

# Child Labour

## Definition of Child:

- **The Child Labour (Prohibition and Regulation) Act, 1986** defines a child as a person who has not completed fourteen years of age.
- **The Factories Act, 1948 and Plantation Labour Act 1951** states that a child is one that has not completed fifteen years of age.
- **The Juvenile Justice (Care and Protection of Children) Act, 2000** has changed the definition of child to any person who has not completed 18 years of age.
- **POCSO Act 2012** defines a child as any person below eighteen years of age.

## Child Labour: UNICEF has categorized child work into three categories :

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

## Data for India:

- Between 2015 and 2018, authorities were able to attain conviction in only 25 percent of the cases where a violation of the Child Labour Act was recorded.
- In February 2019, a study revealed that 10,826 cases of violation of the Child Labour Act were reported across the country in the past four years. Of these, only 56 per cent cases (6,032) went to the stage of prosecution.
- Among states, Odisha had the most number of violations (4,517) - nearly 42 per cent of the national figure. This was followed by Uttar Pradesh (1,416), Telangana (747), Punjab (898) and Gujarat (422)
- The census for 2011 entails that over 80 per cent of children below 14 years of age engaged in child labour are based in rural areas.

- The Census 2011 data revealed that 53.69 lakh children aged 5-14 years were working as agricultural labourers and cultivators in India.
- The overall number of child labourers (marginal and main workers put together) was estimated to be around 1.3 crore.
- International Labour Organisation (ILO) in a report on child labour in India said while the nearly 4 per cent of India's child population (5-14 years) is working as child labour (either main worker or marginal worker)

### **Causes of Child Labour:**

- **Poverty:** Due to poverty, parents cannot afford the studies of their children and make them earn their wages from a tender age. They are made to work to increase the income of their poor families at the earliest.
- **Lack of educational resources:** There are thousands of villages in our country where there are no proper facilities for education. And if there is any, it is miles away.
- **Administrative Laxity:** Administrative laxity is also responsible for child labor. The worst sufferers are the poor families for whom getting their children educated is a dream.
- **Addiction, disease or disability:** In many families, due to addiction, disease or disability, there is no earning, and the child's wages are the sole means of family's sustenance.
- **Rising Population Growth:** Population growth is also increasing unemployment, which has an adverse impact on child labor prevention.
- **Sexual Exploitation:** In 2005, a study was conducted by the National Human Rights Commission of India (NHRC) found that India was **fast becoming a source, transit point and destination for traffickers of women and children for sexual and non-sexual purposes.**
- **Illegal Activities:** Children, over adults are often chosen to be trafficked for illegal activities such as begging and organ trade, as they are seen as more vulnerable.
- **The lure of cheap labor:** In the greed of cheap labor, some shopkeepers, companies and factory owners employ children so that they have to pay less to them and it amounts to employing cheap labor.

### **Consequences / Effects:**

- **Loss of Quality childhood:** Child labour leads to loss of quality childhood as children will be deprived of the opportunity to enjoy the amazing experiences that come with being young.

- **Health Complications:** Due to poor working conditions and undernourishment, child labour leads to health complications. Working in places such as mines and badly conditioned factories may result in lifetime health issues for children employed to work in these places.
- **Mental trauma:** Issues such as bullying, sexual exploitation, and unfavorable working hours may result in mental trauma in these children.
- **Illiteracy:** Children that are employed do not have the time to go to school. The lack of education and illiteracy makes them individuals with limited opportunities as far as employment is concerned.
- **Indulgence into Crime Field:** Uneducated/ Unguided children who work in society sometimes get influenced by criminal activities and commit crimes at a low age.

### Measures taken so far:

#### 1. **Constitutional provisions:**

- Through various articles enshrined in the Fundamental Rights and the Directive Principles of State Policy, lays down that:
- 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 (**Article 24**);
- The State shall provide free and compulsory education to all children of the age six to 14 years. (**Article 21 (A)**)
- The State shall 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 they are not forced by economic necessity to enter vocations unsuited to their age and strength (**Article 39-e**)
- Children shall be given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth shall be protected against moral and material abandonment (**Article 39-f**);
- The State shall endeavor to provide within a period of 10 years from the commencement of the Constitution for free and compulsory education for all children until they complete the age of 14 years (**Article 45**).

#### 2. **National Legislations:**

- **National Commission for Protection of Child Rights (NCPCR):** It was established by an Act of Parliament, thus is a statutory body. The

commission works under the aegis of Ministry of Women and Child development, GoI.

- The commission established with an objective to ensure that all Laws, Policies, Programmes, and Administrative Mechanisms are in consonance with the Child Rights perspective as enshrined in the Constitution of India and the UN Convention on the Rights of the Child.
- **PENCIL for Child Labour:** It is an online portal has launched for the better monitoring & reporting system to ensure effective implementation of the provisions of the amended Child Labour (Prohibition & Regulation) Act 1986 and National Child Labour Project scheme.
- **National Child Labour Project:** It is a central sector scheme where 100% of the funding is provided by the Government of India through the Ministry of Labour and Employment.
- **The NCLP Scheme seeks:** To eliminate all forms of child labour through
  - Identification and withdrawal of all children in the Project Area from child labour,
  - Preparing children withdrawn from work for mainstream education along with vocational training;
  - Ensuring convergence of services provided by different government departments/agencies for the benefit of child and their family;
- **The scheme focuses on:**
  - All child workers below the age of 14 years in the identified target area.
  - Adolescent workers below the age of 18 years in the target area engaged in hazardous occupations / processes.
  - Families of Child workers in the identified target area
- **POCSO Act:** The POCSO Act is a gender-neutral Act which has been enacted to strengthen the legal provisions for the protection of children from sexual abuse and exploitation. The act also prohibits child sex labor.
- **Child Labour (Prohibition and Regulation) Act (1986),** “to prohibit the engagement of children in certain employments and to regulate the conditions of work of children in certain other employment” (preamble of the CLPR Act).
- **National Policy on Child Labour (1987),** with a focus more on rehabilitation of children working in hazardous occupations and processes, rather than on prevention.
- **Amendment to the Juvenile Justice Act of 2000:** Amendment to the Juvenile Justice Act of 2000 was amended in 2015 with a provision allowing for Children in Conflict with Law (CCL) to be tried as adults under certain circumstances.

- It defines a child as someone who is under age 18. For a CCL, age on the date of the offence is the basis for determining whether he or she was a child or an adult.
- The J S Verma Committee stated that it was not inclined to reduce the age of a juvenile from 18 to 16. The amendment was made in 2015.
- **The Right to Education Act of 2009** has made it mandatory for the state to ensure that all children aged six to 14 years are in school and receive free education.
- **Along with Article 21A of the Constitution of India** recognizing education as a fundamental right, this constitutes a timely opportunity to use education to combat child labor in India.
- **Draft National Child Protection Policy:**
  - The Child Protection Policy aims to protect the children in the country from violence, exploitation, abuse and neglect.
  - The draft policy has been placed by the Ministry of Women and Child Development (WCD) on its website to invite comments from stakeholders until January 4.
  - It is the first policy dedicated to the protection of children, an area that until now was only a part of the broader National Child Policy, 2013.
  - The Supreme Court had earlier directed the Central Bureau of Investigation(CBI) to investigate allegations involving 17 shelter homes for children, destitute women, beggars and senior citizens in Bihar following the case of sexual abuse of more than 30 girls in a shelter home in Muzaffarpur in the State.
  - The apex court had also asked the Centre to consider framing a national policy on the protection of children.
- **Child Labour (Prohibition and Regulation) Amendment Act, 2016**
  - The central legislature of India had promulgated a legislation Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 ("CL Act") to regulate the child labor practices in India.
  - The central legislature has made substantial changes in the provisions of the CL Act in the year 2016 and the said amendments have been made effective from July 30, 2016.
  - A complete prohibition has been imposed on employment of child labor (i.e. a person below the age of 14 years) in any establishment whether hazardous or not.

- A child is permitted to work only to help the family, in a family enterprise or as child artist after school hours or during vacations.
- The amendment has introduced the concept of adolescent labor for the first time.
- The number of hazardous occupations and processes has been reduced from 83 to only 3.
- The offenses under the Act have now been made compoundable and cognizable notwithstanding the provisions of the Criminal Procedure Code.
- The CL Act provides for rehabilitation of children and adolescent who have been victims under the provisions of the CL Act.
- It provides for setting up of the Child and Adolescent Labour Rehabilitation Fund in which all the amounts of penalty have to be realized.
- Liability has been affixed to the parents and guardian of the affected child/children separately from the employers.
- The Act provides for increased penalty and imprisonment which shall not be less than 6 months and may extend up to 2 years and fine which may vary between Rs.20, 000 to Rs. 50,000.