



Government of Tamilnadu

Department of Employment and Training

Course : TNPSC Group I Mains Material
Subject : Social Issues in India and Tamil Nadu
Topic : Child Abuse and Child Labour

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Commissioner,

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CHILD ABUSE & CHILD LABOUR IN INDIA

CHILD ABUSE

According to the census of India definition, "A child worker is one who works for the major part of the day and is below the age of 14 years". Children of 14 years of age or below who are engaged in some kind of work that damages their physical, social or psychological development.

The United Nations Convention on the Rights of the Child defines child as "a human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier"

Forms of child abuse: According to UNICEF violence against children can be "physical and mental abuse and injury, neglect or negligent treatment, exploitation and sexual abuse.

1. **Physical Abuse:** Physical abuse is the inflicting of physical injury upon a child.
2. **Sexual Abuse:** Sexual abuse is inappropriate sexual behaviour with a child.
 - It is the act of engaging a child in any sexual activity that he/she does not understand or cannot give informed consent for or is not physically, mentally or emotionally prepared for.
 - It includes inappropriate touching, intercourse, incest, rape, sodomy, sexual exploitation, using a child for pornography, sexual materials, prostitution
3. **Emotional Abuse:** Emotional abuse is also known as verbal abuse, mental abuse, and psychological maltreatment. It includes acts or the failures to act by parents or caretakers that have caused or could cause, serious behavioural, cognitive, emotional, or mental trauma.
4. **Neglect:** It is the failure to provide for the child's basic needs. Neglect can be physical, educational, or emotional



Impact of child abuse:

Violence against children has lifelong impacts on health and well-being of children, families, communities, and nations.

Violence against children can:

1. Result in death. Homicide, which often involves weapons such as knives and firearms, is among the top three causes of death in adolescents, with boys comprising over 80% of victims and perpetrators.
2. Lead to severe injuries. For every homicide, there are hundreds of predominantly male victims of youth violence who sustain injuries because of physical fighting and assault.
3. Impair brain and nervous system development. Exposure to violence at an early age can impair brain development and damage other parts of the nervous system, as well as the endocrine, circulatory, musculoskeletal, reproductive, respiratory and immune systems, with lifelong consequences. As such, violence against children can negatively affect cognitive development and results in educational and vocational under-achievement.
4. Result in negative coping and health risk behaviours. Children exposed to violence and other adversities are substantially more likely to smoke, misuse alcohol and drugs, and engage in high-risk sexual behaviour. They also have higher rates of anxiety, depression, other mental health problems and suicide.
5. Lead to unintended pregnancies, induced abortions, gynaecological problems, and sexually transmitted infections, including HIV.
6. Contribute to a wide range of non-communicable diseases as children grow older. The increased risk for cardiovascular disease, cancer, diabetes, and other health conditions is largely due to the negative coping and health risk behaviours associated with violence.
7. Impact opportunities and future generations. Children exposed to violence and other adversities are more likely to drop out of school, have difficulty finding and keeping a job, and are at heightened risk for later victimization and/or perpetration of interpersonal and self-directed violence, by which violence against children can affect the next generation.



Measures taken: The constitutional provisions that deals with rights of children are:

Article 21: Provides for right to life and personal liberty

Article 21 (a): State shall provide free and compulsory education to all children of the age of six to fourteen years

Article 24: No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

Article 39(f): children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

Crimes punishable under IPC:

1. Foeticides (Crime against a foetus) Section 315 & 316 IPC.
2. Infanticides (Crime against new-born child) (0 to 1 year) Section 315 IPC.
3. Abetment to Suicide (abetment by other persons for commitment of suicide by children) Section 305 IPC.
4. Exposure & Abandonment (Crime against children by parents or others to expose or to leave them with the intention of abandonment): Section 317 IPC.
5. Procurement of minor girls (for inducement to force or seduce to illicit intercourse): Section 366-A IPC.
6. Selling of girls for prostitution (Section 372 IPC).
7. Buying of girls for prostitution (Section 373 IPC).
8. Rape (Sec. 376 IPC)
9. Kidnapping and Abduction (Sections 360, 361, 363, 366, 367, 369 of IPC)

Juvenile Justice (Care and Protection of Children) Act, 2015:

It is the fundamental law in India in dealing with children in need of care and protection. It caters to their needs through care, protection, development, treatment, social reintegration, through its child-friendly approach by addressing matters in the best interest of children.



Protection of Children from Sexual Offences Act (POCSO Act), 2012

The Act was established to protect the children against offences like sexual abuse, sexual harassment and pornography. It was formed to provide a child-friendly system for trial and punishment perpetrators.

1. Definition of child: Any person below eighteen years of age
2. Sexual abuse: Sexual abuse includes penetrative and non-penetrative assault. It also involves sexual harassment, pornography, etc.
3. It deems a sexual assault to be “aggravated” under certain circumstances, such as when the abused child is mentally ill or when the abuse is committed by a person in a position of trust or authority vis-à-vis the child, like a family member, police officer, teacher, or doctor.
4. People who traffic children for sexual purposes are also punishable under the provisions relating to abetment in the Act.
5. The Act prescribes stringent punishment graded as per the gravity of the offence, with a maximum term of rigorous imprisonment for life, and fine.
6. The Act provides for the establishment of Special Courts for trial of offences under the Act, keeping the best interest of the child as of paramount importance at every stage of the judicial process.
7. The Act incorporates child friendly procedures for reporting, recording of evidence, investigation and trial of offences.

Recent developments in POCSO:

In 2018, the Centre cleared the ordinance on POCSO act whereby death penalty will be given to those convicted of raping a child up to 12 years of age

In October 2018, the Union ministry of Law and Justice ratified a proposal by the Women and Child Development (WCD) ministry to scrap the time limit for reporting child abuse cases. The move has been applauded by activists on the grounds that this would enable victims to disclose such incidents when they gain the courage to report the matter as adults.

Prohibition of Child Marriage Act, 2006. In 2017, the SC criminalized sex with a child bride.

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Child Labour (Prohibition and Regulation Act), 1986, amended in 2016

Integrated Child Protection Scheme (ICPS), 2009

The scheme is based on the cardinal principles of “protection of child rights” and the “best interest of the child”. The important objectives of the scheme are:

1. To institutionalize essential services and strengthen structures
2. To create database and knowledge base for child protection services
3. To strengthen child protection at family and community level
4. To raise public awareness about child rights, child vulnerability and child protection services.

CHILDLINE India: It is a project of Ministry of Women and Child Development. The Childline India foundation, a NGO, operates a telephone helpline called Childline, for children in distress

National Policy on Children, 2013:

The policy recognizes that a multi-sectoral and multidimensional approach is necessary to secure the rights of children. It has identified four key priority areas: survival, health and nutrition; education and development; protection and participation, for focused attention.

Challenges:

Lack of database: The biggest challenges in child protection are the creation of a database of all child protection services, creation of a knowledge base, and tracking of missing children.

Issues with POCSO and ineffective implementation:

1. No provision of police training to deal sensitive cases of children.
2. No counselling available for children to recover the post crime trauma.
3. It encompasses the biological age of the child and silent on the mental age considerations so many victims of cerebral palsy are not taken care of.
4. Police harassment dilutes the effective functioning of special efforts by government.

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5. Lack of medical professionals in remote areas.
 6. The majority of abuse cases take place within the family environment, the perpetrators being close family relatives. Thus, most of the cases go unreported.

Missing children: Annually, large numbers of children go missing and there attempt to track them or trace them is largely inadequate.

Way Forward:

Legal measures, child protection schemes should be effectively implemented. Further, there is a need to develop standard protocols on child protection mechanisms at the district, block and village levels to ensure effective protective environment for children.

There is a need for allocation of adequate financial and human resources to child protection schemes in order to create a protective environment for children through strong service delivery mechanisms, outreach services and effective interventions.

To help child abuse victims there is a need to strengthen outreach services including professional help in the form of trauma counselling, medical treatment, police intervention and legal support.

The existing Childline service providing emergency outreach services to children in difficult circumstances should be expanded. With rising number of missing children, there is an urgent need to track them. Further the processes of their rescue, rehabilitation, repatriation and reintegration should be reviewed and strengthened while keeping in view the best interests of the child.

There should be a synergy between efforts being made by different stakeholders to address the issue of violence and crime against children. Child rights and protection issues should be integrated into the curricula of administrative institutes, police training academies, law colleges, medical colleges, etc. so that the professionals have both the sensitivity and the knowledge to deal with these issues.

To deal with child sexual abuse and ensure better reporting, there is a need to enhance parenting skills, knowledge of the subject and sensitivity.

Platforms addressing issues of child rights should have adequate children's representation with the opportunity for them to express their views.

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There is an urgent need to spread awareness on child rights, on the issues of violence against children and their impacts. Positive social and cultural norms, attitudes, traditions, behaviours and practices, which are essential to address issues such as gender-biased sex selection, child labour, and other protection concerns should be promoted.

CHILD LABOUR

The Labour Ministry has constituted a task force to ensure the effective implementation of the Child Labour (Prohibition & Regulation) Act, 1986.

Who is a child? "Child" as defined by the Child and Adolescent Labour (prohibition and regulation) Act 1986 is a person who has not completed the age of 14 years

What is child labour? The International Labour Organisation (ILO) defines child labour as work that deprives children of their childhood, their potential and their dignity, and that is harmful to their physical and mental development.

However, children or adolescents who participate in work that does not affect their health and personal development or interfere with their schooling, is not child labour. Example: helping their parents at home, assisting family or earning pocket money outside school hours and on holidays.

Child Labour in India- Statistics:

According to 2011 Census, there were more than 10.2 million “economically active” children in the age group of 5 to 14-5.6 million boys and 4.5 million girls. Child labour has decreased in rural areas however; it has increased drastically in the urban areas. An analysis (2016) by CRY (Child Rights and You) of census data shows that the overall decrease in child labour is only 2.2% per year from 2001 to 2011. There are five states which are the India’s biggest child labour employers- Uttar Pradesh, Bihar Rajasthan, Madhya Pradesh and Maharashtra.

Nature of Child Labour in India:

1. **Change in Location of work:** There has been an increasing involvement of children in home-based works and in the informal sector. The change in type of child

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labour mainly attributes to enforcement of legislation and awareness amongst buyers about child exploitation.

2. Nature of work in Rural-Urban Areas:

- In urban areas, a large number of children are engaged in manual domestic work, rag picking, restaurants, motor repair shops etc.
 - In rural sector children are engaged in the agricultural sector including cotton growing, at glass, match box and brass and lock-making factories, in embroidery, rag-picking, beedi-rolling, in the carpet-making industry, in mining and stone quarrying, brick kilns and tea gardens amongst others.
3. **Gender:** The division of labour is gender-specific with girls being engaged in more domestic and home-based work, and boys working as wage labourers.
 4. **Bonded child labour:** Bonded labour means the employment of a person against a loan or debt or social obligation by the family of the child or family as a whole. Bonded child labourers are often found in agriculture sector or assisting their families in brick kilns, and stone quarries. The Bonded Labour Liberation Front estimates 10 million bonded children in India.
 5. **Migrant children:** Migrant children are often forced to drop-out schools and are inevitably put to work at work-sites.

Causes of Child Labour:

Poverty and Indebtedness:

Poverty is the greatest cause of child labour. For impoverished households, income from a child's work is usually crucial for his or her own survival or for that of the household. Children are also bonded to labour due to a family in indebtedness.

Rural poverty and urban migration also often expose children to being trafficked for work

Adult unemployment and under-employment: high prevalence of adult unemployment and under-employment often force children to work to support family.

Illiteracy and Ignorance of child's parents: Illiteracy of the child's parents further worsens the situation. Illiteracy and Lack of awareness of the harmful effects of



child labour make them violate the law and put their children under the risk of inhuman exploitation.

Lack of access to basic and meaningful quality education and skills training:

The prevailing educational infrastructure is highly unsuitable to children of economically deprived families. Further deplorable quality of education has led to increasing dropout rates and forced children into child labour.

Compulsory education does not cover 15-18 age group. However, being illiterate or school dropouts, these children are vulnerable and often exploited as part of informal, unskilled and casual workforce.

Demand for child labour:

Increasing demand for child labour especially in urban areas is an important reason of prevalence and increase in child labour. Children are employed because they are cheap and flexible according to the demands of the employer and not aware of their rights.

Cultural factors:

An expectation that children should contribute to the socio-economic survival of the family and community, as well as the existence of large families contribute to prevalence of child labour.

Children often take up family's traditional work from an early age. For example, a Goldsmith's son takes to gold-smithery, or a carpenter's child takes up carpentry from an early age

Social factors: There is a strong correlation between India's differentiated social structure and child labour. The majority of child labourers in India belong to the so-called lower castes (SCs), the tribal and Muslim religious minority.

Impact of Prevalence of Child Labour:

1. Child labour impedes children from gaining the skills and education they need to have opportunities of decent work as an adult.
2. Child labour deprives a child of his/her childhood. It not only denies his/her right to education but also right to leisure

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3. Child labourers face major health and physical risks: they work long hours and are required to perform tasks for which they are physically and developmentally unprepared. Working in hazardous conditions adversely affects a child's physical and mental health and impairs intellectual, emotional and psychological development
 4. **Poverty:** Child labour is both a cause and consequence of poverty. Household poverty forces children into the labour market to earn money. Thus, the children miss out on an opportunity to gain an education, further perpetuating household poverty across generations

Challenges:

Despite these efforts, child labour legislation to protect children has been inadequate and face the following challenges:

Issues with Child Labour (Prohibition and Regulation) Amendment Act, 2016:

The list of hazardous industries has been drastically decreased, this may allow the employers in industries like chemical mixing units, cotton farms, battery recycling units, and brick kilns etc. to employ adolescent labour, which they may even get at a much cheaper price. Further, the amendment allows child to be employed in “family or family enterprises”. This raises question over a large number of child labour in agrarian rural India where poor families are trapped in intergenerational debt-bondage.

Definitional issue: One of the biggest challenges in eradicating child labour is the confusion around the definition of a child, in terms of age, in various laws dealing with child labour.

Lack of identification: Age identification of children is a difficult task in India due to the lack of identification documents. Child labourers often lack school registration certificates and birth certificates, creating an easy loophole in the law to exploit. Further, often children of migrant workers working as labourers, those employed in domestic work often go unreported.

Weak enforcement of law and poor governance: Weak enforcement of law, lack of adequate deterrence and corruption is a major hurdle in eradicating child labour

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Way Ahead:

1. Child labour is a vicious circle of poverty, unemployment, underemployment and low wages. There should be concerted effort towards social protection programmes and cash transfers to improve the economic situation of families and to reduce the “need” to send children to work
2. There is urgent need to revamp educational infrastructure- to ensure access to educational institutions, improvement in quality and relevance of education
3. There is a need to bring uniformity in existing Indian laws dealing with child labour. The laws must expand the definition of a child by prohibiting the employment of and ensuring free and compulsory education (RTE, Act, 2009) for children below 18 years
4. There is need to launch a national campaign to invoke public interest and large-scale awareness on exploitation of children and the menace of child labour.
5. Government should take adequate measures to raise awareness among families and communities. Parental literacy can play an important role in ensuring the rights of children are upheld.
6. Elimination of child labour demands commitment from the society e.g. family, state, civil society and those who employ children in any enterprises
7. Many NGOs like Bachpan Bachao Andolan, ChildFund, CARE India, Talaash Association, Child Rights and You, Global march against child labour, RIDE India, Child line, Kailash Satyarthi Children Foundation etc. have been working to eradicate child labour in India.

Questions:

1. Write a note on child abuse.
2. Explain POSCO act, 2012.