

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 7 | Issue 6

2024

© 2024 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestions or complaints**, kindly contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication in the **International Journal of Law Management & Humanities**, kindly email your Manuscript to submission@ijlmh.com.

Effectiveness and Implementation of Laws Relating to Child Labour in India with special reference to the Registered and Rescue Cases

ASHRAF KHAN¹

ABSTRACT

In spite of the country's progress in social and economic areas, child labour is still a major problem in India. The efficacy of these measures is still up for debate, despite the passage of several legislation including the Child Labour (Prohibition and Regulation) Act, 1986, and its 2016 revision. The data collected on the PENCiL website from 2018 to 2022 have been employed in this research study to critically analyze the child labour law application and its effectiveness in India. Among other factors, such as economic difficulties, lack of public knowledge, and a scarcity of resources, the research highlights the inability of enforcement due to such issues. This further highlight regional differences; attention to places such as Uttar Pradesh, which witnessed the maximum rescues and complaints, and other states where minimal or no intervention is recorded at all. The deficiencies in the procedures of enforcement, rehabilitation, and awareness have caused underreporting and inappropriate treatments, according to the study. Judicial remedies and historic decisions have played a role in shaping the legal environment, but systematic poverty and structural constraints have continued to hinder progress. Raising public awareness, educating the public, and financial aid are the most emphasized means of combating child labour. To improve the enforcement of child labour regulations and ensure protection and rehabilitation of affected children, this research analyzes policies, legal frameworks, and implementation methods. The results are sought to be an addition to the discussion of children's rights and solution to this problem of child labour in India.

Keywords: *Child labour, legal framework, enforcement, rehabilitation, socioeconomic barriers.*

I. INTRODUCTION

Despite the several legislative and regulatory efforts made in India over the years, child labour remains a serious socio-legal issue. Child labour is the employment of children in labour that

¹ Author is a Research Scholar at Faculty of Law, Aligarh Muslim University, Aligarh, India.

violates their childhood, dignity, and basic rights. This practice harms both the children involved and society at large. Although India has enacted significant legislation to combat this challenge, the “Child Labour (Prohibition and Regulation) Act 1986”, with its Amendment Act of 2016, the validity of these Acts in overcoming the threat is often put to question.

Constitutional protections in India include Article 24, which prohibits child labour in hazardous industries, and Article 21A, which requires that all children be provided with free public education. Furthermore, India is committed to ending child labour, as reflected in its ratification of international instruments such as the “UN Convention on the Rights of the Child” and the ILO conventions. Yet millions of children are still enslaved as servants, often under hazardous conditions, despite such legislation. Cases that were filed and rescued between 2018 and 2022 reveal where the law enforcing agencies were successful and where there were evident implementation loopholes.

Child labour is very prevalent in India due to several reasons, including, but not limited to poverty, lack of education, inefficient law enforcement, and rehabilitation programs. There has to be a holistic strategy that extends beyond just legal action because many of the rescued children kill themselves back into work because they lack the resources they need. Cases that were enrolled during this time provide a quantifiable manner in which one can view the effectiveness of the treatments and rescued cases better help give an idea of the systemic problems with rehabilitation and enforcement.

The paper attempts to critically examine the effectiveness of child labour regulations in India by registered and rescue instances from 2018 to 2022. The practical methods of combating child labour can be found through this research, analyzing the current state of affairs in rehabilitation, policy implementation, and law enforcement. The authors hope that such results will contribute to the current discussion of children’s rights and guide the way toward making India a better place for all children.

(A) Review of Literature

Krishna Surjya Das in his Article highlights the fact that “despite various initiatives, child labour continues to be a problem in India. The study finds that educational attainment, poverty, and social disadvantage are significant determinants of child labour using binary logistic regression and data from the 2019–20 Periodic Labour Force Survey. It shows that dropout rates are higher among students who have a secondary or more education, and that children from low-income and minority backgrounds, especially Muslim homes, have a higher tendency to go into the workforce. This study points out the importance of reducing child labour in India by improving children’s access to and completion of school and by assisting poor families

financially”². **Jihye Kim & Wendy Olsen** in their Article “examines child labour and long working hours in India, focusing on age, gender, and cultural differences using 2019 data. Applying both international definitions from ILO and UNICEF as well as a nationally defined time-threshold model identifies harmful forms of child labour. It highlights that girls involved in agricultural labour and boys in non-agricultural sectors have the longest working hours, revealing significant social group disparities. The findings stress the importance of considering age-specific and gender-based labour patterns when addressing child labour. The study calls for policymakers to adopt explicit measures to monitor and regulate working hours for children aged six to 17 to protect their well-being and development”³. **Navpreet Kaur & Roger W. Byard** in their Article “puts forth child labour as an issue that is widespread, especially in countries with lower socioeconomic status, such as India, where around 10 million children are working. The paper identifies poverty, parental incapacitation, lack of social security, limited access to education, and ignorance as the primary drivers of child labour, emphasizing its negative effects on children’s development, society, and the economy. The global scope of the problem is underscored by the fact that 152 million children are involved in labour worldwide, and the COVID-19 pandemic has exacerbated the situation by pushing more vulnerable children into the workforce. The paper also reviews international legal frameworks and India’s legislative measures against child labour, stressing the urgency of addressing and resolving this persistent issue effectively”⁴. **Shreyansh Anand** emphasizes that “this is a widespread and rather complex issue of child labour-the author mentions its globality, yet focusing on the country with the largest statistics of child labour: India. According to the study, the root cause behind this phenomenon is poverty itself, because children of poverty-stricken families often become working children to increase earnings for the family. The author identifies the presence of child labour both in rural and urban areas and covers activities as minor domestic assistance to more hazardous and morally reprehensible work. Even though child labour is prohibited by several pieces of legislation, there are numerous violations and, therefore, deeply rooted socio-economic challenges. The paper aims to critically examine the factors that cause child labour in India and look into the effectiveness of existing laws and reforms for combating this persistent issue”⁵. **Shilpa Tripathi** in her paper highlights “the negative impact of child labour on

² Krishna Surjya Das, *Child Labour and Its Determinants in India*, 138 CHILD YOUTH SERV REV 106523 (2022).

³ Jihye Kim & Wendy Olsen, *Harmful Forms of Child Labour in India from a Time-Use Perspective*, 33 DEV PRACT 190 (2023), <https://www.tandfonline.com/doi/abs/10.1080/09614524.2022.2155620> (last visited Dec 5, 2024).

⁴ Navpreet Kaur & Roger W. Byard, *Prevalence and Potential Consequences of Child Labour in India and the Possible Impact of COVID-19 – a Contemporary Overview*, 61 [HTTPS://DOI.ORG/10.1177/0025802421993364](https://doi.org/10.1177/0025802421993364) 208 (2021), <https://journals.sagepub.com/doi/full/10.1177/0025802421993364> (last visited Dec 5, 2024).

⁵ Shreyansh Anand, *Analysis of Child Labour in India*, SSRN ELECTRONIC JOURNAL (2022),

individual children, society, and the economy while underlining the importance of education in eradicating this problem. The paper argues that diverting children from labour to education can provide substantial developmental benefits to the country. Despite India's long history of commitment to eliminating child labour since independence, and the efforts of governmental policies and NGOs, the problem remains persistent. The author discusses how to better formulate and implement policies and programs towards social progress and sustainable economic development-ensuring a holistic approach to dealing with child labour in India"⁶.

II. LEGAL FRAMEWORK ADDRESSING CHILD LABOUR IN INDIA

The key legislations concerning child labour in India are- "Plantation labour Act 1951", "The Mines Act 1952", "Merchant shipping Act 1958", "The Apprentice Act 1961", "The motor transport workers Act 1961", "The atomic energy Act 1962", "Bidi and cigar workers (condition of employment) Act 1966", "The child labour (Prohibition and Regulation) Act 1986" and "The Juvenile Justice (Care and Protection) of Children Act, 2000".

"The Plantation Labour Act, 1951" and the "Mines Act, 1952" deal with hazardous industries. These enactments regulate job conditions and prohibit child labour in hazardous surroundings. However, implementation of these rules is sometimes difficult, especially in rural and outlying locations where surveillance is inadequate. The Atomic Energy Act of 1962 and the Merchant Shipping Act of 1958 have imposed severe restrictions on child labour in some specialized sectors. They do work in some areas but not on the larger issue of child exploitation in the informal economy.

India has heavily relied on the "Child Labour (Prohibition and Regulation) Act 1986", and its subsequent amendments to combat child labour. Child labour protection regulations, this law bans children from employment in dangerous occupations and governs the employment of children in less hazardous occupations. The meaning of hazardous employment is rather obscure and there is also the loophole whereby minors are permitted to be employed in family-owned businesses; both these features weaken the effectiveness of the legislation. Incomplete application also further reduces the efficacy of the legislation.

Protecting and rehabilitating children who work as labourers is the main aim of the "Juvenile Justice (Care and Protection of Children) Act, 2000". Despite the fact that this legislation establishes a framework for the rescue and rehabilitation of exploited children, significant obstacles, such as insufficient rehabilitation facilities and loopholes in the court system, exist.

<https://papers.ssrn.com/abstract=4187176> (last visited Dec 5, 2024).

⁶ CHILD LABOUR AND EDUCATION IN INDIA: Promise and Performance on JSTOR, <https://www.jstor.org/stable/42753709> (last visited Dec 6, 2024).

Low levels of knowledge and ineffective procedures for enforcement also weaken many sectors-specific legislations, the “Motor Transport Workers Act 1961” and the “Apprentices Act of 1961”.

In rural and disorganized areas, where child labour is most rampant, there exist no strong enforcement mechanisms for any of these regulations. Poverty, illiteracy, and the social acceptability of child labour are socioeconomic issues that impede the efficacy of these laws. The only way to close these loopholes is to crack down harder on monitoring and enforcement, make rehabilitation better, and raise public and economic awareness about the issue of child labour.⁷

III. JUDICIAL RESPONSE RELATING TO CHILD LABOUR

In “*People’s Union for Democratic Rights v. Union of India*”⁸, The Supreme Court concluded that the employment of minors under the age of fourteen in construction labor is, without any doubt, brazenly violative of Article 24 of the Constitution. Furthermore, the Supreme Court has condemned all sorts of forced labor, and focused attention on the significance of fundamental rights of private persons while making a call for prohibiting every kind of violation of articles 23 and 24. Also-

*“(1) The Supreme Court has just recently abandoned the long-established concept of standing, which states that only those with legal wrongs may receive redress through the courts. The Court has recently introduced a new approach whereby members of the public can assist those who cannot access the court on account of poverty, disability, or social or economic disadvantage to seek judicial redress for a legal wrong or injury. In such cases, the public can write to the court in a bona fide letter informing the court about the wrong or injury committed and the court will take cognizance of it as a writ petition.”*⁹

Use of minors in the carpet-making industry was reviewed upon by the Supreme Court on “*Bandhua Mukti Morcha v. Union of India & Others*”¹⁰. The order freed 144 children from their captors’ hands when it directed the district magistrate to launch raids. The Court referred to *United Australia Ltd. V Barclays Bank Ltd.*¹¹, quoting-

“There is no caviling, confrontational, or attempt to usurp or tilt an executive authority on the part of the Court when it hears public interest litigation. Rather, the Court’s sole

⁷ Zahid Naeem, Faiza Shaukat & Zubair Ahmed, *Child Labor in Relation to Poverty*, 5 INT J HEALTH SCI (QASSIM) 48 (2011), <https://pmc.ncbi.nlm.nih.gov/articles/PMC3533357/> (last visited Dec 6, 2024).

⁸ 1983 SCR (1) 456.

⁹ *Ibid*, para 2 & 9.

¹⁰ 1984 SCR (2) 67.

¹¹ 1941 AC 1.

purpose is to safeguard the poor, the disabled, and other marginalized people from the abuse of their fundamental human rights—a constitutional duty shared by the executive branch and the legislature. So, the Court only provides a hand in carrying out the duties outlined in the Constitution. It is imperative that public interest litigation be welcomed by the government and its officials."¹²

Children in the glass sector were relieved of their jobs after being ordered to do so in the case of "*Sheela Barse & Others v. Union of India*"¹³. The youngsters had been exposed to coal dust and chemical fumes while working near furnaces. "*M.C. Mehta v. State of Tamil Nadu*"¹⁴ is considered to be the landmark case in which the Supreme Court issued a decree against child labour by the government. A decree was given to monitor their employment status, remove children from hazardous jobs, and educate them properly. This mandates the Supreme Court to allow the government to give employment to an adult family member or acquaintance of a child being taken out of employment.

The government apparatus has not carried out the Judiciary's recommendations and orders to the best of its ability, which is one of the biggest disappointments. There is still much structural inequality and poverty. In this regard, the Judiciary's initiative to safeguard children's rights is praiseworthy, and judicial rulings have served to uphold and defend children's fundamental rights.¹⁵

IV. IMPLEMENTATION MECHANISM

It is generally social-economic reasons which lead to child labour continuation in India. Low money is one significant factor since many families can only manage to use their children as labourers due to that. Some families, that are extremely poor, often force their children into labour to pay the short-term expenses than to invest their future with education. The situation is further exacerbated by the fact that most parents are illiterate and cannot afford to send their children to school. People in rural areas are not very responsive to legislative measures since it is culturally acceptable for families to engage children in traditional industries, agriculture, or domestic work. Such deep-rooted socioeconomic barriers make it challenging for child labour rules to achieve widespread compliance.¹⁶

The implementation of child labour laws is always thwarted by a failure of the important

¹² *Supra* note 3, at 9.

¹³ 1986 SCALE (2)230.

¹⁴ AIR 1997 SUPREME COURT 699.

¹⁵ Indian Judiciary: Protection of Rights of Children | Blogs | AdvocateKhoj, <https://www.advocatekhoj.com/blogs/index.php?bid=8424fe94d205814a366812383&bcmd=VIEW> (last visited Dec 6, 2024).

¹⁶ 10 Main Causes of Child Labour in India, <https://www.cry.org/blog/causes-of-child-labour-in-india/> (last visited Dec 6, 2024).

players- the families, employers and even the municipal authorities. Most parents do not understand that child labour is banned or that it damages the chances of their children for better life. It can be that the informal sector employers are not aware of the fact that employing of minors is illegal in some scenarios. These practices usually go unreported by communities and local leaders either because of ignorance or because they socially approve of them, adding to the underreporting of child labour cases. Child labour continues unabated because education and awareness programs do not reach rural or economically disadvantaged communities.¹⁷

There is usually a lack of resources, including human resources, infrastructure, and investment, in India when it comes to the effective implementation of child labour regulations. There is always a scarcity of people for inspections and monitoring by the labour department and other enforcement agencies. Even interventions are hard to come by as rescued children have no access to rehabilitation and reintegration programs. Lack of financing for educational programs and awareness campaigns is another challenge to successfully fighting child labour. Due to their limited resources, enforcement agencies face a much tougher task in reaching out to rural and isolated areas. The effective execution of child labour rules will continue to be a difficulty until these resource limitations are addressed.¹⁸

The interaction of all these factors creates a very complicated environment, making it difficult to effectively police and execute laws against child labour. Complete strategy for this problem also requires proper funding for rehabilitation and enforcement initiatives, as well as wide-spread awareness campaigns.

Data on Registered and Rescue Cases (State Wise)¹⁹

State/UT	No. of Complaints Reported on PENCiL Portal (2018-2022)	No. of Rescued/Rehabilitated Cases (2018-2022)
Andhra Pradesh	78	5
Assam	52	NA
Bihar	320	12
Chandigarh	9	NA
Chhattisgarh	13	NA

¹⁷ "I Must Work to Eat": Covid-19, Poverty, and Child Labor in Ghana, Nepal, and Uganda | HRW, <https://www.hrw.org/report/2021/05/26/i-must-work-eat/covid-19-poverty-and-child-labor-ghana-nepal-and-uganda> (last visited Dec 6, 2024).

¹⁸ Findings on the Worst Forms of Child Labor - India | U.S. Department of Labor, <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/india> (last visited Dec 6, 2024).

¹⁹ Resource | Open Government Data (OGD) Platform India, <https://www.data.gov.in/resource/stateuts-wise-number-cases-child-labour-reported-platform-effective-enforcement-no-child> (last visited Dec 5, 2024).

State/UT	No. of Complaints Reported on PENCiL Portal (2018-2022)	No. of Rescued/Rehabilitated Cases (2018-2022)
Delhi	217	NA
Gujarat	93	1
Haryana	77	NA
Himachal Pradesh	8	NA
Jammu and Kashmir	24	NA
Jharkhand	59	NA
Karnataka	120	2
Kerala	12	NA
Madhya Pradesh	236	59
Maharashtra	120	NA
Meghalaya	1	3
Odisha	59	NA
Puducherry	2	NA
Punjab	84	NA
Rajasthan	356	1
Tamil Nadu	149	4
Telangana	111	NA
Uttarakhand	40	2
Uttar Pradesh	1498	223
Total	3738	312

This table collates all the child labour complaints received through the PENCiL site and the number of instances of child labourers rescued or rehabilitated in India between 2018 and 2022. It is evident that different states and territories have significantly diverse complaint volumes and intervention success rates. With an astonishing 1,498 cases, or over 40% of the overall

grievances across the country, Uttar Pradesh sees the highest number of complaints. Moreover, with 223 children rescued or rehabilitated in that period, it stands as the main concern in that aspect as well. Even though it has the highest volume of grievances, it still presents evidence that the problem of child labour is being handled responsibly and proactively.

In Meghalaya, the lot is the lowest in any state or union territory with one only. However, this low figure might not prove that child labour does not exist, but may show that the PENCiL portal is either underreported or not well known in the area. There are no statistics available to determine the actual level of child labour in Meghalaya, but the state has documented three rescued instances, which indicates some attempts are being made.

Despite having a large number of child labour complaints (356 in Rajasthan and 320 in Bihar), the states' rescue efforts seem to be falling behind, with just 1 case saved in Rajasthan and 12 cases rescued in Bihar. There may be shortcomings in the systems of rehabilitation and enforcement that this brings to light. Delhi and Punjab are two more states with significant complaint numbers but with no rescue. This implies that there is something amiss with the follow-up operations. For example, some states coordinate between reports and rescue operations better than others. While Madhya Pradesh reported 236 and rescued 59, Tamil Nadu reported 149 but rescued only 4. Alternatively, we could have done much better in responding to every reported case.

According to the statistics, there are complaints but no rescues reported in many states and union territories. This is the case in Chandigarh, Himachal Pradesh, and Odisha, among others. It could be due to a lack of knowledge about child labour rules, failure to adequately police them, or an inadequate system for rehabilitation. Uttar Pradesh may have the most complaints and rescues, but all states vitally need stronger enforcement, improved reporting systems, and extensive rehabilitation programs to combat the evil of child labour.

V. CONCLUSION

Despite extensive legislation and constitutional protections, the problem of child labour remains a major socio-legal hurdle in India. Data collected from 2018–2022, looking at how well child labour regulations were enforced, shows clear inadequacies. The disparity between states with proactive response systems, like Uttar Pradesh with 1,498 complaints and 223 rescues, and others with systemic inadequacies, like Rajasthan with 356 complaints and 1 rescue and Bihar with 320 complaints and 12 rescues, is glaring. There is an immediate need for improved coordination and more robust implementation frameworks due to the absence of rescues in several states that have expressed concerns.

In rural and informal areas, where child labour is more common, underlying socioeconomic

obstacles including poverty, illiteracy, and cultural acceptability contribute to the problem. A lack of education on the dangers of child labour and the laws that protect them among parents, businesses, and government officials only serves to amplify the issue. Another obstacle to efficient law enforcement is the lack of resources, such as people, financial expenditures, and rehabilitation facilities.

Effectively combating child labour requires a multi-faceted approach that includes strong enforcement mechanisms, awareness campaigns, programs to alleviate poverty, and rehabilitation initiatives. Further improvement of the efficacy of legislation may be achieved by expanding the reach of the PENCiL site and guaranteeing improved coordination between the registration of complaints and rescue operations. India can take a giant leap toward ending child labour and providing a better future for its youth by fixing these underlying problems.
