

Child Labour and Education in India: A Legal Study

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Abstract

Education plays a crucial role in preventing child labour; conversely, child labour significantly hinders the achievement of Education for All (EFA). Therefore, comprehending the relationship between education and child labour is essential for realizing both EFA and the goals of eliminating child labour. This article is part of the broader initiatives by UCW aimed at enhancing the understanding of the connections between education and child labour, offering a concise summary of pertinent research and identifying key knowledge gaps. The study largely corroborates the prevailing belief that child labour negatively impacts children's ability to enrol in and persist within the educational system, making it increasingly challenging for them to gain educational benefits from schooling once they are enrolled. The evidence also indicates that these adverse effects are not confined to economic activities but also encompass household chores, with the intensity of work (whether in economic activities or household tasks).

Keywords: Education, Child Labour, Education for All (EFA), Knowledge, Schooling, Understanding children's Work (UCW)

I. INTRODUCTION

The endeavours of the international community to realize Education for All (EFA) and to progressively eradicate child labour are fundamentally interconnected. Education, particularly high-quality education up to the minimum employment age, plays a crucial role in preventing child labour. There is a widespread agreement that the most effective method to reduce the influx of school-aged children into the workforce is to enhance and broaden access to education, enabling families to invest in their children's schooling, with the benefits of such an investment outweighing those of child labour.¹ Conversely, when the anticipated benefits of education are minimal or the costs of education are substantial, families may perceive schooling as a less appealing option compared to work for their children. Simultaneously, child labour poses a significant barrier to EFA, as participation in child labour typically hampers children's ability to attend and succeed in school.²

According to UNESCO, at the beginning of the millennium. The majority of these individuals are working children. Child labour negatively impacts the academic performance of many children who juggle both work and schooling, frequently leading to their premature departure from school and entry into the workforce.³ Thus, comprehending the relationship between education and child labour is essential for attaining both Education for All (EFA) and child labour eradication objectives. This article is a component of the broader initiatives by UCW aimed at enhancing the understanding of the connections between education and child labour, offering a concise summary of pertinent research and significant knowledge deficiencies. The document is organized in the following manner. The subsequent section investigates child labour as a barrier to the attainment of Education for All (EFA), analysing both descriptive and econometric data regarding the implications of child labour on school enrolment, retention, and academic performance.⁴

1. Definition of Child Labour

The concept of child labour is interpreted in various ways, influenced by the context of different stakeholders and their viewpoints. Some frequently referenced definitions of child labour include:

¹ L. Guarcello and F. C. Rosati, "Does Social Quality Matter for Working Children" 13 *Understanding Children's Work Programme Paper 23* (2007).

² Gunnarsson and Victoria, "Child Labour and school Achievement in Latin America" 1 *World Bank Economic Review* 27 (2006).

³ A. Cigano and F. C. Rosati, *The Economics of Child Labour* 33 (Oxford University press, 2005).

⁴ S. Chandrasekhar & Abhiroop Mukhopadhyay, "Primary Education as a fundamental Right: Cost Implications" 41 *Indira Gandhi Institute of Development Research* 3801 (2006).

Child labour, as defined by the ILO, encompasses work that robs children of their childhood and adversely affects their development. It pertains to work that poses mental, physical, social, or moral dangers and harms children, while also disrupting their education and growth.

In numerous countries, including India, child labour is defined and governed by legislation. For instance, in India, child labour is characterized as the employment of individuals under the age of 14 in any occupation or process, as well as the employment of adolescents (ages 14 to 18) in hazardous jobs and processes.⁵

Another definition characterizes child labour as work that poses physical, mental, moral, or social dangers and harms to children, as well as work that disrupts their education and development. It emphasizes that children should not be engaged in work, as it is likely to be hazardous, interfere with their education, or adversely affect their health or their mental, physical, spiritual, social, or moral growth. From an economic standpoint, child labour can be defined as the participation of children in paid or unpaid work that detracts from their play, education, or other essential activities crucial for their development and well-being. This may encompass tasks such as informal labour, agricultural work, or household chores within various industries or services.⁶

From a social viewpoint, child labour is seen as the involvement of children in work that is socially unacceptable, exploitative, or infringes upon their rights. This may involve activities that are detrimental to children's health, expose them to hazardous conditions, or subject them to exploitation, abuse, or discrimination based on age.

It is important to highlight that child labour is broadly acknowledged as a violation of children's rights, encompassing their education, welfare, and protection against exploitation. This issue is viewed as harmful to children's health and development and represents a global challenge that necessitates urgent action.

- Several instances of child labour cases exemplify the various definitions of child labour:
 - A. Unpaid Work:** This includes situations where children participate in household tasks or agricultural activities, which can disrupt their education and overall well-being; unpaid work is also a form of child labour.⁷
 - B. Hazardous Work:** In numerous countries, including India, children are frequently found employed in dangerous industries such as mining, fireworks, and construction, which pose significant risks to their health and safety.
 - C. Exploitative Work:** This refers to circumstances where children endure abuse, exploitation, and discrimination.
 - D. Educational Interference:** Child labour significantly impacts education, thereby infringing upon their right to learn.
 - E. Socially Unacceptable Work:** In certain regions of India, children are involved in activities like begging, street vending, or working in informal sectors, which are deemed socially unacceptable and harmful to their welfare.⁸ These children are often at heightened risk of exploitation, abuse, and trafficking.
- These examples underscore the multiple facets of child labour, such as disruption of education, unpaid labour, exploitative employment, and socially unacceptable tasks, all of which can negatively impact children's well-being. It emphasizes the necessity for thorough initiatives to prevent and eliminate child labour, tackling its various forms and situations, while safeguarding the safety and rights of every child.

2. Concept of Child Labour

The notion of child labour is inherently complex. The term 'child labour' consists of two elements: 'child', referring to chronological age, and 'labour', which pertains to its nature, volume, and capacity to generate income. Defining 'labour' is contentious, particularly when discussing child labour, as the terms child work and child labour are frequently used interchangeably. Nevertheless, not all work is detrimental to children; certain light work, when appropriately structured and regulated, does not constitute child labour. This indicates that activities which do not interfere with other vital pursuits for children, such as leisure, play, and education, are not classified as child labour. Thus, 'child labour' refers to work that entails some level of exploitation be it physical, mental, economic, or social and consequently hinders the health and development of children.⁹ Attempting to differentiate between child labour and child work, or between hazardous and non-hazardous employment, is ultimately futile. Work that appears non-hazardous for adults can be hazardous for children due to their lack of negotiating power.

⁵ Florence Kondylis and Manacorda, "School Proximity and Child Labour: Evidence from Rural Tanzania" 22 *Social Science Research Network* 16 (2010).

⁶ ILO, *World Report on Child Labour Economic Vulnerability, Some Protection and the Fight Against Child Labour*; Geneva

⁷ June Wyer, "Child Labour in Brazilian Agriculture" 6 *Sage Journal Reviewer Gateway* (1986).

⁸ Ibid

⁹ Kaushik Basu and Pham Hoang Van, "The Economic of Child Labour: Reply" 89 *American Economic Review* 1387 (1999).

Regarding the conceptual and definitional issues related to child labour, there exist two distinct schools of thought. The first, known as the abolitionist school, posits that education must be established as a fundamental human right for every child aged 5 to 14. They argue that any child not attending school should be regarded as a potential working child. This school believes that the eradication of child labour and the achievement of compulsory primary education are intrinsically linked; one cannot be realized without the other.¹⁰ They contend that the differentiation between hazardous and non-hazardous work is irrelevant. In contrast, the second school, referred to as the reformist school, acknowledges child labour as a 'harsh reality.' They assert that, given India's socio-economic conditions such as poverty, unemployment, and illiteracy it is unfeasible to completely eliminate the issue of child labour. This school advocates for viewing the eradication of child labour as a long-term objective to be pursued progressively. Consequently, they support a dual strategy that involves prohibiting child labour in hazardous occupations while regulating it in non-hazardous ones.¹¹

3. Factors leading to child labour

A. Poverty

Poverty serves as the root cause of all illnesses. Furthermore, it acts as a double-edged sword, as the impoverished individual suffering from illness not only loses their daily earning potential but also becomes poorer by the end of the day. As an extreme human condition, poverty has consistently generated significant social concern. It is a primary factor contributing to child labour, which encompasses various dimensions. Poverty is the primary reason that compels children to work, as their earnings are essential for the survival of both their family members and themselves. Poverty is frequently compounded by various socio-economic factors, which lead to children being exposed to manual labour. Millions of individuals in this nation exist in a condition of severe poverty, lacking food, shelter, employment, healthcare, and education.¹² A UN Report indicates that a significant portion of the population in a developing country, such as ours, goes to bed hungry each night.

The poverty experienced by households can stem from various factors:

- (a) Insufficient family income;
- (b) Unemployed adults;
- (c) Lack of family allowance schemes; and
- (d) Large family size, among others.

B. Illiteracy and Ignorance

A large section of India's population is still illiterate. Illiteracy of parents also is a factor promoting child labour. Illiterate parents lack awareness about the impact of child labour on the development of the child. They are also unaware about the various schemes provided for child education.¹³

C. Over Population and Large Family Size

In a developing nation such as ours, everything is influenced by population dynamics. Population growth is a significant and critical factor contributing to the issue of child labour. Parents, due to their lack of awareness, believe that children are a divine blessing, a valuable human resource, and they mistakenly continue to expand their family size, thinking that more children equate to more income. As a result, having a large family becomes a burden and a liability, particularly for impoverished and tribal families. These individuals are often unaware of the necessity to provide fundamental resources such as a better quality of life, education, and healthcare facilities, and the progressive development of their children remains an unattainable dream for them.¹⁴ In India, there is a lack of effective family planning programs and no regulation on birth control, which exacerbates poverty.

Consequently, parents, driven by financial hardship, are compelled to send their children to work, failing to meet their children's needs and aspirations. This situation leads some children to run away from home, while others may become delinquent and develop negative habits.

¹⁰ Saswati Das, "Incidence of Child Labour and Child schooling in India: Pattern and Determinants" 2 *International Scholarly Research Network, New Delhi* (2012).

¹¹ Christopher Heady, "What is the Effect of the Child Labour on Learning Achievement? Evidence from Ghana" 79 *Innocenti Working Papers* 19 (2000).

¹² Zahid Aqil, "Nexus Between Poverty & Child Labour: Measuring the impact of Poverty Alleviation on Child" *Good Thinkers Organization for Human Development, Kasur* 23 (2012).

¹³ 10. Gopal Bhargava, *Child Labour Vol-1* 220 (Kalpaz Publications, Delhi, First edn., 2003).

¹⁴ Mr. Nitin Nagar and Mrs. Bindu Roy, "A Critical Analysis of Child Labour in India" 1 *International Journal of Current Research* 10 (2022).

D. Lack of access to quality education

The lack of access to quality education is also a major cause of child labour. In India, especially in rural areas often there are no proper education facilities and if there are some facilities, they are located too far thus making it difficult to access. Also, for extremely poor families sending their children to school often remains just a dream.

E. Family Traditions

Many conventional families hold the belief that a child is born primarily to contribute financially to the household. In such families, the child is viewed merely as an additional source of income, and those engaged in traditional businesses often prioritize placing the child into work over sending them to educational institutions. Under the guise of providing training, these families may compel the child to labour for extended hours, occasionally resorting to physical punishment if the child errs.

There exists a misconception that child labour is essential for the preservation of traditional arts and crafts. However, children who are bound to their families or employed as labourers are seldom instructed in the actual craft. The process of learning a specific art or craft should occur within the family context, integrated with their educational development, rather than at the expense of the child's well-being.¹⁵ Children should not be sacrificed in the name of maintaining traditional art forms.

4. Importance of education against child labour

Education plays a vital role in any successful initiative aimed at eradicating child labour. Numerous interconnected factors contribute to the issue of child labour. No single element can completely account for its ongoing existence and, in certain instances, its increase. The interaction of various causes, at different levels, ultimately influences whether a particular child becomes involved in child labour.

Each year, the World Day Against Child Labour is observed on June 12th by Education International. As stated by Education International, early education is essential for removing children from the labour market. It not only equips children with necessary skills but also enables them to pursue a respectable future. Education and training are essential catalysts for social and economic development as well as democracy. Eliminating all expenses associated with education will lead to a significant portion of society becoming educated. An approach focused on educating children and lifting them out of poverty will decrease the prevalence of child labour cases we currently encounter¹⁶.

Education is a fundamental right that no one has the power to deny. It plays a crucial role in transforming people's perspectives on life and contributes to their development as better individuals. The involvement of children in the workforce is subject to constant variation due to shifting market and social conditions. This situation is complemented by the adaptability of the extensive, unregulated potential child labour force. Factors such as poverty, social exclusion, labour mobility, discrimination, and insufficient social protection and educational opportunities all play a role in shaping the outcomes of child labour.

Evidence indicates that a multifaceted approach, which includes economic growth, adherence to labour standards, universal access to education, and social protection, along with a deeper understanding of children's needs and rights, can lead to a notable decrease in child labour. Child labour remains a persistent issue that, even when addressed in specific areas or industries, tends to find new opportunities to emerge in unforeseen ways. Therefore, the strategy to tackle this issue must be as flexible and responsive as child labour itself. There is no straightforward, immediate solution to child labour, nor is there a one-size-fits-all plan for action. Access to education plays a crucial role in the battle against child labour. To prevent children from entering the workforce, Education International emphasizes the importance of early school enrolment. This opportunity allows children to lead a better life now while simultaneously providing them with the necessary skills for future success.¹⁷ Economic development, social harmony, and legitimate governance all depend on a well-educated and skilled population.

It is projected that a significantly larger portion of the population would pursue formal education if all educational fees were eliminated. Implementing a strategy aimed primarily at lifting children out of poverty through enhanced education can reduce the number of young individuals involved in labour today. No individual should have the authority to hinder another's ability to improve themselves and their community through formal education.

¹⁵ Bilal Ahmad Bhatt, "Child Labour in the Cotton Industry of Uzbekistan: A Sociological Study" 54 *Centre of Central Asian Studies, University of Kashmir* 85 (2011).

¹⁶ ILO, *Tackling Child Labour: From Commitment to Action International Programme on The Elimination of Child Labour (IPEC)*, Geneva (2012).

¹⁷ UNESCO, *International Standard Classification of Education* (Paris 1997)

5. Role of Education in controlling child labour

Obtaining precise and comprehensive information regarding the participation of children in labour-intensive activities has consistently posed challenges. Such activities frequently entail breaches of laws and regulations, making it difficult to collect information, which may also be deliberately suppressed. A significant portion of this work is situated within informal sectors, including agriculture and home-based production units in urban settings. These activities are challenging to monitor and are often inaccessible to researchers. Children engaged in these sectors frequently remain unseen. This situation elucidates why this type of family-oriented employment of children is typically excluded from studies on child labour.¹⁸ Nevertheless, increased scrutiny and awareness among consumers are expected to yield positive outcomes. In fact, there is evidence indicating a general reduction in child participation in the Worst Forms of Child Labour (WFCL) over the past decade. Additional factors, such as enhanced access to education, are also likely to play a significant role and can be utilized to expedite progress. While this signifies a favourable trend, the repercussions of the COVID-19 pandemic may threaten to reverse the recent advancements in this domain, as children may be compelled to undertake work to assist families facing severe economic difficulties.

The Child Labour Prohibition and Regulation Act, 1986 prohibits the engagement of children under the age of 14 years in all occupations, and of adolescents in hazardous occupations and processes.¹⁹

Nevertheless, this definition effectively omits children who serve as family caregivers or are involved in family businesses. In sectors such as agriculture and home-based industries, where compensation is directly tied to output (for instance, the harvest, the quantity of beedis rolled, or the number of caps embroidered), it is probable that the contributions of children remain legally and statistically unrecognized, as their efforts are frequently aggregated with those of adult household members.²⁰ This complicates the accurate assessment of the actual incidence of child labour in India.

6. Role of NCLP Schools

The Government of India launched the National Child Labour Project (NCLP) Scheme in 1988 with the aim of rehabilitating working children. Through this Scheme, children engaged in labour are identified via child labour surveys, removed from their work environments, and enrolled in special schools. This initiative is designed to create a supportive environment that facilitates their integration into the mainstream education system. In these Special Schools, students receive not only formal education but also a monthly stipend, nutritional support, vocational training, and regular health check-ups. Furthermore, efforts are made to engage the families of these children, ensuring they benefit from various developmental and income/employment generation programs offered by the Government. Currently, NCLP schools operate in 267 districts across India.

7. Role of NGOs in prohibiting child labour

Non-governmental organisations (NGOs) in India are working diligently to persuade businesses within the country to refrain from filling job vacancies with minors by hiring other children, aiming to eradicate the practice of child labour. They are exerting considerable effort to address this pervasive societal problem definitively. Furthermore, they have been advocating for communities to report any instances of underage workers being employed in businesses to the relevant authorities. This initiative has been ongoing for a significant period.

Despite having access to reservation facilities, children belonging to communities such as scheduled tribes, scheduled castes and Other Backward Classes face a heightened risk of being involved in child labour. This risk is exacerbated by the fact that children from these communities are more likely to be scheduled tribes. Classes are at a greater risk of engaging in child labour.

They have been educating the public on the definition of child labour and raising awareness among the general populace. Additionally, they have been directly engaging with vulnerable groups, informing these communities about the importance of preventing children from participating in any form of labour. Their focus has particularly been on the issue of child labour in agriculture.²¹

¹⁸ Deniel Holgado, "Impact of Child Labour on Academic Performance: Evidence from the Program Educame Primero Colombia" 34 *International Journal of Educational Development* 63 (2014). ¹⁸ UNESCO, *International Standard Classification of Education* (Paris 1997)

¹⁸ Deniel Holgado, "Impact of Child Labour on Academic

¹⁹ Editorial, "A Law that Allows Child Labour" *The Hindu*, (2016)

²⁰ Shilpa Tripathi, "Child Labour and Education in India: Promise and Programme" 71 *The Indian Journal of Political Science* 476 (2010).

²¹ Peter Dorman, "Child Labour Education and Health: A Review of the Literature" *Statistical Information and Monitoring Programme on Child Labour (SIMPOC)* (2008).

8. Child Labour and Education in India

Education holds significant importance in the advancement of the nation. 'India, being the second most populous country globally, has a literacy rate of approximately 74 percent. While India's literacy rate is on the rise, numerous states within the country still exhibit low literacy levels. Kerala boasts the highest literacy rate at 94%, whereas Bihar has the lowest at 61.80%.

In the case of *Mohini Jain v. State of Karnataka*,²² the Hon'ble Supreme Court affirmed that the Right to Education is a fundamental right, obligating the state to establish educational institutions accessible to all citizens, not just the affluent.

The Constitution (Eighty-sixth Amendment) Act, 2002 introduced Article 21-A into the Constitution of India, ensuring free and compulsory education for all children aged six to fourteen years as a Fundamental Right, as determined by law by the State.

9. The Right of Children to Free and Compulsory Education (RTE) Act, 2009

It is stated that every child aged between 6 to 14 years, including those belonging to parents or guardians whose annual income falls below the minimum threshold set by the relevant Government, or children from the Scheduled Caste, Scheduled Tribe, socially and educationally backward classes, or any other group facing disadvantages due to social, cultural, economic, geographical, linguistic, gender, or other factors as determined by the relevant Government, shall possess the right to free and compulsory education in a local school until the completion of their elementary education.

The **Samagra Shiksha Scheme** applies to all children enrolled from pre-school to class XII. Its objective is to ensure access to quality education and to foster an inclusive classroom environment, thereby enabling children from all societal segments to receive the same standard of education.

The "**Pradhan Mantri Poshan Shakti Nirman (PM POSHAN)**" scheme has two primary goals:

1. To enhance the nutrition of children attending government schools.
2. To motivate underprivileged children to attend school.

Additionally, the Government of India has sanctioned the "New India Literacy Programme (NILP)" which aims to reach all non-literate individuals aged 15 years and older. This initiative encompasses the provision of Critical Life Skills, Basic Education, Vocational Skills, Continuing Education, and the formation and engagement of Self-Help Groups (SHGs).

II. CONCLUSION

Child labour has a detrimental impact on both social and economic factors. The primary cause of child labour is poverty. Unemployment and the necessity to survive often compel families to make desperate choices. Child labour should never be tolerated. Nevertheless, it remains evident that individuals across the nation employ children to benefit from lower wages. One should not endorse child labour, nor should anyone permit the hiring of children for any form of work.

The fundamental reasons for child labour include poverty, illiteracy, and unemployment. Illiterate individuals often do not send their children to school. Rather than enrolling them in educational institutions, they compel them to earn money. Consequently, young children are deprived of education, which results in their inability to secure good job opportunities, making them vulnerable to child labour or criminal activities.

Education fosters critical thinking, which is essential for teaching individuals how to apply logic in decision-making and interpersonal interactions. Education equips a person with the necessary qualifications for basic job requirements, increasing their chances of obtaining better employment and a higher quality of life.

²²AIR 1992 SC 666S

The eradication of child labour remains a distant aspiration for India. However, education can serve as a powerful tool in the fight against child labour. Our lawmakers are making efforts to address this issue, but it is imperative that we, as citizens of India, assist the government in resolving this problem. Issues such as poverty and illiteracy contribute to child labour, and through a collective effort from all of us, we can undoubtedly help children escape the cycle of labour and lead better lives, ultimately bringing about significant economic and social transformation in India.

III. SUGGESTIONS

(A) The government ought to implement activities and programs designed to enhance the accessibility of quality and relevant education for both girls and boys.

(B) Additionally, the government should enforce the current child labour laws while making improvements to better protect children, particularly girls.

(C) Ward councillors, in collaboration with the government, should aim to direct cash transfers to impoverished households, thereby diminishing child labour.

(D) School administrators should inform parents about the issues surrounding child labour activities and their associated dangers during PTA meetings.