

# CONSTITUTIONAL FRAMEWORK ON CHILD LABOUR IN INDIA

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## Abstract

*Child labour continues to be one of the most entrenched social evils in India, affecting the physical, mental, and emotional development of children. The Indian Constitution lays down a comprehensive framework for the protection of children against exploitation and ensures their right to development and education. This article explores the constitutional vision underpinning the prohibition of child labour, focusing on the Preamble, Fundamental Rights, Directive Principles of State Policy, and relevant judicial interpretations. It argues that while the Constitution provides a robust legal and moral base for eradicating child labour, the gap between constitutional ideals and societal realities necessitates stronger implementation mechanisms.*

**Keywords:** *Child labour, Indian Constitution, Child rights, Fundamental Rights, Directive Principles of State Policy, Preamble, Judicial interpretation, Exploitation, Education, Constitutional implementation.*

## 1. Introduction

The Indian Constitution is not merely a legal document but a vision statement for the creation of a just and egalitarian society. It recognizes children as the most vulnerable group requiring special protection. Although the Constitution does not dedicate an exclusive chapter to child rights, it integrates child protection through various provisions under Fundamental Rights, Directive Principles of State Policy, and the Preamble.

These provisions collectively aim to prohibit child labour, promote universal education, and ensure the dignity and development of every child. The Constitution also enables the State to frame child-specific laws and policies, making it a dynamic instrument for social transformation. However, despite this comprehensive constitutional framework, child labour remains prevalent due to socio-economic and administrative challenges.

## 2. The Preamble and Its Ideals

The Preamble of the Constitution of India embodies the foundational values of justice, liberty, equality, and fraternity. Although it is non-justiciable, it serves as a guiding star for interpreting constitutional provisions and policies related to child welfare.

- ❖ **Social Justice:** In the context of child labour, the ideal of social justice mandates the elimination of structural inequalities that push children into the labour force.
- ❖ **Economic Justice:** This principle envisions an economic order where children are not compelled to work due to poverty or systemic deprivation.
- ❖ **Equality of Status and Opportunity:** Children drawn into labour early are denied equal opportunities for education and growth, reinforcing generational cycles of poverty and exclusion.
- ❖ **Liberty and Dignity:** A child engaged in exploitative labour is denied the liberty to learn, express, or evolve. More importantly, child labour violates the principle of human dignity.

The Supreme Court in *Kesavananda Bharati v. State of Kerala* recognized the Preamble as part of the Constitution's basic structure. In *M.C. Mehta v. State of Tamil Nadu*, the Court connected the ideals of the Preamble with the rights of children engaged in hazardous occupations and directed the State to ensure their rehabilitation and education.

### 3. Directive Principles of State Policy and Child Labour

Though non-enforceable in court, the Directive Principles of State Policy (DPSPs) provide strong constitutional guidance for policymaking. They represent the moral and philosophical vision of the Constitution and complement the enforceable rights under Part III.

- ❖ **Article 39(e)** directs the State to ensure that children are not abused or forced by economic necessity to enter vocations unsuited to their age or strength.
- ❖ **Article 39(f)** requires that children are provided with opportunities to develop in a healthy manner and in conditions of freedom and dignity.
- ❖ **Article 45**, in its original form, directed the State to provide free and compulsory education to all children under the age of 14. This was later realized through the 86th Constitutional Amendment, which gave birth to Article 21A as a Fundamental Right.

These directives have laid the groundwork for a series of educational and welfare schemes that aim to prevent child labour by ensuring school enrolment, retention, and nutritional support.

## 4. Fundamental Rights Related to Child Labour

### 4.1 Article 14 – Equality Before Law

Article 14 ensures that all persons are equal before the law and entitled to equal protection of the laws. This has significant implications for child labourers, who often come from socially and economically disadvantaged backgrounds. The principle demands targeted interventions to eliminate discriminatory practices that lead to exploitation and denial of rights.

## 4.2 Article 15(3) – Protective Discrimination for Children

While Article 15(1) prohibits discrimination on several grounds, Article 15(3) empowers the State to make special provisions for children. This enabling clause permits affirmative action and justifies welfare legislation and schemes specifically focused on children engaged in or vulnerable to labour.

## 4.3 Article 19(1)(a) – Freedom of Speech and Expression

Although usually exercised by adults, the right to freedom of expression extends to children. However, children engaged in labour are often deprived of education and denied the ability to develop cognitive and expressive faculties. As such, the right becomes ineffective for child labourers without parallel educational and social protections.

## 4.4 Article 21 – Right to Life and Personal Liberty

Article 21 has been interpreted to include the right to live with dignity, the right to health, shelter, and education. In *Bandhua Mukti Morcha v. Union of India*, the Supreme Court held that the right to life includes the right to be free from exploitative labour. In *Unnikrishnan J.P. v. State of Andhra Pradesh*, the Court declared that the right to education is integral to Article 21, further strengthening the link between child rights and constitutional protection.

## 5. Article 21A – Right to Free and Compulsory Education

Article 21A, inserted by the 86th Constitutional Amendment Act, 2002, makes it the duty of the State to provide free and compulsory education to children aged 6 to 14 years. This provision is instrumental in preventing child labour by keeping children in school and out of the workforce.

The Right of Children to Free and Compulsory Education Act, 2009 operationalizes Article 21A by establishing legal obligations for school infrastructure, teacher qualifications, student enrolment, and non-discrimination. The Supreme Court in *Ashok Kumar Thakur v. Union of India* recognized that education is foundational to the realization of other constitutional rights. In *M.C. Mehta v. State of Tamil Nadu*, the Court emphasized that child labour rehabilitation must necessarily involve education to break the cycle of exploitation.

Despite these advancements, challenges such as poor school infrastructure, socio-economic compulsions, and cultural acceptance of child labour continue to obstruct the realization of this right. The exemption provided for children working in “family enterprises” under related labour laws often serves as a loophole and undermines the protective spirit of Article 21A.

## Conclusion

The Indian Constitution provides a multidimensional framework for eliminating child labour and ensuring children's rights to education, dignity, and development. From the aspirational ideals of the Preamble to the enforceable rights in Part III and the guiding vision of the Directive Principles, the Constitution articulates a strong stance against child exploitation.

Judicial interpretations have consistently reinforced this framework by expanding the scope of Fundamental Rights to include educational and rehabilitative entitlements for child labourers. However, despite this rich constitutional foundation, the ground realities of persistent child labour expose gaps in enforcement, political will, and societal attitudes.

Realizing the constitutional promise requires a coordinated effort involving legislative reforms, administrative accountability, judicial vigilance, and active community participation. Only through a rights-based approach, rooted in constitutional morality, can India hope to fulfill its commitment to eliminate child labour and protect the dignity of every child.

## References

1. M.P. Jain, *Indian Constitutional Law*, 8th ed., LexisNexis, 2018.
2. Granville Austin, *The Indian Constitution: Cornerstone of a Nation*, Oxford University Press, 1966.
3. Upendra Baxi, "Social Justice and the Indian Constitution," *Indian Law Institute Journal*, Vol. 23, 1981.
4. P.N. Bhagwati, "Human Rights and the Constitution," *Supreme Court Journal*, Vol. 2, 1985.
5. D.D. Basu, *Introduction to the Constitution of India*, 24th ed., LexisNexis, 2019.
6. B. Sivaramayya, *Child Labour and the Law*, Eastern Book Company, 2002.
7. *Kesavananda Bharati v. State of Kerala*, AIR 1973 SC 1461.
8. *M.C. Mehta v. State of Tamil Nadu*, (1996) 6 SCC 756.
9. *Bandhua Mukti Morcha v. Union of India*, AIR 1984 SC 802.
10. *Unnikrishnan J.P. v. State of Andhra Pradesh*, AIR 1993 SC 2178.
11. *Ashok Kumar Thakur v. Union of India*, (2008) 6 SCC 1.
12. UNICEF, *State of the World's Children: The Right to Expression*, 2019.
13. Shanta Sinha, *Child Labour and Education: A Rights-Based Approach*, NCPCR, 2015.
14. Ministry of Education, Government of India, *Right to Education Annual Report*, 2023.
15. Upendra Baxi, *The Future of Human Rights*, Oxford University Press, 2006.
16. D.D. Basu, *Shorter Constitution of India*, 16th ed., LexisNexis, 2011.