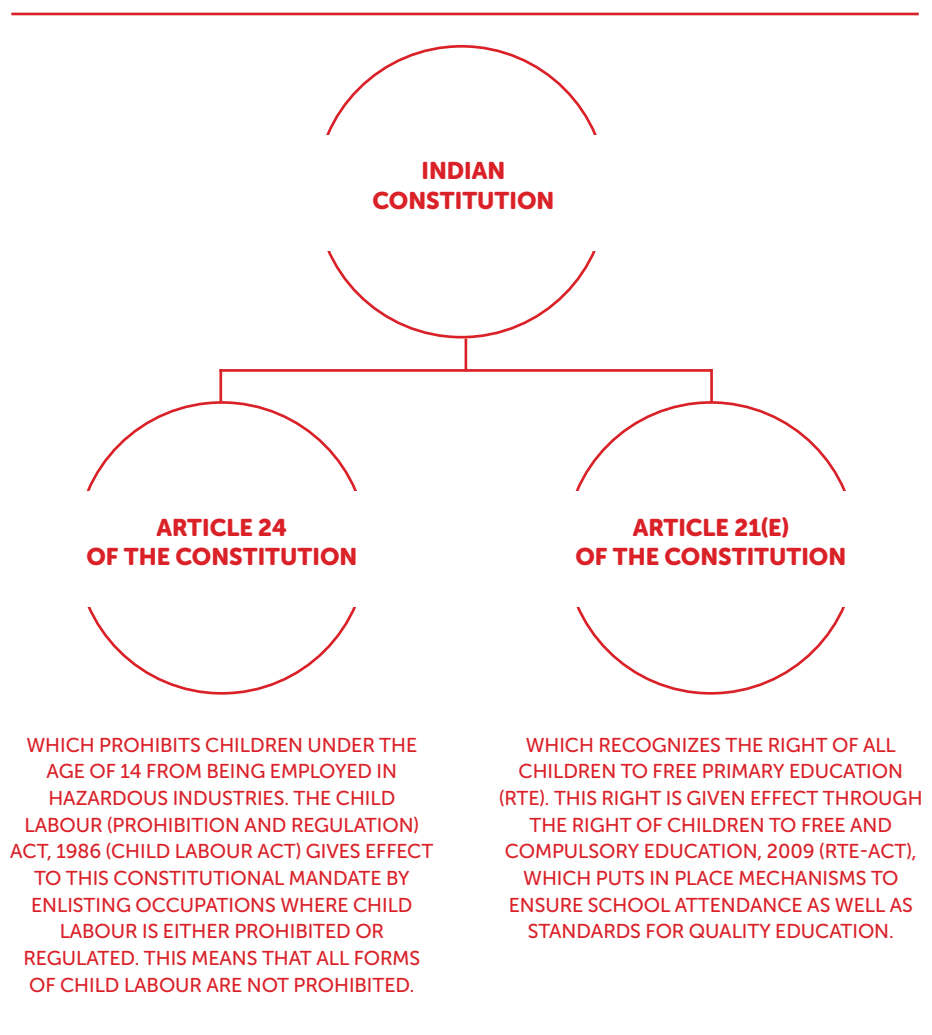


ANNEX I: LEGAL FRAMEWORK

OVERVIEW OF INDIAN LAW ON CHILD LABOUR

The Constitution of India is the source of all laws in India. Rights recognized under the Constitution are given effect to through the enactment of specific legislation. The most relevant articles of the constitution and subsequent documents are detailed in the graph below.



¹ Usha Ramanathan. 2009. Evolution of the Law on Child Labour in India in in Hugh D. Hindman ed., *The World of Child Labor – An Historical and Regional Survey*. Armonk, NY: ME Sharpe (<http://www.ielrc.org/content/a0905.pdf>)

² Indian Express (2014). 5 Years On, Right to Education is Still Far Cry in AP

³ Covering those engaged in agriculture, homebased work and artisanship.

⁴ Child Labour Law Amendment, Applying the Brakes on Social Mobility, *Supra* N 2

These laws have not been effectively implemented. Under Child Labour Act, minimal penalties prescribed for engaging child labour in prohibited sectors have not had any significant deterring effect ¹. Implementation of the Right To Education (RTE) Act has also been slow; with none of the states reaching the prescribed 2015 targets, on universal primary school enrolment and quality of education.² It is unlikely that the objectives under the RTE Act will be achieved unless child labour at least up to the age of 14 is outlawed completely.

In 2012, the Central Government proposed to amend the Child Labour Act to bring it in line with the RTE Act and ILO Conventions 138 and 182. However, child rights groups have critiqued this proposed amendment, as it would allow for child labour to take place in family enterprises³ thus diluting the objective of completely banning child labour up to the age of 14 years.⁴

In addition to the key documents and articles listed above there are other documents worth mentioning, as well as policies and schemes that are implemented at the state level.

Additional relevant legal provisions on addressing child labour

LABOUR LAWS

- **General labour laws governing labour rights and employment conditions**
 - Factories Act, 1948, prohibits the employment of children below the age of 14 in any factories and regulates factory employment of children in the 15-18 age group
 - Contract Labour (Regulation and Abolition) Act, 1970 regulates employment of contract labour
 - Workman's Compensation Act, 1923 includes provisions on aspects of factory safety
 - Maternal Benefits Act, 1961 prescribes maternity leave and benefits
 - Unorganized Worker's Social Security Act, 2008 extends the coverage of benefits available to organized labour to home based, self employed or daily wage workers
 - Bonded Labour System (Abolition) Act, 1976 aims to abolish bonded labour with a view to prevent the economic and physical exploitation of weaker sections of the population
 - Minimum Wages Act, 1952, prescribes minimum wages in certain sectors
- **Sectoral labour laws, which contain provisions prohibiting/regulating child labour**
 - Section 45 of the Mines Act, 1952 prohibits the employment of children under the age of 15 in any mine or mining operations
 - Section 12 of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service Act, 1996, does not allow for the registration of any person under the age of 18 as a building worker
 - Section 24 of the Beedi and Cigar Workers (Conditions of Employment) Act, 1996 prohibits the employment of children under the age of 14 in any industrial premises
 - Section 19 of the Plantations Labour Act, 1991 restricts the number of hours that children under the age of 14/18 can work on any plantation

LAW ON JUVENILE JUSTICE

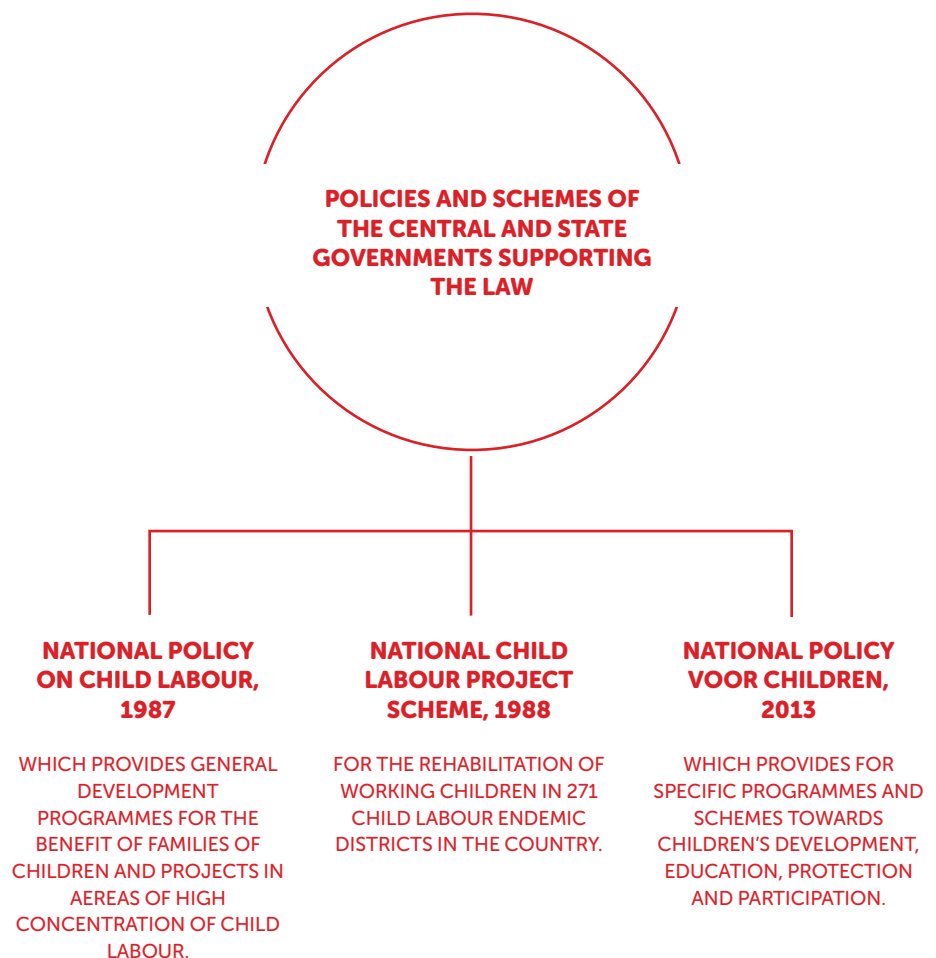
The Juvenile Justice (Care and Protection) of Children Act, 2000 that criminalizes any person procuring or employing a child in any hazardous employment or in bondage

POINTS ON LEGAL IMPLEMENTATION

- Rules and procedures for accessing remedies under different laws may vary from state to state. To illustrate, rates of minimum wages are determined by each state and may vary from one state to another.
- Central and state jurisdiction may also overlap in the implementation of laws in the same area. For example, in Budhpura, regulation of stone quarries falls under the ambit of Mines Act, 1952, which is implemented by central government authorities; while the regulation of the auxiliary cobble stone industry in the same area falls within the jurisdiction of the state government through its various departments and statutory authorities.

Policies implemented at the state level

In India there are many policies and schemes that are implemented at the state level. The child labour issue is no exception. Therefore it is important to also be aware of the following efforts.



DUTIES OF COMPANIES TO SAFEGUARD CHILD RIGHTS UNDER INDIAN LAW

What is CSR?

Although the Companies Act, 2013 does not provide a definition of 'CSR', a CSR approach should be a holistic one, integrated with the core business strategy for addressing social and environmental impacts of businesses. It should address the well-being of all stakeholders, including local community members and not only company shareholders. CSR initiatives should not be limited to philanthropic activities but cover a larger set of activities entailing strategic business benefits. CSR approaches are also regarded as an important aspect of broader corporate sustainability.

According to the 2013 'Guidelines on CSR and Sustainability for Central Public Sector Enterprises' issued by the Central Government—'CSR and sustainability are so closely entwined, it can be said that corporate social responsibility and sustainability is a company's commitment to its stakeholders to conduct business in an economically, socially and environmentally sustainable manner that is transparent and ethical.'

Source: Confederation of Indian Industry and PwC India, (2014) Handbook on CSR in India.

Who is required to implement Section 135 of the Companies Act, 2013



LARGE COMPANIES

THIS PROVISION APPLIES TO COMPANIES WITH A NET PROFIT OF RUPEES FIVE CRORES (50 MILLION).
US DOLLAR 7.5 MILLION.



SMALL COMPANIES

INDEPENDENT AND ANCILLARY SMALL TO MEDIUM ENTERPRISES (SME-S) EMPLOY NEARLY 40% OF INDIA'S WORKFORCE COMPANIES THAT DO NOT MEET PROFIT REQUIREMENTS

Adherence to Section 135 of the Companies Act, 2013

