



Child Labour in India

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Abstract: Children constitute a vital segment of society and represent the cornerstone of national development. The manner in which a nation safeguards the rights and welfare of its children is a significant indicator of its social, legal, and moral progress. This paper examines the evolution and scope of child welfare laws across different jurisdictions, with a particular focus on international conventions and legal frameworks designed to protect children from exploitation, abuse, neglect, and discrimination. It analyses key global instruments such as the United Nations Convention on the Rights of the Child and other international protocols that establish minimum standards for child protection and holistic development. The study further explores the role of national legislations in aligning domestic child welfare mechanisms with international commitments, highlighting comparative approaches adopted by various countries. By emphasizing the importance of legal safeguards, policy interventions, and institutional support systems, the paper underscores the necessity of a rights-based and child-centric legal framework. The research concludes that effective implementation of child welfare laws, supported by international cooperation and sustained policy reforms, is essential to ensure the protection, dignity, and overall well-being of children, thereby strengthening the social and developmental foundations of nations worldwide.

Keywords– Child Labour, Forced Labour, Constitutional Law, Discrimination, Exploitation of child labour

1. INTRODUCTION

"The child is a father of man" -Worthsworth

"The child to be the greatest asset of the nation" -Jawaharlal Nehru

Children are the greatest promises of tomorrow, the dawn of humanity and buds of social development. Children are the future of the society; every child has the right to enjoy his childhood. Childhood is a wonderful time to explore and learn more such a childhood should be enjoyed by all the children around the world equally. Children are always considered next to the pious versions of the Almighty who always strive to inculcate happiness, joy, innocence and hope. Children are the future citizens of the nation and their adequate growth is the topmost priority of the nation. Children are always considered next to the pious versions of the Almighty who always strive to inculcate happiness, joy, innocence and hope. The future of a nation is determined by the way it treats its children and its women, after all, children imply a hope, a hope to strengthen not only the economy of the country, but also to provide the country with skilled human resources who have access to the basic amenities essential for the existence coupled with the tenets of the education in India. the welfare of the entire community, its growth and development depend on the health and well-being of its children. Children are a "supremely important national asset," and the future wellbeing of the nation depends on how its children grow and develop¹.

¹ Mamta Rao, Law Relating to Women and Children, 3rd ed., (Lucknow: Eastern Book Co., 2012) p.529

It is the moral duty of every citizen for the country to ensure that the childhood of our children is protected and not marred with instances like that of child labour in India which arise out of poverty and helplessness.

The great concern exhibited at the international arena for the welfare of children led to the adoption of various instruments to protect children. The former Secretary General of the United Nations Kofi A. Annan observed:

“There is no trust more sacred than the one the world holds with children. There is no duty more important than ensuring that their rights are respected, that their welfare is protected, that their lives are free from fear and want and that they grow up in peace”².

Child Labour is the brutal form of crime in today's world where the world is emerging with the advancement of science and technology still people lack certain way and lacking behind to eradicate the child labour. Legal policy towards them has undergone a sea change, from a position where children were treated as non-entity and mere material objects to a position of human dignity where they are not only made free from exploitation and abuses but also enabled to develop their full potentiality with fair access to food, health and education. Social change towards better world for children to enjoy their right to be child is an inspiring objective beneath this policy. Growth of human rights perception regarding child spearheaded the movement for creating child friendly environment for his wholesome development.

2. DEFINITION OF CHILD LABOUR:

Child labour typically means the employment of children in any manual work with or without payment. Child labour is not only limited to India, it happens to be a global phenomenon.

- (i) Children who are engaged in work unsuitable for their capacities as children or in work that may jeopardize their health, education or moral development and whose age is below 14 years. Children who practice and engage in economic activities, on a part or full-time basis.
- (ii) The practice deprives children of their childhood and is harmful to their physical and mental development and
- (iii) Child labourers constitute a group of working children who are either too young to work or are engaged in hazardous activities- that is, work that is potentially harmful to their physical, social, psychological or educational development.”

The term "child labour" is frequently defined that "work deprives children of their childhood, their potential and their dignity, and that is detrimental to physical and mental development. It refers to the work that: socially or morally, mentally, physically dangerous and harmful to children; and interferes with their schooling:

- by depriving them of the opportunity to attend school;
- By forcing them to leave school prematurely; Or
- by requiring them to try to combine school attendance with excessively long and heavy work."

- The International Labor Organization (ILO) definition on child labour

“work that deprives children of their childhood, their potential, and their dignity, and that is harmful to physical and mental development.³”

In others words Child labourers are children who work regularly for several hours. Clearly distinguishable from this is the “exploitative child labour”, which includes the following points:

- all forms of forced labour, bondage, serfdom and slavery;
- the abuse of children e.g. Prostitution, pornography, drug trafficking, child soldiers
- any other work that endangers children's health, safety or morals. These include also the heavy work in quarries.

² Kofi A. Annan in foreword to The State of the World's Children, (UNICEF, 2000).

³ <https://bhr-navigator.unglobalcompact.org/issues/child-labour/definition-legal-instruments/>

There is a difference between legal age of the child to work it comes under the ambit of non-exploitative whereas other are considered to be exploitative. For example households (which does not prevent any school attendance), legal employment of young people and exploitation of children. Most states have set legal age between 14 – 16 years. In Germany the minimum age is 15 years with some exceptions for light jobs example newspaper delivery is also allowed for younger adolescents.

UNICEF has categorized child work into three categories:

- 1. Within the family**– Children are engaged in domestic household tasks without pay.
- 2. Within the family but outside the home**– Example- agricultural labourers, domestic maids, migrant labourers etc.
- 3. Outside the family**- Example- commercial shops in restaurants and jobs, prostitution etc.

3.HISTORY OF CHILD LABOUR:

The concept of child labour can be traced throughout the history, by ancient times children have contributed to upkeep the economic of their families through handicrafts and farm labours. However, the growth of manufacturing and farm mechanization during the Industrial Revolution in Europe and the United States in the 18th and 19th centuries led to many children working under dangerous conditions in factories and farms. In particular, child labour was rife during the American Industrial Revolution (1820-1870). Industrialization attracted workers and their families from farms and rural areas into urban areas and factory work. In factories and mines, children were often preferred as employees, because owners viewed them as more manageable, cheaper, and less likely to strike. Work changed a lot during Industrial Revolution. The “long nineteenth century” (1750–1914) saw a rise of industrialization and wage labor, especially in Western Europe and North America.

➤ Pre-Industrial Society:

Child labour forms an intrinsic part of pre-industrial economies. In pre-industrial societies, there is rarely a concept of childhood in the modern sense. Children often begin to actively participate in activities such as child rearing, hunting and farming as soon as they are competent. In many societies, children as young as 13 are seen as adults and engage in the same activities as adults. The work of children was important in pre-industrial societies, as children needed to provide their labour for their survival and that of their group. In pre-industrial societies, there was little need for children to attend school. This is especially the case in non-literate societies. Most pre-industrial skill and knowledge were amenable to being passed down through direct mentoring or apprenticeship by competent adults.

➤ Victorian era (1837 – 1901):

With the onset of the Industrial Revolution in Britain in the late 18th century, there was a rapid increase in the industrial exploitation of labour, including child labour. Industrial cities such as Birmingham, Manchester, and Liverpool rapidly grew from small villages into large cities and improving child mortality rates. Immigration to the United States coincidentally peaked during the Industrial Revolution and led to a new source of labour and child labour. When the Irish Potato Famine struck in the 1840s, Irish immigrants moved to fill lower-level factory jobs. In the 1880's, groups from southern and eastern Europe arrived, provided a new pool of child workers. The trend continues today, as many immigrant children

work in agriculture, which is exempt from certain labour laws.⁴ Child labour notoriously became fatal and hazardous with children as young as four years working in industrial factories. They were expected to crawl through tunnels that were too narrow for adults in coal mines, endangering their lives, they were also used as errand boys, crossing sweepers, shoe blacks, or selling matches, flowers and other cheap goods.. The working hours were long ranging between 52 to 80 hours while their wages were very low, 10-20% of an adult male's pay. Several children also worked as prostitutes. In 19th century Great Britain, one-third of poor families were without a breadwinner, as a result of death or abandonment, obliging many children to work from a young age. Throughout the second half of the 19th century, child labour began to decline in industrialised societies due to regulation and economic factors because of the Growth of trade unions. The regulation of child labour began from the earliest days of the Industrial Revolution.



Child repairing shoes

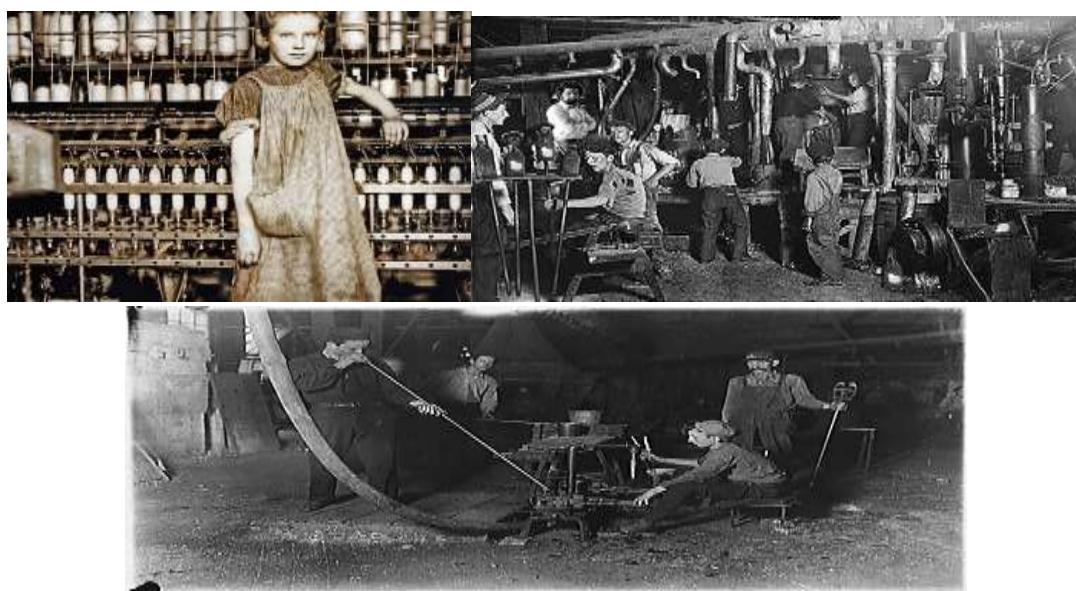
Glassworks. Midnight Location: Indiana

Child working in farming

➤ Early 20th Century:

In the early 20th century, thousands of boys were employed in glass making industries. An estimated 1.7 million children under the age of fifteen were employed in American industry by 1900. In 1910, over 2 million children in the same age group were employed in the United States. This included children who rolled cigarettes, engaged in factory work, worked as bobbin doffers in textile mills, worked in coal mines and were employed in canneries.

⁴ Price, P. (n.d.). Victorian Schools Facts for Children. Retrieved from <http://www.victorianchildren.org/victorian-houses-how-victorians-lived/>



Children working in various industries during 20th Century

Factories and mines were not the only places where child labour was prevalent in the early 20th century. Home-based manufacturing across the United States and Europe employed children as well. Families and women, in particular, preferred it because it allowed them to generate income while taking care of household duties.. Home-based manufacturing operations were active year-round. Families willingly deployed their children in this income generating home enterprises. In Germany, the number of full-time home operations nearly doubled between 1882 and 1907; and in the United States, millions of families operated out of home seven days a week, year-round to produce garments, shoes, artificial flowers, feathers, match boxes, toys, umbrellas and other products. Children aged 5–14 worked alongside the parents. Home-based operations and child labour in Australia, Britain, Austria and other parts of the world was common. Rural areas similarly saw families deploying their children in agriculture.

➤ **21st Century:**

Child labour is still common in many parts of the world. Estimates for child labour vary. It ranges between 250 and 304 million, if children aged 5–17 involved in any economic activity are counted. ILO estimates there were 153 million child labourers aged 5–14 worldwide in 2008. This is about 20 million less than ILO estimate for child labourers in 2004⁵.

- Some 60% of the child labour was involved in agricultural activities such as farming, dairy, fisheries and forestry.
- Another 25% of child labourers were in service activities such as retail, hawking goods, restaurants, load and transfer of goods, storage, picking and recycling trash, polishing shoes, domestic help, and other services.
- The remaining 15% laboured in assembly and manufacturing in informal economy, home-based enterprises, factories, mines, packaging salt, operating machinery, and such operations.

Child labour predominantly occurs in the rural areas (70%) and informal urban sector (26%). Less than 3% of child labour aged 5–14 across the world work outside their household, or away from their parents. Child labour accounts for 22% of the workforce in Asia, 32% in Africa, 17% in Latin America, 1% in the US, Canada, Europe and other wealthy nations. Africa has the highest percentage of children aged 5–17 employed as child labour, and a total of over 65 million. Asia, with its larger population, has the largest number of children employed as child labour at about 114 million. In Latin America and the Caribbean, a drop in the

⁵ [https://www.unicef.org/india/press-releases/child-labour-rises-160-million-first-increase-two-decades#:~:text=NEW%20YORK%2FGENEVA%2C%2010%20June,Organization%20\(ILO\)%20and%20UNICEF](https://www.unicef.org/india/press-releases/child-labour-rises-160-million-first-increase-two-decades#:~:text=NEW%20YORK%2FGENEVA%2C%2010%20June,Organization%20(ILO)%20and%20UNICEF).

number of children in child labour by 6 million from 2008 to 2020 occurred as the population aged 5 to 17 fell by 4.8 million.

➤ **Current Scenario:**

Child labour remains a persistent problem in the world today. The latest global estimates indicate that 160 million children almost 63 million girls and 97 million boys were in child labour globally at the beginning of 2020, accounting for almost 1 in 10 of all children worldwide. 79 million children nearly half of all those in child labour were in hazardous work that directly endangers their health, safety and moral development. Global progress against child labour has stagnated since 2016. The percentage of children in child labour remained unchanged over the four year period while the absolute number of children in child labour increased by over 8 million. Similarly, the percentage of children in hazardous work was almost unchanged but rose in absolute terms by 6.5 million children. Continued progress was registered over the last four years among children aged 12 to 14 and 15 to 17. Child labour in both age groups declined in percentage and absolute terms, continuing a consistent downward trend seen in previous estimates. Child labour rose among young children aged 5 to 11, however, after the 2016 global estimates signalled slowing progress for this age group. There were 16.8 million more children aged 5 to 11 in child labour in 2020 than in 2016. The COVID-19 crisis threatens to further erode global progress against child labour unless urgent mitigation measures are taken. New analysis suggests a further 8.9 million children will be in child labour by the end of 2022 as a result of rising poverty driven by the pandemic a significant further increase in child labour could occur by the end of 2022.

Other key results from the 2020 global estimates include:

- Involvement in child labour is higher for boys than girls at all ages.
- Child labour is much more common in rural areas.
- Most child labour – for boys and girls alike – continues to occur in agriculture
- The largest share of child labour takes place within families.
- Child labour is frequently associated with children being out of school.



Fig 1 This describes the various ages of children joined in labour industry

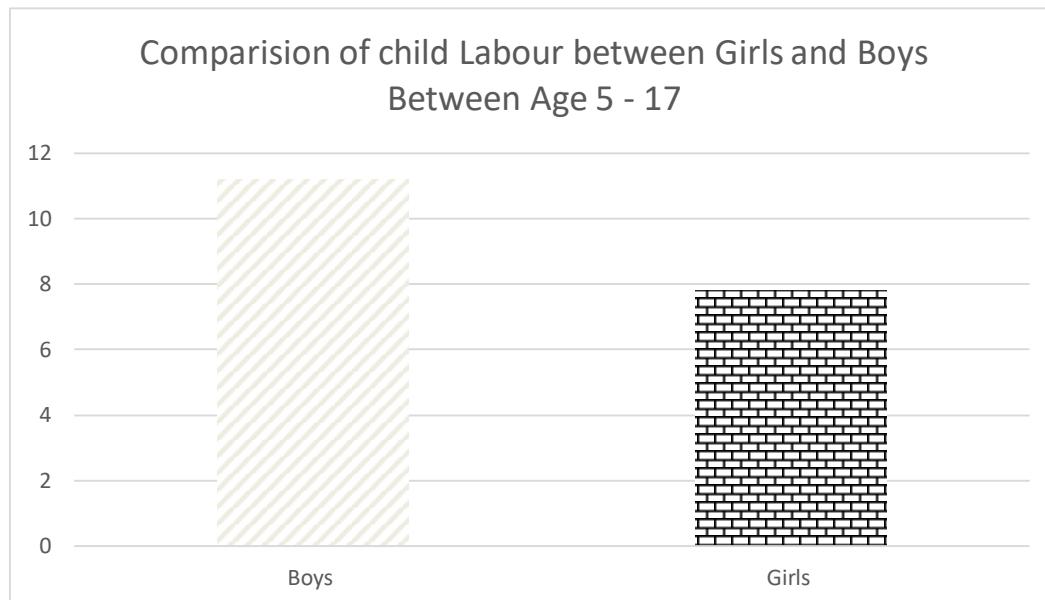
BAR GRAPH ON CHILD LABOUR BETWEEN GIRL AND BOY

Fig.2

This describes the graph between both boys and girls involved in child labour practices

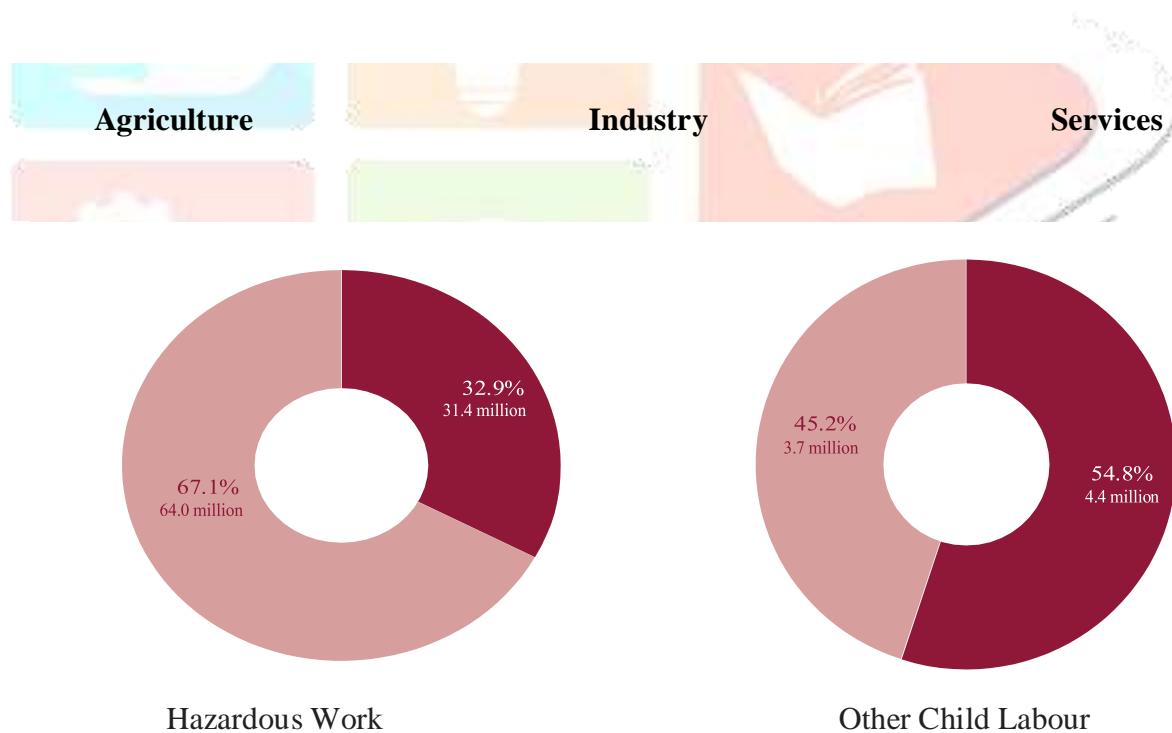


Fig 3. (Above data is based on the year between 2016 - 2020)

4. CAUSES OF CHILD LABOUR:

It is an unfortunate reality that children around the world are often forced to start work that is physically, mentally and morally harmful. Child labour is a violation of human rights and is considered a "necessity evil" in a poor economy like India. This hinders the normal, physical, mental, moral and emotional development of child labour. Child labour is essentially a problem of development. The concept of child labour leads to confusion as it is guided by various individual views. It refers to a child's employment in cartable businesses or national contributions to family income. Child labour is generally interpreted in two different ways, namely economic evil and social evil. Economic evil embodies the employment of children to earn for them and their families, while the social evil reference prevents children from disrupting development educationally.

i. Poverty:

The issue of poverty is a very relative and pertinent concept. According to a report released by the United Nations in February 2015, about 30 million people are still in extremely poor condition in India, which is one of the 1/3 rd of the world's total extreme poor people. However, it is not yet enough condition for the occurrence of the child labour in India to analyse the issue. In other words, the relationship between child labour and poverty is very important in any place and time. Poverty causes diseases or other forms of disabilities, which often causes imbalances in family budgets and forced poor parents to send their children to work. We can trace out that the raise of child labour arises mainly due to the poverty that exists. The family situation forces the children to work families due to the poverty regard their children as a source of income.

ii. Child Labour a Cheap Commodity:

With the advent of industrialization, the trend among employers is less quick on artists and more benefits. Due to their age and their physic industries tried to exploit them and take the benefits through their hard work. So, there were a large number of enrolment of children in a large number of factories in each country, which were paid very low wages, they were overworked and they were made to work under terrible conditions. Child labour is existed not because children are more competent workers, but because they can be hired for less money.

With the development of globalization, privatization, and consumerist culture, the need for cheap labour and its linkage with economic needs of poor families have encouraged child labour in India.

Thus, preference for child labour by many employers is mainly due to the fact that it is cheap. Safe and without any problem. Child labour is not only very cheap, but also hassle-free because children cannot organize their own movement and being minors; The membership of trade unions is not opened for them. Neither can they demand any overtime, nor medical and other benefits. In this country, very young children are engaged for domestic work because they are very cheap. Middle-class families fall within low-income groups, especially boys and girls aged 8 to 14 years prefer to work in their homes as domestic servants and some pocket money for food. However, these employers, educated in the formal sense, appear to be the least concern for these children and then conscious hardly. Employers also find children more suited for discipline and control. They can be coaxed, warned, pulled and punished for default without endangering relationship.

iii. Discrimination between boys and girls:

We have been conditioned into believing that girls are weaker and there is no equal comparison between boys and girls. Even today, in our society, we will find many examples where girls are deprived of studies. Considering girls weaker than boys deprives them of school and education. In labourer families, girls are found to be engaged in labour along with their parents.

iv. Large Family Size:

When the family grows the need of each individuals grows subsequently as the result of the family growth there is an compulsion for the head of the family to suffice each need of the family. When this is unable to attain then there emerges a situation to send the children to work under compulsion of the situation to earn and suffice their basic needs.

v. Compulsory Education:

Education is that factor, which leads to human resource development which includes a better and sustainable and valuable natural upbringing for all. The primary objective of the education system is to provide knowledge skills and to transmit certain values equally important. Children are ready to receive education, but only with the consent of the owners and parent. About 62% of children in rural areas are not present in primary schools. Whereas *Article 45* (Directive Principles of State Policy), states that "*The state shall endeavour to provide within a period of 10 years, from commencement of this constitution for free and compulsory education for all children until they complete the age of 14 years.⁶*" Compulsory schooling for children as a part of assimilative measure is however, found deceptive. As such, the phenomenon of child labour is the product of such indifference to education. So this phenomenon of child labour is the product of this indifference to education.

vi. Backwardness:

Even after four decades of Independence, India has been one of the poorest countries in the world in terms of both the GNP and the per capita income. Backwardness and stagnation are once again evident from the statistical world distribution data of child labour as an important factor for the intensity of child labour. This shows that 90% of child labour is concentrated in the world's under developed.

Since child labour is a socio-economic phenomenon, it is generally believed that illiteracy, ignorance, low wages, unemployment, lack of living standards, deep social prejudice and appalling backwardness on the part of the country. etc. are all, many and collectively, the root cause of child labour.

"Child labour is no longer a means of economic exploitation, but the economic need of parents and in many cases the need of the child."

⁶ INDIA CONST. Art. 45

5. IMPACT OF CHILD LABOUR :

Child labour includes working children under a certain minimum age. This practice has been going on for a long time and is the worst form of child exploitation. Consequences of child labour are not only limited to harm a child's physical and mental health but also it deprives him of basic rights as guaranteed by our constitution such as right to education, development and freedom.

❖ Negative Impact:

It worsens more and Health Children that are working in hazardous export-oriented industries such as brassware, lock making, glass blowing, lead mining and stone excavation fireworks, match works, electroplating, Beedi rolling, glass blowing. These are places that have a serious negative impact on the health of the child working there as long as they start touching their adolescence, they are already suffering from many life-threatening diseases.

❖ Impact on Studies:

Child labour not only negatively affects a child's health, but it also negatively affects her ability to receive schooling and perform academically. When children are forced to work by their families, they now have time to attend school. While there are a significant number of children going to school and working, work can have a negative impact on their studies.

❖ Permanent Disabilities and Premature Death:

As per the data provided by UNICEF, it is estimated that about 250 million children in the age group of 5-14 years are working in child labour worldwide and this figure is steadily increasing. The ILO (ILO) has awarded that about 165 million children between the ages of 5 and 14 years are involved in child labour. Many of these children work for long hours, and often have poverty related health problems in dangerous conditions, malnutrition, fatigue; Anaemia increases the risk and consequences of work-related hazards and can lead to permanent disability and premature death.

❖ Deficiency of Nutrients:

Deficiency of Vitamin B-complex, Iron, and protein in child labourers is in very large scale and there is a negative impact on physical development, mental and intellectual development, causing disorders in biochemical functions and irregular secretion of hormones (adrenals, corticoids, sex hormones, and growth hormone). Most of the child labour suffers from handicapped, malnutrition emotional imbalance, behavioural problems, night blindness, weak yellow form, stunted growth, cracked lip and mouth corners, malnutrition and failure of child growth etc.

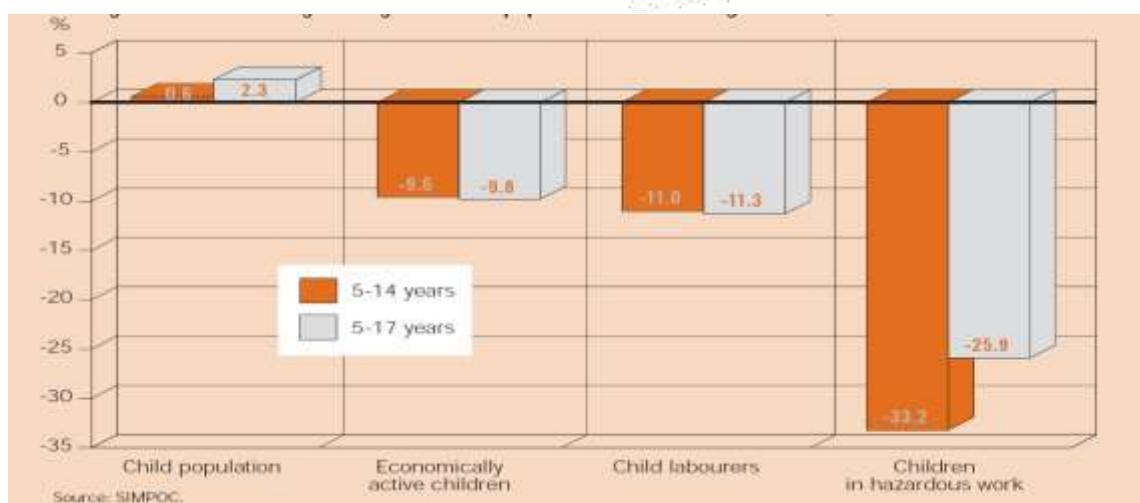


Fig 4.

Fig 4 describes the Percentage Changes in Child Population and Working Children, 2000 to 2004

Age groups	Forms of work			
	Non-hazardous work (in non-hazardous industries & occupations and <43 hrs/week)		Worst forms of child labour	
	Light work (<14 hrs/week)	Regular work (≥14 hrs/week and <43 hrs/week)	Hazardous work (in specified hazardous industries & occupations plus ≥43 hrs/week in other industries and occupations)	Unconditional worst forms (Trafficked children, children in forced & bonded labour, armed conflict, prostitution & pornography, and illicit activities)
5-11				
12-14				
15-17				

The blue areas are considered as child labour in need of elimination as per ILO Conventions No. 138 and 182.

Table 1. Table: Various Categories of Activity for Categorizing Working Children

6. RIGHTS OF CHILDREN UNDER INTERNATIONAL LAW:

6.1. INTERNATIONAL FRAMEWORK:

A. The Universal Declaration of Human Rights 1948:

The Universal Declaration of Human Rights 1948⁷ stipulated under paragraph 25 paragraph 2 that childhood is entitled to special concern and support. Along with other principles of the Universal Declaration relating to children, the above principles were incorporated in the Declaration of Rights of the Child of 1959.

B. The International Covenant on Civil and Political Rights (ICCPR) 1966:

Under articles 23 and 24, the International Covenant on Civil and Political Rights⁸ and the International Agreement on Economic, Social and Cultural Rights - Article 10 provided for child care.

C. United Nations Convention on the Rights of the Child (CRC):

Adopted in 1989, the CRC⁹ is a comprehensive international treaty that outlines the rights of children. Article 32 specifically addresses the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education or to be harmful to the child's health or physical, mental, spiritual, moral, or social development.

D. The International Labour Organization (ILO) 1919:

International Labour Organisation is a U.N. agency that was established in 1919. ILO brings together governments, employers and workers representatives of 187 member States, to set labour standards, develop policies and devise programmes promoting decent work for all women and men.

The principal means of action in the ILO¹⁰ is the setting up the International Labour Standards in the form of Conventions and Recommendations. Conventions are international treaties and are instruments, which create legally binding obligations on the countries that ratify them. Recommendations are non-binding and set out guidelines orienting national policies and actions.

The International Labour Organization is committed to eliminating the worst forms of child labour and also gradually other forms. This is the first Child Labour Conference which has prohibited the work of children below the age of fourteen years in industrial establishments. Protection of children against exploitation in employment is one of the major concerns of the Convention. It has been completely moved into 19 conferences. The worst form of the International Labour

⁷ <https://www.ohchr.org/en/universal-declaration-of-human-rights>

⁸ <https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-international-covenant-civil-and-political>

⁹ <https://www.unicef.org/child-rights-convention>

¹⁰ <https://www.ilo.org/>

Organization's Child Labour Conference, 1999 (No. 182). Minimum Age Convention, 1973 (No. 138), Minimum Age Recommendation, 1973 (No. 146) and International Programme for The Elimination of Child Labour (IPEC), which provides universal standards and guidelines, is a special is the UN agency, which provides guidance and standards for labour practices around the world. Another international instrument i.e. *Convention on the Rights of the Child, 1989* is also protect the child.

There are eight Core Conventions of the ILO (also called fundamental/human rights conventions) which are as follows.

1. Forced Labour Convention (No. 29)
2. Abolition of Forced Labour Convention (No.105)
3. Equal Remuneration Convention (No.100)
4. Discrimination (Employment Occupation) Convention (No.111)
5. Freedom of Association and Protection of Right to Organised Convention (No.87)
6. Right to Organise and Collective Bargaining Convention (No.98)
7. Minimum Age Convention (No.138)
8. Worst forms of Child Labour Convention (No.182)

ILO core conventions related to Child Labour:

To Eliminate Child Labour The problem of child labour is not limited to our country but is worldwide. Many International Conventions were adopted by General Assembly of International Labour Organisation and many countries have ratified it; we are also the signatory to many of them.

1. **ILO Con. No. 5 of 1919** – Prohibits the employment of persons below 14 years of age.
2. **ILO Con. No. 6 of 1919** – Prohibits the employment during night of persons below 18 years of age.
3. **ILO Con. No. 15 of 1921** – Prohibits a person who is below 18 years of age from being employed on Vessel as Toimmer or Stockers.
4. **ILO Con. No. 16 of 1921** – Compulsory medical examination of child.
5. **ILO Con. No. 90 of 1948** – Revised the convention 6 of 1919 and put 12 consecutive hours.
6. **ILO Con. No. 123 of 1965** – Prohibits the employment in mines of the child below the age of 16 years.
7. **ILO Con. No. 124 of 1965** – Compulsory medical examination of child working in mine.
8. **ILO Con. No. 138 of 1973** – Prohibits the employment of a child below the age of 15 but allowed after permission up to 14 years.

The two Core Conventions directly related to child labour are that of ILO *Convention 138* and *182*. India has ratified both the Core Conventions of International Labour Organization (ILO) Conventions 138 regarding admission of age to employment and Convention 182 regarding worst forms of Child Labour.

Convention No.138: (Minimum Age)

ILO Convention No. 138 concerning Minimum Age for Entry to Employment & Work was adopted by the International Labour Conference at its 58th Session in June, 1973. This Convention is one of the 8 Core Conventions of the ILO being referred to as Fundamental or basic Human Rights Conventions and the ILO has been very active in promoting its ratification. Each country ratifying this Convention undertakes to:

- Pursue a national policy designed to ensure the effective abolition of child labour;
- Specify a minimum age for Entry to employment or work which will not be less than the ages of completion of compulsory schooling;
- To raise this progressively to a level consistent with the fullest physical and mental development of young people;
- Guarantee that the minimum age of entry to any type of employment or work, which is likely to compromise health, safety of morals of young persons shall not be less than 18 years

Convention No.182 on Worst Forms of Child Labour:

ILO Convention No. 182 and the accompanying Recommendation No. 190 concerning Worst Forms of Child Labour was adopted by the ILO in its 87th Session at Geneva in June, 1999. Convention No. 182 is one of the 8 Core Conventions of the ILO being referred to as fundamental or basic human rights Conventions.

Main provisions of Convention No 182:

- For the purpose of this Convention, the term child shall apply to all persons under the age of 18.
- For the purpose of this Convention, the term worst forms of child labour comprise:
 1. All forms of slavery or practices similar to slavery, such as the sale and trafficking of children (debt bondage and serfdom and forced or compulsory labour), including forced or compulsory recruitment of children for use in armed conflict.
 2. The use, procuring or offering of a child for prostitution, for the production of pornography or pornographic performances.
 3. The use, procuring or offering of a child for illicit activities, in particular of the production and trafficking of drugs as defined in the relevant international treaties.
 4. Work which by its nature or the circumstances in which it is carried out is likely to harm the health, safety or morals of children

7. NATIONAL LEGISLATION:

When in the 20th Century, child labour became so prominent that news of factory hazards and mis happenings taking innocent children's life, flashed all around in the newspapers, then was the time, a need for legislation and statutes were felt to prohibit the mal practice of child labour. Today, there are sufficient statutes condemning and prohibiting child labour after the ratification of ILO conventions. Many countries have enacted laws to regulate and prohibit child labour. These laws often specify minimum age requirements for employment, restrict the types of work children can engage in, and set maximum working hours for minors. The State Governments, which are the appropriate implementing authorities, are conducting regular inspections to detect cases of violations. Since poverty is the root cause of child labour growth, the Government is putting a lot of emphasis on rehabilitation of these children and improving the economic condition of their families. A number of policy initiatives and programmers' have been initiated by the Government of India to tackle the problem of child labour which is rapidly increasing in India. The Government is taking proactive steps to tackle this problem by strictly enforcing the laws. Based on the Constitutional Provisions many Acts were subsequently enacted special laws to eliminate the child labour; some important ones are as follows

1. The Children (Pleading of Labour) Act, 1933- was the first law against bonded labour
2. Employment of Children Act,
3. The Factories Act, 1948.
4. Plantation Labour Act, 1951.
5. The Mines Act, 1952.
6. The Merchant Shipping Act, 1958.
7. The Motor Transport Workers Act, 1961.
8. The Apprentices Act, 1961
9. The Schools and Establishments Act, 1961.
10. The Beedi Cigar Workers (Conditions of Employment) Act, 1966.
11. The Child Labour (Prohibition and Regulation) Act 1986.
12. The Juvenile Justice (Care and Protection) of Children Act of 2000

8. NATIONAL POLICIES ON CHILD LABOUR:

8.1. Policy:

The National Policy on Child Labour¹¹, August 1987 contains the action plan for tackling the problem of child labour. It envisages:

- A legislative action plan
- Focusing and convergence of general development programmes for benefiting children wherever possible, and
- Project-based action plan of action for launching of projects for the welfare of working children in areas of high concentration of child labour.

In pursuance of National Child Labour Policy, the NCLP Scheme was started in 1988 to rehabilitate child labour. The Scheme seeks to adopt a sequential approach with focus on rehabilitation of children working in hazardous occupations & processes in the first instance. Under the Scheme, after a survey of child labour engaged in hazardous occupations & processes has been conducted, children are to be withdrawn from these occupations & processes and then put into special schools in order to enable them to be mainstreamed into formal schooling system.

- **Legislative Action Plan-** For strict enforcement of Child Labour Act and other labour laws to ensure that children are not employed in hazardous employments, and that the working conditions of children working in non-hazardous areas are regulated in accordance with the provisions of the Child Labour Act. It also entails further identification of additional occupations and processes, which are detrimental to the health and safety of the children.
- **Programme Planning -** Government has accordingly been taking proactive steps to tackle this problem through strict enforcement of legislative provisions along with simultaneous rehabilitative measures. State Governments, which are the appropriate implementing authorities, have been conducting regular inspections and raids to detect cases of violations. Since poverty is the root cause of this problem, and enforcement alone cannot help solve it, Government has been laying a lot of emphasis on the rehabilitation of these children and on improving the economic conditions of their families.
- **Initiation of National child labour project (NCLP) -** In 1988 to rehabilitate working child labour in the endemic districts of the country. The Enactment of the Child Labour (Prohibition and Regulation) Act, The setting up of Taskforce on Child Labour, The Adoption of Convention on the Rights of the Child.

8.2 Child Labour (Prohibition & Regulation) Act, 1986:

Recognizing the increasing problem of child labour in India, the Parliament passed 'The Child Labour (Prohibition and Regulation) Act, 1986'. The purpose of this Act was to declare child labour as illegal and make it a punishable act by any citizen of India. The Act prohibits the employment of children below the age of 14 years in hazardous occupations identified in a list by the law. The list was expanded in 2006, and again in 2008. The Act is to bring to the notice of the people of this nation that there are child labour laws to protect the child. However, in spite of this the situation has not improved, nor has it been brought under control.

8.3 The Right of Children to Free and Compulsory Education Act of 2009:

The law mandates free and compulsory education to all children aged 6 to 14 years. This legislation also mandated that 25 percent of seats in every private school must be allocated for children from disadvantaged groups and physically challenged children.

¹¹ <https://www.shram.org/uploadFiles/20131128124930.pdf>

9. CONSTITUTIONAL PROVISIONS:

The constitution of India carries important expression of the attitude of the State towards children and several articles of Indian Constitution provide protection and provisions for child labour: Our Constitution provides special provisions for the protection of children. Some Articles are as follows –15(3), 21, 21-A, 23, 24, 39 (e), 39 (f), 45 and 51-A (k). In relation with the above-mentioned Conventions and Constitutional provisions, we have enacted special laws to eliminate the child labour; some important ones are as follows.

- i. **Article 15 (3)** - "The State is empowered to make the special provisions relating to child, which will not be violative of right to equality".
- ii. **Article 21** - "No person shall be deprived of his life or personal liberty, except according to procedure established by law".
- iii. **Article 21A** - "The State shall provide free and compulsory education to all children of the age of six to fourteen years, in such manner as the State may, by law, determine. Where children are allowed to work, in such establishment, it is the duty of employer to make provisions for the education of child labourer".
- iv. **Article 23** - "Traffic in human beings and beggar and other similar forms of forced labour are prohibited and any contravention of this prohibition shall be an offence punishable in accordance with law".
- v. **Article 24** - "No child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment"
- vi. **Article 39** - "The State shall, in particular, direct its policy towards securing the health and strength of the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength".
- vii. **Article 39(e)** - "The State shall, in particular, direct its policy towards securing that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter vocations unsuited to their age of strength".
- viii. **Article 39(f)** - "The State shall, in particular, direct its policy towards securing that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity; and that childhood and youth are protected against exploitation and against moral and material abandonment".
- ix. **Article 45** - "The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years".
- x. **Article 51(A)** - "It shall be the duty of every citizen of India, who is a parent or guardian to provide opportunities for education to his child or ward as the case may be, between the age of six and fourteen years".

10. JUDICIAL APPROACH TO CHILD LABOUR:

The judiciary is an important component of the trinity of the State. In our Constitutional scheme, the judiciary has been assigned the role of ensuring and enforcing social justice in accordance with the commitment envisaged in the Preamble, Part-III and Part-IV of the Constitution. Exploitation of Child Labour is one such aspect which has received the judicial attention. The cases, which came before the court involving child labour were very few and in all cases the judiciary took has played an activist's role and made all its efforts to protect the rights of unfortunate children. The courts sufficiently broadened the horizon of right to life and personal liberty by creating new dimensions to Article 21. It is not merely confined to physical existence but it includes within its ambit right to life with human dignity and decency. Human dignity is an important aspect of the Right to life guaranteed under Article 21.

The founding fathers of the Constitution have bestowed thoughts on the protection of the child from exploitation and providing an environment to children to grow to the fullest extent. During the

Constituent Assembly, **Prof. Sibbanlal Saxena**, referring to the draft present Article 24 of the Constitution, said:

"I am glad that this article has been placed among fundamental rights. In fact, one of the complaints against this charter of liberty is that it does not provide for sufficient economic rights. If we examine the fundamental rights in other countries, we find that many of them are concerned with economic rights...we have provided these things in our Directive Principles, although, I think, properly, they should be in this chapter. Even then, this Article 18 (now Article 24) is an economic right, that no child below the age of fourteen shall be employed in any factory."

Unni Krishnan Vs Andhra Pradesh¹², in this case, the Supreme Court in its judgment held that children up to the age of 14 had a fundamental right to free education". **Neeraja Chaudhary Vs State of Madhya Pradesh**¹³, In this case the Supreme Court of India stated that the Child Labourers should be rescued and provision for their rehabilitation should be made. **Peoples Union for Democratic Rights v. Union of India**¹⁴, In this case the court found the law wanting. As a fact the Supreme Court found out that the children below the age of 14 were employed in the construction work for Asian Games). On behalf of the Union of India and Delhi administration it was argued that the Employment of Children Act, 1938 was not applicable to construction industry as it is not specified in the Schedule.

U.P. Bandhua Mukti Morcha Vs Union of India¹⁵, In this case the Supreme Court of India stated that if no steps are taken under Bonded Labour System Act 1976 by the Government then it would be a violation of Article 23 of the Constitution. Article 23 states that children should not be forced to work at cheap wages due to their economical or social disadvantage".

Sheela Barse Vs Secretary, Children Aid Society and Others¹⁶, The Supreme Court held, "If there be no proper growth of children of today, the future of the country will be dark. It is the obligation of every generation to bring up children who will be citizens of tomorrow in a proper way".

M. C. Mehta Vs State of Tamil Nadu¹⁷, The Supreme Court has not allowed children to work in a prohibited occupation. According to the judges, the provisions of Article 45 in the Directive Principles of State Policy has remained a far cry and according to this provision all children up to the age of 14 years are sponsored to be in school, economic necessity forces grown up children to seek employment. **Mohini Jain v. State of Karnataka**¹⁸, the supreme Court held, "It is no doubt correct that "right to education" as such has not been guaranteed as fundamental right under Part III of the Constitution but by reading the above quoted provisions (Arts.21, 38, 39(a) and (f), 41 and 45) cumulatively it becomes clear that the framers of the Constitution made it obligatory for the State to provide education for its citizens

State of Orissa Vs Dipti Paul¹⁹, In this case when the court while deciding on the case of salaries of teachers appreciated the important of universalisation of primary education. **Rohit Singhal and Others Vs Principal, Jawahar N. Vidyalaya and others**,²⁰ the court held that, Children are not only the future citizens but also the future of the earth. Elders in general, parents and teachers in particular, owe a responsibility for taking care of the well- being and welfare of children. The world shall be a better or worse place to live according to how we treat the children today. Education is an investment made by the nation in it children for harvesting a future crop of responsible adults, productive of a well functioning society.

Hazardous Child Labor in the United States, **Hammer v. Dagenhart** ²¹ The case involved a challenge to the Keating-Owen Act, a U.S. federal law prohibiting the interstate shipment of goods produced

Article 18, the equivalent of the

¹² 1993 (1) SCC

¹³ MANU/SC/0060/1984

¹⁴ AIR 1982 SC 1473

¹⁵ (1984) 3 SCC 161

¹⁶ AIR 1987 SC 656

¹⁷ 1991 (1) SCC 283

¹⁸ AIR 1992 SC 1858

¹⁹ 2000 (10) SCC 413

²⁰ 2003 (1) SCC 687

²¹ 1918

with child labor. The Supreme Court, ruled that the Act was an unconstitutional regulation of local labor conditions. This decision led to a period during which federal efforts to regulate child labor were limited until the passage of the Fair Labor Standards Act in 1938.

Child Labor in the Cocoa Industry, *Doe v. Nestle, SA*²², A lawsuit filed in the United States accused Nestle, Cargill, and Archer Daniels Midland (ADM) of aiding and abetting child slavery in the cocoa industry. The plaintiffs, former child slaves from Mali, alleged that these companies were aware of and supported the use of child labour in their supply chains. The case raised issues of corporate responsibility for human rights abuses and the use of child labour in global supply chains.

Child Labor in the Garment Industry, *GoodWeave International v. RugMark Foundation*²³ GoodWeave International, formerly known as RugMark Foundation, is an organization working to eliminate child labor in the rug industry. While not a legal case, it represents an initiative that uses market-driven approaches to promote child-labor-free products. GoodWeave's certification system helps consumers identify rugs made without child labor and has contributed to raising awareness about child labor in the industry.

11. SUGGESTIONS TO OVERCOME CHILD LABOUR:

It's essential to note that despite these conventions and efforts, child labour remains a persistent problem in some parts of the world. Continued international collaboration, advocacy, and enforcement of existing laws are crucial for addressing and eradicating child labour globally. The Government has to take steps to Increase the minimum age for employment in hazardous occupations to meet international standards. Further to Ensure that relevant child labour laws and regulations apply equally to children working in the formal and informal sectors. Timely prosecute child labour cases against violators of the Child Labor Prohibition and Regulation Act and the Bonded Labor System Act. Disaggregate the data in the Ministry of Home Affairs Crime and Criminal Tracking and Networking System to include child trafficking violations. Assess the impact that existing programs may have on child labour. Poverty, unemployment, illiteracy & Population growth perpetuate child labour & Child trafficking.

Nobel Peace winner Kailash Satyarthi²⁴ gave up his job as an electrical engineer to dedicate himself to protecting and advancing child right for over three decades, freeing now 80,000/- child labourers and giving them new hope in life. Those children who were freed as child labourers must be sent to school. The Right to Education Act must be implemented strictly in spirit. our education system should be reformed so as to ensure that it produces employable graduates. Occupational training and skill development courses should be introduced to improve employment potentiality so that if children are ensured that they will get good employment after education parents will not encourage their children to send as child labour. There is another incident that came to light through investigation done by NDTV²⁵ with help of an NGO working on child rights i.e. recently in Nalgonda district of Telangana where children particularly belonging to Bangara community were brought and sold like animals broker Kamli who is upa surpach of the village admitted that she sold 20 such children and nothing will happen to them. Even Children in sishu vihar (Kindergarten school for kids who are not old enough to go to primary school) maintained by State government were sold and there were no records to show how many children are admitted in that Sishu vihar. All these incidents are happening in spite of several regulatory mechanisms working for the welfare of children including District Child welfare department. Nobel laureate Kailash satyarthi every day this trade involves 60 crores of rupees and every year 1 lakh children are missing and around 45% of them are not traced. Some of these children are exported to foreign countries. Therefore, all these regulatory mechanisms created under several failed to live up to their duties hence child labour and child trafficking is prevalent in this country.

²² 2020

²³ 2006

²⁴ <https://www.thehindu.com/news/national/satyarthi-backs-new-child-labour-law/article18961535.ece>

²⁵ <https://www.thenewsminute.com/telangana/ndtv-reveals-babies-being-sold-nalgonda-district-few-thousand-rupees-29607>

12. CONCLUSION:

From the above study it may be concluded that the problem of exploitation of child labour has been continuously growing all over the world. "Today's Children will be the tomorrow citizens". Children are supremely important national asset. Children cannot raise their voice against those who injure them or deprive them of their rights. The problem of exploitation of child labour is a result of the various reasons, poverty, illiteracy and ignorance of parents, family tension and so on. Law is not the total solution for this socio-economic problem. Strict implementation of legislation's are needed. And it is the duty of all concerned employers, trade unions, society, government and voluntary organizations to achieve this objective. After all, public awareness against the social evil is important.

REFERENCE:

BIBLIOGRAPHY:

- Malik KP and Dr. Rawal, "Law and social transformation in India", Allahabad Law Agency, First Edition 2007.
- Dr. Myneni S.R, "Human Rights Law", Asia Law House, 1st Edition 2020.

WEBLIOGRAPHY:

- Child Labour In India Retrieved from.: <http://www.legalserviceindia.com/legal/article-92-child-labour-in-india.html>
- IPEC (2006) "Global Child Labour Trends 2000 to 2004", International Labour Office, Geneva.
- Basu, K. (1999) "Child Labor: Cause, Consequence, and Cure, with Remarks on International Labor Standards" Journal of Economic Literature, Vol. XXXVII, pp. 1083- 1119.
- International Labour Standards on Child labour (ilo.org)
- Indianresearchjournals.com/pdf/APJMMR/2013/September/9.pdf
- Alexandra Spognardi, Around the World: Child Labor Laws in India and the Need for Change, Children's Legal Rights Journal, Vol. 40, Iss. 2 [2021], Art. 11
- Myron Weiner, Child Labour in India: Putting Compulsory Primary Education on the Political Agenda, Economic and Political Weekly, Vol. 31, No. 45/, pp. 3007-3009.