
**CHILD LABOUR AS A CONTINUING CRIME AGAINST CHILDREN
IN INDIA: A CRITICAL STUDY OF LEGAL ENFORCEMENT,
GOVERNANCE FAILURE, AND CRIMINAL JUSTICE RESPONSE**

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ABSTRACT

The child labour continues to persist in India despite the presence of an extensive constitutional mandate, comprehensive statutory prohibitions, and multiple policy interventions aimed at its eradication. The sustained engagement of children in exploitative labour practices reveals that the problem cannot be explained solely through socio-economic deprivation, poverty, or lack of education. Rather, it reflects a deeper and more systemic failure of legal enforcement, governance mechanisms, and the criminal justice system. This paper advances the central argument that child labour must be reconceptualised and addressed as a continuing crime against children, involving clear violations of fundamental rights and criminal law, rather than being treated merely as a welfare or developmental concern. Through a critical examination of India's legal framework, enforcement institutions, governance structures, and criminal justice response, the study exposes the persistent gap between law on paper and law in practice. Employing doctrinal legal analysis, supported by government crime data, judicial decisions, and international legal standards, the paper demonstrates that weak investigation practices, limited police engagement, poor prosecution outcomes, and negligible conviction rates have rendered criminal prohibitions against child labour largely ineffective. The analysis further reveals how administrative fragmentation,

institutional apathy, and lack of accountability within enforcement agencies undermine the deterrent purpose of child labour laws.

The special attention is given to the informal economy, where regulatory oversight is minimal and governance failure allows child labour to thrive beyond effective State intervention. The paper argues that the continued tolerance of child labour amounts to a form of systemic complicity, eroding the rule of law and the State's obligation to protect children from exploitation. The study concludes by proposing a comprehensive reform agenda that emphasises criminal accountability, integrated governance, and institutional responsibility, with the objective of re-centring child protection within the criminal justice framework and restoring the normative force of child labour prohibitions.

KEYWORDS: Child Labour; Crimes Against Children; Criminal Justice System; Legal Enforcement; Governance Failure; Child Rights; Rule of Law; Informal Economy; Institutional Accountability; Criminal Prosecution; Conviction Rates; Law in Practice; Policy Implementation; Judicial Response; Constitutional Law; International Labour Standards; Human Rights Law; State Responsibility; Regulatory Compliance; India

INTRODUCTION

India's legal and constitutional commitment to the protection of children from economic exploitation is unequivocal. The Constitution explicitly prohibits the employment of children in hazardous occupations and mandates the State to ensure conditions of freedom and dignity for all children. Successive legislative enactments and policy interventions have sought to eliminate child labour and promote universal education. Yet, despite these normative commitments, child labour continues to remain a pervasive and deeply entrenched reality across multiple sectors of the Indian economy.

The persistence of child labour reveals a critical paradox: the existence of robust legal prohibitions alongside widespread non-compliance. While policy discourse often attributes child labour to poverty, lack of education, or cultural practices, such explanations risk obscuring the criminal nature of the offence and the corresponding responsibility of the State to enforce the law. Treating child labour primarily as a socio-economic problem weakens the criminal justice response and enables perpetrators to evade accountability.

This paper contends that child labour must be reconceptualised as a continuing crime against children, involving systematic violations of fundamental rights, statutory prohibitions, and international obligations. The continued engagement of children in labour is not merely the

result of structural inequality but also the outcome of institutional failure within law enforcement, labour administration, prosecution services, and governance systems. The failure to detect, investigate, prosecute, and punish child labour offences has rendered criminal provisions largely symbolic.

By situating child labour within a criminal justice and governance framework, this study seeks to move beyond descriptive accounts and provide a critical evaluation of enforcement realities. The analysis focuses on how governance failure, administrative fragmentation, and weak criminal justice response collectively sustain the conditions under which child labour persists.

CONCEPTUALISING CHILD LABOUR AS A CONTINUING CRIME AGAINST CHILDREN

The understanding child labour as a continuing crime requires a departure from welfare-centric narratives and the adoption of a rights-based and criminological framework. Child labour involves the exploitation of children for economic gain, often under conditions that expose them to physical harm, psychological abuse, and long-term deprivation of educational opportunities. Such practices satisfy the essential elements of criminal liability, including unlawful conduct, culpable intent or negligence, and demonstrable harm.

The notion of child labour as a “continuing crime” is particularly relevant in the Indian context, where children are often subjected to prolonged periods of exploitation. Each day of unlawful employment constitutes a fresh violation, thereby attracting ongoing criminal responsibility. However, enforcement agencies frequently fail to treat child labour offences with the seriousness accorded to other crimes against children. Inspections are irregular, investigations are superficial, and prosecutions are rare.

This conceptual failure is reinforced by administrative practices that prioritise rescue and rehabilitation without ensuring penal accountability. While rehabilitation is undoubtedly essential, the absence of effective prosecution undermines deterrence and allows offenders to resume exploitative practices with impunity. The criminal law, when not enforced, loses its normative force and contributes to the normalisation of child labour within society.

RESEARCH PROBLEM, OBJECTIVES, AND METHODOLOGY

The central research problem addressed in this study is the continued prevalence of child labour in India despite its formal criminalisation and the existence of multiple enforcement

institutions. The study seeks to examine whether this persistence reflects deficiencies in legal design or systemic failures in enforcement, governance, and criminal justice response.

The objectives of the study are:

- To critically analyse the legal framework governing child labour in India;
- To examine the effectiveness of enforcement mechanisms and criminal justice institutions;
- To identify governance failures and institutional constraints affecting implementation;
- To assess judicial responses to child labour offences; and
- To propose reforms aimed at strengthening accountability and deterrence.

The study adopts a doctrinal and analytical research methodology, relying on constitutional provisions, statutory laws, judicial decisions, and international conventions. Secondary data from government reports, National Crime Records Bureau statistics, and studies by organisations such as the International Labour Organization are used to evaluate enforcement outcomes. Qualitative analysis is employed to assess the gap between legal norms and enforcement practices.

HISTORICAL EVOLUTION OF CHILD LABOUR REGULATION IN INDIA

The regulation of child labour in India has evolved through a complex interplay of colonial economic priorities, post-independence constitutional commitments, and contemporary socio-political challenges. During the colonial period, child labour was largely viewed through an economic lens, with minimal concern for child welfare. Children were routinely employed in plantations, mines, factories, and domestic service, driven by the colonial demand for cheap and compliant labour. Early legislative interventions, such as factory regulations, were motivated more by concerns over industrial efficiency and international criticism than by a commitment to child protection.

Following independence, the Indian State sought to reposition child labour within a broader framework of social justice and human rights. The framers of the Constitution recognised children as a vulnerable group requiring special protection from exploitation. This shift marked an important normative departure from colonial practices. However, the translation of constitutional ideals into enforceable legal mechanisms proved uneven and fragmented. Early post-independence legislation adopted a sector-specific approach, regulating child labour in certain hazardous industries while permitting it in others, thereby institutionalising a distinction between permissible and impermissible forms of child labour.

Over time, this fragmented regulatory approach diluted the criminal character of child labour. By allowing children to work in non-hazardous sectors, the law implicitly legitimised child labour as a socio-economic necessity rather than condemning it as an unacceptable form of exploitation. This legal ambivalence has had lasting consequences, contributing to weak enforcement and social acceptance of child labour across large segments of the informal economy.

INTERNATIONAL LEGAL FRAMEWORK AND INDIA'S OBLIGATIONS

India's commitment to eliminating child labour is reinforced by its obligations under international law. Global consensus recognises child labour as a violation of fundamental human rights, particularly the rights to dignity, education, health, and development. International legal instruments have consistently emphasised the duty of States to prohibit and criminalise child labour and to ensure effective enforcement through appropriate legal and institutional mechanisms.

The key international standards developed under the aegis of the International Labour Organization establish clear benchmarks for State action. These standards require States not only to prohibit child labour through legislation but also to adopt measures ensuring effective inspection, prosecution, and punishment of offenders. The obligation extends beyond formal law-making to the creation of enforcement systems capable of detecting violations and holding perpetrators accountable.

India is also a party to the UN Convention on the Rights of the Child, which mandates the protection of children from economic exploitation and from performing work that is hazardous or interferes with their education or development. The Convention places a positive obligation on States to take legislative, administrative, social, and educational measures to ensure compliance. Importantly, the Convention views child labour not merely as a policy concern but as a rights violation necessitating legal redress.

In the face of ratifying these international instruments, India's domestic enforcement record reveals significant gaps. While international norms emphasise criminal accountability and deterrence, domestic practice often prioritises rehabilitation without ensuring penal consequences for offenders. This selective compliance undermines India's international commitments and weakens the normative force of global child protection standards.

CONSTITUTIONAL FRAMEWORK GOVERNING CHILD LABOUR IN INDIA

The Indian Constitution provides a robust normative foundation for the elimination of child labour. Several provisions explicitly and implicitly prohibit the economic exploitation of children and impose affirmative duties on the State to protect their interests. The constitutional vision situates child protection within the broader framework of dignity, equality, and social justice.

The prohibition of child labour in hazardous employment reflects a recognition of the inherent vulnerability of children and the irreversible harm caused by exploitative labour. The Constitution also guarantees the right to life and personal liberty, which judicial interpretation has expanded to include the right to live with dignity, access education, and develop to one's full potential. Child labour, by its very nature, undermines these guarantees.

In addition to enforceable fundamental rights, the Directive Principles of State Policy articulate the State's obligation to ensure that children are not forced by economic necessity to enter vocations unsuited to their age or strength. Although non-justiciable, these principles inform legislative intent and judicial interpretation, reinforcing the constitutional mandate to eliminate child labour.

However, the constitutional framework suffers from an internal limitation. The explicit prohibition applies primarily to hazardous employment, leaving room for legislative discretion in regulating non-hazardous child labour. This constitutional ambiguity has been exploited to justify partial prohibition rather than absolute criminalisation, thereby weakening the legal response to child labour as a crime against children.

STATUTORY FRAMEWORK GOVERNING CHILD LABOUR

India's statutory regime governing child labour is characterised by multiplicity and fragmentation. Various enactments address different dimensions of child labour, including employment conditions, juvenile justice, education, and bonded labour. While this multi-layered framework reflects legislative concern, it also creates enforcement challenges due to overlapping jurisdictions and lack of coordination among authorities.

The principal legislation regulating child labour prohibits the employment of children below a specified age and restricts their engagement in certain occupations and processes. Amendments to this law have sought to align domestic legislation with international standards by expanding prohibitions and enhancing penalties. Nevertheless, exceptions permitting children to work in family enterprises and certain non-hazardous activities have diluted the law's deterrent effect and complicated enforcement.

The criminalisation of child labour is further reinforced by general penal laws and child protection statutes, which treat exploitation, abuse, and neglect of children as punishable offences. In theory, these provisions provide a comprehensive legal arsenal to prosecute child labour offences. In practice, however, enforcement agencies rarely invoke the full range of applicable laws, preferring administrative action over criminal prosecution.

This selective enforcement reflects institutional reluctance to treat child labour as a serious crime. Labour inspectors often lack investigative powers, police officers prioritise other offences, and prosecutors face evidentiary challenges due to poor investigation. As a result, statutory provisions remain underutilised, and child labour continues largely unchecked.

FRAGMENTATION OF ENFORCEMENT AUTHORITY

A critical weakness in India's child labour regime lies in the fragmentation of enforcement authority. Responsibility for preventing and addressing child labour is distributed across multiple departments, including labour, police, education, social welfare, and child protection agencies. While interdepartmental coordination is essential, it is often absent in practice.

Labour departments are primarily tasked with inspection and detection, yet they frequently lack adequate manpower, training, and resources. Police authorities, who possess investigative and prosecutorial powers, are often reluctant to register cases, viewing child labour as a regulatory violation rather than a cognisable offence. Child welfare committees focus on rehabilitation but lack authority to ensure criminal accountability.

This fragmented architecture results in diffusion of responsibility and weak accountability. Offenders exploit institutional gaps, and cases fall through procedural cracks. The absence of a unified enforcement strategy undermines deterrence and perpetuates the cycle of exploitation.

TOWARDS CRIMINAL ACCOUNTABILITY

The analysis of India's legal and constitutional framework reveals a fundamental contradiction. While child labour is formally prohibited and criminalised, enforcement practices fail to reflect its gravity as a crime against children. The historical legacy of partial regulation, combined with fragmented governance and weak criminal justice response, has normalised child labour and eroded the rule of law.

This section underscores the need to move beyond symbolic prohibition and towards genuine criminal accountability. Laws, however well-drafted, cannot achieve their objectives without

effective enforcement. The next part of this paper examines the operational realities of enforcement and the role of criminal justice institutions in addressing child labour offences.

CRIMINALISATION OF CHILD LABOUR AND THE ENFORCEMENT ARCHITECTURE

The criminalisation of child labour in India represents a formal acknowledgment by the State that the exploitation of children for economic gain constitutes a serious offence against both individual dignity and public order. Statutory provisions prescribe imprisonment and fines for employers who engage children in prohibited occupations or processes, signalling a legislative intent to deter violations through penal sanctions. However, criminalisation in law does not automatically translate into criminalisation in practice. The effectiveness of any penal regime depends upon the strength of its enforcement architecture, including detection, investigation, prosecution, and adjudication.

In the context of child labour, this enforcement architecture remains weak and uneven. The regulatory framework relies heavily on labour inspection mechanisms, which are primarily administrative in nature and historically designed for compliance monitoring rather than criminal investigation. Labour inspectors are expected to identify violations, rescue children, and initiate legal proceedings. Yet, they often lack investigative training, forensic capacity, and institutional support necessary for building criminal cases. Consequently, inspections frequently result in warnings, nominal penalties, or informal settlements rather than formal criminal prosecution.

The police, who possess statutory authority to register offences, conduct investigations, and file charge sheets, are seldom proactive in child labour cases. Child labour offences are rarely prioritised within policing agendas, which tend to focus on conventional crimes perceived as threats to public safety. This institutional bias relegates child labour to the margins of criminal law enforcement, despite its classification as a crime against children.

ROLE OF THE POLICE IN CHILD LABOUR OFFENCES

The role of the police is central to the criminal justice response to child labour. As the primary agency responsible for registering First Information Reports, conducting investigations, and coordinating with prosecutors, police inaction has a direct and decisive impact on enforcement outcomes. Empirical evidence suggests that police authorities often fail to register cases even when child labour violations are detected by labour inspectors or civil society organisations.

Several factors contribute to this failure. First, there is a persistent perception within policing institutions that child labour is a socio-economic issue better addressed through rehabilitation and welfare measures than through criminal prosecution. This perception leads to reluctance in invoking penal provisions and registering cognisable offences. Second, police officers frequently cite evidentiary challenges, including lack of documentation, age determination difficulties, and absence of cooperative witnesses, as reasons for non-registration. Third, local political and economic pressures, particularly in areas where child labour is embedded in informal industries, further discourage enforcement.

The consequence of police inaction is the breakdown of the criminal justice process at its initial stage. Without formal registration of offences, investigations cannot proceed, prosecutions cannot be launched, and judicial scrutiny cannot be triggered. This systemic failure effectively decriminalises child labour in practice, regardless of its formal legal status.

LABOUR ADMINISTRATION AND INSPECTION MECHANISMS

The labour departments constitute the frontline of child labour enforcement in India. Their mandate includes conducting inspections, identifying violations, and initiating legal action against offenders. However, labour inspection systems suffer from chronic under-resourcing, limited manpower, and inadequate geographic coverage. Inspectors are often responsible for monitoring large jurisdictions with thousands of establishments, making regular and effective inspections practically impossible.

Moreover, labour inspection regimes are predominantly compliance-oriented rather than enforcement-driven. Inspections tend to focus on documentation and regulatory adherence rather than uncovering hidden forms of exploitation. Child labour, particularly in the informal economy, is often concealed within homes, small workshops, agricultural fields, and supply chains that fall outside the effective reach of inspectors.

Another significant limitation is the absence of clear protocols for coordination between labour inspectors and police authorities. Even when violations are detected, follow-up action is inconsistent. Cases may be referred to police without adequate documentation, or administrative penalties may be imposed in lieu of criminal proceedings. This fragmented approach undermines the deterrent purpose of criminal law and signals institutional tolerance of child labour practices.

PROSECUTION AND EVIDENTIARY CHALLENGES

The prosecution of child labour offences is marked by low filing rates, prolonged delays, and high acquittal rates. Prosecutors often face significant evidentiary challenges arising from weak investigations, lack of corroborative evidence, and procedural lapses. Age determination, a critical element in child labour cases, frequently becomes contentious due to absence of birth records or inconsistencies in documentation.

Witness testimony poses another challenge. Children, as primary victims and witnesses, may be unwilling or unable to testify due to fear, trauma, or pressure from employers and families. In the absence of victim-sensitive procedures and support mechanisms, prosecutions are vulnerable to collapse. The lack of specialised training for prosecutors in handling child labour cases further exacerbates these difficulties.

The cumulative effect of these challenges is reflected in low conviction rates. When prosecutions fail or cases are withdrawn, offenders face minimal consequences, reinforcing the perception that child labour is a low-risk offence. This outcome not only undermines justice for individual victims but also erodes public confidence in the criminal justice system.

EMPIRICAL TRENDS IN REGISTRATION, INVESTIGATION, AND CONVICTION

An examination of official crime data reveals a stark disparity between the estimated prevalence of child labour and the number of cases registered and prosecuted. According to data compiled by the National Crime Records Bureau, the number of cases registered under child labour-related offences remains disproportionately low when compared to the scale of the problem. This discrepancy points to systemic under-reporting and enforcement failure rather than a decline in child labour incidence.

Table 1 presents a consolidated overview of registered child labour cases, charge sheets filed, and convictions over a selected period. The data illustrates a persistent pattern of low registration and even lower conviction rates, highlighting the attrition of cases at every stage of the criminal justice process.

Table 1: Trends in Registered Child Labour Cases, Prosecutions, and Convictions in India.

Year	Cases Registered	Charge Sheets Filed	Cases for Trial	Convictions	Conviction Rate (%)
2018	464	398	352	42	11.9%
2019	476	410	371	38	10.2%

2020	325	281	294	29	9.8%
2021	367	305	318	34	10.7%
2022	403	332	347	36	10.4%

The attrition of cases is further illustrated in Figure 1, which depicts the funneling effect of enforcement failure—from detection to conviction. The figure demonstrates how a large number of violations result in a negligible number of convictions, underscoring the structural weaknesses within enforcement institutions.



Figure 1: Attrition of Child Labour Cases in the Criminal Justice Process.

The Figure 1, illustrates the progressive attrition of child labour cases as they move through the stages of the criminal justice system. The diagram visually traces the journey from cases registered, through investigation and filing of charge sheets, to cases sent for trial, and finally to convictions. The downward flow emphasizes the reduction in the number of cases at each successive stage, reflecting systemic leakage within the justice process.

The inclusion of a child labour representation at the initial stage underscores the human dimension of the issue, highlighting the vulnerability of child victims at the point of case registration. As cases progress through investigation and prosecution, institutional challenges such as evidentiary gaps, procedural delays, weak enforcement, and withdrawal of complaints

contribute to significant attrition. The final stage—convictions—represents a comparatively small proportion of the cases initially registered, demonstrating limited accountability and weak deterrence.

The figure therefore underscores the structural inefficiencies within the criminal justice process that hinder effective enforcement of child labour laws. It highlights the urgent need for stronger investigation mechanisms, prosecutorial commitment, victim protection measures, and judicial prioritization to reduce attrition and enhance conviction outcomes. Ultimately, the visualization emphasizes that legal prohibition alone is insufficient unless supported by robust institutional implementation and systemic accountability.

These empirical trends confirm that child labour, despite being criminalised, is rarely treated as a crime in practice. The enforcement deficit is not confined to a single institution but reflects systemic failure across the criminal justice continuum.

CHILD LABOUR AS A LOW-RISK, HIGH-REWARD CRIME

The weak enforcement of child labour laws has effectively transformed child labour into a low-risk, high-reward activity for employers. The economic incentives for employing children—lower wages, longer working hours, and ease of control—are rarely offset by the risk of detection or punishment. In the absence of credible deterrence, criminal provisions fail to influence behaviour.

This enforcement vacuum contributes to the normalisation of child labour within certain industries and communities. Employers factor in the improbability of prosecution as a cost of doing business, while enforcement agencies internalise low expectations of success. Such dynamics perpetuate a cycle of exploitation that is sustained by institutional failure rather than legal deficiency.

TOWARDS A CRIMINAL JUSTICE-ORIENTED RESPONSE

The analysis in this section demonstrates that the persistence of child labour in India cannot be attributed solely to socio-economic factors. It is equally, if not more, a consequence of weak enforcement and criminal justice failure. Criminalisation without enforcement becomes symbolic, offering moral condemnation without practical consequence.

A meaningful response to child labour requires reorienting enforcement institutions towards criminal accountability. This includes strengthening police involvement, enhancing investigative capacity, improving prosecutorial effectiveness, and ensuring judicial oversight.

Without such reforms, child labour will continue to exist as a formally prohibited but practically tolerated crime.

GOVERNANCE FAILURE AND INSTITUTIONAL APATHY

The persistence of child labour in India cannot be explained solely through deficiencies in legal provisions or enforcement mechanics. At a deeper level, it reflects a broader failure of governance characterised by institutional apathy, fragmented responsibility, and weak accountability structures. Governance failure manifests not merely as inefficiency but as a systemic inability—or unwillingness—to translate legal norms into enforceable outcomes.

The child labour occupies an uneasy space within governance priorities. While officially condemned, it rarely commands sustained political or administrative attention. Unlike high-profile crimes, child labour lacks immediate visibility and electoral salience, allowing it to persist at the margins of governance agendas. Enforcement efforts are often reactive, driven by sporadic inspections or external pressure rather than by sustained institutional commitment.

This apathy is reinforced by bureaucratic incentives that prioritise procedural compliance over substantive outcomes. Rescue operations and rehabilitation measures are frequently showcased as indicators of success, while failures in prosecution and conviction remain unexamined. Such an approach allows institutions to claim action without addressing the underlying criminality of child labour practices.

ADMINISTRATIVE FRAGMENTATION AND DIFFUSION OF RESPONSIBILITY

A defining feature of child labour governance in India is the fragmentation of authority across multiple departments and agencies. Responsibility for prevention, detection, prosecution, and rehabilitation is divided among labour departments, police authorities, education departments, child welfare committees, and local administrations. While inter-agency coordination is essential for effective intervention, in practice this fragmentation leads to diffusion of responsibility and institutional paralysis.

Each agency operates within a limited mandate, often deflecting responsibility onto others. Labour officials may identify violations but lack authority or incentive to pursue criminal action. Police authorities may view child labour as an administrative matter best handled by labour departments. Child welfare institutions prioritise rehabilitation but have no mandate to ensure penal accountability. This compartmentalisation creates gaps through which offenders routinely escape punishment.

The absence of a single nodal authority accountable for outcomes exacerbates governance failure. Without clear lines of responsibility, failures in enforcement are rarely attributed to specific institutions or officials. This lack of accountability perpetuates a culture of impunity, where child labour offences are neither prioritised nor systematically addressed.

POLICY IMPLEMENTATION DEFICIT AND OUTCOME BLINDNESS

India has adopted numerous policies and programmes aimed at eliminating child labour and promoting education and rehabilitation. However, the effectiveness of these interventions is undermined by weak implementation and outcome blindness. Policy success is often measured through inputs and activities—such as the number of children rescued or enrolled in schools—rather than through long-term outcomes, including sustained withdrawal from labour and criminal accountability of employers.

This emphasis on welfare outcomes, while important, diverts attention from enforcement failures. Rescue without prosecution allows employers to resume exploitative practices with minimal risk. Moreover, the absence of reliable monitoring mechanisms makes it difficult to assess whether rehabilitated children remain out of the labour force or are reabsorbed into exploitative environments.

Table 2 summarises key governance and institutional challenges affecting child labour enforcement, including administrative fragmentation, lack of coordination, resource constraints, and accountability deficits. The table highlights how these governance failures intersect to weaken the overall response to child labour.

Table 2: Governance and Institutional Challenges in Addressing Child Labour in India.

Sl. No.	Governance Dimension	Key Institutional Actors	Core Challenge	Impact on Criminal Justice Response
1.	Institutional Coordination	Labour Department, Police, Child Welfare Authorities	Fragmented authority and weak inter-agency collaboration	Inconsistent case registration and weak follow-up prosecution
2.	Enforcement Capacity	Labour Inspectors, Local Administration	Limited manpower, training, and inspection reach	Low detection rates and under-reporting of offences
3.	Criminal Justice Functioning	Police, Prosecutors, Trial Courts	Procedural delays, poor investigation, and evidentiary gaps	Low conviction rates and diminished deterrence
4.	Governance Accountability	State & District Authorities	Lack of monitoring, performance evaluation, and political prioritisation	Structural tolerance and continued impunity for offenders

CHILD LABOUR AND THE INFORMAL ECONOMY NEXUS

The informal economy constitutes the primary site of child labour in India. Characterised by unregulated employment, absence of contracts, and limited State oversight, the informal sector provides fertile ground for the exploitation of children. Child labour thrives in small-scale manufacturing, agriculture, construction, domestic work, and home-based enterprises, where regulatory visibility is minimal and enforcement capacity is weakest.

The governance failure is particularly pronounced in these sectors. Labour laws are difficult to enforce in dispersed and home-based workplaces, and inspection mechanisms are ill-equipped to penetrate informal production networks. Employers exploit this regulatory vacuum, embedding child labour within supply chains that extend beyond the reach of traditional enforcement tools.

The informal economy also intersects with social norms and economic survival strategies, further complicating enforcement. Families dependent on informal employment may resist intervention, while local authorities may hesitate to disrupt economic activity. This convergence of economic necessity, social acceptance, and regulatory weakness creates a permissive environment in which child labour is normalised and sustained.

NORMALISATION OF ILLEGALITY AND REGULATORY CAPTURE

A critical consequence of governance failure is the normalisation of illegality. When child labour laws are routinely violated without consequence, illegality becomes embedded within everyday economic practices. Employers internalise the expectation that enforcement is unlikely, while enforcement agencies internalise low expectations of compliance and success. In certain contexts, regulatory capture further undermines enforcement. Local economic interests, political patronage networks, and informal power structures may influence inspection and enforcement decisions. Such capture does not always take the form of overt corruption; it may manifest as selective enforcement, delayed action, or procedural leniency. These practices erode the credibility of regulatory institutions and reinforce perceptions of impunity.

VISUALISING GOVERNANCE FAILURE IN CHILD LABOUR ENFORCEMENT

The cumulative impact of governance failure and institutional apathy is illustrated in Figure 2, which maps the interaction between fragmented institutions, weak enforcement, and informal economic structures. The figure demonstrates how governance deficits at multiple levels converge to sustain child labour despite formal legal prohibitions.

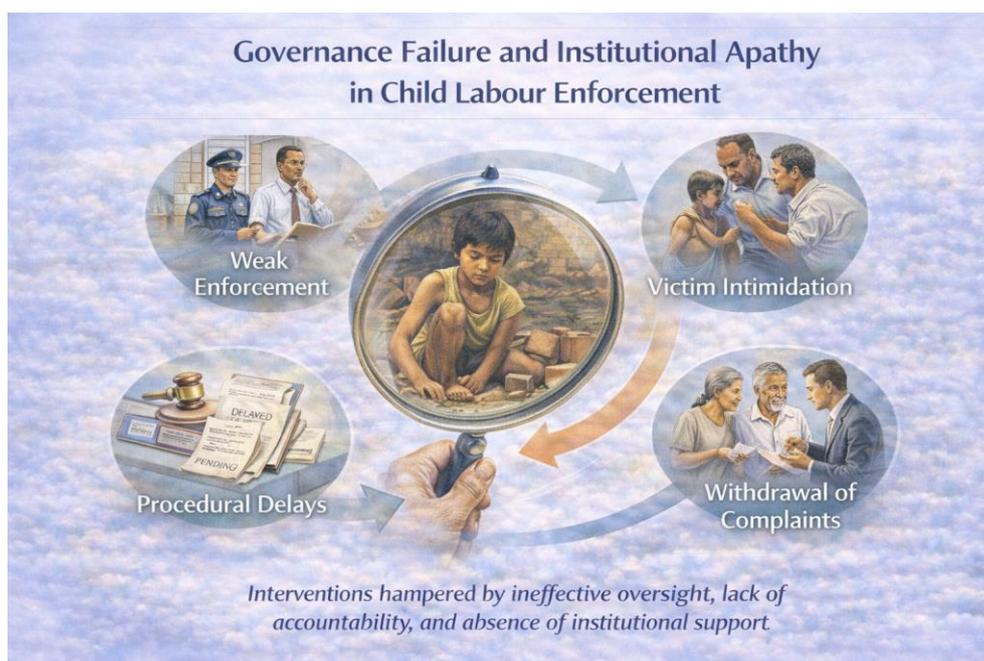


Figure 2: Governance Failure and Institutional Apathy in Child Labour Enforcement.

This visual representation underscores that child labour persistence is not accidental but structurally produced. Governance failure operates as a systemic condition that enables exploitation by weakening oversight, accountability, and deterrence.

FROM GOVERNANCE FAILURE TO SYSTEMIC COMPLICITY

The analysis in this section reveals that governance failure in child labour enforcement amounts to more than administrative inefficiency. When institutions consistently fail to prevent, detect, and punish exploitation, they become complicit in sustaining it. This complicity may be passive, arising from neglect and indifference, but its consequences are no less severe for affected children.

Reframing child labour as a continuing crime against children demands a corresponding reframing of governance responsibility. The State cannot discharge its obligations through symbolic policies or sporadic interventions. Effective governance requires integrated enforcement strategies, clear accountability mechanisms, and a commitment to treating child labour as a serious criminal offence rather than a peripheral social issue.

JUDICIAL RESPONSE TO CHILD LABOUR OFFENCES IN INDIA

The judiciary occupies a critical position within the criminal justice framework governing child labour. Courts are entrusted with interpreting constitutional mandates, enforcing statutory prohibitions, and ensuring accountability for violations. Over the years, Indian

courts—particularly the Supreme Court of India—have played an important role in articulating the rights of children and condemning exploitative labour practices. Judicial pronouncements have repeatedly affirmed that child labour undermines human dignity, violates fundamental rights, and impedes national development.

In the face of this normative clarity, judicial intervention in child labour cases has largely been reactive and episodic. Courts have responded to public interest litigation and egregious violations, issuing directions for policy reform, rehabilitation schemes, and administrative oversight. However, such interventions have rarely translated into sustained improvements in criminal enforcement. Judicial engagement has tended to focus on declaratory relief and administrative compliance rather than on strengthening prosecution and conviction outcomes. This pattern reflects the structural limits of adjudication. Courts depend on cases being brought before them through proper investigative and prosecutorial channels. When enforcement agencies fail to register cases or pursue prosecutions, judicial oversight remains largely symbolic. As a result, the judiciary's potential role as a catalyst for criminal accountability remains underutilised.

JUDICIAL ACTIVISM AND ITS ENFORCEMENT LIMITATIONS

The judicial activism has been a defining feature of child rights jurisprudence in India. Courts have expanded the scope of constitutional protections, interpreted child labour prohibitions broadly, and issued innovative remedies aimed at social transformation. These interventions have contributed significantly to normative development and public awareness.

However, judicial activism faces inherent limitations in addressing systemic enforcement failure. Courts lack direct control over investigative agencies and administrative departments. While they may issue directions and monitor compliance, sustained enforcement requires institutional capacity and political will beyond the courtroom. In the absence of effective follow-up mechanisms, judicial orders risk remaining aspirational rather than transformative. Moreover, excessive reliance on judicial directives can inadvertently weaken institutional accountability. When executive agencies anticipate judicial intervention, they may defer responsibility rather than proactively enforcing the law. This dynamic contributes to a cycle in which courts repeatedly intervene without addressing the root causes of enforcement failure.

TRIAL COURTS, DELAYS, AND PROCEDURAL ATTRITION

At the trial court level, child labour cases face significant procedural challenges. Delays in investigation, filing of charge sheets, and commencement of trials undermine the effectiveness of criminal law. Procedural attrition often results in withdrawal of cases, compromise settlements, or acquittals due to lack of evidence.

The trial courts are frequently overburdened, and child labour cases compete for attention with a wide range of criminal matters. In the absence of prioritisation or specialised procedures, such cases may languish for years, diminishing their deterrent effect. Delayed justice not only fails victims but also emboldens offenders by signalling institutional indifference.

The cumulative effect of these challenges is reflected in low conviction rates. The Table 3 presents an overview of prosecution outcomes in selected jurisdictions, highlighting the gap between cases initiated and convictions secured. The data underscores the extent to which procedural weaknesses undermine criminal accountability.

Table 3: Prosecution Outcomes and Conviction Rates in Child Labour Cases.

Year	Cases Charge-Sheeted	Cases Completed for Trial	Convictions	Acquittals	Conviction Rate (%)
2018	398	312	42	270	13.5%
2019	410	329	38	291	11.6%
2020	281	243	29	214	11.9%
2021	305	268	34	234	12.7%
2022	332	289	36	253	12.4%

COMPARATIVE ENFORCEMENT PERSPECTIVES

A comparative examination of child labour enforcement reveals that legal prohibition alone is insufficient to eliminate exploitation. Jurisdictions that have achieved measurable reductions in child labour have done so through integrated enforcement strategies combining criminal accountability, administrative coordination, and social support mechanisms.

The comparative experiences demonstrate the importance of specialised enforcement units, coordinated inspection regimes, and victim-centred prosecution models. In these systems, child labour offences are treated as serious crimes, and enforcement agencies are held accountable for outcomes rather than activities. Conviction rates, while not the sole measure of success, function as an important indicator of deterrence and institutional effectiveness.

India’s enforcement framework, by contrast, remains fragmented and outcome-blind. The absence of systematic monitoring of prosecution and conviction data limits opportunities for

institutional learning and reform. Comparative analysis thus highlights the need for structural changes rather than incremental adjustments.

VISUALISING JUDICIAL AND ENFORCEMENT BOTTLENECKS

The interaction between judicial limitations and enforcement failure is illustrated in **Figure 3**, which maps the progression of child labour cases through the criminal justice system. The figure demonstrates how cases are filtered out at successive stages—from registration to trial—resulting in minimal convictions despite widespread violations.

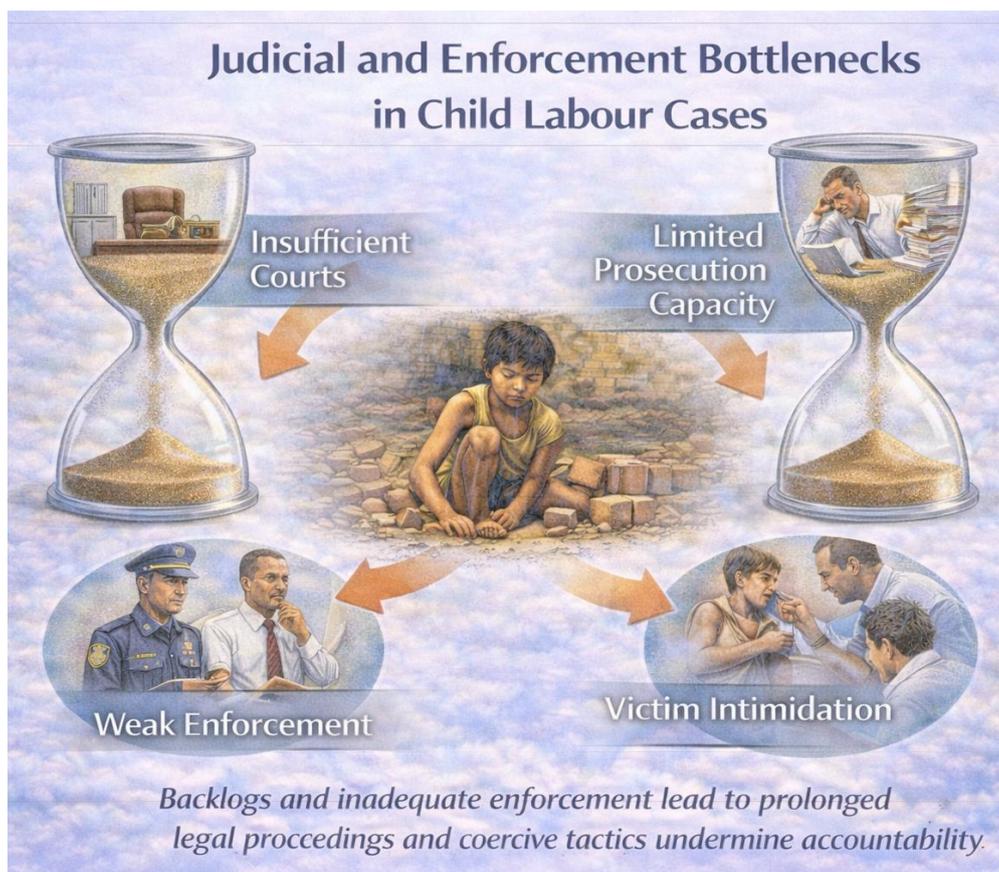


Figure 3: Judicial and Enforcement Bottlenecks in Child Labour Cases.

The figure 3, illustrates the sequential attrition of child labour cases as they move through the enforcement and judicial pipeline, highlighting the systemic bottlenecks that undermine criminal accountability. The figure conceptualises the criminal justice process as a multi-stage progression beginning with detection of violations and culminating in conviction. At each stage, a measurable reduction in case volume occurs, revealing structural weaknesses that collectively erode deterrence.

The first bottleneck emerges at the stage of detection and registration. Despite the widespread prevalence of child labour, only a limited number of violations are formally recorded as criminal cases. This gap reflects weak inspection coverage, under-reporting, and reluctance by enforcement agencies to register cognisable offences. Many cases are resolved administratively or remain unreported, preventing entry into the formal justice system.

The second bottleneck arises during investigation. Even when cases are registered, investigations frequently suffer from evidentiary deficiencies, poor age verification procedures, and inadequate documentation. Weak investigative practices reduce the likelihood of successful prosecution and increase the probability of case withdrawal or dilution.

The third bottleneck becomes evident at the prosecution stage. Charge-sheeting rates may appear moderate; however, prosecutorial preparation often lacks depth due to insufficient evidence and limited coordination between investigating officers and prosecutors. As a result, cases entering trial are structurally vulnerable.

The most significant attrition occurs during adjudication. Procedural delays, witness fatigue, hostile testimony, and technical evidentiary challenges contribute to high acquittal rates and prolonged pendency. Convictions represent only a small fraction of initial violations, resulting in low overall deterrence.

The figure therefore demonstrates that child labour persists not because of legal ambiguity but because of cumulative enforcement breakdown across successive institutional stages. Each bottleneck reinforces the next, producing a cascading effect of attrition that ultimately weakens criminal accountability. By visually mapping these enforcement and judicial failures, Figure 3 supports the central argument of this paper: child labour remains a continuing crime against children largely due to systemic weaknesses within governance and criminal justice institutions rather than legislative insufficiency.

This visual analysis reinforces the argument that child labour persists not because of legal ambiguity but because of systemic attrition within the justice process. Each stage of attrition weakens deterrence and perpetuates impunity.

FROM NORMATIVE CONDEMNATION TO PRACTICAL ACCOUNTABILITY

The judicial response to child labour in India reveals a critical disjunction between normative condemnation and practical accountability. Courts have articulated strong principles condemning child labour as unconstitutional and inhumane, yet enforcement outcomes

remain weak. This disjunction reflects broader structural failures within governance and criminal justice institutions.

The reconceptualising child labour as a continuing crime against children requires re-aligning judicial intervention with enforcement reform. Courts must be supported by robust investigative and prosecutorial systems capable of translating legal norms into tangible outcomes. Without such alignment, judicial pronouncements risk remaining symbolic gestures rather than instruments of change.

KEY FINDINGS AND CRITICAL INSIGHTS

This study demonstrates that the persistence of child labour in India is not primarily the result of legislative inadequacy but of systemic failure in enforcement, governance, and criminal justice response. Despite constitutional guarantees, statutory prohibitions, and international commitments, child labour continues to exist as a widespread and largely unpunished crime against children.

One of the central findings is that child labour has been progressively decriminalised in practice, even while remaining criminalised in law. Enforcement agencies routinely treat child labour as an administrative or welfare issue rather than as a serious criminal offence. This mischaracterisation weakens deterrence and undermines the moral authority of the law. Employers who exploit child labour face minimal risk of prosecution and punishment, creating a permissive environment in which exploitation becomes economically rational.

The study also finds that governance failure plays a decisive role in sustaining child labour. Fragmented institutional responsibility, lack of inter-agency coordination, inadequate resourcing, and weak accountability mechanisms collectively erode enforcement effectiveness. Governance structures prioritise procedural compliance and welfare indicators over criminal accountability, allowing institutions to claim success without addressing core enforcement failures.

Another significant insight concerns the criminal justice system's attrition at every stage. From detection and registration to investigation, prosecution, and adjudication, child labour cases are systematically filtered out. This attrition reflects not only capacity constraints but also institutional apathy and low prioritisation. The resulting low conviction rates signal impunity and contribute to the normalisation of child labour within the informal economy.

CHILD LABOUR AS A CONTINUING CRIME AND STATE COMPLICITY

By conceptualising child labour as a continuing crime against children, this study exposes the implicit complicity of the State in sustaining exploitation. When institutions charged with enforcement consistently fail to act, omission becomes a form of participation. State responsibility does not end with the enactment of laws; it extends to their effective implementation.

The persistence of child labour thus represents a structural injustice rooted in governance and criminal justice failure. Children are denied protection not because the law is absent, but because it is not enforced with seriousness or consistency. This failure undermines constitutional morality and erodes public confidence in the rule of law.

REFORM AGENDA FOR LEGAL ENFORCEMENT AND CRIMINAL JUSTICE

The addressing child labour as a continuing crime requires a fundamental reorientation of enforcement and governance strategies. Incremental reforms are insufficient in the face of systemic failure. A comprehensive reform agenda must prioritise criminal accountability alongside rehabilitation.

First, enforcement institutions must be restructured to treat child labour as a priority crime against children. Police authorities should be mandated to register child labour offences as cognisable crimes, with clear accountability for non-registration. Specialised training and standard operating procedures should be introduced to improve investigation quality and evidentiary collection.

Second, labour inspection systems must be strengthened and integrated with criminal justice mechanisms. Inspectors should be equipped with investigative authority and required to coordinate closely with police and prosecutors. Inspections should shift from compliance-oriented approaches to enforcement-driven strategies focused on detecting criminal violations.

Third, prosecution services must be enhanced through specialised units or designated prosecutors trained in child rights and labour offences. Victim-centred procedures, including witness protection and child-friendly trial processes, are essential to reduce attrition and improve conviction rates.

Fourth, judicial processes should prioritise child labour cases to prevent procedural delay and attrition. Fast-track mechanisms and continuous monitoring of prosecution outcomes can enhance accountability and deterrence.

Finally, governance reforms must address fragmentation and accountability deficits. A single nodal authority with clear responsibility for outcomes—not merely activities—should be established to coordinate enforcement, prosecution, and rehabilitation. Performance metrics should focus on conviction rates, repeat offences, and sustained withdrawal of children from labour.

INTEGRATING ENFORCEMENT WITH SOCIAL PROTECTION

While criminal accountability is essential, it must be complemented by robust social protection measures. Rehabilitation, education, and family support remain critical components of child protection. However, these measures should operate alongside, not in place of, criminal enforcement.

The effective integration requires ensuring that rescue and rehabilitation processes do not become substitutes for prosecution. Employers must be held accountable irrespective of rehabilitation outcomes. Only when criminal consequences are consistently imposed will social interventions achieve lasting impact.

CONSOLIDATED REFORM MATRIX

Table 4 presents a consolidated reform matrix mapping identified failures against recommended interventions across legal, institutional, and governance dimensions. The table provides a structured framework for policy and institutional reform aimed at transforming child labour enforcement from symbolic prohibition to effective criminal accountability.

Table 4: Reform Framework for Strengthening Legal Enforcement and Criminal Justice Response to Child Labour

Sl. No.	Reform Area	Core Systemic Gap	Key Reform Intervention	Expected Impact
1.	Criminal Justice Enforcement	Weak FIR registration, poor investigation, low conviction rates	Mandatory cognisable registration, specialised investigation units, designated prosecutors, and priority judicial listing	Improved prosecution quality and higher conviction rates
2.	Institutional Coordination & Accountability	Fragmented departmental responsibility and lack of monitoring	Establishment of a nodal enforcement authority with performance-based reporting mechanisms	Integrated enforcement response and measurable accountability
3.	Informal Economy	Limited inspection reach and hidden	Digital inspection systems, supply-chain	Enhanced detection,

	Regulation	child labour practices	monitoring, and data integration across agencies	prevention, and evidence-based enforcement
4.	Policy–Justice Integration	Emphasis on rescue over penal consequences	Mandatory parallel prosecution alongside rehabilitation measures	Balanced child protection and strengthened deterrence

VISUALISING THE PATH FROM FAILURE TO ACCOUNTABILITY

The transition from systemic failure to effective enforcement is illustrated in Figure 4, which conceptualises an integrated enforcement model linking detection, investigation, prosecution, adjudication, and rehabilitation within a unified governance framework. The figure demonstrates how coordinated institutional action can disrupt the cycle of exploitation and restore the deterrent function of criminal law.

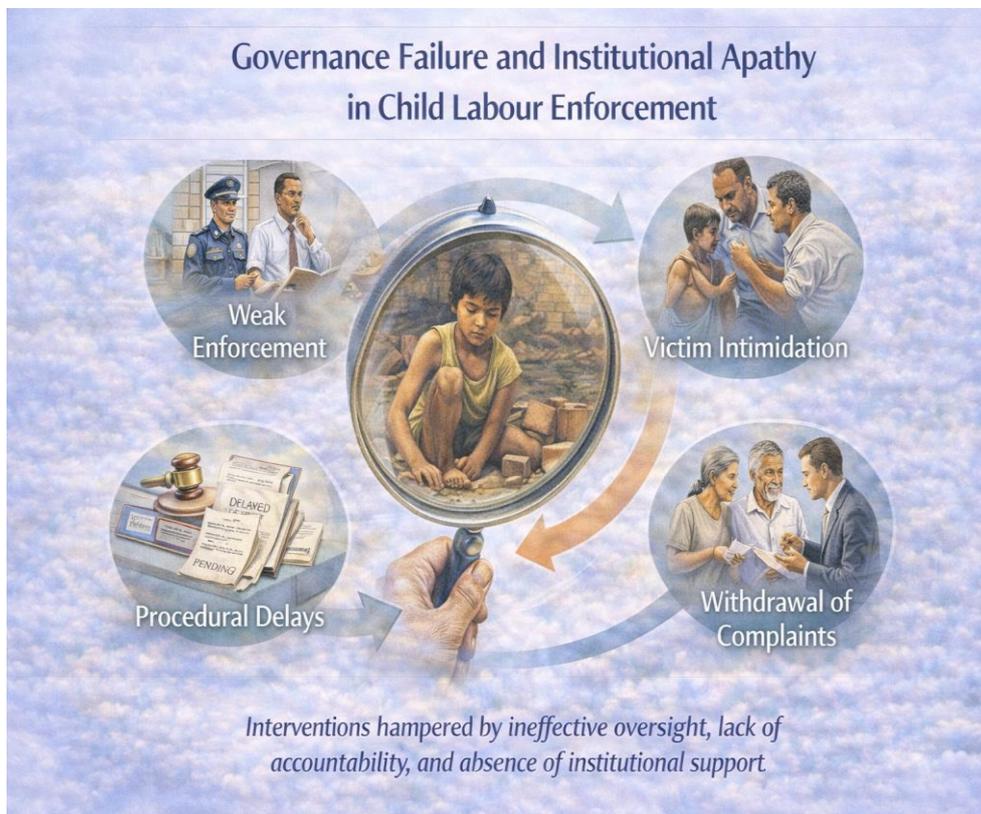


Figure 4: Integrated Criminal Justice and Governance Model for Addressing Child Labour.

The Figure 4, presents an integrated and multi-institutional framework designed to address child labour through coordinated criminal justice intervention and governance reform. The model visually emphasises that the eradication of child labour cannot be achieved through isolated institutional efforts; rather, it requires a collaborative, circular, and accountability-driven approach linking law enforcement, prosecution, judiciary, and social welfare systems.

At the core of the model is the concept of a “Collaborative Response,” symbolised by the handshake and scales of justice at the centre. This central imagery reflects the necessity of inter-agency coordination and shared institutional responsibility. The circular design of the framework signifies that the response to child labour is not linear but continuous, requiring sustained interaction among enforcement, adjudication, and welfare mechanisms.

The police component of the model highlights specialised anti-trafficking units, victim rescue and protection, and surveillance functions. This dimension recognises that effective detection and investigation form the foundation of criminal accountability. Without proactive identification of child labour offences and proper documentation, subsequent stages of prosecution and adjudication cannot function effectively.

The prosecution segment emphasises special courts for child labour cases, expedited trials, and safeguards for victim testimony. This reflects the need to reduce procedural delays and address evidentiary weaknesses that often result in acquittals. Dedicated prosecutorial mechanisms strengthen deterrence by ensuring that cases proceed efficiently and are supported by adequate legal preparation.

The judiciary component focuses on dedicated judges, prompt decisions, and continuous monitoring. Judicial prioritisation of child labour offences is essential to prevent case attrition and ensure that legal norms translate into enforceable outcomes. The model recognises that delayed justice diminishes deterrence and undermines public confidence in enforcement institutions.

The social welfare dimension underscores community intervention, rehabilitation, educational reintegration, and family support systems. While criminal accountability is central, long-term eradication of child labour requires social protection measures that address vulnerability and prevent re-entry into exploitative labour.

Surrounding the entire framework are institutional safeguards and policy, monitoring, and accountability mechanisms. These outer layers signify that criminal justice reform must be supported by governance oversight, data systems, and performance evaluation. The concluding note in the figure—highlighting backlogs and inadequate enforcement—reinforces the central thesis of the paper: without systemic coordination and accountability, legal prohibitions remain symbolic.

Overall, the model demonstrates that child labour persists not due to absence of law but due to fragmentation and weak enforcement. The integrated framework proposes a shift from isolated administrative action toward a unified criminal justice and governance strategy,

thereby restoring deterrence and reinforcing the State's obligation to protect children from exploitation.

CONCLUSION

This paper has argued that child labour in India must be reconceptualised and addressed as a continuing crime against children rather than as a residual socio-economic problem arising solely from poverty, illiteracy, or developmental deficits. While economic vulnerability undoubtedly contributes to the supply of child labour, the continued engagement of children in exploitative work environments is sustained by systemic failures within enforcement institutions and governance structures. The persistence of child labour therefore reflects not the absence of legal prohibition but the failure of enforcement, criminal justice mechanisms, and institutional accountability to give meaningful effect to constitutional and statutory mandates.

The analysis undertaken in this study demonstrates that India possesses a comprehensive legal framework designed to eliminate child labour, including constitutional safeguards, statutory prohibitions, and international obligations. However, the existence of law in formal terms has not translated into effective protection in practice. A substantial gap persists between normative commitment and operational enforcement. This disjunction underscores a deeper structural problem: criminalisation without enforcement produces symbolic compliance rather than substantive justice.

Through a critical examination of enforcement practices, the paper has identified systemic attrition at every stage of the criminal justice process. From under-detection and under-registration of offences to weak investigations, poor prosecutorial preparation, and prolonged judicial proceedings, child labour cases encounter institutional barriers that significantly reduce the likelihood of conviction. This cumulative attrition weakens deterrence and fosters a climate of impunity. Employers who exploit children are rarely subjected to serious penal consequences, thereby reinforcing the perception that child labour is a low-risk offence within the informal economy.

The study further reveals that governance fragmentation and institutional apathy play a decisive role in sustaining exploitation. Responsibility for addressing child labour is dispersed across multiple agencies, often operating without adequate coordination or accountability. This diffusion of responsibility results in inconsistent enforcement and weak follow-through. In the absence of performance-based monitoring and outcome evaluation, enforcement institutions are seldom held accountable for failure to secure convictions or

prevent recurrence. Such governance deficits transform child labour from an illegal act into a tolerated economic practice.

Judicial interventions, while normatively significant, have not fully compensated for enforcement weaknesses. Courts have articulated strong principles affirming the rights and dignity of children, yet judicial pronouncements depend upon effective investigation and prosecution to achieve tangible impact. The structural limitations of adjudication, particularly procedural delays and evidentiary challenges, further constrain the transformative potential of judicial activism. As a result, normative condemnation has not consistently translated into criminal accountability.

Reframing child labour as a continuing crime against children necessitates a fundamental shift in institutional priorities. Enforcement agencies must treat child labour offences with the seriousness accorded to other crimes against vulnerable groups. This requires strengthening investigative capacity, mandating prompt registration of offences, improving prosecutorial coordination, and ensuring judicial prioritisation of child labour cases. Criminal accountability must function not as an occasional response to public outcry but as a routine and credible consequence of exploitation.

At the same time, effective eradication demands integration between criminal justice mechanisms and social protection systems. Rescue and rehabilitation, while essential, cannot substitute for prosecution and punishment. Without penal consequences for offenders, rehabilitation efforts risk becoming cyclical, allowing children to be reabsorbed into exploitative environments. A balanced model that combines deterrence with social support is therefore indispensable for sustainable change.

Ultimately, the persistence of child labour poses a profound challenge to the rule of law and constitutional governance. A legal system that prohibits exploitation yet fails to enforce its prohibitions undermines its own legitimacy. Child labour, when tolerated through institutional inaction, becomes a manifestation of structural injustice. The State's obligation extends beyond drafting legislation; it includes ensuring that legal norms are implemented with seriousness, consistency, and accountability.

The eradication of child labour is thus not merely a matter of developmental policy or economic reform. It represents a test of the State's commitment to justice, human dignity, and the protection of vulnerable populations. Treating child labour as a continuing crime against children reasserts the primacy of criminal accountability and affirms that exploitation cannot be normalised under the guise of socio-economic necessity. In this sense, the struggle against

child labour is both a legal imperative and a moral responsibility central to democratic governance and the protection of fundamental rights.

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