
“Child labour” A Threat to the Nation’s Future

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Abstract

A child, by virtue of his physical and mental immaturity, needs special care before and after birth. Under compelling circumstances, when the children should be at school, they are forced to search for work in order to survive, making them child labour. Poverty, illiteracy, lack of social security, the gap between the rich and poor, and loss of jobs are some of the major causes of child labour. Child labour reinforces intergenerational cycles of poverty. Child labour is a violation of the human rights of the child. The present paper is an attempt to examine the extent of child labour and also focus on the laws relating to child labour and preventive measures. For the study, secondary sources of data were used.

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1. Introduction

Children are the potential embodiment of our ideals, aspirations, ambitions, dreams and hopes. The child, for the full and harmonious development of his or her personality, should grow up in a very pleasant family environment, in an atmosphere of happiness, love and understanding. In fact, a child, by virtue of his physical and mental immaturity, needs special safeguards and care before and after birth. Every parent's wish is that their children receive the best education and affectionate care. But in reality, they miserably fail to provide for education, health care and even the bare necessities of life because of utter poverty, lack of education and bad socio-economic conditions. Under these compelling circumstances, when the children should have been at school are forced to search for work in order to survive, making them child labour. Their parents, voluntarily but painfully, allow them to work as child labour. Besides these, to employers, child labour is profitable as the wages of children are small, their complaints few, and they work in some industries and occupations as much as adults. Employers do not hesitate to employ children in their own interest without considering the needs of the children for healthy growth and development. In several cases, the sectors of work (organised and unorganised) in which children are engaged do not ensure any protection at work with regard to the physical capacity of the child, regularity of income or any long-term benefits. Exploitation becomes a way of life for them and becomes very harmful to their physical and mental development.

In the broadest sense, any person who is under the age of 18 is regarded as a child. Main causes of child labour are basically poverty, illiteracy, lack of social security, the increasing gap between the rich and the poor, loss of jobs of parents and social structure, etc. It is also a known fact that many children are trafficked and exploited by the placement agencies to provide child domestic workers, which operate openly without any form of restrictions or regulations. Under the compelling circumstances, parents, voluntarily but painfully, allow their children to work even in industries involving hazardous processes, and in this way, children form the category of child labour.

2. International Perspective

Every child deserves to be treated with dignity and respect, regardless of their race, religion, gender, or socio-economic background. Child labour is not a recent phenomenon. It has existed in one form or another in almost all countries of the world. Very often, the children, while working at the machines for a long time, used to sleep and get rolled into them

¹. At the International level, in order to eradicate child labour, the International Labour Organisation(ILO) has adopted many Conventions and Recommendations.

The fundamental principles to be followed in the case of children have been laid down in various international instruments. Declaration of the Rights of the Child (1959) aims that the child may have a happy childhood and enjoy for his own good and for the good of society. This declaration expresses concern of the International community for child welfare and calls upon all the parents, individuals, voluntary organisations, local authorities and national governments to implement children's rights by legislative and other measures. These rights which are recognised by the United Nations and to be implemented by the National governments, are specified in the following Ten principles of the Declaration:

1. The child shall enjoy and shall be entitled to the rights set forth in these principles without any distinction or discrimination.
2. The child shall enjoy special protection and facilities for the proper and integrated development of human personality. At the time of enactment of laws for these objects, the best interests of the child shall be the paramount consideration.
3. The child shall be entitled from his birth to a name and a nationality.
4. Special care and protection shall be provided to the child and his mother, including adequate nutrition, housing, recreation and medical services.
5. A child handicapped in any manner shall be given the special treatment, education and care suited to his condition.
6. The child, for the full and harmonious development of his personality, he should be kept under the responsibility and care of his parents and he should not be, except in exceptional circumstances, be separated from his mother. It should be the duty of society and public authorities to provide particular care and support to children without families.
7. The child is entitled to free and compulsory education, at least in the elementary stages, to promote his abilities on the basis of the enjoyment of opportunity.
8. The child shall, in all circumstances, be among the first to receive protection and relief.
9. The child shall be protected against all forms of neglect, cruelty and exploitation. He should not be subjected to any form of human trafficking and child labour which would prejudice his health, education, physical, mental and moral development.
10. The child shall be protected from practices which may foster racial, religious and any other form of discrimination. He shall be brought up to be devoted to the service of his fellow men ².

The year 1989 was marked as the 30th Anniversary of the 1959 Declaration of the Rights of the Child and the 10th Anniversary of the International year of the child. On 20th November 1989 International Convention on the Rights of the Child, drafted by the UN Commission on Human Rights, was adopted by the UN General Assembly.

In order to safeguard the interests of the children effectively, the UN General Assembly, on November 20, 1989, adopted the Convention on the Rights of the Child. The convention draws attention to the following rights:

1. Every child has the right to life, the highest attainable standards of health, nutrition. He also has the right to a name and a nationality.
2. Children have the right to be protected from economic exploitation and from hazardous work, drug use and trafficking, sexual exploitation and all forms of exploitation prejudicial to any aspects of the child welfare, which includes the right to special protection in situations of emergency and armed conflicts.
3. Every child has the right to development, which includes right to development which includes right to education, support for early childhood development and care, social security, and the right to leisure, recreation and cultural activities. They should not be separated from their parents against their will. A mentally or physically disabled child should enjoy a full and decent life.
4. No child shall be subjected to torture or degrading treatment or punishment.

¹ Mamta Rao, "Law relating to women and children"(4th Ed.2018)p.542.

² P.R Ghandhi: Blackstone's International Human Rights of Child, (Ed.1st,1999)pp38-39

5. Every child has the right to participation, which includes respect for the views of the child, freedoms of expression, access to appropriate information, and freedom of thought, conscience and religion.

The convention also defines a “child” as every human being below the age of 18 years³.

The International Labour Organisation (ILO) has adopted many conventions with a view to eradicating child labour. The two ILO conventions on child labour are Convention No. 138 on the Minimum Age and Convention No. 182 on the Worst Form of Child Labour. All ILO member states have an obligation to respect, promote and understand the abolition of child labour, even if they have not ratified the conventions.

ILO Minimum Age Convention, 1973 (No.138) and its Recommendation No. 146 seek to strike a balance against the prevailing economic realities which lead to child labour. The convention states that the minimum age of work in a country may not be less than the age at which compulsory education ends in that country. Convention No. 182 declares the employment of children below 18 in some hazardous work as one of the “worst forms of child labour”. The worst forms of child labour include—work which exposes children to physical, psychological or sexual abuse, exposure to hazardous substances, temperature, work with dangerous machinery or carrying heavy loads, etc⁴.

3. Indian Perspective

Nature has given every human being, including children, some fundamental rights. The state cannot revoke these inherent rights. The state has to recognise and guarantee these rights. Every child deserves to be treated with dignity and respect, regardless of their race, religion, gender, or socio-economic background. Legal frameworks play a vital role in safeguarding children’s rights and promoting their overall well-being. Children are the most vulnerable section of society. They become the victim of exploitation and ill-treatment easily. The prospect of cheap labour makes children lucrative for establishment owners, who then set them to do often hazardous work. The Supreme Court in *M.C. Mehta v State of Tamil Nadu and others*⁵ observed that the world’s largest concentration of child labour works in the Sivakasi units in India. Out of the total population of 100,000 workers in the match and fireworks industries, the child worker population is around 45,000. The Supreme Court acknowledged that child labour was a widespread problem driven by poverty and that the conditions in Sivakasi factories were hazardous to children’s health and safety. They issued a comprehensive set of directives to the government to combat child labour. In the present case, Sivakasi was taken as one of the worst offenders for violating the fundamental rights of children.

4. Legislative measures

Child labour is a major problem in our country. Child labour refers to the employment of children in any work that deprives them of their childhood, interferes with their ability to attend regular school, and is harmful to their physical and mental health. The Government of India makes efforts to eliminate child labour in the country. Indian constitution provides for the protection of children from involvement in economic activities unsuitable to their age. Article 24 of the Constitution completely prohibits the employment of children up to the age of 14 in factories. Child labour is directly associated with children being out of school. Not only does this rob the children of their childhood, but it also severely limits their employment prospects for decent work in their adulthood. Because of this background, fixing the minimum age of work is directly associated with the age of completion of education.

Undoubtedly, children are the future of the country and need special protection. Article 15(3) of the Constitution empowers the state government to make special provisions for women and children.

Article 21-A of the Constitution provides that the state shall provide free and compulsory education to all children up to the age of 14 years in such manner as the state, by law, may determine.

Article 23 of the Constitution prohibits traffic in human beings and beggars, and other similar forms of forced labour. Article 23 protects the individual not only against the state but also against private citizens.

³ S.N Misra : Labour and Industrial Laws , Ed.2006, p. 859

⁴ <https://www.ilo.org/international-programme-elimination-child-labour-ipecc/what-child-labour/ilo-conventions-child-labour> visited on 11/9/25.3:pm

⁵ A.I.R 1997 SC 699

Article 39(e), which is a directive principle of state policy, provides that the state shall, in particular, direct its policy towards securing that the health and strength of workers and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.

Article 39(f) of the Constitution provides that the state shall direct its policy towards securing that children are given opportunity and facilities to develop in a healthy manner and in conditions of freedom and dignity; and that children and youth are protected against exploitation and moral and material abandonment.

5. Legal protections

It is needless to mention that child labour directly results from basic human needs. Ensuring social protection to at least fulfil these needs can keep many children away from child employment. Realising the multifaceted nature of this problem, the government has taken on a holistic and multi-pronged approach to eliminate child labour from the country in a phased manner, beginning with children working in hazardous occupations and progressively covering those working in other occupations also.

India has enacted the “ Child Labour (Prohibition and Regulation) Act, 1986 and its subsequent amendments to combat child labour. Under this Act, children up to 14 years were prohibited from certain hazardous occupations and processes, and to regulate the conditions of work of children in other employments were regulated. The Amended Act- The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986, which came into force in September 2016, introduces a complete prohibition on employment of children below 14 years of age in all occupations and processes, linking the age of the prohibition of employment with the age for free and compulsory education under the Right to Education Act, 2009. Child Labour (Prohibition and Regulation) Amendment Rules 2017 provide provision for prevention, rescue, and rehabilitation. The Rules also provides for the District Nodal Officer and Task Force under the chairmanship of the District Magistrate to ensure the safety and security of the children.

Because of the technological and scientific development in the present-day society, various industries involving hazardous processes are increasing day by day and affecting in life and security of society in general and workers in particular. The Factories Act, 1948 is a piece of social welfare legislation enacted primarily with in objective of protecting workmen employed in factories against industrial and occupational hazards. This Act prevents workers from working long hours of stain and to ensure the safety, healthy, and welfare of the workers. It also prohibition of employment of young children and prescribes working hours for minors.

Section 67 of the Factories Act provides that no child who has not completed his fourteenth years shall be required or allowed to work in any factory. Section 68 of the Act provides that non-adult workers are to carry tokens, which is proof of having a certificate of fitness. Such a certificate of fitness should be given by a certifying surgeon.

The spirit of the Indian constitution, perhaps, is that children should not be employed in factories, as childhood is the formative period. However, economic necessity forces children to seek employment. Section 71 of the Factories Act fixes working hours for children. Section 71 says that no child shall be employed or permitted to work in any factory for more than four and a half hours in any day and during the night. The period of work of all children employed in a factory shall be limited to two shifts, which shall not overlap or be spread over more than 5 hours each. No child shall be required or allowed to work in any factory on any day on which he has already been working in another factory. A notice of the period of work for children showing clearly for every day should be displayed. Under Section73 the manager of the factory is required to maintain a register of child which should be available to the Inspector at all times during working hours.

Under Section 99 of the Act if a child works in a factory on any day on which he has already been working in another factory, the parent or guardian of the child or the person having custody of or control over him obtaining any direct benefit from his wages, shall be punishable, with fine which may extend to one thousand rupees, unless it appears to the court that the child so worked without the consent or connivance of such parent, guardian or person.

6. Judicial Response

Under our constitution and other legislations, there are provisions to prevent and abolish child labour. The judiciary has also discharged its responsibility to implement these provisions. In a landmark judgment in

*M.C.Mehta v State of Tamil Nadu*⁶ supreme court has held that children below the age of 14 years cannot be employed in any hazardous industry or mines, or other work.

In *Bandhua Mukti Morcha v Union of India*⁷ number of workers, including children, in Stone quarries and mines were kept as bonded labours. The Supreme court held that it violates Articles 21, 23, and 24 of the Indian Constitution. The court also held that children in quarries and mines are victims of exploitation and such children should be rescued and provided education and not returned to hazardous work.

In *People's Union for Democratic Rights v Union of India*⁸, many child labourers were employed by construction companies. The Supreme Court held that financially vulnerable workers have the right to approach the Supreme Court under Article 32 of the Constitution to enforce their rights under labour laws. It also held that forced labour and bonded labour violate Article 21 of the Indian Constitution.

In *Bachpan Bachao Andolan v Union of India and ors*⁹, many children were trafficked into circuses. The Supreme Court recognised trafficking of children into circuses is an organised crime. It violates the Right to Education (Article 21-A), and such children should be rescued and rehabilitated.

Thus judiciary has discharged its responsibility of protecting children and enforcing their rights.

7. Conclusion

The growing complexity of life and economic conditions children are forced to work at an age when they should study. Those who attend school are also forced to drop out. The prospect of cheap labour makes such children attractive to establishment owners and it is easier to cheat and exploit. Children work because of their survival and that of their families. Child labour reinforces intergenerational cycles of poverty. Despite constitutional and legislative provisions against child labour, India is facing a worsening of the situation of child labour. Child labour is not just a legal issue, but also a socio-economic and cultural one. Most parents do not understand that child labour is banned, and it damages the chances of their children for a better future. The government needs to take steps to establish a fully functional child labour task force to prevent child labour. It is also necessary to increase the number of schools in rural areas as to ensure the fundamental right to education as enshrined in the constitution. It is also necessary to make national policies and plans to provide decent jobs for adults, so that parents do not need to resort to child labour. It will be helpful if various stakeholders from different walks of life come forward to campaign against child labour.

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⁶ (1991)1SCC 283

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⁸ (1982)3 SCC235

⁹ (2011)5 SCC 1