

Education: An Effective Tool to Eradicate Child Labour

Prof. Smita Chandrabhan Thool,

Assistant Professor

A.I.'s Barrister A. R. Antulay College of Law

University of Mumbai, Mumbai, Maharashtra, India.

Abstract

Child labour refers to the exploitation of children under the age of 18, depriving them of their childhood and subjecting them to conditions that are harmful to their physical and mental well-being. This includes any work that interferes with a child's education. The specific age at which a child is considered to be engaged in child labour may vary from country to country. Child labour is widely recognized as a significant obstacle not only for the affected children but also for the overall development of a country. The impact of child labour on social and economic development is substantial, as these children are seen as the future generations who will shape the progress of their nations. In 2016, amendments were made to the child labour act, and the implications of these changes are a topic of debate. Education plays a crucial role in addressing the issue of child labour, and it has proven to be an effective tool in combating this problem in regions like Kerala in India and countries like Sri Lanka. The article highlights the importance of education for children and discusses the efforts made by the Indian government to prioritize education for all. Overall, this article aims to provide a comprehensive overview of child labour, its impact on society and the economy, the significance of education in addressing this issue, and the debates surrounding the 2016 amendment to the child labour act. By shedding light on these aspects, it seeks to contribute to the ongoing discourse on child labour and advocate for the rights and well-being of children worldwide.

Introduction

Child labour is a complex issue that has been a concern for a long time. The concept of child labour does not have a uniform definition and varies from country to country. However, several international organizations, scholars, and jurists have attempted to define child labour. Child labour has a long history, and efforts to address it have evolved over time. In the United States, for example, the Keating-Owen Act of 1916 was a milestone in the fight against child labour. Although it had limitations, it was the first nationwide victory in the battle against child labour and marked the federal government's recognition of child labour as an issue of concern¹. Reformers and activists have played a crucial role in raising awareness about child labour and advocating for change. Their efforts have led to the development of laws and

¹ <https://www.bls.gov/opub/mlr/2017/article/history-of-child-labor-in-the-united-states-part-2-the-reform-movement.htm>

regulations aimed at protecting children from exploitation and ensuring their right to education and a safe childhood.

There have been significant international efforts to address child labour. The ILO has been at the forefront of these efforts, working to eliminate child labour through various conventions and programs. The ILO's Convention No. 182 on the Worst Forms of Child Labour is a key instrument in this regard. It defines and prohibits the worst forms of child labour, including slavery, forced labour, and trafficking of children. The International Labour Organization (ILO) defines child labour as work that deprives children of their childhood, interferes with their ability to attend regular schools, and is mentally, physically, socially, or morally harmful. The ILO sets the minimum age for work and hazardous work for children in its conventions and recommendations. According to the International Labour Organization (ILO), child labour refers to children under the age of 18 who have been deprived of their childhood and are engaged in work that is harmful to their physical or mental well-being, especially when it interferes with their education².

Other international organizations, such as UNICEF and the United Nations Office on Drugs and Crime (UNODC), also play important roles in combating child labour. They work to raise awareness, provide support to affected children, and advocate for policy changes to address the root causes of child labour³. UNICEF defines child labour based on age and hours of work. According to UNICEF, children between the ages of 5 and 11 who work at least one hour for economic needs or 28 hours of domestic work and economic work combined are considered involved in child labour.⁴ Children between the ages of 12 and 14 who work 14 hours of economic work or 42 hours of domestic work and economic work combined are also considered involved in child labour.

The issue of child labour gained significant attention during the 18th and 19th centuries, when it became a major global concern. Various international instruments, especially the ILO, have taken initiatives to address and abolish child labour. However, there has been a lack of significant emphasis on the rights and education of children, which may hinder finding a comprehensive solution to the problem. It is important to note that child labour is not limited to a specific region or country. It is a global issue that requires collective efforts from governments, organizations, and individuals to protect the rights and well-being of children. While progress has been made in addressing child labour, challenges persist. Poverty, lack of access to education, inadequate enforcement of laws, and the demand for cheap labour are among the factors that contribute to the persistence of child labour in many parts of the world.

² <https://www.ilo.org/ipecc/facts/lang--en/index.htm>

³ https://www.unodc.org/documents/justice-and-prison-reform/Child-Victims/Handbook_on_Children_Recruited_and_Exploited_by_Terrorist_and_Violent_Extremist_Groups_the_Role_of_the_Justice_System.E.pdf

⁴ https://www.theworldcounts.com/stories/Child_Labour_Definition

Eradication of Child Labour through education

Although child labour has been prohibited in India for a significant period of time, the problem continues to persist. Shockingly, India has one of the highest numbers of working children in the world, ranging from 60 to 115 million.

While there are multiple factors contributing to child labour, poverty is widely recognized as the primary driver. The dire economic conditions faced by families often compel children to enter the labour market. The government has implemented various policies, such as compulsory education, which have shown success, particularly in the state of Kerala. The effectiveness of the compulsory education policy has been evaluated and acknowledged as an effective tool in eradication of child labour.

Education plays a crucial role in eradicating child labour and holds the key to a brighter future for children worldwide. The complex issue of child labour cannot be attributed to a single cause, as it is influenced by a multitude of factors. It is only through a comprehensive approach that encompasses economic development, adherence to labour standards, widespread access to education, social protection, and a deeper understanding of children's rights that we can effectively combat and reduce child labour. It is important to note that there is no one-size-fits-all solution or a quick fix to this problem. Each region and community may require tailored strategies and interventions to address the unique challenges they face in eliminating child labour. By prioritizing education and implementing holistic measures, we can create a sustainable and inclusive society where children are protected, empowered, and given the opportunity to thrive.⁵ According to the census of 2011, UNICEF reported that there exist 10.1 million child laborers in India where there are 5.6 million boys and 4.5 million girls.

Child labour, a deeply concerning global issue, has witnessed a declining trend in recent years. However, despite these positive developments, various industries still exploit children, perpetuating an intergenerational cycle of poverty and hindering access to education. The persistent forms of child labour, include bonded labour, brick, carpet weaving, garment, agriculture, mining, fishing, and even sexual exploitation such as child pornography. There is an urgent need to listen to the voices of these vulnerable children as the first step in the fight against child labour.⁶

- **Bonded Labor:** One of the most insidious forms of child labor is bonded labor, where children are forced to work as a means to repay debts. Often, entire families become trapped in this system, unable to escape the cycle of exploitation. The hazardous and dehumanizing conditions these children endure further exacerbate their vulnerability.

⁵ <https://www.ilo.org/ipecc/Action/Education/lang--en/index.htm#:~:text=Education%20is%20a%20crucial%20component,%2C%20in%20some%20cases%2C%200growth.>

⁶ <https://www.unicef.org/india/what-we-do/child-labour-exploitation>

- **Brick Industry:** In many parts of the world, children are employed in the brick industry, where they work long hours under gruelling conditions. They are exposed to harmful substances, endure physical strain, and are denied their right to education. The lack of protective measures and proper regulation in this industry perpetuates the cycle of child labour.
- **Carpet Weaving Industry:** The carpet weaving industry is another sector where child labour is prevalent. Children are forced to work long hours, often in cramped and unsanitary conditions. The intricate nature of carpet weaving exacerbates the risk of physical ailments and denies these children the opportunity for education and a brighter future.
- **Garment Industry:** The global garment industry also relies heavily on child labour. Children are employed in various stages of the production process, from cotton picking to stitching garments. They endure exploitative working conditions, low wages, and limited access to education. Their small hands are exploited for the sake of cheap labour and profit.
- **Agriculture, Mining, and Fishing:** In rural areas, children are often found working in agriculture, mining, and fishing. These hazardous industries expose them to physical risks, such as handling dangerous machinery, toxic chemicals, and harsh weather conditions. Their labour deprives them of their right to education, perpetuating the cycle of poverty.
- **Sexual Exploitation:** Tragically, child labour is not limited to physical work alone. Sexual exploitation, including child pornography, is a grave concern. Children are forced into this unimaginable world, robbed of their innocence, and subjected to unspeakable horrors. The psychological and emotional scars inflicted on these children are profound and long-lasting.
- **The Interplay with Education:** Child labour acts as a significant barrier to education. When children are forced into work, their opportunity to attend school is diminished. Lack of education perpetuates poverty, limiting their prospects and perpetuating the cycle for future generations. Breaking this barrier requires a concerted effort to prioritize education and create opportunities for these children.

The 86th Constitutional Amendment and the Right to Education Act in India

The 86th Constitutional Amendment, passed in 2002, inserted Article 21A into the Indian Constitution, making free and compulsory education a fundamental right for children aged between 6 and 14 years . This amendment recognized the need for legislation to describe the implementation of this right, leading to the enactment of the Right of Children to Free and Compulsory Education Act, 2009 (RTE Act)⁷.

Key Features of the Right to Education Act

The RTE Act, which came into effect on April 1, 2010, outlines several key features that align with Article 21A of the Indian Constitution :

⁷ <https://www.education.gov.in/rte>

- Free and Compulsory Education: The Act mandates that education up to the elementary level must be free and compulsory for all children .
- State Government Laws: The appropriate state government is responsible for enacting laws based on the central government's RTE Act.
- Duties and responsibilities: The Act outlines the duties and responsibilities of the government, local authorities, and parents. It also addresses the financial sharing between the central and state governments.
- Prohibitions: The RTE Act explicitly prohibits certain practices, including screening children for admission, charging capitation fees, teachers providing private tuition, and running schools without proper government recognition.

These provisions aim to ensure that every child has access to quality education without any discrimination or financial burden. The 86th Constitutional Amendment and the subsequent enactment of the Right to Education Act in India have played a crucial role in making free and compulsory education a fundamental right for children aged between 6 and 14 years. The Act outlines various provisions to ensure the implementation of this right and prohibits certain practices that could hinder access to education.

The Employment of Children Act, 1938 was the first act that governed child labour and was recommended by the report of the Royal Commission of Labour in 1931. This act prohibited child labour in certain hazardous places⁸

The Royal Commission of Labour was a parliamentary inquiry that produced reports detailing the abuse and mistreatment of children in factories during the 19th and early 20th centuries⁹. The commission played a significant role in shedding light on the conditions faced by child laborers and advocating for reforms to protect their rights.

The report, which recommended the Employment of Children Act, 1938, was published in 1931. This report highlighted the need to prohibit child labour in certain hazardous places, recognizing the dangers and risks associated with employing children in such environments. The Royal Commission of Labour's findings and recommendations were instrumental in shaping legislation and policies aimed at addressing child labour and improving working conditions for children. The Employment of Children Act, 1938, was a significant step forward in regulating child labour and protecting the welfare of young workers. The Royal Commission of Labour was not the only commission or inquiry that focused on child labour during that time period. There were other investigations and reports that contributed to the understanding of the issue and the subsequent implementation of laws and regulations to combat child labour.

⁸ <https://academic.oup.com/book/10790/chapter/158941315> (Right Against Economic Exploitation—Child Labour)

⁹ <https://www.parliament.uk/about/living-heritage/transformingsociety/livinglearning/19thcentury/overview/factoryact/>

The Child Labour (Prohibition and Regulation) Act, 1986 was enacted based on the recommendations made by the Gurupadaswamy Committee report in 1979. The committee highlighted the need to eliminate poverty in order to eradicate child labour¹⁰. The Act aimed to regulate and prohibit child labour, particularly in dangerous occupations. It identified specific hazardous occupations where children were not allowed to work and aimed to protect children from exploitation. The Act came into force in December 1986. The Child Labour (Prohibition and Regulation) Act, 1986 was enacted to address the issue of child labor in India, based on the recommendations of the Gurupadaswamy Committee. It aimed to regulate and prohibit child labor, with a focus on eliminating poverty as a root cause of child labour.¹¹

After the 86th amendment in 2002 and the consequences of it came the RTE act, 2009 there was more pressure on the government to amend the child labour laws in line with this. The national commission for protection of child rights recommended for suggested a major change to delete the term 'regulation' mentioned in the act as child labour must be abolished completely and not regulated.

Amendments made in 2016:-

- Children aged below 14 years were completely prohibited to do any work,
- The term 'adolescents' was recognized and refined as the child aged between 14 to 18 years,
- According to section 3(1) of the act, there is a complete prohibition of children below 14 years to work in any place or process.
- There is an exception to that clause saying that the child may work for the family and for family enterprises and as an artist, audio and entertainment arena which included films, tv serials and advertisements as well as sports provided it does not affect the child's education.
- Hazardous places were mines, explosives and the industries which are mentioned in the factories act.⁷

Lacunae in the amendment

- The hazardous occupation was reduced from 83 places to 3 consisting of mining, and explosives and those mentioned in the factories act and the industries which have not been mentioned are chemical mixing factory, cotton farms industry, battery recycling industry, and brick kilns were exempted.
- By using section 4 of the act appropriate government authority was given the power to remove the hazardous occupation rather than going through parliament procedure.
- Section 3(5) gives the exception of family based enterprises where child labour exists mostly on caste-based which would result in intergenerational debt bondage and poverty.

¹⁰ <https://vvnli.gov.in/sites/default/files/State%20of%20Child%20Workers%20in%20India-Mapping%20Trends.pdf>

¹¹ <https://www.nluo.ac.in/wp-content/uploads/2019/05/2.vol-IIIissue1-2017-CR-Journal-2.pdf>

- Article 24 of the Indian Constitution prohibits no child must be employed in factories, mines or any hazardous occupations and Article 45 talks about free and compulsory education in line with the RTE act, 2009. In 1987, national policy for child labour was made laws to be implemented strictly and there were several developments based on caste and poverty. There existed several social protections from the government where the budget was slashed in future which resulted in various closures of government programs as the government cannot allot funds for it.

Child Labour and its Impact on Progression

Child labour is indeed a significant hurdle in the progression of any country, including India. The future generations play a crucial role in the development and growth of a nation. Therefore, the prevalence of child labour not only damages the economy but also hampers the overall progress of the country.

Despite the enactment of laws to combat child labour, it continues to grow at an alarming rate. It is important to note that child labour exists for various reasons, not solely due to poverty. However, education is considered to be the key solution to abolish child labour.

The Role of Education in Abolishing Child Labour

Education plays a vital role in eradicating child labour. By providing access to quality education, children are empowered with knowledge and skills that can help them break the cycle of poverty and contribute to the development of their country.

Investing in education not only helps in eliminating child labour but also has a positive impact on various aspects of society. Education equips children with the necessary tools to secure better employment opportunities in the future, leading to improved economic conditions for individuals and the nation as a whole.

Moreover, education promotes social justice and equality by ensuring that every child has an equal opportunity to learn and grow. It helps in creating a more inclusive and just society, where the rights and well-being of all individuals are protected.

Conclusion:

To combat child labour effectively, it is crucial to listen to the voices of these children. By understanding their experiences, needs, and aspirations, we can develop targeted interventions and policies that address the root causes of child labour. Additionally, stringent regulation, enforcement, and collaboration between governments, organizations, and communities are essential. This includes addressing the root causes, such as poverty and lack of education, strengthening legal frameworks, improving enforcement mechanisms, and promoting sustainable economic development that provides decent work opportunities for adults. Only through collective action can we break the shackles of child labour, ensuring a brighter future for children worldwide.

The current amendment regarding child labour has been criticized for causing various problems and not being progressive in nature. One of the concerns raised is that it pushes

children into caste-based intergenerational occupations, which goes against the goal of abolishing child labor. Additionally, the amendment does not specify the time of work, which can be dangerous and easily misused.

The exception clause mentioned in the amendment is seen as a potential loophole that can be exploited, rather than serving the main aim of abolishing child labour. Critics argue that the focus should be on completely eradicating child labour rather than regulating it.

It is important to note that these are the concerns and criticisms raised by some individuals or groups regarding the current amendment on child labour. The effectiveness and impact of the amendment may vary depending on different perspectives and contexts.