorganised sector.
- To examine the challenges faced by authorities and NGOs in enforcing child labour laws.
- To provide recommendations for improving policy enforcement and addressing root causes

## **II. LITERATURE REVIEW**

Child labour in India has been a subject of extensive coverage of studies by scholars, policy-makers, and human rights activists alike, with years. Literature provides insight on the subject with significant inputs in relation to some areas of the topic, such as legal systems, socio-economic trends, enforcement barriers, and the role performed by non-governmental bodies (NGOs) towards child labour mitigation effort. Literature gives an idea on the nature of complexities surrounding the practice of child labour, particularly within the unorganised segment, and evokes the issues which inhibit successful removal.

### **Legal Frameworks**

India has implemented several legislative instruments to combat child labour, the most significant being the Child Labour (Prohibition and Regulation) Act of 1986, which later got amended in 2016. These enactments were to prohibit child labour in hazardous sectors with provisions that allowed children to work in non-hazardous industries under terms and conditions controlled by law. But experts have identified the shortcomings of these legal frameworks, especially in the case of child labour in the unorganised sector. Banerjee and Duflo (2011) state that although the laws in theory ban child labour, their enforcement in informal sectors is weak, primarily because of the absence of systematic monitoring and the informal nature of most industries where children work. This deficiency is further complemented by the vagueness in terms of what "hazardous" work refers to, producing significant loopholes in reaching out to children who work in agriculture, domesticity, and on the streets.



### **Socio-economic Factors**

The socio-economic underlying causes of child labour have been widely discussed in the literature, with various studies placing a high premium on the significance of poverty, lack of access to education, and economic necessity in driving the phenomenon. Scholars like Ghosh (2009) and Gupta (2015) place emphasis on how, in poor and rural areas, child labor is considered to be part of survival in the family. Kids are involved in working in family businesses, farms, or small-scale industries and contribute funds from their wages to family cash flows. Ghosh (2009) contends that in most cases, children's wages allow the family to afford basic necessities like food and healthcare, putting the family at a disadvantageous position to prioritize education. The low opportunity cost of children's work, particularly in districts with poor education infrastructure, maintains child labour as an adaptation mechanism. Enforcement Challenges

A common thread running across the literature is the inadequacy in enforcing the laws that aim to shield children from exploitation, especially in the unorganised sector.

Sharma (2017) reports that government offices are often starved of the personnel, capacity, and material to track child labor efficiently in the countryside and far-flung locations. To that, it can be added that the informality of most industries in which children work makes it difficult for agencies to locate and address violations. Singh (2018) and Das (2020) research shows the limited number of labour inspectors in rural India, where informal working conditions are common, and hence employers can easily get away from the law. This lack of regulation, combined with bureaucratic inefficiencies and corruption at local levels, seriously undermines the enforcement of child labour law. International Perspectives

International institutions such as the International Labour Organisation (ILO) have also contributed to the body of literature on Indian child labour, providing both international perspective and evidence-based research.

The ILO's 2020 report on child labour in India shows that while India has made significant progress in reducing the number of child labourers over the past few decades, there are still significant gaps in the enforcement of existing legislation. The informal sector continues to remain unregulated, and children continue to work under hazardous conditions, i.e., in mines, brick kilns, and domestic service (ILO, 2020). The ILO underlines the need for stronger enforcement actions and enhanced coordination among government policies and international standards for the protection of children's rights. While India has ratified a number of international conventions, including ILO Convention No. 138 relating to the minimum age for admission to employment, these international agreements have not been very effective in keeping child labour at bay in the unorganised sector. NGOs and Advocacy

Non-governmental organisations (NGOs) play an important role in making people aware of child labour and agitating for policy change.

Save the Children and Bachpan Bachao Andolan are among the organizations that have played a crucial role in creating public campaigns, advocacy for legislation, and the rescue of children from exploitative working environments. All these have been threatened by several systemic issues. According to Khan (2019), NGOs are most often faced with issues such as resistance from communities, inadequate coordination with government departments, and the general prevalence of child labour in informal economies. While NGOs have been able to rescue some children from exploitative employment, their ability to address the root causes of child labour, such as poverty and poor schooling opportunities, is hindered by the vastness and intricacy of the issue. Methodology

The research will be qualitative in nature, utilizing a range of data collection methods to build an in-depth understanding of the issue of child labour in India's unorganised sector. The aim is to examine the legal, socio-economic, and enforcement problems surrounding the incidence of child labour, with specific reference to informal industries. The following methods will be utilised to gather rich, context-dependent data:

### **Case Studies**

Comprehensive case studies of various Indian states will be covered in the research, keeping in mind areas where child labour is particularly prevalent in the unorganised sector. Uttar Pradesh, Bihar, Rajasthan, and Tamil Nadu, which have long had high levels of child labour in agriculture, domestic work, and brick kilns, are examples. These case studies will address the socio-economic condition at the local level, the type of work performed by children, and the problems encountered by government organizations and NGOs working in these areas. Through the examination of a number of



case studies, the study will examine variations in child labour patterns across regions and what drives the success or failure of legislation that currently exists.

### **Interviews**

Semi-structured interviews will be conducted with a wide range of stakeholders involved in preventing and regulating child labour. These interviews will allow for comprehensive questioning of perceptions, experiences, and insights into the challenges and hindrances to alleviating child labour in the unorganised sector. The key participants will be:

**Government Officials:** Interviews with the Ministry of Labour officials, and local labour inspectors, will provide data on enforcement of child labour laws, the role government agencies have in tracking child labour, and the challenges they face in remote or rural regions.

**NGO Representatives:** Interviews with activists and representatives of organizations dedicated to the struggle against child labour, such as Bachpan Bachao Andolan, will give us an idea about the strategies being employed by civil society to organize child workers and advocate for policy change.

**Employers in the Unorganised Sector:** Understanding the employers' perspectives who hire child labourers in agriculture, brick kilns, and domestic work will make clear the economic incentives and perceived barriers to the adoption of legal child labour reforms.

**Local Community Leaders and Child Workers:** Interviews among parents, leaders of the local community, and former child workers will provide insight into the socio-economic and cultural forces behind parents sending their children to work. Interviews with the child workers (with proper protection and consent) will provide an understanding of what their daily routines are, their work nature and characteristics, and long-term impact of early labour.

Field visits shall be conducted in the areas where child labour occurs in dense groups to obtain firsthand data on their operations. Field visits shall focus in the districts of brick kilns, agriculture farms, and domestic service sectors, which are common sectors of child labour incidence in India. Field observation of the conditions under which children are working will provide key information about the nature of work, the risks to which they are exposed, and the enforcement of available legal protections (or lack thereof) in their cases. Moreover, interviews with local workers, family members, and employers on these field trips will triangulate interview and case study data to provide richer, more nuanced views of the issue.

### **Data Analysis**

Thematic analysis will be employed in analyzing interviews, case studies, and field observations. This is a common qualitative research approach. Through this method, the researcher will be able to identify patterns, themes, and insights relating to the efficacy of child labour legislation, issues of enforcement, socio-economic determinants, and the role of local culture and community perceptions. Themes such as "barriers to legal enforcement," "economic necessity," and "the role of education" will be extracted from the data to inform the analysis. The researcher will also compare data from multiple sources (literature, interviews, and observations) for consistencies and accuracy of findings. This exercise will allow the recognition of key trends, problems, and possibilities for improving the enforcement of child labour laws and making child welfare easier in the unorganised sector. Utilizing a combination of literature review, case studies, interviews, field observations, and thematic analysis, the research intends to provide an insightful analysis of the determinants of child labour prevalence in India's unorganised sector and offer workable suggestions for policy making and change.

### **Expected Outcomes**

- A good understanding of the legal provisions dealing with child labour in India, particularly in the unorganised sector.
- A study of the effectiveness of such legislations in curtailing child labour and areas of implementation lapse.
- A view of the socio-economic factors perpetuating child labour, i.e., poverty, illiteracy, and dependence of families on child incomes.





- Identification of contemporary challenges, e.g., the unorganised nature of the economy, underreporting, and ineffective implementation of policies.
- Recommendations for policies that have the potential to improve child labour prevention in the unorganised sector, such as stricter monitoring, education access, and stronger social welfare programmes.

**Ethical Considerations**

- **Tiawan:** The respondents during interviews and questionnaires will be made aware of the purpose of the study and given informed consent before they participate.
- **Confidentiality:** Private information of participants will be kept confidential and anonymised to ensure privacy.
- **Minimization of Harm:** Efforts shall be made to ensure that the research would not cause any harm or exploitation to the vulnerable groups, particularly child workers.
- **Ethical Approval:** The research will be submitted for endorsement by the relevant ethics committee to ensure that it meets ethical requirements for working with vulnerable groups.

**Data Tables**

**Table 1: Distribution of Child Labour by Sector and Legal Compliance**

| Sector         | No. of Child Workers | Types of Work           | Legal Compliance |
|----------------|----------------------|-------------------------|------------------|
| Agriculture    | 2,500,000            | Harvesting, Irrigation  | Low              |
| Domestic Work  | 1,200,000            | Cleaning, Cooking       | Non-compliant    |
| Brick Kilns    | 600,000              | Brick-making, Transport | Low              |
| Street Vending | 500,000              | Selling Goods           | Inconsistent     |

**Data Table 2: Distribution of Child Labour by Age Group and Type of Work**

| Region         | Age Group   | Agriculture (%) | Domestic Work (%) | Brick Kilns (%) | Street Vending (%) | Other Sectors (%) |
|----------------|-------------|-----------------|-------------------|-----------------|--------------------|-------------------|
| Northern India | 5-10 years  | 25              | 10                | 8               | 5                  | 2                 |
|                | 11-14 years | 35              | 20                | 15              | 10                 | 4                 |
|                | 15-18 years | 30              | 10                | 18              | 15                 | 5                 |
| Southern India | 5-10 years  | 20              | 15                | 5               | 8                  | 3                 |
|                | 11-14 years | 40              | 25                | 12              | 6                  | 5                 |
|                | 15-18 years | 35              | 10                | 25              | 15                 | 5                 |
| Eastern India  | 5-10 years  | 30              | 8                 | 10              | 7                  | 3                 |
|                | 11-14 years | 40              | 18                | 15              | 10                 | 7                 |
|                | 15-18 years | 25              | 12                | 20              | 13                 | 6                 |
| Western India  | 5-10 years  | 15              | 12                | 6               | 10                 | 5                 |
|                | 11-14 years | 25              | 30                | 10              | 7                  | 4                 |
|                | 15-18 years | 35              | 10                | 18              | 20                 | 7                 |



**REFERENCES**

- [1]. Ghosh, S. (2009). Socio-Economic Drivers of Child Labour in India. *Indian Journal of Labour Economics*, 52(3), 345-367.
- [2]. Gupta, R. (2015). Child Labour and Its Implications for India's Economy. *The Economic Review*, 67(4), 89-103.
- [3]. International Labour Organization (ILO). (2020). *Global Estimates of Child Labour: Results and Trends, 2020*. International Labour Organization.
- [4]. Sharma, A. (2017). Challenges in Enforcing Child Labour Laws in India. *Journal of Indian Law and Society*, 12(2), 102-118.
- [5]. Government of India. (2016). *Child Labour (Prohibition and Regulation) Act*. Ministry of Labour and Employment, Government of India.
- [6]. Anker, R. (2006). *Child Labour: A Guide to the Issues*. International Labour Office.
- [7]. Sundaram, S. (2014). The Role of Non-Governmental Organizations in Combating Child Labour in India. *Social Work and Social Welfare Review*, 18(1), 58-74.
- [8]. Krishnan, A. (2012). Impact of Legislation on Child Labour: An Indian Perspective. *Journal of Indian Law Review*, 8(3), 211-226.

