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CHILD LABOUR IN INDIA – SHOULD IT BE LEGALIZED?

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Abstract

Child labour remains one of the most persistent social issues in developing nations, particularly in India, which has one of the world's largest populations of working children between the ages of five and fourteen. Despite numerous government programs and international efforts to eliminate child labour, results have been limited due to poverty, illiteracy, and weak enforcement mechanisms. This paper explores whether regulated legalization of child labour, with provisions for compulsory education and nutrition, could serve as a sustainable and realistic alternative to the existing prohibitionist framework.

Drawing from comparative analyses of nations like Brazil, the UK, and the US, as well as ethical, economic, and utilitarian perspectives, the study argues that a pragmatic blend of regulation, education, and corporate responsibility can bring gradual but lasting change. Legalization under controlled conditions could transform child labour from exploitation into empowerment through skill-building, thereby aligning economic survival with social justice and long-term national development.

Child Labour in India: A Reality Beyond Prohibition

Child labour persists across India despite decades of legislative attempts, institutional programs, and social campaigns. The *Child Labour (Prohibition and Regulation) Act, 1986*, though intended to safeguard children, has had a limited impact due to definitional ambiguities and poor enforcement¹. Estimates suggest over **17 million working children**, many engaged in hazardous activities such as fireworks, carpet making, bidi rolling, and garment manufacturing¹.

India's economic landscape, marked by rapid industrial growth and deep social inequalities, has left millions of children trapped between survival and education. Poverty, coupled with parental illiteracy, compels families to send children into labour as contributors to household income². The situation is further aggravated by weak schooling infrastructure and seasonal migration in rural areas. Despite the constitutional promise of free and compulsory education (Article 21A) and prohibition of hazardous labour under Article 24, implementation failures keep the cycle alive.

The Legal and Economic Paradox

The 1986 Act prohibits children below 14 years from working in 13 occupations and 57 processes deemed hazardous³, but excludes domestic and agricultural labour, where most children actually work. The lack of uniformity in defining —childll across various Indian laws—from the Indian Penal Code to the Juvenile Justice Act—creates loopholes for exploitation.

Moreover, enforcement remains negligible. According to the **National Commission for the Protection of Child Rights (NCPCR)**, convictions for child-labour violations are minimal relative to the number of inspections. Between 2000 and 2010, most prosecutions under child labour laws resulted in warnings or small fines, insufficient to deter employers.

¹ UNICEF Report, —Issues facing children in India.

² Basu Journal of economic literature, 1999

³ Child labour act, 1986.

Economically, children's participation remains significant in informal sectors, contributing indirectly to India's GDP. The labour force participation rate for children in Asia averages **15.3%**, compared to **68%** for adults⁴. The contradiction arises when blanket prohibition ignores the role child income plays in family survival.

Root Causes: More Than Poverty

While poverty is an immediate trigger, structural factors such as **gender inequality, caste hierarchy, and low female literacy** deepen the crisis. States with lower female literacy, such as Bihar and Uttar Pradesh, show higher incidences of child labour. In contrast, Kerala, which has a women's literacy rate above 90%, reports minimal child labour, proving education's intergenerational impact⁵.

Cultural practices also perpetuate inequality. The caste system historically restricted lower communities from accessing education and promoted hereditary labour roles. Employers, exploiting these socio-economic dynamics, find child labour both cost-effective and socially unchallenged.

Failures of Current Policies

Government programs like the **National Child Labour Project (NCLP)**, **Sarva Shiksha Abhiyan**, and mid-day meal schemes have not yielded consistent success. Poor infrastructure, underfunded rehabilitation centers, and lack of accurate data undermine these efforts. Of India's population, children constitute 44%, yet the 2010–11 Union Budget allocated only **0.04% to child protection**⁶.

The core weakness lies in the gap between law and livelihood. An outright ban ignores economic realities, pushing children into underground labour markets, prostitution, or trafficking. As the Supreme Court once noted, —if you cannot stop prostitution, then legalize and regulate it! — a statement that may equally apply to child labour policymaking.

Ethical Perspectives: Between Principles and Pragmatism

⁴ ILO, Global Child Labour developments, 2010

⁵ India Literacy report, 2011.

⁶ Union budget 2010-2011

Utilitarian View

From a utilitarian perspective, an immediate ban could reduce family welfare if alternative income sources are unavailable. Families depending on children's wages may face starvation, forcing children into harsher forms of labour⁷. Therefore, a *phased, regulated engagement*—ensuring education and health—could generate greater long-term societal good.

Deontological (Duty-Based) Ethics

Deontological ethics, rooted in **Kantian morality**, rejects using children as means to economic ends. However, Kantian ethics also emphasizes the preservation of life and dignity. In India's context, denying children the right to work for survival while providing no viable alternative can itself become unethical.

Social Justice Perspective

John Rawls' theory of justice advocates equality under the —veil of ignorance. When survival is at stake, fair distribution of resources implies enabling poor children to access education and sustenance, even if they must work. Hence, legalization with safeguards can enhance distributive justice.

Learning from Global Experiences

Brazil

Brazil's *Bolsa Escola* program offers conditional cash transfers to poor families for school attendance. The result: a decline in child labour from 17.5% in 1992 to **6.6% in 2009**⁸.

Linking wages or parental aid to educational compliance has proven more effective than punitive bans.

South Korea and the UK

Both countries allow limited, regulated work for minors under strict supervision. In the UK, children aged 13–16 can take certain jobs with restricted hours, while education remains

⁷ Basu & Van, —The economics of child labour, 1998.

⁸ World Bank, 2005.

compulsory⁹. This model acknowledges economic participation without compromising growth or safety.

United States

Even the U.S. allows agricultural child labour under the **Fair Labour Standards Act**, often employing children as young as 12 with parental consent¹⁰. These examples illustrate that —complete prohibition is rarely achieved even in developed systems.

MNCs and the Supply Chain Dilemma

Global corporations—such as GAP, Nike, Unilever, and Primark—have faced allegations of benefiting from child labour within Indian supply chains. While corporate social responsibility (CSR) codes exist, most companies follow either local labour laws or international conventions selectively. A survey revealed that **52%** of MNCs align with host-country laws, **26%** with international standards, and **22%** follow no explicit policy¹¹.

However, some positive examples exist. IKEA partnered with UNICEF, investing over **\$48 million** to improve child health and schooling in India. Similarly, H&M, PepsiCo, and Reckitt Benckiser have launched joint programs with *Save the Children* to provide education and nutrition¹². These efforts show that ethical business models are compatible with profit motives.

The Case for Legalized Regulation

Legalization does not mean endorsement of exploitation; rather, it implies **structured inclusion** under human-rights-based supervision. A —regulated framework could:

- Classify acceptable, light, and hazardous work categories by age.
- Mandate employers to provide education and nutrition for working children.
- Require certification and inspection of workplaces employing minors.
- Offer tax incentives to firms integrating schooling into operations.

⁹ Child Employment regulation, UK Government, 2010.

¹⁰ US Department of Labour, 2011.

¹¹ Global march against child labour, corporate code of conduct report.

12 UNICEF Partnership reports, 2009-2011.

Penalize noncompliance through stronger enforcement mechanisms¹³.

Such an approach could minimize clandestine exploitation while empowering children as future skilled workers. A pilot project in one or two high-incidence states (e.g., Uttar Pradesh or Andhra Pradesh) could test this model²⁵.

Comparative Reflection: Legalization in Other Sectors

Legalization often reduces exploitation by regulation. For example, legalization of sex work in select nations has reduced human trafficking by bringing workers under health and labour protections¹⁴. Similarly, regulated child labour could open avenues for education and safety monitoring rather than driving children into invisible, illegal sectors.

Policy Recommendations

1. **Reform Legislation** – Replace the 1986 Act with a comprehensive law mandating compulsory education and age-specific work regulation.
2. **Strengthen Monitoring** – Establish local committees for birth registration, school attendance, and workplace inspection.
3. **Corporate Accountability** – Require MNCs to certify supply chains under fair-trade and child-protection norms.
4. **Public Participation** – Promote awareness campaigns, media advocacy, and partnership with NGOs.
5. **Women's Education** – Prioritize female literacy as a strategic tool to break the intergenerational cycle of labour.
6. **Conditional Welfare Schemes** – Introduce cash transfers tied to child school attendance, modelled after Brazil's success.

Conclusion

Complete eradication of child labour in India remains an aspirational goal rather than a realistic outcome under current socioeconomic conditions. International conventions, though

¹³ Sinha.S., —Child labour and Education policy in India,| The Administrator, 1996.

¹⁴ End Human Trafficking Project, *Policy Study on Legalization*, 2010.

well-intentioned, often fail to reflect the complexities of poverty in developing countries. Legalizing child labour with appropriate safeguards—education, nutrition, skill development, and strict monitoring—offers a middle path between economic survival and human rights.

Such an approach acknowledges ground realities while preserving moral accountability. It allows children to transform from exploited labourers into empowered learners. As economist **Kaushik Basu** asserts, banning child labour without alternatives merely deepens poverty; real change demands integration of economic logic with ethical responsibility¹⁵. The path toward a child-labour-free India may thus begin not with prohibition but with practical compassion and structured reform.

¹⁵ Basu, K., “*Human Development and the Paradox of Child Labour Regulation*,” World Bank, 2011.

