

## PROSPECTS AND CHALLENGES IN MAKING SUBSTANTIAL EFFORTS TO ELIMINATE DISPARITIES AND ENSURE QUALITY WITH EQUITY WITH REFERENCE TO CHILD RIGHTS

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**Abstract:** Child rights refer to the basic rights of all child irrespective of their ability, citizenship, ethnicity, gender, language, nationality or race. These rights play an important role in promoting all-round development of an individual as well as nation.

Child Labour is a serious blot on our efforts to project India as a dynamic country on the move. According to International Labour Organisation (ILO) statistics, India has perhaps the largest child labour force in the world, which is around 16.5 million. Unofficially, however the estimate is around 45 million of which around 20 % are in urban areas and the rest in rural areas.

Children need to be protected against exploitation and abuse. They need to be given rights of education, nutrition and a healthy lifestyle. In 1959, United Nations Organization (UNO) organised Convention on the Rights of Child which was joined by more than 191 countries.

In India, a number of labour legislations have been enacted to promote the condition of the child labour keeping in view the development of nation and national economy. But for industrial regeneration it is necessary that the partners of the industry must care their respective defects. Since independence both legislation and public opinion have done a lot to improve the conditions of the children but unfortunately the employers have not responded very appreciably.

The objective of this research-article are three fold, first-to study the various aspects of Child Rights in present scenario with special reference to Human Rights and Indian Labour Laws, second- to study the impact of Child Rights on Indian Labour Laws and lastly- the implementation aspect of Child Rights in accordance with Human Rights and Indian Labour Laws. The emphasis has been given to the objectives and challenges of Child Rights. It is an endeavour to demonstrate the connectivity between Child Rights and Indian Labour Laws. It is also sought to be demonstrated how Child Rights contributes towards building healthy nation. Finally, this research-article discusses various dimensions of Child Rights and Indian Labour Laws.

Through this research-article, I tried my level best to highlight the present condition of Indian children with special emphasis on Human Rights and Indian Labour Laws. Our policy-makers even now fail to recognize their responsibility and obligation towards the overall development of society as well as state.

**Keywords:** Child Labour, Child Rights, Human Rights, Indian Labour Laws, International Labour Organisation, Industrial Regeneration, National Economy, United Nations Organization.

**Introduction:** The Republic of India with a population of just over a billion is the second most populous state in the world. It has a population growth rate of 1.4% and literacy rate of 60%. Ethnically the Indian is dominated by Indo-Aryan race that is 72% of the total population. On religious lines the population is dominated by Hindus who are 81.3%. The Indian labor force is 406 million, with 60% in agriculture, 17% industry and 23% services. According to the survey, it has been observed that out of each 10 labour, there is 1 child labour.

The present research-article is related to the comparative study of Child Rights and Indian Labour Laws. It also includes Human Rights and Women Rights. The study ends with conclusion.

**Child Rights: Concept of Child Rights:** Child Rights refer to the human rights of children with particular attention to the rights of special protection and care afforded to minors. The Convention on the Rights of the child (1989) defines a child as any human person who has not reached the age of eighteen years. Child

rights include their right to association with both parents, human identity as well as the basic needs for physical protection, food, universal state-paid education, health care, and criminal laws appropriate for the age and development of the child, equal protection of the child's civil rights and freedom from discrimination on the basis of the child's race, gender, sexual orientation, gender identity, national origin, religion, disability, color, ethnicity, or other characteristics. Interpretations of child rights range from allowing children the capacity for autonomous action to the enforcement of children being physically, mentally and emotionally free from abuse, though what constitutes "abuse" is a matter of debate.

According to 2001 Census, India had 12.6 million children, aged 5-14, who work either part-time or full-time. Of these over 60 % work in unorganised agriculture sector, and the rest in other unorganised labour markets. Poverty, lack of schools, poor education infrastructure and growth of unorganised

economy are considered as the most important causes of child labour in India. A 2009-2010 nationwide survey found child labour prevalence had reduced to 4.98 million children (or less than 2% of children in 5-14 age group).

It is in this context that we have to take a relook at the landmark passing of the Right of Children to Free and Compulsory Education (RTE) Act 2009, which marks a historic moment for the children of India. For the first time in India's history, children will be guaranteed their right to quality elementary education by the state with the help of families and communities. The world cannot reach its goal to have every child complete primary school by 2015 without India. Although there have been significant improvements in the proportion of children from socially disadvantaged groups in school, gaps still remain. Girls are still less likely to enrol in school than boys; in 2005, for upper primary school (Grades 6-8) girls' enrolment was still 8.8 points lower than boys, for Scheduled Tribes (ST) the gender gap was 12.6 points and it was 16 points for Scheduled Castes (SC). RTE provides a ripe platform to reach the unreached, with specific provisions for disadvantaged groups such as child labourers, migrant children, children with special needs, or those who have a "disadvantage owing to social, cultural economical, geographical, linguistic, gender or such other factors." Bringing 8 million out-of-school children into classes at the age-appropriate level with the support to stay in school and succeed poses a major challenge.

Article 24 of India's constitution prohibits child labour, but only in factories, mines or hazardous employment. The Indian Penal Code, the Juvenile Justice (care and protection) of Children Act-2000, and the Child Labour (Prohibition and Abolition) Act-1986 provide a basis in law to identify, prosecute and stop child labour in India. Nevertheless, child labour is observed in almost all unorganised, small scale, informal sectors of the Indian economy.

Scholars suggest inflexibility and structure of India's labour market, size of informal economy, legal hurdles preventing industries from scaling up and lack of modern manufacturing technologies are major macroeconomic factors encouraging demand for and acceptability of child labour.

As per law, children don't have autonomy or the right to make decisions on their own for themselves in any known jurisdiction of the world. Some believe that this state of affairs gives children insufficient control over their own lives and causes them to be vulnerable.

**Types of Child Rights:** Children have two types of human rights under international human rights law. They have the same fundamental general human rights as adults, although some human rights, such as

the right to marry, are dormant until they are of age, secondly, they have special human rights that are necessary to protect during their minority. General rights operative in childhood include the right to security of the person, to freedom from inhuman, cruel, or degrading treatment, and the right to special protection during childhood. Particular human rights of children include, among their rights, the right to life, the right to a name, the right to express his views in matters concerning the child, the right to freedom of thought, conscience and religion, the right to health care, the right to protection from economic and sexual exploitation, and the right to education.

**Difference Between Child Rights and Youth Rights:** In the majority of jurisdictions, for instance, children are not allowed to vote, to marry, to buy alcohol, to have sex, or to engage in paid employment. Within the youth rights movement, it is believed that the key difference between child rights and youth rights is that child right supporters generally advocate the establishment and enforcement of protection for children and youths, while youth rights (a far smaller movement) generally advocates the expansion of freedom for children and/or youths and of rights such as suffrage.

**International Human Right Law:** The Universal Declaration of Human Rights is seen as a basis for all international legal standards for children's rights today. There are several conventions and laws that address children's rights around the world. A number of current and historical documents affect those rights, including the Declaration of the Rights of the Child, drafted by Eglantyne Jebb in 1923, endorsed by the League of Nations in 1924 and reaffirmed in 1934. A slightly expanded version adopted by the General Assembly in 1959. It later served as the basis for the Convention on the Rights of the Child.

**International Covenant on Civil and Political Rights:** The United Nations adopted the International Covenant on Civil and Political Rights (ICCPR) in 1966. The ICCPR is a multilateral international covenant that has been ratified or acceded to by nearly all nations on Earth. Nations which have become state-parties to the covenant are required to honour and enforce the rights enunciated by the Covenant. The treaty came into effect on 23 March 1976. The rights codified by the ICCPR are universal, so they apply to everyone without exception and this includes children. Although children have all rights, some rights such as the rights to marry the right to vote come into effect only after the child reaches maturity.

Some general rights applicable to children include:

1. the right to life.
2. the right to security of person.
3. the right to freedom from torture.

4. the right to freedom from cruel, inhuman or degrading treatment or punishment.

5. the right to be separated from adults when charged with a crime, the right to speedy adjudication, and the right to be accorded treatment appropriate to their age.

Article 24 codifies the right of the child to special protection due to his minority, the right to a name, and the right to a nationality.

**Convention on Child Rights:** The United Nations' Convention (1989) on the Rights of the Child, or CRC, is the first legally binding international instrument to incorporate the full range of human rights –civil, cultural, economic, political and social rights. Its implementation is monitored by the Committee on the Rights of the Child. National governments that ratify it commit themselves to protecting and ensuring children's rights, and agree to hold themselves accountable for this commitment before the international community. The CRC is the most widely ratified human rights treaty with 195 ratifications. South Sudan and the United States are the only two countries which have only ratified the CRC. The CRC is based on four core principles, namely the principle of non-discrimination, the best interests of the child, the right to life, survival and development, and considering the views of the child in decisions which affect them (according to their age and maturity). The CRC, along with international criminal accountability mechanisms such as the international criminal court, the Yugoslavia and Rwanda Tribunals, and the Special Court for Sierra Leone, is said to have significantly increased the profile of children's rights worldwide.

**Enforcement Organizations and Mechanisms:** A variety of enforcement organizations and

mechanisms exist to ensure children's rights. They include the Child Rights Caucus for the United Nations General Assembly Special Session on Children. It was set up to promote full implementation and compliance with the Conventions on the Rights of the Child, and to ensure that child rights were given priority during the UN General Assembly Special Session on Children and its Preparatory process. The United Nations Human Rights Council was created "with the hope that it could be more objective, credible and efficient in denouncing human rights violations worldwide than the highly politicized Commission on Human Rights." The NGO Group for the Convention on the Rights of the Child is a coalition of international non-governmental organisations originally formed in 1983 to facilitate the implementation of the United Nations Convention on the Rights of the Child.

**National Law on Child Rights:** Many countries around the world have children's rights ombudspersons or children commissioners whose official, governmental duty is to represent the interests of the public by investigating and addressing complaints reported by individual citizens regarding children's rights. Children's ombudspersons can also work for a corporation, a newspaper, an NGO, or even for the general public.

**Challenges in Promotion and Protection of Child Rights**

1. Lack of access to education
2. Preference to Son
3. Child Marriage
4. Negative Cultural Practices
5. Poverty of Human Mind.

#### International Organisations for Child Rights

Sl. No.	Country	Name of the Organization
1.	India	Lakshyam NGO, Save the Children
2.	Australia	Chilout
3.	Bangladesh	Children's Heaven, Breaking the Silence, Child Parliament, (Advocacy wing of NCTF, Bangladesh), Phulkuri Ashar
4.	Canada	Child Welfare League of Canada
5.	Colombia	Pies Descalzos Foundation
6.	Germany	Deutscher Kinderschutzbund, Kinderstern
7.	Hong Kong	Ecumenical Coalition on Third World Tourism
8.	International (Global)	Wrists 4 Rights
9.	United States	Children's Defense Fund, Children's Rights Council, Doctors Opposing Circumcision, First Focus, Intact America, The Global Fund for Children, National Safe Place, NOCIRC, Stand for Children, Child advocacy 360, Voices for America's Children, Distressed Children & Infants International
10.	United Kingdom	Children's Rights Alliance for England, Action on Rights for Children Child Rights Information Network, Save the Children, National Society for the Prevention of Cruelty to Children

11.	Thailand	Development and Education Programme for Daughters and Communities, Fight Against Child Exploitation, Child Watch Phuket, ECPAT
12.	Switzerland	Defence for Children International, Terre des hommes
13.	Rwanda	Ineza For Children Rwanda
14.	Iran	Stop Child Executions Campaign
15.	Israel	Israel National Council for the Child
16.	Pakistan	Children Parliament Pakistan
17.	South Africa	Children's Rights Project, UWC
18.	Sweden	Children First Now
19.	Tanzania	Mkombozi
20.	Nepal	Sano Sansar Initiative
21.	The Netherlands	Kids Rights Foundation
22.	Child Workers in Asia	International Falcon Movement, Watchlist (NGO)

### National Organisations for Child Rights:

1. National Commission for Protection of Child Rights (NCPDR)
2. Centre For Child Rights
3. Indian Alliance for Child Rights
4. Giri National Labour Institute (NRCCL)
5. Bharat Integrated Social Welfare Agency (BISWA)
6. Bharat Vikas Parishad (BVP)
7. Centre for Education, Development Action and Research (CEDAR)
8. Centre of Concern for Child Labour (CCCL)
9. Child In Need Institute (CINI)
10. Childline India Foundation (CIF)
11. Educational Trust of India (ETI) etc.

### Non-Governmental Organisations for Child Rights

1. Butterflies is a registered voluntary organization working with street and working children in Delhi since 1989
2. Concern for working child is an Indian social organization working in partnership with all the major actors to implement sustainable and appropriate solutions, so that children do not have to work:
3. Children Rights and You (CRY) is an Indian non-profit organization, created in 1979, leading work for child rights.
4. Rescue Foundation is a social organization based Mumbai, which has been working for the Rescue, Rehabilitation, Reintegration and Empowerment of trafficked women and children.
5. Safer India is the site of an NGO started by Ms. Kiran Bedi. You can go to this site and log your complaint regarding any crime, if the police at your place is not accepting your complaint. Then this NGO will mail your complaint to the DGP of your area. You can also use this mail as the legal document in case of filing a case in the court of law.
6. Shakti Vahini is a social organisation active among others in fields of Women and Child issues, trafficking in Human Beings, Bonded labour,

- Health, Education, Legal Aid and training, Community development, etc.
7. South Asian Coalition on Child Servitude (SACCS) is the first civil society initiative to fight against child slavery and child labour since 1980 in India.
8. MelJol is an organization that works for financial education and social education of school going children.
9. Asha for Education works for education of underprivileged sections of society.
10. Smile Foundation is to empower underprivileged children, youth and women through relevant education, innovative healthcare and market-focused livelihood programmes.
11. MV Foundation's approach is based on a firm conviction that no child works and that all children in the 5-14 years age group must be in school. In other words it recognizes the inextricable link between the program for universalisation of education and abolition of all forms of child labour. It follows an 'area-based approach' as against a target based approach. It seeks to address the rights of the entire universe of children- both in school and out of school- in the 5-14 years age group in its area of operation.
12. Pratham works for Universalisation of Primary Education. Its vision is "Every child in school and learning well".
13. AVANI is working directly with children, involved in rescue of child labourers & imparting education to them.
14. Prayas Institute of Juvenile Justice (New Delhi)
15. Voluntary Health Association of Tripura focuses on Reduction of Child Violence including Trafficking and Child Labor by involving Faith Leaders, Panchayats, ICDS Workers, BSF and Media.
16. Centre for Health Education, Training and Nutrition Awareness (CHETNA)
17. Bachapan Bachao Andolan The organiser / leader of Global March Against Child Labour

18. CREDA (Centre for Rural Education and Development Action) - Initially CREDA aimed at abolition of worst forms of child labour through education and social mobilization. Later, children drawn from all types of work were considered as working children and targeted for their empowerment through education, social mobilisation and community participation.
19. World Vision India - World Vision conducts nine special initiative programmes, targeting in particular street children, bonded child labourers and child victims of sexual exploitation.
20. Center for Sustainable Human Development- It works for the rescue of bonded child labourers in Chennai and coordinates through networking in Campaign Against Child Labour (CACL)
21. Global March against Child Labour is an international movement dedicated to giving every child a chance to live and grow without the burden of exploitative work. Global March is a movement to mobilise worldwide efforts to protect and promote the rights of all children, especially the right to receive a free, meaningful education and to be free from economic exploitation and from performing any work.
22. Action for Rural Empowerment Network - An NGO working directly with children to promote the welfare of the children and to work for the eradication of child labour practices and provide alternative education
23. Andhra Pradesh Urban and Rural Social Development Society (APURSDS)
24. Agency of Research on Integration Services & Empowerment (ARISE)
25. Campaign against Child Labour (CACL) etc.

**Conclusion:** The purpose of this article is not to paint a picture of despair but rather to place in perspective the challenges that we face in the development of child protection programs in India. The Indian spirit and culture have much to offer, and there is a need to learn from the traditions and cultural heritage that is still here. Much more can be learned from other countries and perhaps can be applied in the rest of the world. There is no doubt UNICEF, some NGOs and Indian Government are addressing the problem. Progress has been made on all fronts with regard to child protection, but without

debating and taking steps to address the issue of poverty in India, child protection will continue to be an academic issue. The eradication of poverty is essential to attain the hopes of the United Nations Convention on the Rights of the Child in India.

Poverty is one of the important factors for this problem. Hence, enforcement alone cannot help solve it. The Government has been laying a lot of emphasis on the rehabilitation of these children and on improving the economic conditions of their families.

Many NGOs like CARE India, Child Rights and You, Global March against Child Labor, etc., have been working to eradicate child labour in India. The child labour can be stopped when knowledge is translated into legislation and action, moving good intention and ideas into protecting the health of the children. The endurance of young children is higher and they cannot protest against discrimination. Focusing on grassroots strategies to mobilize communities against child labour and reintegration of child workers into their homes and schools has proven crucial to breaking the cycle of child labour. A multidisciplinary approach involving specialists with medical, psychological and socio-anthropological level is needed to curb this evil. Substantial efforts are essential to eliminate disparities and ensure quality with equity. Successful implementation of the Act would certainly go a long way in eradicating child Labor in India.

**"There can be no keener revelation of a society's soul than the way in which it treats its children."**

.....Nelson Mandela

**Recommendations:**

Educating the child especially girls

Ensure proper implementation of Strategies, Policies and Legislations for ending child marriage at grassroots level

Encourage and support, as appropriate, non-governmental organizations and community-based organizations in their efforts to promote changes in negative attitudes and practices towards child especially girls

Set up and promote educational programmes and develop teaching materials that will sensitize children  
Ensure proper implementation of Strategies, Policies and Legislations for Eradication of poverty.

**बाल अधिकार**

बच्चों के अधिकारों की किसी को कोई चिंता नहीं, क्यों के बच्चा खुद मुँह से कुछ बोल सकता नहीं !!  
 अपने अधिकार के लिए सब लड़ते रहते हैं पर, अधिकारों के लड़ने के लिए बच्चे कमज़ोर होते हैं !!  
 हमने की यह पहल, के बच्चों के अधिकारों के लिए लड़ना है, बच्चों को उनका अधिकार दिला कर समाज में रखना है !!  
 हम बच्चों का साथ देते हैं मुँह पर उनकी मुस्कान देते हैं, दिल में उनके अरमान देते हैं, आँखों में सपने हज़ार देते हैं !!  
 सुरक्षा का एहसास देते हैं, समाज में उनको उनका स्थान देते हैं, बच्चों को अधिकार दिलाते हैं हम, समाज से भी लड़ जाते हैं हम !!

हम देते हैं बच्चों का साथ और रोकते हैं बाल व्यापार, हम ने यह ठानी है बच्चों को शोषण से मुक्ति दिलानी है !!  
 जिन बच्चों का होता है शोषण, क्यों समाज नहीं सोचता है उनकी कंडीशन !!  
 हम ने यह सोचा है हर बच्चा फूलों जैसा है, उसका भी अधिकार होता है !!  
 बगिया के फूलों को बचाना है, हमें बच्चों को उनका हक़ दिलाना है !!  
 समाज को अभी जगाना होगा, बच्चों को आगे ले जाना होगा,  
 हर बच्चे को उसका बचपन लौटाना है , बच्चों को फिर से बच्चा बनाना है !!

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