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ANALYSIS OF THE CHILD LABOUR (PROHIBITION AND REGULATION) ACT

~ *Paridhi Passi*

INTRODUCTION

“There can be no keener revelation of a society’s soul than the way in which it treats its children.” – Nelson Mandela

Step into a small workshop, a roadside stall, or a home-based production unit somewhere in India. Look closely. You might notice kids carrying loads far too heavy for their tiny bodies, rolling bidis with blistered fingers, stitching garments adults leave unfinished. Schools exist, yes—but for these young ones, learning often feels like a distant dream.

The Constitution promises protection. Laws ban certain practices. Policies talk about rehabilitation. And yet, kids keep helping out. Why does this happen? How does the law coexist with poverty, social pressure, and informal work that is so embedded in daily life? The uncomfortable truth here is that it is not an exception. It is systemic. It is normalized. And, as one sees, it continues.

The Child Labour (Prohibition and Regulation) Act, 1986, with the 2016 Amendment, tried to intervene.¹ The law moved from cautious regulation to explicit prohibition. But has it really changed kids’ lives? Or does it mostly make India appear compliant on paper? Hard questions, yes—but necessary ones.

LEGISLATIVE BACKGROUND

Before 1986, India’s approach was patchy, partial, inconsistent. The Factories Act of 1948 and the Mines Act of 1952 imposed age restrictions, yes—but only in formal factories and

¹ The Child Labour (Prohibition and Regulation) Act, No. 61 of 1986, INDIA CODE (1986), as amended by The Child and Adolescent Labour (Prohibition and Regulation) Amendment Act, No. 35 of 2016.

mines.² Beyond that, in agriculture, home-based work, and roadside stalls, kids kept helping out. The law protected what it could see. Everything else? Invisible. And that invisible work? Massive.

The Constitution spoke more clearly. Article 24 banned hazardous work for kids under fourteen.³ Articles 39(e) and (f) required the State to prevent exploitation and protect childhood.⁴ Article 21A made education a fundamental right.⁵ Childhood is not work. The message was simple.

But laws alone cannot erase necessity. In *M.C. Mehta v. State of Tamil Nadu*, regarding kids in Sivakasi's fireworks industry, the Supreme Court recognised that banning work alone is not enough.⁶ Kids need education, compensation, welfare. Without these, they return to work. The 1986 Act reflects this tension—between constitutional ideals and harsh economic reality. Absolute abolition was postponed. Caution prevailed.

KEY PROVISIONS OF THE 1986 ACT

The 1986 Act drew a line: hazardous work banned, other work regulated. Kids under fourteen were barred from listed hazardous industries.⁷ In other sectors, work was allowed, but with limits: restricted hours, mandatory breaks, no night shifts.

The law reflected caution. It separated the clearly harmful from what it called “manageable.” But the real challenge was never drafting—it was enforcement.

Hazardous occupations were easy to list. In reality, the line blurred. A kid rolling fireworks at home faced the same risks as one inside a factory. Brick kilns, workshops, roadside industries—kids were exposed everywhere. Enforcement was uneven. Inspections sporadic. Records incomplete. Progress was made, yes—but compromise was inevitable. And, as one might notice, it shows.

THE 2016 AMENDMENT AND ENHANCED SAFEGUARDS

² The Factories Act, No. 63 of 1948, INDIA CODE (1948); The Mines Act, No. 35 of 1952, INDIA CODE (1952).

³ INDIA CONST. art. 24.

⁴ INDIA CONST. art. 39(e), (f).

⁵ INDIA CONST. art. 21A.

⁶ *M.C. Mehta v. State of Tamil Nadu*, (1996) 6 S.C.C. 756 (India).

⁷ The Child Labour (Prohibition and Regulation) Act, No. 61 of 1986, § 3 (India).

The 2016 Amendment was bolder. Kids under fourteen cannot work at all.⁸ Adolescents, 14–18, are barred from hazardous work, though regulated work elsewhere is allowed.⁹ Penalties are stricter.¹⁰ Rehabilitation is explicitly tied to education and skill development. The law aligns more closely with constitutional ideals and international standards.

Yet ambiguities remain. Kids helping in family enterprises are exempt. Think about it: is a kid aged ten carrying bricks for a family building project really a help, or is it child labour in disguise? In families that are just about managing, the difference between helping out and working is blurred. The Amendment lays down the law, yes—but whether it really makes a difference is down to how it is enforced.

CHALLENGES AND CRITICISM

Work persists because poverty persists. Laws cannot feed kids, provide uniforms, or replace lost income. Informal, seasonal, subcontracted tasks often escape notice. Migrant labour and layered supply chains diffuse accountability, making enforcement tricky.

Rehabilitation is another hurdle. Removing kids from work is meaningless if schools are inaccessible, underfunded, or expensive. Without real alternatives, kids return to work, erasing legal gains.

Coordination is the ultimate difficulty. Labour authorities, education systems, welfare departments, local governance—they all need to align. Without alignment, even the clearest law is powerless.

CONCLUSION

The shift from the 1986 Act to the 2016 Amendment shows one clear principle: kids under fourteen must not work. The law is firm.

But clarity on paper does not guarantee change. Enforcement, careful interpretation of exceptions, and meaningful rehabilitation decide the real impact. Success is measured not by text, but by lives—the ten-year-olds carrying bricks, stitching garments, rolling fireworks—kids who deserve childhood, not work.

⁸ The Child and Adolescent Labour (Prohibition and Regulation) Amendment Act, No. 35 of 2016, § 3 (India).

⁹ Id. § 3A.

¹⁰ Id. § 14.

The law has drawn a boundary. Will society respect it, or ignore it when work begins at sunrise? Reality shows the answer varies. And that is India's continuing challenge.