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# An Analysis of the Effectiveness of the Child Labour Law in India with special reference to Tea Estate in Darjeeling District of West Bengal

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## ABSTRACT

*Child labour is a significant problem in India, especially in the tea plantations of Darjeeling, West Bengal. Despite the existence of protective laws such as the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986, and the Right to Education Act, 2009, numerous children continue to work under harsh conditions. This study explores the effectiveness of the implementation of these laws in the tea estates of Darjeeling. The paper further discusses contributions by governmental agencies, non-governmental organizations, and tea estate owners in overcoming the problem. Last but not the least, this study is restricted or look into only the existence of child labour in the tea estate of Darjeeling.*

**Keywords:** *Child labour, tea plantations, Darjeeling, India, labour laws, education, enforcement, government, NGOs, poverty.*

## I. INTRODUCTION

According to Nehru, the nation's future was seen as dependent on its youth, who were considered the most valuable resource. The globe perceives youngsters as its biggest asset, something that it treasures for their capacity to spur growth for a nation to achieve prosperity, it must prioritize the upbringing of its children and ensure they are nurtured effectively. Policies should be the government's responsibility so that they propel the growth and health of children, which will make the country grow and thrive in the coming years.<sup>3</sup> Global treaties, like the UN's Convention on the Rights of the Child<sup>4</sup>, recognize specific privileges as fundamental rights for children. The violation of some of these rights constitutes child

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<sup>3</sup> Arjit Pandey & Tanisha Yadav, A Comparative Analysis of Child Labour Laws in US & India, 4 INT'L J.L. MGMT. & HUMAN. 570 (2021).

<sup>4</sup> United Nations Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3.

labour.<sup>5</sup> Most governments have established laws to address child labour within rural and informal economies where children face the risk of mistreatment. The effective enforcement of such laws is affected by corruption, limited resources, and inaccessibility to judicial remedies. These obstacles hinder the implementation of regulations and, consequently, ending up in of child labour.<sup>6</sup> The intricacy of global supply networks further complicates the situation. Additionally, intrinsic factors like financial hardship and limited access to education are major contributors to this age-old issue of employment. The mistreatment of minors for labour has existed throughout history, often influenced by cultural traditions, economic conditions, and technological advancements.<sup>7</sup> Economic hardships usually force parents to resort to child labour<sup>8</sup> as a last resort. Therefore, it causes to be well known fact that the majority child workers belong to impoverished families. The most significant factor in this issue is that children are forced to labour instead of receiving an education.<sup>9</sup> Research by the Kailash Satyarthi Children's Foundation<sup>10</sup> revealed that India's child labour population stood at 8.12 million in 2021. The study predicts this figure will decline to 7.43 million by 2025.<sup>11</sup> The Ministry of Women and Child Development<sup>12</sup> is tasked with: (i) bridging shortcomings in state initiatives for women and children, and (ii) fostering coordination across ministries and sectors to implement policies that prioritize gender equality and child welfare.<sup>13</sup> Effectively addressing this challenge demands a deep interpretation of the multiple influencing factors. These factors are tightly bound together to the nation's socioeconomic landscape, which subsequently shapes broader employment market dynamics.

#### **A. Understanding the child labour in India<sup>14</sup>**

Child labour<sup>15</sup> describes the scenario in which children are compelled to engage in labour, often because of harsh economic times experienced by poor households in India. Parents can deny children school attendance to help support their families, affecting their health,

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<sup>5</sup> Apoorva Kaushal Prabhudesai, Child Labour in India: Prevalence, Legislations and Implementations, 3 INDIAN J. INTEGRATED RSCH. L. 1 (May-June 2023).

<sup>6</sup> Child And Adolescent Labour (Prohibition and Regulation) Amendment Act, No. 35 Of 2016, INDIA CODE (2016).

<sup>7</sup> Ibid

<sup>8</sup> Ibid

<sup>9</sup> Shreya Singh, Utkarsh Singh & Yusra Khatoon, Child Labour in India: Causes and Consequences, 4 INT'L J.L. MGMT. & HUMAN. 1366 (2021).

<sup>10</sup> Kailash Satyarthi Children's Foundation, An Analysis Based On Projection Of Child Labour Population In India Till 2025, 2020

<sup>11</sup> Ibid

<sup>12</sup> Ministry Of Women & Child Development, Gov't Of India, Annual Report 2022-23, (2023), Available At [https://wcd.nic.in/Sites/Default/Files/Ar-2-211E\\_Merged.Pdf](https://wcd.nic.in/Sites/Default/Files/Ar-2-211E_Merged.Pdf) (Last Visited 07.01.2025).

<sup>13</sup> Ibid

<sup>14</sup> Child And Adolescent Labour (Prohibition and Regulation) Amendment Act, No. 35 Of 2016, INDIA CODE (2016).

<sup>15</sup> Ibid

education, and development. Child labour<sup>16</sup> is a common occurrence in India, juvenile labour is prevalent, especially in farming, production industries, and household service, food service, and small retail outlets.

## II. MEANING OF CHILD LABOUR<sup>17</sup>

Child labour entails engaging minors in duties that pose risks to their health, development, or education. This includes work that is too demanding, hazardous, or unsuitable for their age, leading to the loss of time to learn, play, or have a normal childhood. In economically disadvantaged households, children's work often serves as a crucial source of additional income for the family. The situation can be aggravated if governments and companies do not put in place and enforce laws that discourage such acts. In the absence of legislation and enforcement, these exploitative acts can go unchecked.

### A. Definition of Child Labour<sup>18</sup>

1. According to the International Labour Organisation (ILO)<sup>19</sup>, Child labour<sup>20</sup> may be defined as labour that robs children of their youth, dreams, and self-respect, although it is opposed to the holistic growth of the physique and mind of a child. This explanation encompasses tasks that negatively impacts children's psychological, bodily, interpersonal, and ethical development. It also addresses employment conditions that could disrupt consistent school participation, hinder students' focus during class, or rob them of typical childhood experiences.<sup>21</sup>

According to the International Labour Organization<sup>22</sup>, child labour<sup>23</sup> is understood in so many ways and comes with its estimation accordingly. "All work performed by children or adolescents is not child labour," and only those tasks that do not negatively impact a child's well-being, growth, or learning are considered acceptable can be regarded as beneficial. Instances include assisting parents or engaging in small income-generating activities outside school hours and during holidays etc. These pursuits can foster personal development and enhance the overall well-being of individuals and experience thereby properly preparing them

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<sup>16</sup> Ibid

<sup>17</sup> Child And Adolescent Labour (Prohibition And Regulation) Amendment Act, No. 35 Of 2016, INDIA CODE (2016).

<sup>18</sup> Ibid

<sup>19</sup> Int'l Labour Org., About The ILO, (1919), Available At <https://www.ilo.org> (Last Visited 08.01.2025).

<sup>20</sup> Child And Adolescent Labour (Prohibition And Regulation) Amendment Act, No. 35 Of 2016, INDIA CODE (2016).

<sup>21</sup> Child Labour In India, Wikipedia, Available At [http://en.wikipedia.org/wiki/Child\\_Labour\\_In\\_India](http://en.wikipedia.org/wiki/Child_Labour_In_India) (Last Visited 08.01.2025).

<sup>22</sup> Int'l Labour Org., About The ILO, (1919), Available At <https://www.ilo.org> (Last Visited 08.01.2025).

<sup>23</sup> Child And Adolescent Labour (Prohibition And Regulation) Amendment Act, No. 35 Of 2016, INDIA CODE (2016).

as useful members of society.<sup>24</sup>

2. According to UNICEF, child labour<sup>25</sup> is defines as : (1) Labor undertaken by children below the age of 14 that is inappropriate for their abilities or endangers their health, education, or development. This includes both part-time and full-time economic activities. (2) These pursuits can foster personal development and enhance the overall well-being of individuals. (3). Child workers are children engaged in illegal work or injurious work hindering them from physical, intellectual, social, or educational growth. They are children and doing things which risk their overall progress and well-being.<sup>26</sup>

Based on the 2001 Census data from India's Census office, child labour is defined as income-generating task carried out. individuals younger than 17 years old, involving mental or physical effort, or both, with little to no payment. This encompasses sporadic assistance or unpaid work in sectors such as agriculture, family businesses, construction, dairy production etc.

3. The ILO Convention No. 182,<sup>27</sup> (the Worst Forms of Child Labour Convention<sup>28</sup> 1999) defines the "worst forms of child labour" as:

(a). Activities resembling slavery, such as child trafficking, bonded labour, and coerced work, and the involuntary recruitment of minors into armed conflicts.

(b). The use of minors in sex work, the creation of sexually explicit material, or lewd performances, whether through intimidation, facilitation, or taking advantage of their vulnerability.

(c). Involving children in illegal operations, especially the production and sale of narcotics, as defined by pertinent global treaties.

(d). Work or activities that seriously endanger a child's health, physical safety, or moral growth.

Such types of work are deemed unacceptable under any conditions, and the agreement requires countries that ratify it to implement immediate and effective actions to ban and

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<sup>24</sup> Child Labour In India, Wikipedia, Available At [Http://En.Wikipedia.Org/Wiki/Child\\_Labour\\_In\\_India](http://En.Wikipedia.Org/Wiki/Child_Labour_In_India) (Last Visited 08.01.2025).

<sup>25</sup> Child Labour In India, Wikipedia, Available At [Http://En.Wikipedia.Org/Wiki/Child\\_Labour\\_In\\_India](http://En.Wikipedia.Org/Wiki/Child_Labour_In_India) (Last Visited 08.01.2025).

<sup>26</sup> United Nations Children's Fund (UNICEF), Definitions: Child Protection, (2013), Available At [Https://Resourcecentre.savethechildren.net](https://Resourcecentre.savethechildren.net) , (Last Visited 08.01.2025).

<sup>27</sup> Int'l Labour Org. (ILO), Convention Concerning The Prohibition And Immediate Action For The Elimination Of The Worst Forms Of Child Labour (No. 182), Adopted June 17, 1999, 2133 U.N.T.S. 161, Available At [Https://Www.ilo.Org/Dyn/Normlex/En/F?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C182](https://www.ilo.org/dyn/normlex/en/F?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182) ,09.01.2025.

<sup>28</sup> *Ib.*

eradicate them as an urgent priority.<sup>29</sup>

### III. SOCIO -ECONOMIC FACTORS LEADING TO CHILD LABOUR<sup>30</sup>

According to International Labour Organisation<sup>31</sup>, the data suggests that a minimum of 250 million children aged 5 to 14 are engaged in work, with approximately 120 million of them employed on a full-time basis. Existing studies mainly focus on the driving forces and influencing factors behind child labour, reasons for child labour from an economic perspective, the efficiency of work performed by children, and how employment and pay rates for minors and adults correlate within the same industry.<sup>32</sup> Child labour means employment of youth aged 5-14 participating in both regulated and unregulated economic activities under circumstances which are prejudicial or potentially detrimental to the child's well-being and safety.<sup>33</sup>

Numerous significant factors contribute to the perpetuation of child labour; a few of them being, insufficient access to education, cultural and social beliefs, forced migration and displacement, and insufficient public awareness and poor practices.<sup>34</sup> However, their importance and impact vary depending on the specific circumstances and context.<sup>35</sup>

There are numerous reasons why child labour persists. These include:

1). Poverty- The extreme condition of poverty has consistently attracted significant societal attention.<sup>36</sup> The income that produce is crucial for maintaining both themselves and their family members.<sup>37</sup> In India, the main factor driving child labour is financial distress. Numerous families are facing financial hardships, making it difficult for parents to fund their children's schooling. As a result, many youngsters are forced to start working at an early age to contribute to the family's income. When a family's expenses surpass the parents' earnings, children often have to work to support themselves. This issue is common in developing nations, where limited employment opportunities and inadequate education prevent adults

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<sup>29</sup> Id

<sup>30</sup> Ibid

<sup>31</sup> Int'l Labour Org. (ILO), About The ILO, (1919), Available At <https://www.ilo.org>, 09.01.2025.

<sup>32</sup> Int'l Labour Org. (ILO), Investing In Every Child: An Economic Study On The Costs And Benefits Of Eliminating Child Labour (2003), Available At <https://www.ilo.org/>, 12.01.2025. L. Lopez-Calva, Child Labour: Myths, Theories, And Facts, 55 J. Int'l Aff. 59, 59-73 (2001).

<sup>33</sup> R. Galli, The Economic Impacts Of Child Labour (Int'l Labour Org. (ILO), 2001), Available At <https://www.researchgate.net>, 12.01.2025.

<sup>34</sup> Sema, Factors That Contribute To Child Labour, Available At <https://sema-sy.org/factors-that-contribute-to-child-labor>, 12.01.2025.

<sup>35</sup> Mridul Maheshwari & Manjari Singh, Factors Affecting Child Labour In India (Indian Inst. Of Mgmt. Ahmedabad, India, 2008), Available At <https://www.iima.ac.in>, 14.01.2025.

<sup>36</sup> Polly Vizard, Review by Prof. B.B. Pande, Poverty and Human Rights—Sen's Capability Perspective, 5 J. Nat'l Hum. Rts. Comm'n 191 (2006).

<sup>37</sup> Supra Note 29, At 63; See Also Jain & Chand (1979).

from earning better wages. The Below Poverty Line (BPL) classification evaluates an area's economic status by determining the minimum calorie intake required for survival. Individuals who cannot maintain this level of expenditure often remain poor. This measure is used to evaluate the economic and social status of a population. A UN Report<sup>38</sup> indicates that in our developing country, 20% of people go to bed hungry each night, 25% are without essential resources like clean water, and 33% live under the extreme poverty line.<sup>39</sup> The Human Development Report from 2005 reveals that each hour, 1,200 children lose their lives, causing a yearly total of 10 million children not surviving to their fifth birthday.<sup>40</sup>

2). Limited availability of proper education- Despite 77 years of freedom, India continues to encounter challenges with limited educational accessibility, contrary to Article 21A<sup>41</sup> Guaranteeing access to education as a basic right for every child. Numerous families living in poverty struggle and ensure their children have a quality education due to financial constraints, which subsequently hampers their future opportunities. In several rural areas, the absence or limited availability of schools hinders children's access to education. As a result, many children are compelled to engage in child labour to contribute to their family's income. Although education is mandatory and free for children up to 14 years old, the majority do not continue to secondary school. Official data indicates that factors such as unqualified teachers, inadequate school infrastructure, lack of resources, and child labour significantly impact parents' decisions regarding their children's schooling. Many schools are devoid of essential facilities, making them unattractive to both students and their parents. Furthermore, the education provided in numerous schools is so inadequate that students often fail to acquire basic knowledge. Enforcing compulsory education without addressing these issues could potentially exacerbate the situation for impoverished families rather than improve educational standards. The expenses associated with education, including direct costs like fees, uniforms, and transportation, as well as indirect costs such as lost income from children not working, pose substantial barriers that tend to increase child labour rather than reduce it. In India, the dropout rate for female primary school students surpasses that of males, with Assam experiencing one of the highest rates, where 8.9% of girls leave school. Other states with significant dropout rates include Tamil Nadu at 6%, Mizoram at 7.40%, Uttar Pradesh at

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<sup>38</sup> Dr. Justice A.S. Anand, Neglect of Economic, Social, And Cultural Rights—A Threat To Human Rights, 5 J. Nat'l Hum. Rts. Comm'n 14 (2006).

<sup>39</sup> Dr. Justice A.S. Anand, Neglect of Economic, Social, And Cultural Rights—A Threat To Human Rights, 5 J. Nat'l Hum. Rts. Comm'n 14 (2006).

<sup>40</sup> Ibid

<sup>41</sup> The Constitution of India, 1950.

7.10%, and Arunachal Pradesh at 6.10%.<sup>42</sup>

3). Large Family Size- In many developing nations, large families significantly affect children, particularly their educational and developmental prospects. With numerous offspring, financial resources are stretched, making it challenging to provide adequate nutrition, healthcare, and schooling for each child. Poor families face difficulties affording educational expenses, which often force children to leave school and work to support their families. Older children frequently step into the role of caring the younger siblings, sacrificing their education. In households with many children, the lack of a suitable study environment often hinders their academic success. In certain cultures, boys are given educational opportunities, while girls are expected to work at home or marry young. Parents have limited access to information about family planning and contraceptives, leading to larger families. Despite knowing the financial and time commitments required for their children's education and health, parents continue to have more children. To address this issue, it is crucial to improve access to the family planning services, prioritize education and support underprivileged families to ensure that children can attend school.

4). Reliance, illness, or disability- Poverty forces children into labour as they struggle to survive. Parents continue working even if they are unemployed, sick, or disabled. Unpaid medical bills, inadequate financial support, and the absence of social welfare benefits exacerbate the situation. In most instances, children become caregivers at the expense of education. Without any assistance, young individuals are forced to engage in dangerous work environments, sacrificing their health and prospects for the future. Free medical care, cash, and social security would all contribute to keeping them out of child labour and improve their general living conditions.

5). Gender Discrimination- Our societal conditioning has led us to perceive girls as naturally more at risk, resulting in the disparate treatment of boys and girls. To this day, in most regions in our society, we can still observe girls being denied access to education. The assumption that girls are less skilled is misguided than boys about their denial of access to education and schooling. In rural or working-class homes, girls work alongside their parents instead of schooling.<sup>43</sup>

Indian child labour has its foundation for numerous interrelated reasons, including unavailability of schooling, economic destitution, movement of the population, sociocultural

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<sup>42</sup> Ibid

<sup>43</sup> Shreya Singh, Utkarsh Singh & Yusra Khatoon, Child Labour In India: Causes And Consequences, 4 INT'L J.L. MGMT. & HUMAN. 1366 (2021).



factors, relaxed enforcement of labour laws, the need for inexpensive or unpaid labour, and the absence of public awareness and social concern. These interrelated reasons make it difficult to address this issue. In India, the fight against child labour involves collaborative actions from both government agencies and NGOs.<sup>44</sup> The National Child Labour Project (NCLP)<sup>45</sup> is a government-sponsored program designed to help child workers reintegrate into society. This objective is achieved through a combination of educational initiatives, vocational training, and assistance for their households. The initiative seeks to reintegrate these children into the mainstream by offering them chances to learn and develop skills. Non-governmental agencies such as Entities like Bachpan Bachao Andolan<sup>46</sup>, Child Rights and You (CRY)<sup>47</sup>, and Save the Children<sup>48</sup> are dedicated to safeguarding children's rights and taking action to stop and eradicate child labour.<sup>49</sup>

#### **IV. AN OVERVIEW OF THE EVOLUTION OF THE INTERNATIONAL FRAMEWORK PREVENTING CHILD LABOUR**

England was the pioneering nation in the process of industrialization, a transformation that brought about both advancements and significant challenges.<sup>50</sup> Due to this early initiation, England encountered difficulties prior to other nations and was compelled to devise solutions. During the late 18th and early 19th centuries, Britain evolved from a fragmented economy into a robust and organized state. The government gained increased authority, industries expanded, and innovations in machinery facilitated more rapid and efficient production of goods. This era witnessed substantial advancements in industrial technology and trade.<sup>51</sup> A notable consequence of these transformations was the emergence of child labour. As machinery supplanted manual labour, factories required a substantial workforce, and children were frequently employed due to their lower cost and ease of management.<sup>52</sup> The transition from small-scale, home-based work to large urban factories generated new job prospects as well as resulted in harsh working conditions, particularly for children. This shift commenced

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<sup>44</sup> Apoorva Kaushal Prabhudesai, Child Labour In India: Prevalence, Legislations, And Implementations, Indian Journal Of Integrated Research In Law, 2022, Volume III Issue III | ISSN: 2583-0538,16.01.2025.

<sup>45</sup> Ministry of Labour & Emp., Gov't of India, National Child Labour Project (NCLP), <https://labour.gov.in/childlabour/nclp>.

<sup>46</sup> Bachpan Bachao Andolan, Child Labour In India: Status And Challenges, BBA (1980), Available At <https://Bba.Org.In>,16.01. 2025).

<sup>47</sup> Child Rights and You (CRY), Available At <https://www.cry.org>,16.01.2025.

<sup>48</sup> Save The Children, Available At <https://www.savethechildren.net>,16.01.2025

<sup>49</sup> Apoorva Kaushal Prabhudesai, Child Labour in India: Prevalence, Legislations, And Implementations, Indian Journal of Integrated Research in Law, 2022, Volume III Issue III | ISSN: 2583-0538,16.01.2025

<sup>50</sup> William F. Willoughby, Child Labor, 5 Pub. Am. Econ. Ass'n 5 (Mar. 1890)

<sup>51</sup> Griffin, E. (2013). Liberty's Dawn: A People's History of the Industrial Revolution. Yale University Press.

<sup>52</sup> Cunningham, H. (2000). The Decline of Child Labour: Labour Markets and Family Economies in Europe and North America Since 1830. The Economic History Review, 53(3), 409-428

with Richard Arkwright's invention of the spinning machine in 1769,<sup>53</sup> which enabled the mechanized spinning of cotton. Subsequent inventions, such as Compton's thread spinner in 1773<sup>54</sup> and Cartwright's mechanical weaving machine in 1787,<sup>55</sup> further advanced this trend.<sup>56</sup> By 1793, Eli Whitney's invention in the United States facilitated the cleaning of cotton, thereby augmenting cotton production in both the U.S. and Britain.<sup>57</sup> As manufacturing expanded during wartime, Britain experienced increased wealth, although this prosperity was not equitably distributed. While factory owners accrued profits, many working-class families endured poverty. Children were often compelled to work in hazardous conditions for extended hours with minimal remuneration, which became a significant social and political dilemma.<sup>58</sup> The Industrial Revolution drastically transformed social structures. People moved from countryside regions to cities in pursuit of work, reshaping family life and community structures. Power shifted from landowners to factory proprietors, and the government encountered rising the issues related to poverty, poor working conditions, and child labour.<sup>59</sup> Historian Thorold Rogers, in his book "Work and Wages," observed: "I am convinced that at no period of English history, for which authentic records exist, was the condition of manual labour worse than it was in the years from 1782 to 1821" time during which factory proprietors and traders amassed substantial profits.<sup>60</sup> By 1850, Britain had emerged as the preeminent global power and the most industrialized nation. Despite constituting merely 1.8% of the global population, it was responsible for producing two-thirds of the world's coal, half of its cotton cloth, and half of its iron. British workers were also recognized as the most productive during this period.<sup>61</sup> However, the benefits of this industrial advancement were not universally distributed. The impoverished and marginalized segments of society were adversely impacted by these profound social transformations. Many individuals lost their traditional occupations and struggled to adapt to the new societal norms. Concurrently, there

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<sup>53</sup> Richard Arkwright, Spinning Frame Patent, Patent No. 931 (U.K. Jan. 3, 1769), [https://en.wikipedia.org/wiki/Richard\\_Arkwright](https://en.wikipedia.org/wiki/Richard_Arkwright) (last visited Apr. 27, 2025).

<sup>54</sup> Samuel Crompton, Spinning Mule (U.K. 1779), EBSCO Research Starters, <https://www.ebsco.com/research-starters/history/spinning-mule> (last visited Apr. 27, 2025).

<sup>55</sup> Edmund Cartwright, Power Loom, Patent No. 1470 (U.K. 1785), <https://www.britannica.com/biography/Edmund-Cartwright> (last visited Apr. 27, 2025).

<sup>56</sup> Mantoux, P. (1961). *The Industrial Revolution in the Eighteenth Century: An Outline of the Beginnings of the Modern Factory System in England*. Harper & Row

<sup>57</sup> Mokyr, J. (1990). *The Lever of Riches: Technological Creativity and Economic Progress*. Oxford University Press.

<sup>58</sup> Tuttle, C. (1999). *Hard at Work in Factories and Mines: The Economics of Child Labor during the British Industrial Revolution*. Westview Press

<sup>59</sup> Ashton, T. S. (1948). *The Industrial Revolution: 1760–1830*. Oxford University Press.

<sup>60</sup> Rogers, J. E. T. (1884). *Six Centuries of Work and Wages: The History of English Labour*. London: Swan Sonnenschein & Co.

<sup>61</sup> Gregory Clark, *The British Industrial Revolution, 1760–1860*, University of California, Davis. Available at: <https://www.econ.ucdavis.edu/faculty/gclark/ecn110b/readings/ecn110b-chapter2-2005.pdf>

was an increased demand for labour in remote regions of the country. Factory owners often preferred employing children due to their efficiency in operating machinery.<sup>62</sup> Even before this issue gained prominence, numerous children were already employed in factories, resulting in a significant rise in child labour and its detrimental effects. Boys and girls were engaged in factory work as small towns evolved into major cities such as Birmingham, Manchester, and Liverpool. These burgeoning cities offered more employment opportunities but imposed harsher conditions on child labourers.<sup>63</sup> In the initial years, many child labourers were recruited from urban workhouses as apprentices. Impoverished children between the ages of three and fourteen were sent to the North to work in factories. Factory owners established arrangements with workhouses to acquire large groups of children for extended durations, often without regard for their welfare. Some of these children endured particularly severe conditions. In certain cases, for every twenty healthy children sent, the workhouse was also required to send one child with a mental disability.<sup>64</sup>

The 1816 Select Committee Report clearly described the harsh treatment of children working in factories.<sup>65</sup> At that time, a large number of workers were children, and more than half were under the age of 18.<sup>66</sup> Some were as young as four, working long hours in factories and underground mines.<sup>67</sup> These children faced unsafe and unhealthy conditions, which were often life-threatening.<sup>68</sup> The report showed how serious the problem of child labour had become during the early years of industrialization.<sup>69</sup> Young children, even as young as three or four, had to work in very tough conditions. Many six-year-olds worked 12 to 13 hours a day, sometimes up to 16 hours, with only short breaks for meals and little rest. They had no time to play and often became weak and sick as adults. Their working conditions were worse than many forms of servitude, with high rates of disease and death.<sup>70</sup> In the 1800s, many poor families had no adults earning money, so children started working early. By 1788, in England and Scotland, children made up two-thirds of the workers in 143 water-powered mills. Child

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<sup>62</sup> EH.Net Encyclopedia, "Child Labor during the British Industrial Revolution," available at: <https://eh.net/encyclopedia/child-labor-during-the-british-industrial-revolution/>

<sup>63</sup> World History Encyclopedia, "Child Labour in the British Industrial Revolution," available at: <https://www.worldhistory.org/article/2216/child-labour-in-the-british-industrial-revolution/>

<sup>64</sup> Villis, Ruth. "Bioarchaeological Evidence for Pauper Apprentices in 19th Century England," PLOS ONE, 2023. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10191286/>

<sup>65</sup> British Parliament. (1816). Report from the Select Committee on the Condition of Children Employed in Factories. British Parliamentary Papers, Vol. IX.

<sup>66</sup> Kirby, Peter. (2003). Child Labour in Britain, 1750–1870. Palgrave Macmillan.

<sup>67</sup> Honeyman, Katrina. (2007). Childhood and Child Labour in the British Industrial Revolution. Manchester University Press.

<sup>68</sup> British Parliament, Report from the Select Committee on the Condition of Children Employed in Factories, British Parliamentary Papers, Vol. IX (1816).

<sup>69</sup> Honeyman, Katrina, Supra note 15

<sup>70</sup> Report from the Select Committee on the Condition of Children Employed in Factories, British Parl. Papers, Vol. IX (1816) and Peter Kirby, Child Labour in Britain, 1750–1870 (Palgrave Macmillan 2003).

labour decreased in the late 19th century because of new laws and stronger labour unions.<sup>71</sup> The inaugural child labour statute was passed in 1803, followed by the Factory Acts of 1802<sup>72</sup> and 1819<sup>73</sup>. These laws were not effective until protests by the "Short Time Committees" led to the 1833 Royal Inquiry. Consequently, Parliament limited children's work to 12 hours a day for those aged 11–18 and banned factory work for those under nine years old.<sup>74</sup> Later, in 1847, another law further reduced working hours to 10 hours a day for children and adults.<sup>75</sup> Finally, the Children and Young Persons Act of 1933 gave more protection to children under 14 and placed restrictions on work for those under 15.<sup>76</sup> By the year 1900, it was estimated that approximately 1.7 million youths below Fifteen-year-olds were involved in an array of occupations throughout the U.S.<sup>77</sup> In 1910, more than around two million youngsters within those in that age category were engaged in work across various fields in the U.S.<sup>78</sup> These youths took part in various types of employment, including cigarette rolling, industrial employment, including tasks like replacing bobbins in cloth production facilities, toiling in underground coal pits, and holding positions in food canning factories.<sup>79</sup> In the 1910s, Lewis Hine's photographs poignantly described the hardships faced by young Laborers in the Southern United States. Between 1908 and 1917, Hine captured these visuals throughout his time in office as the designated photographer for the National Child Labor Committee.<sup>80</sup> In the year 1946, Frieda S. Miller, who held the role of head at the U.S. Department of Labour, addressed the International Labour Organization<sup>81</sup> (ILO), stating that home-centred occupations were marked by "insufficient earnings, prolonged shifts, participation of minors, and unsafe, unsanitary conditions."<sup>82</sup> Following the conclusion of the Second World War, numerous nations concentrated on reconstructing their economies and enhancing the welfare of workers. Frieda S. Miller's speech was delivered at a pivotal moment during the time the United States was endeavouring to recover from the economic challenges posed by the era of the Great Depression and to navigate the complexities of the post-war era.

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<sup>71</sup> Ibid

<sup>72</sup> Kirby, *supra* note 18; Report from the Select Committee on the Condition of Children Employed in Factories, *supra* note 18.

<sup>73</sup> Kirby, *supra* note 18; Report from the Select Committee on the Condition of Children Employed in Factories, *supra* note 18.

<sup>74</sup> Ibid

<sup>75</sup> British Parliament, Factory Act of 1819, 59 Geo. 3, c. 35 (1819).

<sup>76</sup> British Parliament, Children and Young Persons Act of 1933, 23 & 24 Geo. 5, c. 12 (1933).

<sup>77</sup> The Industrial Revolution, Web Institute for Teachers, archived from the original on Aug. 4, 2008.

<sup>78</sup> Teaching With Documents: Photographs of Lewis Hine: Documentation of Child Labour, U.S. Nat'l Archives & Records Admin., Aug. 15, 2016, <https://www.archives.gov>.

<sup>79</sup> Matthew Vreath, Virginia: Cigarette Rollers, <https://userpages.umbc.edu>.

<sup>80</sup> L. Warren, Hine, Lewis, in *Encyclopedia of Twentieth-Century Photography* 699 (Routledge 2005)..

<sup>81</sup> Int'l Labour Org.

<sup>82</sup> Harriet Friedmann, World Market, State, and Family Farm: Social Bases of Household Production in the Era of Wage Labour, 20 *Comp. Stud. in Soc'y & Hist.* 545, 545–86 (1978), doi:10.1017/S001041750001255X.

During this period, the necessity for enhanced protections for workers, including children, was increasingly acknowledged as a paramount concern. Miller's address underscored the pressing need for reforms to protect vulnerable workers, particularly minors, from exploitation within the workforce. The Fair Labor Standards Act<sup>83</sup> (FLSA) establishes regulations to safeguard young workers, ensuring children are not involved in labour in roles detrimental to their health or education. The FLSA imposes restrictions on regarding the limitations on the work hours for individuals under 16 and classifies dangerous occupations that they are restricted from undertaking. Specifically, the FLSA prohibits minors under the age of 14 from engaging in non-agricultural employment. Those aged 14 to 15 years may be employed, but only in certain capacities and for limited hours, with safety regulations in place. Children aged 16 to 17 years are allowed to work without restrictions on the duration of hours, provided the employment is not classified as hazardous.<sup>84</sup> Miller underscored the imperative of international collaboration in safeguarding children by advocating for the establishment of effective international labour standards. Even though she did not directly author the International Labour Organization<sup>85</sup> (ILO) Conventions, her contributions were instrumental in paving the way for subsequent international initiatives. Her efforts were crucial in influencing the development of two significant ILO conventions: Convention No. 138<sup>86</sup> in 1973, which established the legal age for child employment and Convention No. 182<sup>87</sup> in 1999, which targeted the elimination of the egregious forms of child exploitation, including enslavement, human trafficking, and hazardous work. Because of Miller's work, there was heightened global awareness of child protection as a fundamental element of labour rights.

### **A. International Legal Instruments on Child Labour**

International Labour Organization (ILO) Conventions<sup>88</sup>

a). The United Nations Convention on the Rights of the Child,<sup>89</sup> endorsed by the UN General Assembly in 1989<sup>90</sup>, is a widely endorsed UN document that has been officially sanctioned by numerous developed and developing nations, including India. This convention establishes guidelines for all participating countries to follow to achieve and to protect children's best

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<sup>83</sup> Fair Labor Standards Act, 29 U.S.C. § 201 (1938).

<sup>84</sup> Child Labor Provision for Non agricultural Occupations Under the Fair Labor Standards Act (U.S. Dep't of Labor, Wage & Hour Div. July 2010), <https://www.dol.gov>.

<sup>85</sup> Int'l Labour Org.

<sup>86</sup> Int'l Labour Org., Convention No. 138 concerning Minimum Age for Admission to Employment, art. 1, opened for signature June 26, 1973, 1010 U.N.T.S. 97.

<sup>87</sup> Int'l Labour Org., Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, art. 1, opened for signature June 17, 1999, 2133 U.N.T.S. 161.

<sup>88</sup> Int'l Labour Org, *supra* note 33

<sup>89</sup> Convention on the Rights of the Child, opened for signature Nov. 20, 1989, 1577 U.N.T.S. 3.

<sup>90</sup> G.A. Res. 44/25, U.N. Doc. A/RES/44/25 (Nov. 20, 1989)

interests and delineates the fundamental rights of children.<sup>91</sup>

b). Minimum Age Convention (MAC) No. 138.<sup>92</sup>

By 1973, ILO had established Convention No. 138 to safeguard children from premature entry into the labour force. A total of 161 nations worldwide have adopted this convention. Its primary objective is to prohibit employment involving the minors below the age of 15. For tasks that are simple and not physically demanding children must be over 13 years old, and such work should neither jeopardize their health nor impede their education. Minors below 18 years of age are prohibited to participate in dangerous or harmful labour. However, in certain countries, individuals aged 16 and above may participate in some forms of hazardous work, provided they have received appropriate training and protection. For instance, Brazil, China, and Kenya have set the legal age limit at 16 for hazardous work. This convention has effectively curtailed child labour in many regions worldwide. It has also heightened consumer awareness in North America and Europe, prompting scrutiny of products potentially manufactured by children. In Bangladesh, for example, approximately 50,000 children, predominantly girls under the age of 14, were removed from employment in garment factories because of poor working environments and insufficient pay.<sup>93</sup>

c). Worst Forms of Child Labour Convention (No. 182) in 1999.<sup>94</sup>

ILO introduced the concept of the 'Worst Forms of Child Labour'<sup>95</sup> and ratified the Worst Forms of Child Labour Convention (No. 182)<sup>96</sup> in 1999, which has been endorsed by 174 countries. The principal objective of this convention is to abolish the most detrimental types of child labour impacting those under 18. It explicitly prohibits activities such as forced labour, prostitution, pornography, illegal labour, trafficking, and the recruitment of child soldiers. Additionally, the convention addresses occupations that expose children to significant health risks or psychological harm, including sexual abuse and hazardous working conditions. These perilous forms of labour are predominantly found in developing nations, where children often lack access to adequate healthcare and education, rendering them more vulnerable to exploitation. According to the ILO, most child labourers are engaged in these hazardous activities, with 115 million children involved in work deemed highly dangerous. Dessy and Pallage observed that these jobs are readily available, and although a few parents

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<sup>91</sup> Convention on the Rights of the Child, *supra* note 37

<sup>92</sup> Int'l Labour Org., Convention No. 138, *Supra* note 34.

<sup>93</sup> Jeya Surya. J, International Framework in Eradicating Child Labour, 2 Int'l J. Innovative Sci. & Res. Tech. 38 (2017), <https://www.ijisrt.com/international-framework-in-eradicating-child-labour>.

<sup>94</sup> Int'l Labour Org., Convention No. 182, *supra* note 35.

<sup>95</sup> *Ibid*

<sup>96</sup> *Ibid* .

worry about the associated dangers, they feel compelled to include their children in such hazardous situations due to financial constraints, often without considering long-term repercussions.<sup>97</sup> Convention No. 182 calls upon governments and the public sector to allocate resources effectively to eradicate child labour. Nevertheless, the quantity of minors involved in dangerous labour keeps increasing, and the ILO aimed to eliminate the most harmful forms of child labour by 2016.<sup>98</sup>

d). According to Article 25 of the UDHR from 1948, Special protection and care are children's rights. It is also recommended that education be made compulsory and available to eradicate child labour and enhance the overall well-being of children.<sup>99</sup>

e). International Covenant on Economic, Social and Cultural Rights<sup>100</sup>

The child-focused iteration of the ICSEER underscores the critical importance of safeguarding children from labour and exploitation. Article 10<sup>101</sup> obligates governments to extend special support and safeguarding for youths to ensure their safety and well-being, including the eradication of any labour that might result in harm or pose danger to them. Governments are also required to set a defined minimum age for employment, explicitly prohibiting minors below the age of 16 from engaging in labour. Additional rights articulated within the Covenant bolster such protection, including the right to education, stipulating that all children receive free primary education and that secondary education progressively becomes free and accessible to all. Furthermore, assistance must be provided to families through social security and the entitlement to a sufficient quality of life to prevent children from being compelled to work due to poverty. Collectively, these rights are essential to make certain that every child is brought up in a safe, healthy, and nurturing environment, enabling them to learn, play, and develop to their fullest potential, unimpeded by labour.<sup>102</sup>

f) International Covenant on Civil and Political Rights<sup>103</sup>

The ICCPR, although not directly employing the term "child labour," nonetheless offers substantial protection for children by safeguarding their fundamental civil rights and human dignity. Article 8<sup>104</sup> the ICCPR clearly forbids slavery, bondage, and coerced or mandatory

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<sup>97</sup> Sylvain Dessy & Stéphane Pallage, *The Economics of Child Trafficking*, Cahiers de recherche 0323, CIRPEE (2003)

<sup>98</sup> Jeya Surya, *supra* note 42.

<sup>99</sup> U.N. General Assembly, *Universal Declaration of Human Rights*, art. 25, G.A. Res. 217A (III), U.N. Doc. A/RES/217(III) (Dec. 10, 1948).

<sup>100</sup> *International Covenant on Economic, Social and Cultural Rights*, Dec. 16, 1966, 993 U.N.T.S. 3.

<sup>101</sup> *Id.*, Article 10.

<sup>102</sup> *Id.*, Article 10.

<sup>103</sup> *International Covenant on Civil and Political Rights*, Dec. 16, 1966, 999 U.N.T.S. 171.

<sup>104</sup> *Id.*, Article 8.

labour in every expression, including all types of work in which children are coerced to labour, particularly under hazardous conditions or through degrading means such as trafficking. This clause is applicable to every child, irrespective of their origin or situation, and seeks to eliminate the gravest instances of child labour. Furthermore, Article 24<sup>105</sup> of the ICCPR mandates that every child is entitled to additional safeguarding because of their status as a young person. It imposes a responsibility on families, societies, and governments to implement their actions to protect children against work or exploitation, or to practices that impede their development, health, or education. The ICCPR considers forced child labour a clear violation of the child's rights to liberty, dignity, and equality, recognizing children as individuals with rights who are to be afforded legal protection. Governments that have ratified the ICCPR are obligated not only to prohibit exploitative child labour but also to establish effective legal remedies, punish offenders, and support the recovery and rehabilitation of victimized children. In alignment with the Convention on the Rights of the Child, the ICCPR supports a comprehensive and enforceable framework of global legal standards that guarantee the safeguarding of minors from forced labour while promoting their right to grow up in safety, dignity, and freedom.<sup>106</sup>

g). Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography<sup>107</sup>

The agreement seeks to defend children from extreme forms of abuse and exploitation, including trafficking, the involvement of children in indecent films and images, and exploitation with the intent of sexual exploitation. It mandates that no individual should be authorized to take part in the sale, purchase, or abuse of children in such manners. Governments are obligated to criminalize these activities, apprehend offenders, and impose penalties. They are also required to provide protection, care, and rehabilitation to victims of child exploitation. Furthermore, the treaty obliges countries to inform the public of these dangers and collaborate with other nations to eradicate such activities globally.<sup>108</sup>

Despite the establishment of international conventions and national laws aimed at eradicating child labour, it remains a pervasive issue worldwide. Economic vulnerability, poverty, and inadequate enforcement mechanisms contribute significantly to its persistence. In countries with weaker economies, families often rely on the income generated by their children, making

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<sup>105</sup> Id., Article 24.

<sup>106</sup> ICCPR, *supra* note 51.

<sup>107</sup> Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, May 25, 2000, 2171 U.N.T.S. 227.

<sup>108</sup> Ibid .



child labour a survival strategy. Even in wealthier nations, loopholes in legislation and economic disparities allow child labour to continue, particularly in sectors like agriculture and informal industries. This ongoing exploitation underscores the need for comprehensive strategies that address the root causes, strengthen legal frameworks, and provide social support to vulnerable families.<sup>109</sup>

Child labour continues to be a major concern worldwide, with the Asia-Pacific region among the most affected. As outlined in the *2017 Global Report on Child Labour*, about 62 million minors engage in different types of work, making up nearly 7% of the total child population.<sup>110</sup> Approximately 28 million are exposed to dangerous and unhealthy working environments. The majority around 57.5% are found in agricultural activities, while significant numbers also work in sectors such as mining, brick production, and household services. Alarming, many children endure the gravest forms of exploitation, including bonded labour, trafficking, sexual abuse, and use in armed conflicts.<sup>111</sup> In response, the Policies, Partnerships, Learning and Local Empowerment (PPLL) initiative has been launched in India and Nepal. This strategy also strengthens broader efforts across the region to implement concrete measures aimed at shielding children from abusive labour practices.<sup>112</sup> Globally, the problem has intensified. A report jointly issued by the ILO and UNICEF on 10 June 2021 indicates that child labour has surged by 8.4 million in just four years, bringing the worldwide total to 160 million.<sup>113</sup> Notably, children aged 5 to 11 account for over half of this number. The effects of the COVID-19 pandemic have further aggravated the issue, placing an additional likely to be compelled into employment vulnerable to exploitation through child labour.<sup>114</sup> Particularly troubling is the increase in hazardous occupations tasks that threaten a child's health, well-being, or moral growth.<sup>115</sup> Recent worldwide data shows that around 152 million children comprising 88 million boys and 64 million girls are engaged in child labour.<sup>116</sup> This statistic reveals that nearly one in ten children worldwide is affected by this issue. Although the number of minors engaged in child labour has declined since the year

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<sup>109</sup> Bhaskaran E. Extent of child labour in India and world perspective. Ch.S.D.St.Theresa's College For Women At: Eluru, Andhra Pradesh: UGC Sponsored National Seminar Publications, 2013; Vol. 1 and . International Labour Organization. A future without Child Labour. Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work International Labour Conference 90th Session, <http://www.ilo.org/declaration> (2002, accessed 24 August 2020).

<sup>110</sup> International Labour Organization (ILO), *Global Estimates on Child Labour: Results and Trends, 2012–2016*, Geneva, 2017. Available at: [https://www.ilo.org/global/publications/books/WCMS\\_575499/lang--en/index.htm](https://www.ilo.org/global/publications/books/WCMS_575499/lang--en/index.htm)

<sup>111</sup> Id.

<sup>112</sup> Id., supra note 59.

<sup>113</sup> ILO and UNICEF, *Child Labour: Global estimates 2020, trends and the road forward*, 10 June 2021. Available at: [https://www.ilo.org/global/publications/books/WCMS\\_797515/lang--en/index.htm](https://www.ilo.org/global/publications/books/WCMS_797515/lang--en/index.htm) ↵ ↵2 ↵3

<sup>114</sup> Id.

<sup>115</sup> Id., supra note 62.

<sup>116</sup> Id., supra note 62

2000, the rate of progress in reducing these numbers has markedly slowed over the past four years.<sup>117</sup> According to the report entitled "Ending Child Labour, Forced Labour and Human Trafficking in Global Supply Chains" presents a thorough examination of the rate of child employment and human trafficking within global supply chains. It emphasizes that these actions mainly take place during the initial stages of production, such as in agriculture and mining, which are difficult to monitor. These factors complicate the identification and resolution of such issues.<sup>118</sup> The report provides regional data on the percentage of children participating in supply chain labour are distributed as follows: 26% in East and Southeast Asia, 22% in Latin America and the Caribbean, 12% in Central and Southern Asia, 12% in sub-Saharan Africa, and 9% in North Africa and Western Asia.<sup>119</sup> The regional disparities discussed are associated with broader issues of inequity and development as documented in the literature. For instance, the prevalence of child hunger in sub-Saharan Africa, attributing it to factors such as poverty and the use of children for exploitative work.<sup>120</sup> Similarly, it examines the global body weight trends and elucidate the stark contrasts between impoverished and affluent nations, which are likely attributable to broader social and economic inequities.<sup>121</sup> Labour involving children, often linked to developing countries, is notably more prevalent in India than in many different areas around the world. According to the 2011 Census of India, 10.1 million children were found to be either employed or actively seeking work. In contrast, the National Crime Records Bureau's *Crime in India 2018* report documents only 464 cases affecting 810 child victims registered under the Child Labour (Prohibition and Regulation) Amendment Act, 2016 across the country<sup>122</sup>. This stark contrast highlights a significant gap between the true extent of child labour and its legal recognition, pointing to the challenges in effectively addressing this issue. In India during the lockdown period the Childline helpline in India addressed 3,653 instances of child labour across various states. Among these cases, 35% (1,264) involved children coerced into begging, 21% (763)<sup>123</sup>

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<sup>117</sup> International Labour Organization. Ending child labour by 2025: A review of policies and programmes, [https://www.ilo.org/wcmsp5/groups/public/-ed\\_norm/-ipec/documents/publication/wcms\\_653987.pdf](https://www.ilo.org/wcmsp5/groups/public/-ed_norm/-ipec/documents/publication/wcms_653987.pdf) (accessed on 24 August 2020).

<sup>118</sup> Human Trafficking in Global Supply Chain, <https://www.svenssonstiftelsen.com/post/ending-child-labour-forced-labour-and-human-trafficking-in-global-supply-chains> (accessed 24 August 2020).

<sup>119</sup> Id.,Pg.1&R59

<sup>120</sup> Akombi, B. J., Agho, K. E., Hall, J. J., Renzaho, A. M., & Merom, D. (2017). Child malnutrition in sub-Saharan Africa: A meta-analysis of demographic and health surveys (2006-2016). PLOS ONE, 12(5), e0177338. <https://doi.org/10.1371/journal.pone.0177338>

<sup>121</sup> Martorell, R., Kettel Khan, L., Hughes, M., & Grummer-Strawn, L. (2000). Obesity in women from developing countries. European Journal of Clinical Nutrition, 54(3), 247–252. <https://doi.org/10.1038/sj.ejcn.1600931>

<sup>122</sup> National Crime Records Bureau, Crime in India 2018, "Statistics on Child Labour" (Government of India, Ministry of Home Affairs, 2018).

<sup>123</sup> Haritha Gopakumar, "The Rise of Migrant Child Labour," India Together, October 19, 2016. Based on

were engaged in hazardous occupations, 14% (513) were employed in restaurants, 10% (371) served as domestic workers, 8% (286)<sup>124</sup> participated in family-run enterprises, and 4% (156) were subjected to bonded labour.<sup>125</sup> Although various national and global initiatives aim to eradicate child labour, the problem remains widespread from international borders to remote villages. Numerous laws and treaties have been introduced to defend children's rights, yet many minors continue to be involved in unsafe and exploitative work conditions. In India, while several legal measures exist to restrict child labour, their enforcement is often lacking in consistency. According to findings from UNICEF and other agencies, efforts to decrease child labour have seen little improvement. The situation worsened significantly during the COVID-19 pandemic, which triggered a noticeable surge in child labour, particularly in transboundary areas such as those between India and Nepal. To address educational gaps that often lead to child labour, the Indian government raised the education expenditure for 2023–24 by 15%, including an additional ₹23,500<sup>126</sup> crore transferred to the Madhyamik and Uchchatar Shiksha Kosh (MUSK) a dedicated fund for middle and advanced education. However, despite this financial increase, many children continue to face barriers to accessing quality education, a fundamental solution to ending child labour.<sup>127</sup> This is often because of poverty, a significant number of children are made to work to support their families. Despite the presence of national policies in place, their implementation is weak. One major cause is the insufficient awareness among individuals, and sometimes, corruption by officials who ignore child labour when money or other benefits are involved. So, just making laws is not enough. People need to be made more aware, and the country's **economic condition** also needs to improve. Only then can we hope to reduce child labour in a meaningful way.

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Childline Kerala data (2014–2016). Available at: <https://indiatogether.org/the-rise-of-migrant-child-labour-children>

<sup>124</sup> 15% of Rescued Trafficked Kids Worked in Eateries: Study,” The Times of India, August 1, 2023. Based on Kailash Satyarthi Children’s Foundation (KSCF) data. Available at: <https://timesofindia.indiatimes.com/india/15-of-rescued-trafficked-kids-worked-in-eateries/articleshow/102258168.cms>

<sup>125</sup> Amid Covid-19 pandemic and lockdown, Childline rescues over 3600 children from labour. Times of India, <https://timesofindia.indiatimes.com/india/amid-covid-19-pandemic-and-lockdown-childline-rescues-over-3600-children-from-child-labour/articleshow/76335256.cms> (accessed 24 August 2020).

<sup>126</sup> PRS Legislative Research. Demand for Grants 2024–25 Analysis: Education. Retrieved from <https://prsindia.org/budgets/parliament/demand-for-grants-2024-25-analysis-education>

<sup>127</sup> Report No. 31 of 2022, Comptroller Auditor General of India, December 21, 2022, [https://cag.gov.in/uploads/download\\_audit\\_report/2022/DSC-Report-No.-31-of-2022\\_UGFA-English-PDF-A063a2f3ee1c14a7.01369268.pdf](https://cag.gov.in/uploads/download_audit_report/2022/DSC-Report-No.-31-of-2022_UGFA-English-PDF-A063a2f3ee1c14a7.01369268.pdf).

## V. LEGAL FRAMEWORK ON CHILD LABOUR IN INDIA

### A. Constitutional Provisions on Child Labour <sup>128</sup>

The Indian Constitution incorporates the different initiatives to tackle child labour. Key constitutional provisions addressing this issue include:

#### **Fundamental right for children under the Constitution of India, 1950<sup>129</sup>.**

1). Article 21A<sup>130</sup> directs the state to offer free and mandatory education to all children aged 6 to 14 years.<sup>131</sup> The state will implement this directive by passing a law.

2). Article 24 imposes a ban on utilizing individuals below the age of 14 in industrial workplaces, including factories and mining sites or other dangerous occupations is prohibited by Article 24.<sup>132</sup> The objective of this legislation is to safeguard minors from dangerous working conditions. This essential constitutional clause aimed to safeguard young individuals from dangerous working conditions.

3). Article 15(3)<sup>133</sup> of India's Constitution<sup>134</sup>, While the Constitution in itself prohibits discrimination based on religion, race, caste, sex, or place of birth under Article 15(1)<sup>135</sup>, it allows for special provisions to be made for children and women by the government. This provision acknowledges that women and children have historically faced disadvantages and marginalization due to various socioeconomic factors, necessitating special provisions to enhance their well-being and progress. Article 15(3)<sup>136</sup> empowers the State to enact such special measures without infringing upon the fundamental right to equality<sup>137</sup> guaranteed to all citizens.<sup>138</sup>

Articles 39(e)<sup>139</sup> and 39(f)<sup>140</sup> of Directive Principles of state, Guarantee the safeguarding of children's health and well-being until they reach 14 years of age.

In *People's Union for Democratic Rights v. Union of India*<sup>141</sup>, the Supreme Court<sup>142</sup> state that

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<sup>128</sup> Id., supra note 12

<sup>129</sup> Id. supra note 52

<sup>130</sup> **India Const. art. 21A.**

<sup>131</sup> Ibid

<sup>132</sup> India Const. art. 24.

<sup>133</sup> India Const. art. 15(3).

<sup>134</sup> The Constitution of India, 1950

<sup>135</sup> India Const. art. 15(1).

<sup>136</sup> India Const. art. 15(3).

<sup>137</sup> India Const. art. 14.

<sup>138</sup> Aishwarya Agrawal, Article 15 Of the Constitution of India, Law Bhoomi, 2023, Available at <https://Lawbhoomi.Com>, 18.01.2025.

<sup>139</sup> India Const. art. 39(e).

<sup>140</sup> India Const. art. 39(f).

<sup>141</sup> *Peoples Union for Democratic Rights v. Union of India*, AIR 1982 SC 1473 (India).

that the work in construction site was dangerous and therefore, it is unsuitable for children under 14 years. The court further clarified that prohibition under Article 24 would be equally applied to all organisations, whether state or private organisations, with specificity.<sup>143</sup>

In India, both the central and state governments have the authority to pass laws concerning child labour due to its federal structure<sup>144</sup>. A major regional milestone legislation is the Factories<sup>145</sup> Legislation of 1948. The legislation prohibits employing minors below 14 in manufacturing facilities and establishes guidelines for the work of young people aged 15 to 18 in industrial settings.<sup>146</sup>

The Supreme Court of India<sup>147</sup>, in *Bachpan Bachao Andolan v. Union of India*<sup>148</sup> and others case, Numerous directives have been issued to both central and state governments to enhance the enforcement of educational rights and facilitate the reintegration of children who have been rescued from labour conditions.<sup>149</sup>

4). Article 39(f)<sup>150</sup>, The government has a duty-bound to provide children with access to necessary resources and opportunities of growth in an environment that respects their liberty, self-worth, and well-being. The aim of this duty is to safeguard adolescents from exploitation, ethical corruption, or physical neglect.<sup>151</sup>

5). Articles 39(e)<sup>152</sup> and 39(f)<sup>153</sup> Protect the nation and prevent the exploitation of children's vulnerabilities. This method also guarantees that the financial difficulties do not force children into jobs inappropriate for their age or physical abilities. The goal of these efforts is to equip young people with needed support and opportunities for wholesome development in an environment that promotes freedom and respect. The primary goal is to ensure the safety and health of young people as they grow and develop.

6). Article 45<sup>154</sup> state that there should steps need to be taken to guarantee that every child

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<sup>142</sup> The Supreme Court of India

<sup>143</sup> Right Against Exploitation (Article 23 And 24) Under Indian Constitution With Landmark Cases, Law Bhoomi, Available At <https://Lawbhoomi.Com/Category/Law-Notes/Constitutional-Law/>, 18.01.2025.

<sup>144</sup> Child And Adolescent Labour (Prohibition and Regulation) Amendment Act, No. 35 Of 2016, INDIA CODE (2016).

<sup>145</sup> The Factories Act, No. 63 of 1948, INDIA CODE (1948).

<sup>146</sup> Child And Adolescent Labour (Prohibition and Regulation) Amendment Act, No. 35 Of 2016, INDIA CODE (2016).

<sup>147</sup> The Supreme Court of India

<sup>148</sup> *Bachpan Bachao Andolan V. Union of India and Others*, (WP (C0273 OF 2019)

<sup>149</sup> Ibid

<sup>150</sup> India Const. art. 39(f).

<sup>151</sup> India Const. art. 39(f).

<sup>152</sup> India Const. arts. 39(e), 39(f).

<sup>153</sup> Ibid

<sup>154</sup> India Const. art. 45.

below the age of six can access early childhood education and care.<sup>155</sup>

7). Article 51A(k)<sup>156</sup> States that the primary duty of ensuring children or dependents aged 6 to 14 receive educational opportunities falls on their parents or legal guardians. These constitutional provisions show that the makers of India's Constitution were both cautious and firm in their commitment to guaranteeing that children are given fair treatment in a free India.

## **VI. THE CHILD AND ADOLESCENT LABOUR (PROHIBITION AND REGULATION) ACT<sup>157</sup>, 1986**

The enactment of the legislation modifies the Child Labour (Prohibition and Regulation) Act<sup>158</sup> of 1986 implementing a comprehensive prohibition on employing children under 14 years old in any occupation or activity. Under 14 years old in any occupation or activity, with limited exceptions. These exemptions allow minors to engage in work within the entertainment industry or in family-owned enterprises, provided that their education is not affected. The Factories Act also categorizes individuals between 14 and 18 years as adolescents and prohibits both young people and children are prohibited from working in hazardous environments, such as mines, places handling flammable materials, and dangerous processes, which could endanger their lives and well-being.<sup>159</sup> Furthermore, it authorizes the appropriate government to create rules concerning the safety and welfare of minors employed in any workplace or category of workplaces. The legislation defines the labour conditions and restricted work hours for minors. Additionally, it delineates the required responsibilities of the authorities for the safety, welfare and security of underage employees working across various industries.<sup>160</sup>

In M.C. Mehta v. State of Tamil Nadu<sup>161</sup>, The Supreme Court of India has decided to ban the employment of children in the production of matches and fireworks, limiting their involvement solely to packaging tasks, and mandating their separation from hazardous zones. The Court underscored the crucial role of education for children up to age 14, emphasizing the need to strike a balance between academic and work hours to safeguard children's educational and occupational prospects. A landmark 1997 judgment on child labour saw the Court

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<sup>155</sup> Ibid

<sup>156</sup> India Const. art. 51A(k).

<sup>157</sup> Child And Adolescent Labour (Prohibition and Regulation) Amendment Act, No. 35 Of 2016, INDIA CODE (2016).

<sup>158</sup> Ibid

<sup>159</sup> Arjit Pandey & Tanisha Yadav, A Comparative Analysis of Child Labour Laws in US & India, 4 INT'L J.L. MGMT. & HUMAN. 570 (2021).

<sup>159</sup> Id

<sup>160</sup> Id

<sup>161</sup> 1991) 1 SCC 283 (India).

rebuking the government over its failed attempts to completely eradicate the practice, while there were scores of legislative enactments that aligned with ILO Conventions and the Indian Constitution.<sup>162</sup> The three-judge bench, comprising Justices Kuldeep Singh, B.L. Hansaria, and S.B. Majumdar made it clear employers who violate child labour laws must be held accountable.<sup>163</sup> The judiciary mandated that any employer convicted of unlawfully employing a minor must pay a fine of ₹20,000 as compensation per child. Moreover, it instructed inspectors under Section 17 of the Child Labor (Prohibition and Regulation)<sup>164</sup> Act, 1986 to rigorously enforce the law. The penalties collected would be allocated to a "Child Labour Rehabilitation-cum-Welfare Fund" dedicated to supporting the recovery and well-being of rescued child workers.<sup>165</sup>

In another landmark judgement, the *Bandhua Mukti Morcha v. Union of India*<sup>166</sup> and others, the litigation centred on a matter of public interest regarding the employment of children under 14 years for the carpet industry in Uttar Pradesh. The Supreme Court commissioned an investigation into alleged child labour practices within carpet manufacturing units. The inquiry exposed rampant exploitation of minors, especially those belonging to SC and ST, who were compelled to work against their will. The findings revealed that a substantial portion of these underage workers had been relocated from Bihar to contribute to the state's carpet production industry. The judiciary determined that the government bears the obligation to ensure social and economic fairness for children, along with to allocate the essential resources and chances for the proper growth of their unique personalities.<sup>167</sup>

In *Gaurav Jain Vs. Union of India*<sup>168</sup>, The country's supreme court underscored the significance of child sex workers and stated that these minors deserve equal care and protection as other children. The highest judicial body recognized that underage individuals involved in prostitution should receive the same level of support and safeguarding as their peers. The courts issued directions to rescue and rehabilitate child sex workers and set up special centres for their welfare. Through its significant rulings, the judiciary has consistently tackled the problem of underage employment and has made some headway in diminishing its

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<sup>162</sup> Arjit Pandey & Tanisha Yadav, A Comparative Analysis of Child Labour Laws in US & India, 4 INT'L J.L. MGMT. & HUMAN. 570 (2021).

<sup>163</sup> (1991) 1 SCC 283 (India).

<sup>164</sup> Child And Adolescent Labour (Prohibition and Regulation) Act, No. 61 Of 1986, Acts of Parliament, 1986 (India).

<sup>165</sup> Shreya Tripathi, Judicial View on Child Labour In India, Ipleaders Blog, 2019, Available At <https://Blog.Ipleaders.in/>, 19.01.2025.

<sup>166</sup> (1984) 3 SCC 161

<sup>167</sup> Shreya Tripathi, Judicial View on Child Labour In India, Ipleaders Blog, 2019, Available At <https://Blog.Ipleaders.in/>, 19.01.2025.

<sup>168</sup> *Gaurav Jain Vs. Union of India*, A.I.R. 1990 S.C. 292 (India).

occurrence.<sup>169</sup>

On September 4, 2015, in the case of Jayakumar Nat & Anr vs State Of NCT Of Delhi & Anr,<sup>170</sup> “the Delhi High Court instructed the Government of NCT of Delhi to develop a comprehensive plan addressing the rehabilitation of rescued child labourers. This plan was to include financial assistance to stop parents or guardians from compelling these children to resume employment as child labourers. The aim was to guarantee that families could fulfil their essential requirements and sustain themselves without relying on child labour.”<sup>171</sup>

## OTHER RELEVANT LEGISLATIONS

### 1). Juvenile Justice (Care and Protection of Children) Act<sup>172</sup>,2000

The Juvenile Justice (Care and Protection of Children) Act<sup>173</sup> of 2000 mandates that anyone who employs a child for hazardous work or as indentured labour will face legal consequences.<sup>174</sup>

### 2). Right of Children to Free and Compulsory Education Act ,2009

The Right of Children to Free and Compulsory Education Act<sup>175</sup> of 2009 governs the provision of all children under the age of 14 years to compulsory and free education. To ensure effective application of this law, private schools must set aside 25% of their seats for children from economically weaker sections and the disabled.<sup>176</sup>

### 3). The Factories Act<sup>177</sup>,1948

The law bans the employment of children under the age of 14 and the Individuals aged 15 to 18 years are restricted from working unless they produce a medical certificate signed by a qualified doctor. Legislation also prohibits work hours for people aged between 14 and 18 years from being more than four and half hours a day and prohibits them from working late at night.<sup>178</sup> Additionally, the regulatory framework outlines specific provisions for the

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<sup>169</sup> Arjit Pandey & Tanisha Yadav, A Comparative Analysis of Child Labour Laws in US & India, 4 *Inntel J.L. MGMT. & HUMAN.* 570 (2021).

<sup>170</sup> Jayakumar Nat & Anr Vs State Of NCT Of Delhi & Anr, W.P.(CRL) 1548/2015

<sup>171</sup> Kaushiki Ranjan, A Critical Analysis on Child Labour in India, *SUPREMO AMICUS*, 2019, 19.01.2025.

<sup>172</sup> The Juvenile Justice (Care & Protection of Children) Act, No. 56 of 2000, INDIA CODE (2000).

<sup>173</sup> The Juvenile Justice (Care & Protection of Children) Act, No. 56 of 2000, INDIA CODE (2000).

<sup>174</sup> Shivani Verma, Child Labour in India, *Ipleaders Blog* (2019), Available At <https://Blog.Ipleaders.In/>,19.01.2025

<sup>175</sup> Right Of Children to Free and Compulsory Education Act, 2009, No. 35, Acts of Parliament, 2009 (India).

<sup>176</sup> Shivani Verma, Child Labour in India, *Ipleaders Blog* (2019), Available At <https://Blog.Ipleaders.In/>,19.01.2025

<sup>177</sup> Factories Act, 1948, No. 63, Acts of Parliament, 1948 (India).

<sup>178</sup> Ibid



employment of young workers across different industries.<sup>179</sup>

#### 4). **The Plantation Labour Act, 1951**<sup>180</sup>

The legislation was enacted to tackle problems like underage workers in farming and enhance the well-being of plantation employees. It explicitly described a minor as someone under 15 years old and an adolescent as a person aged 15 to 18. The law forbids employing children younger than 12 on plantations but yet it fails to restrict adolescent employment.<sup>181</sup>

5). **The Mines Act of 1952**<sup>182</sup>, age-based classifications are established: individuals under 15 are considered children, while those between 15 and 18 are classified as adolescents. This legislation permits adolescents over 16 to engage in underground mining activities, provided they obtain a valid medical certificate. However, their work is restricted to four and a half hours daily and is prohibited between 9 p.m. and 6 a.m. The Act also specifies consequences for non-compliance with these regulations.<sup>183</sup>

6). **The Motor Transport Workers Act**<sup>184</sup> of 1961, forbids the employment of people younger than 15 in motor transport industries. Nevertheless, adolescents are allowed to work in such businesses if they provide documentation verifying their physical fitness.<sup>185</sup>

### INDIAN NATIONAL POLICIES

As per Shri Dattatreya, one of the primary steps recently taken towards the goal of a child labour-free country was the upgradation of the National Child Labour Project<sup>186</sup> (NCLP). The recovery program offers educational bridging and skills training to young participants. The NCLP has been upgraded in quality and has recently expanded to cover all districts across the country. To ensure proper implementation, the project regulations have been revised.<sup>187</sup> Organizations within civil society and leading activists working to combat child labour have commended India's recent moves towards the widespread eradication of child labour. The measures have been implemented to put an end to child labour welcomed globally by various bodies dedicated to ensuring the protection of children's rights.<sup>188</sup>

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<sup>179</sup> Ibid

<sup>180</sup> Plantation Labour Act, 1951, No. 69, Acts of Parliament, 1951 (India).

<sup>181</sup> Ibid

<sup>182</sup> Mines Act, 1952, No. 35, Acts of Parliament, 1952 (India).

<sup>183</sup> Ibid

<sup>184</sup> Motor Transport Workers Act, 1961, No. 27, Acts of Parliament, 1961 (India).

<sup>185</sup> Ibid

<sup>186</sup> Ministry of Labour & Employment, Government of India, National Child Labour Project (NCLP) Scheme, <https://labour.gov.in/childlabour/nclp>.

<sup>187</sup> Press Information Bureau, Gov't of India, Ministry of Labour & Emp't, Ratification of Core ILO Conventions No. 138 And 182 On Child Labour (June 13, 2017, 19:54 IST), Available At <https://Pib.Gov.In/>

<sup>188</sup> Ibid

e). The National Child Labour Policy 1987<sup>189</sup>, stands as the foremost comprehensive strategy addressing the problem of child labour<sup>190</sup>. Its primary focus is on rehabilitating children employed in dangerous occupations. The policy encompasses broad development plans and initiatives intended to improve the standard of living for households with employed parents.<sup>191</sup>

f). The National Policy on Education 1968<sup>192</sup> guarantees that every student, irrespective of their social background, religious beliefs, geographical location, or sex, has the chance to access quality education.<sup>193</sup>

g). The National Commission for the Protection of Child Rights<sup>194</sup>, founded in 2007, oversees and assesses the implementation of all policies, regulations, and initiatives aimed at safeguarding children's well-being.<sup>195</sup>

h). The National Child Labour Project Scheme<sup>196</sup>, established in 1998, focuses on rehabilitating children aged 9-14 who have been freed from dangerous work environments. This initiative utilizes specialized training centres to offer these youth informal education, skills training, nutritious food, financial support, and healthcare services. The ultimate goal is to prepare these children for integration into conventional schools, enabling them to access formal education.<sup>197</sup>

Though there are provisions in the shape of law and constitutional provisions to safeguard children from child labour, its prevalence is found in many states of India. This understanding is the cause of failed policies and social and economic conditions that enable the vice to thrive.

Five Indian states - Bihar, Uttar Pradesh, Rajasthan, Madhya Pradesh, and Maharashtra<sup>198</sup> - are known for having a high incidence of child labour. These states encompass over 50% of the country's child labourers. Of these states, Uttar Pradesh has the densest, in which more

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<sup>189</sup> Ministry Of Labour & Emp't, Gov't of India, National Child Labour Policy, 1987, Available at <https://labour.gov.in/>,22.01.2025

<sup>190</sup> Child Labour (Prohibition and Regulation) Act, 1986, No. 61, Acts of Parliament, 1986 (India).

<sup>191</sup> Ministry Of Labour & Emp't, Gov't of India, National Child Labour Policy, 1987, Available at <https://labour.gov.in/>,22.01.2025

<sup>192</sup> Ministry Of Educ., Gov't of India, National Policy on Education, 1968, Available at <https://www.india.gov.in/>,22.01.2025

<sup>193</sup> Ibid

<sup>194</sup> Ministry Of Women & Child Dev., Gov't of India, National Commission for Protection Of Child Rights (NCPCR), 2007, Available At <https://www.gktoday.in/>,22.01.2025.

<sup>195</sup> Ibid

<sup>196</sup> Ministry Of Labour & Emp't, Gov't of India, National Child Labour Project (NCLP) Scheme, 1998, Available at <https://testbook.com/>,25.01.2025

<sup>197</sup> Ibid

<sup>198</sup> Ambika Ramachandran, Child Labor In India, HUMANIUM (Year), Available At [www.humanium.org](http://www.humanium.org),25.01.2025.

than 20% of India's child labour force works in this one state. (Save the Children, 2016<sup>199</sup>) Sericulture, a common practice of the region, is engaged by a large number of such working children.<sup>200</sup>

However, In September 2015, the UN General Assembly Summit saw 193 Member States adopting a package of 17 Sustainable Development Goals (SDG)<sup>201</sup>. The goals became effective on January 1, 2016. Of these goals, SDG 8<sup>202</sup> is to "Promote sustained, inclusive and Consistent economic growth, substantial and significant employment, and equitable job opportunities for all individuals." This particular goal has 12 targets, and the seventh target is directly targeted at the eradication of all types of child labour.<sup>203</sup>

## **VII. THE EFFECTIVENESS OF CHILD LABOUR IN TEA ESTATE OF DARJEELING**

### **A. Overview of Tea Industry in Darjeeling**

Darjeeling, formerly a favoured destination for British holidaymakers, has come to be referred to as the "Queen of Hills." This moniker is attributed not only to its agreeable climate, picturesque mountain vistas, and tea plantations, but also to its geographically strategic location, which has played a role in its historical importance. The unique environmental features of the region have resulted in the "Darjeeling Tea" label receiving Geographical Indication status.<sup>204</sup>

After China, India stands as a leading producer and exporter of tea worldwide. Tea ranks as the second most consumed liquid globally, surpassed only by water, making it an exceptionally profitable industry. The tea sector provides employment to roughly 2 million individuals across the globe. In the 2014-2015 fiscal period, India secured the fourth position among tea-exporting nations, with exports valued at USD 619.96 million. Assam and West Bengal emerge as the primary tea-producing states in India, accounting for 70 percent of the country's total tea production. These regions also host a substantial number of tea plantation workers, whose livelihoods depend entirely on this industry.<sup>205</sup> The cultivation of tea plants is possible in both tropical and subtropical regions, but they typically require environments with

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<sup>199</sup> **Save the Children, Results for Children: Annual Review 2016 1 (2016),**

<sup>200</sup> *Ibid*

<sup>201</sup> Kailash Satyarthi Children's Found., How Far Is India from Complete Elimination of Child Labour as Per Sustainable Development Goal 8.7? An Analysis Based on Projection of Child Labour Population in India Till 2025 (2020), Available at <https://Satyarthi.Org.In/>,25.01.2025.

<sup>202</sup> **G.A. Res. 70/1, Transforming Our World: The 2030 Agenda for Sustainable Development**, U.N. Doc. A/RES/70/1 (Oct. 21, 2015).

<sup>203</sup> *Ibid*

<sup>204</sup> Sarah Besky, The Labor of Terroir and The Terroir of Labor: Geographical Indication on Darjeeling Tea Plantations, 31 *AGRIC. & HUM. VALUES* 83 (2014).

<sup>205</sup> Global Network for The Right to Food & Nutrition, A Life Without Dignity: The Price of Your Cup Of Tea (May 2016, Updated June 2016), Available <https://www.fian.org/>,03.02.2025.

high humidity and substantial rainfall. During the growing period, these plants need between 150 cm and 250 cm of precipitation.<sup>206</sup>

India's extensive tea industry is often attributed to the British. Tea was initially discovered in India and saw widespread cultivation and consumption from the early 1800s until 1947<sup>207</sup>, when India gained independence from Great Britain. In the vicinity of 1774, Warren Hastings forwarded an assortment of China seeds to George Bogle, the British envoy stationed in Bhutan at that time, for experimental cultivation. This endeavour, however, did not appear to yield any notable outcomes. Subsequently, in 1776, the distinguished English botanist Sir Joseph Banks was solicited to compile a set of observations. In his recommendations, Banks advocated for the initiation of tea cultivation in India.<sup>208</sup>

### **B. Socio Economic conditions of tea worker's**

The socio-economic conditions of tea plantation workers and their children are deeply linked to poverty and low wages. Despite their hardships and lack of formal education, many workers express a strong desire for their children to receive proper education, believing it to be the key to a better future. Darjeeling's economy is mostly tea garden-based, and these offer jobs to 70% of the hill community. Other than this, there are no other significant economic drivers in the area. While tourism has created new opportunities, these are accessible to a select few. Furthermore, the costs of globalization are normally beyond the means of minimum wage earners. Consequently, with their Gorkhaland dreams still unattained, the majority of the hill residents are compelled to seek chances abroad in a bid to fulfil their dreams.<sup>209</sup> Therefore, hill people with a lost hope of Gorkhaland has no other alternative than to chase their dream in foreign land. They are "leaving with the conviction that they are leaving behind a place much worse than the one their parents and grandparents knew."<sup>210</sup> Tea Garden regions in India are subject to severe socioeconomic problems. Facilities for education in the tea garden regions are inadequate, with minimal primary and secondary schools. The education system is plagued by multiple issues, including inadequate school buildings, teacher shortages, gender issues, transport issues, shortage of books, low levels of parental literacy,

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<sup>206</sup>What Are the Climatic Requirements for Growing Tea, TOPIC TEA 2022, Available at <https://Topictea.Com/>,03.02.2025.

<sup>207</sup> History Of Indian Tea, INDIA TEA 08.02.2025, Available at <https://En.Wikipedia.Org/>,10.02.2025.

<sup>208</sup> Ibid

<sup>209</sup>Prayana Subba, An Overview of Migration in Darjeeling Hills: A Paradigm Shift, 2023, Available [www.Ijcert.Org](http://www.Ijcert.Org) ,10.02.2025.

<sup>210</sup> N. Pradhan, In Search of a New Mughlan: Culture of Migration In The Eastern Himalayas, 41 HIMALAYA 25 (2022).

and a lack of aspirational motivation among students.<sup>211</sup>

During the interviews with tea estate managers in Darjeeling, it was observed that none of these estates provide schools for employees' children, financial support for workers, or any child welfare facilities. The workers rely solely on their earnings from the tea gardens to support their families, as tea plantation work is their only source of income and they earn 250-300 approximately. Despite being permanent employees, they receive minimal benefits. Among the nine estates the one visited, only Soureni Tea Estate had crèche facilities for children, highlighting the lack of such essential support across the majority of the estates. No facilities is provided by the company to support the family of the employees.

### C. Prevalence and Form of Child Labours in Tea Estate

Before 1912, the tea industry used the Sardari system, in which Sardars (chiefs) were appointed and rewarded to recruit Nepal labourers. They first tried to recruit the local Lepcha tribe, but being nomadic farmers, the Lepchas shunned plantation employment. Thus, Sardars were responsible for labour recruitment and brought workers from Nepal and Sikkim.<sup>212</sup> But the unhygienic plantation environment, inadequate water supply, and absence of medical centres led to frequent desertion of jobs by workers. Most of the workers were recruited by the sardars from nearby Nepal and Sikkim for a Rs. 10 rewards for each recruit they brought.<sup>213</sup> Multiple reasons for massive Nepalese immigration guaranteed plantation owners a steady supply of cheap labour, ranging from entire families to even children. After Darjeeling was transferred to Bengal administration in 1912, the British enacted the 'Contract Clause' in Bengal Act III of 1915<sup>214</sup>, which controlled recruitment as well as removal of workers. Starting from the 1930s, various workers were removed from plantations.<sup>215</sup> The Sardari system of hiring remained the prevalent mode of recruitment until the enactment of the Plantation Labour Act of 1951<sup>216</sup>, which left local Darjeeling residents working in tea plantations.<sup>217</sup>

The present scenario, during the survey of nine tea estates in Darjeeling, it was found that the Darjeeling Tea Company, a private incorporation, had established several tea gardens and it

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<sup>211</sup> Somdatta Ghosh, Educational Problems and Aspiration Levels Of Tea Garden Students At Secondary Level In Alipurduar District, West Bengal, 2024, Available At International Journal Of Novel Research And Development (Www.Ijnrd. Org), 11.02.2025

<sup>212</sup> Rajeshwi Pradhan, Exploitation of Labour in The Darjeeling Tea Plantations, [International Journal Of Law Management & Humanities], Volume 4 | Issue 1, 2021, 11.02.2025

<sup>213</sup> Ibid

<sup>214</sup> Bengal Act III Of 1915 (India).

<sup>215</sup> Ibid

<sup>216</sup> Plantation Labour Act, No. 69 Of 1951, Acts of Parliament, 1951 (India).

<sup>217</sup> Ibid

was found that there is no evidence of child labour. In my interviews with estate managers, they repeatedly asserted that they firmly adhere to the Child and Adolescent Labour (Prohibition and Regulation)<sup>218</sup> Act 1986 and follow the guidelines established by the Supreme Court in the M.C. Mehta vs. Union of India<sup>219</sup> 1996 case.

Each estate has **child labour monitoring committees** and provides training to the staff and guarantee adherence to child labour regulations. They actively monitor their plantations to deter the child labour and collaborate with NGOs and the **District Child Protection Office** to raise awareness on the issue. Managers also confirmed that implementing child labour laws in their industry has not been difficult. Routine audits and inspections are conducted by the head office and government authorities to ensure compliance, and my observations confirmed that these regulations are being followed.

During my survey of 45 tea estate employees, I found no instances of child labour<sup>220</sup> in the tea industry. None of the employees' children are engaged in work; instead, all of them are receiving an education.

However, Mr. X, the manager of one tea estate in Darjeeling, highlighted a concern regarding children of deceased workers. He suggested that certain modifications to the legislation may be necessary, as children of workers who have lost both parents may face challenges in survival and care. When asked about policies in such cases, he stated that the estate ensures employment opportunities for **relatives of the deceased worker**, but under no circumstances is child labour<sup>221</sup> permitted. There is no presence of child labour in any tea estate, and no form of child labour<sup>222</sup> exists in the tea industry of Darjeeling.

### **VIII. EMPIRICAL RESEARCH CONDUCTED ON THE IMPLEMENTATION OF CHILD LABOUR LAWS IN THE TEA ESTATES OF DARJEELING, WEST BENGAL (PIN CODE: 734101), FOCUSING ON TEA FACTORY MANAGERS (EMPLOYERS).**

**Table No.1: Are you aware of the child labour laws applicable in India?**

Criteria	Number of Respondent
Yes	09

<sup>218</sup> Child And Adolescent Labour (Prohibition and Regulation) Act, No. 61 Of 1986, Acts of Parliament, 1986 (India).

<sup>219</sup> M.C. Mehta Vs. Union of India, (1996) 6 SCC 756

<sup>220</sup> Child And Adolescent Labour (Prohibition and Regulation) Act, No. 61 Of 1986, Acts of Parliament, 1986 (India).

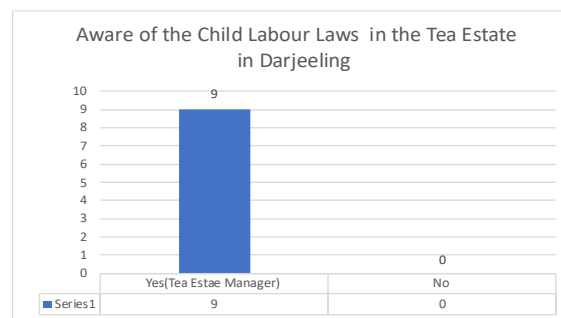
<sup>221</sup> Child And Adolescent Labour (Prohibition and Regulation) Act, No. 61 Of 1986, Acts of Parliament, 1986 (India).

<sup>222</sup> Ibid

No	0
Total	9

SOURCE: Questionnaire

CHART 1: Showing the number of respondents aware of the implementation of child labour laws.

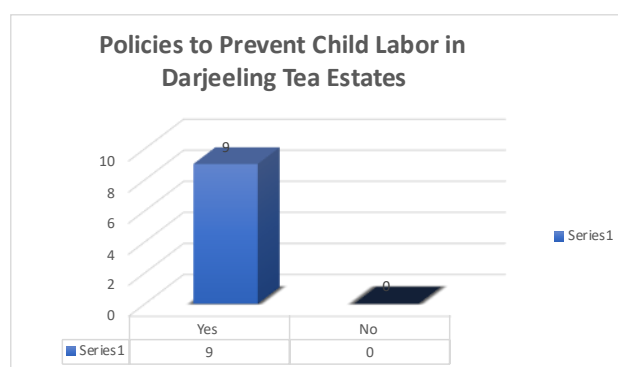


**ANALYSIS:** In my research, I discovered that all 9 tea industries know about child labour issues, primarily due to government and organization awareness campaigns. Although they have incorporated child labour laws in their operations, additional inspections are required to ensure full compliance and the total eradication of child labour.

**Table No.2: Do you have policies in place to prevent child labour in your establishment?**

Criteria	Number of Respondent
Yes	09
No	0
Total	09

SOURCE: Questionnaire



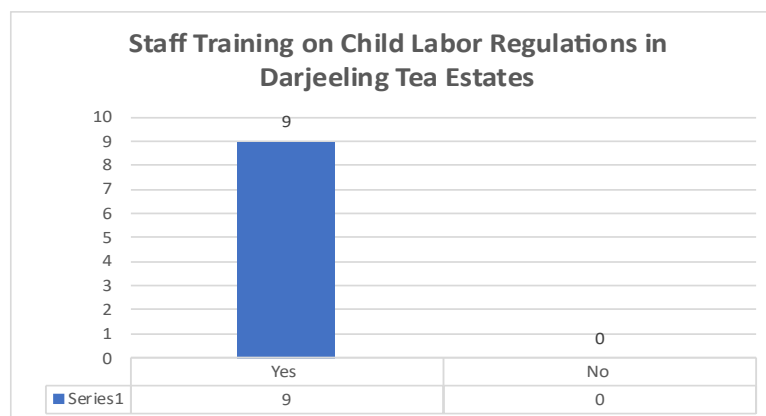
**ANALYSIS:** My report indicates that all 9 tea estates of the Darjeeling district have a policy

of no child labour and are committed to compliance. Complete eradication, however, cannot be ensured. Frequent inspections and enforcement are required to ensure complete compliance and eliminate child labour.

**Table No.3: Have you conducted training for your staff regarding child labour regulations?**

Criteria	Number of Respondent
yes	09
No	0
Total	09

SOURCE: Questionnaire



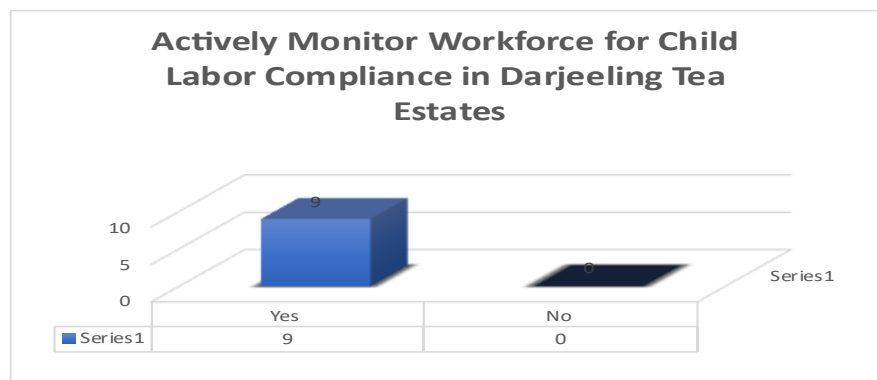
**ANALYSIS:** The study finds that all nine Darjeeling-based tea companies offer employees training in child labour legislation through the assistance of awareness campaigns by NGOs, the District Protection Office, and law schools. Some of the companies also have crèche facilities. Training and awareness measures are critical to the implementation of child labour legislation and to positive prevention within the industry.

**Table No.4: Do you actively monitor your workforce to ensure compliance with child labour laws?**

Criteria	Number of Respondent
Yes	09
No	0
Total	09



SOURCE: Questionnaire

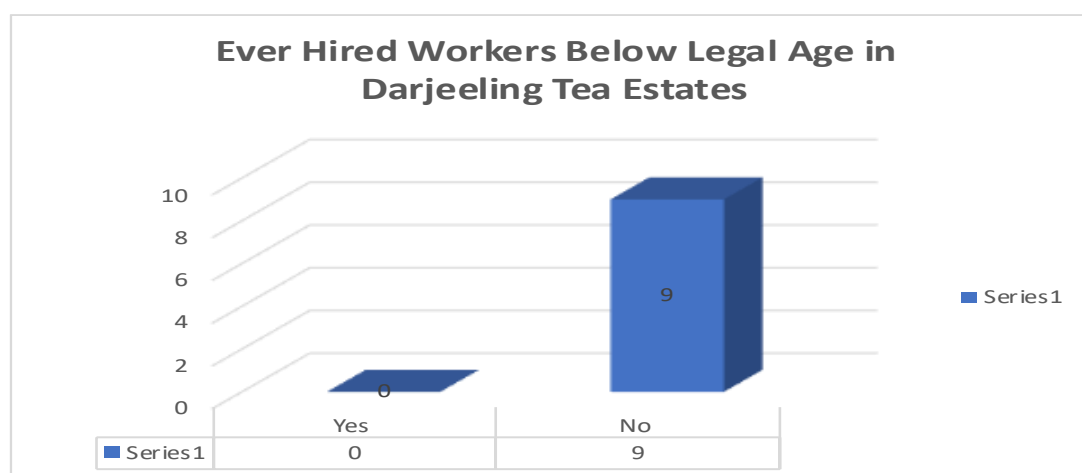


**ANALYSIS:** The inspection finds that all tea firms in the Darjeeling district keep a close eye on their workers to ensure that they comply with child labour laws. Periodic inspections and stringent enforcement practices are in place to eliminate child labour and ensure legal requirements are fulfilled.

**Table No.5: Have you ever employed individuals under the legal working age?**

Criteria	Number of Respondent
Yes	0
No	09
Total	9

SOURCE: Questionnaire

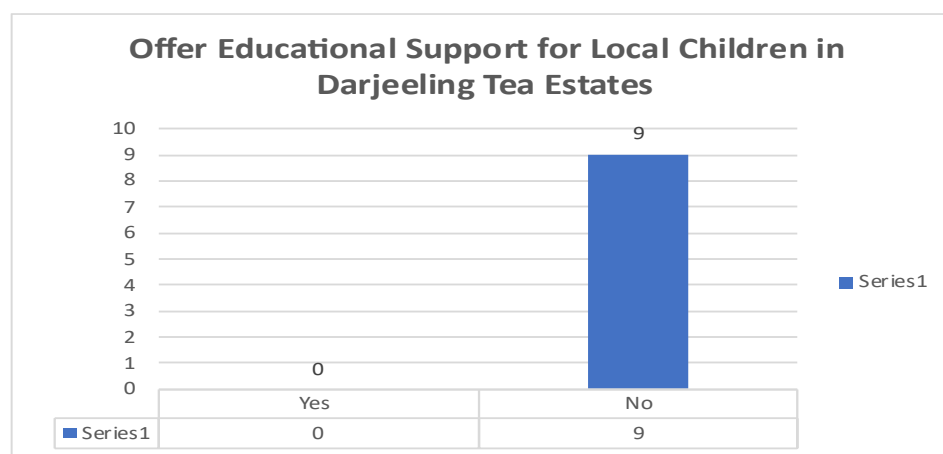


**ANALYSIS:** The results of the survey here are that child labour on tea plantations within the Darjeeling district complies with child labour laws, with no children of the legal working age being used. Periodic inspections by the government officials maintain these laws in check, since any deviation on their part would lead to de-certification.

**Table No. 6: Do you provide educational support or opportunities for children in the local community?**

Criteria	Number of Respondent
YES	0
No	09
Total	9

SOURCE: Questionnaire

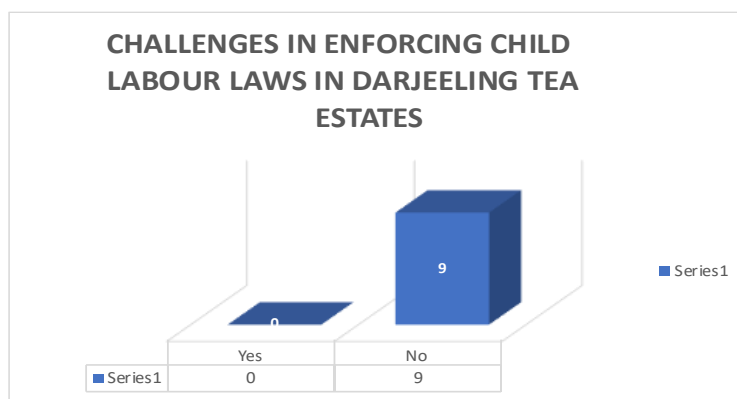


**ANALYSIS:** The survey also indicates that none of the nine tea companies have CSR policies or programs to support children's education. Although there is no official assistance from these companies, some employers volunteer on their own to offer financial support. NGOs and government officials can also assist children who excel in school.

**Table No.7: Have you faced any challenges in implementing child labour laws in your operations?**

Criteria	Number of Respondent
Yes	0
No	09
Total	09

SOURCE: Questionnaire

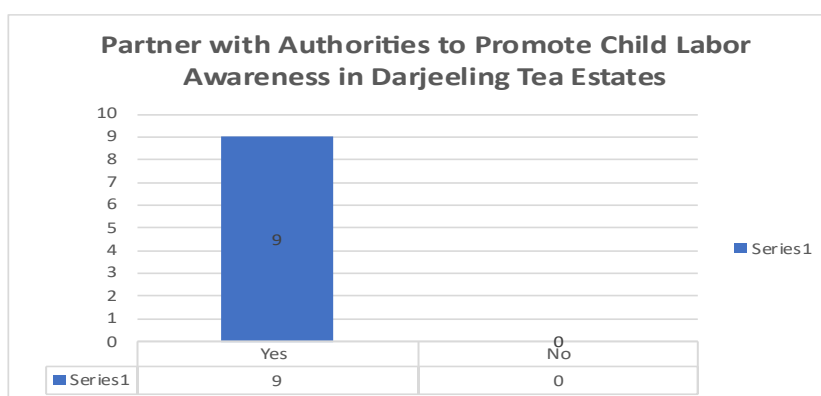


**ANALYSIS:** All nine tea industries reported that there were no issues in enforcing child labour laws, most likely due to having strong community backing and legal compliance. Challenges exist, however, such as unreported cases or insufficient funds for orphans, calling for policy reforms.

**Table No. 8: Do you collaborate with local authorities or organizations to promote awareness of child labour laws?**

Criteria	Number of Respondent
Yes	09
No	0
Total	09

SOURCE: Questionnaire

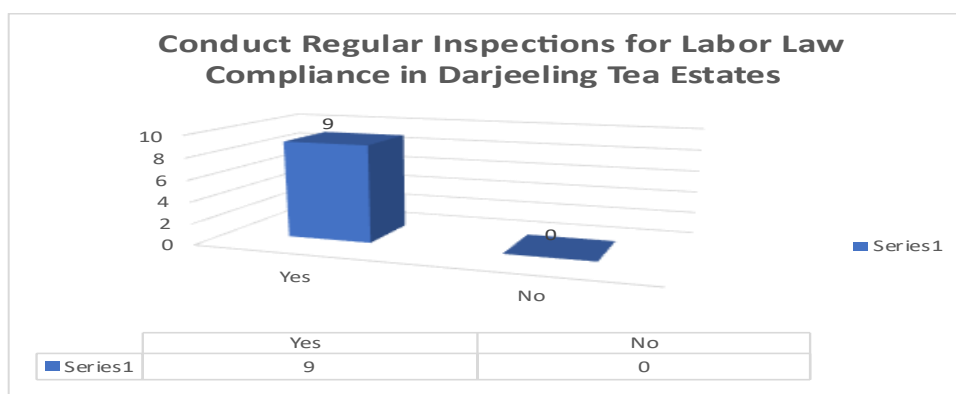


**ANALYSIS:** The survey indicates that all nine tea companies work with NGOs and local government, including the District Protection Officer, to educate and raise awareness among employees about child labour legislation. These measures assist in ensuring proper implementation and enforcement of these laws throughout the industry.

**Table No.9: Are there regular inspections conducted in your establishment to ensure compliance with labour laws?**

Criteria	Number of Respondent
Yes	09
No	0
Total	09

SOURCE: Questionnaire

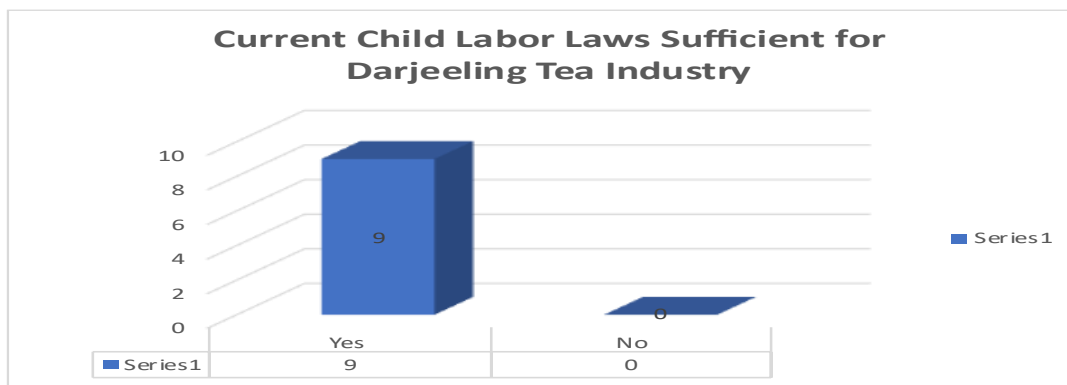


**ANALYSIS:** The survey shows that all the nine tea companies are bi-monthly audited by company management and labour authorities to ensure adherence to children's labour laws as a non-adherence will see their certification revoked.

**Table No. 10: Do you believe that the current child labour laws are sufficient for the tea industry in Darjeeling?**

Criteria	Number of Respondent
Yes	09
No	0
Total	09

SOURCE: Questionnaire



**ANALYSIS:** The survey discovers that nine tea companies are visited twice a year by company management and government labour officials to check for compliance with child labour laws because anything less would jeopardize their certification

## IX. CONCLUSION

After discussing various aspects of the implementation of child labour laws in the district of Darjeeling, it is clear that the laws are properly enforced in every tea estate factory. Companies strictly follow child labour laws, ensuring no minors are employed. The Labour Commission Department and head office conduct regular inspections to verify compliance. If a company is caught using child labour, its certification is revoked, and the factory is shut down. This threat of closure compels employers to adhere to the law. Additionally, various awareness programs are organized within the tea industry to inform people about child labour regulations. However, a manager from Happy Valley Tea Estate pointed out a problem concerning children whose parents, employed in the tea industry, have passed away. In such cases, not all relatives assume responsibility for the child, leading to financial and emotional challenges for the child. To mitigate this, beyond company regulations, some employers offer financial assistance to these children to secure their future. When a child worker's parents die, the position is typically given to a close relative. In my view, the state government should implement special policies to safeguard the rights of orphaned children, ensuring their well-being and education. In conclusion, the implementation of child labour laws in Darjeeling is strictly followed, in line with the Child Labour (Prohibition and Regulation) Act and Supreme Court guidelines, such as those established in the **M.C. Mehta vs. Union of India** case. This reflects the strong commitment of authorities and businesses in preventing child labour and safeguarding children's rights.

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