

PROBLEM OF CHILD LABOUR IN INDIA: SOME RECENT AMENDMENTS IN LEGAL PROVISIONS

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Abstract

Childhood is a very beautiful journey of life. There is no worry in childhood, there is no concern, it is childhood to enjoy a joyful life. But in the childhood of some children, due to inadequacy and poverty, they have to face problems like child labour. At present, child labour is a serious concern. It is present in the form of a curse among children's innocence. Child labour is a risk in the terms of health, education and development of children. Child work includes all the tasks that are harmful to the physical, mental, intellectual, ethical and social development of children. Children are the flowers of the garden of our country. Therefore, it is our duty to protect all these flowers, which we should do first. Child labour is a social and economic problem. Child labour is not a new problem in a big country like India. From a very old time, children help in the work of their home, and sometimes they work in fields with their own households.

1. INTRODUCTION

In a way, child labour is financially unhealthy, mentally destructive and morally completely wrong. Child labour should be strictly prohibited. If all people are financially and socially capable then child labour will end up automatically.

In Ancient Period it was mentioned that all the laws were contained in the Dharmashatras. The legal system was primarily based on the rules mentioned in the Dharmashatras. No uniform standards were applied in providing justice to people. There was no uniform legal norm at in Ancient India. This characteristic of legal system continued even in the medieval period.

It was only during the British period that radical transformation took place in the legal and judicial system of country. The British introduced numerous changes in our traditional Indian legal system.

The new legal system was based on the principal of universalism. After the independence of India the constitution makers consciously added the various provisions which show the special care for the children or the welfare provision which deals especially with the protection of child labour.

2. CHILD LABOUR : CAUSES AND FACTORS

Though child labour is prohibited and it has been made a punishable offence, yet we find the large number of children employed in various sectors. Some of the works where these little angles are found working are absolutely unsuited to their age and physical & mental capacity. But still they are working. They have no alternative. There Is no way out. Sometimes they work till scars appear on their soft palms. They are hurt. They (and their future) is ruined. But they don't argue, they don't stop, they just work. But what for? Yes, only and only for few rupees which they earn at the end of the day. Legislature make the laws but its implementation to fullest extent is sometimes found impossible. One of such area where law has found itself in helpless situation is Child Labour. This is the area where there are more than 300 central and State legislations that prohibit employment of children in various employments. But all in vein. Our laws have miserably failed in eradicating the evil of child labour. Therefore, we need to go to the root cause of the matter and try to find out the reason cause of the problem and: search for Its permanent solution. The study of the child labour shows that its main causes are

1. Poverty and
2. Lack of education

India is a highly populous country. Actually manpower is an asset, but when it are not properly utilized, it become liability. The problem with our country is that it is a very large country having population of more than 100 crores. We are a developing country. Crores of people in our nation live below poverty line. One of the reasons of poverty is unemployment. We are facing an acute problem of unemployment. This unemployment leads to many social evils including theft, burglary, dacoity, prostitution and child labour. When the people do not have two time meals they cannot possibly think,of sending their children to schools. On the other hand they encourage their children to join one or other employment so that their children can fetch them some money. In India, most of the child labourers heel from very poor families. They are working to give financial support to their families. Sometimes, when they don't find any work they start begging on the roadsides. It is also seen that in poor families their children are not at all burden for them. This is because more the children more will be the hands and consecutively more will be the family income. When this is the plight of the poor in India, sometimes it is feit that strict enforcement of laws relating to Child Labour would worsen the situation.

Second Important reason of child labour is illiteracy or lack of education. 80% of the child labourers belong to Dalits (including SC and STs). Some of these are people are totally illiterate and most of them are not property educated. Since they themselves are uneducated, they do not understand the importance of education in human life. Therefore, they prefer not to send their children to schools; rather they make them join one or another employment. This results in widespread illiteracy. It is, therefore, very important and necessary to educate

parents and the children. It is only education that can bring about some change In the situation. If the parents are property educated they would never prefer to make their children work at the cost of education. Our Government Is also aware of this situation and therefore It Is taking steps to promote education. Article 45 (which is a part of Directive Principles of State Policy) provides that primary education should be compulsory. However, the free and compulsory primary education for the children between the age group of 6 to 14 has now been made a fundamental rights But what about the children above 14 years? The question remains un-replled. If proper education facility is made available to children, we can at least expect to eliminate this social evil of child labour in future era.

3. CONSTITUTIONAL PROVISIONS AND PROTECTION OF CHILDREN

Since the establishment of the Indian Constitution, numerous rules and regulations have been confined for ensuring the children and the young of our nation. The part III and IV of Indian Constitution examines the laws and regulations confined by the administration, the amendments for work laws and regulations, the activity design of the Centre and State governments and other late improvements to handle the issue of child labour. The investigation makes an unassuming endeavour to feature a portion of the current improvements and exercises relating to child work to centre around the degree, appropriateness and restrictions of different rules and regulations.

One of the significant regions of insurance identifying with children is child laws. Our Constitution's primary goal is to protect children from the adverse effects of their employment on their physical and mental development.

Women and children are protected under Article 15 of India's constitution. As a result of their unique position in Indian society, women and children deserve specific protection. According to the same article, a state may provide specific accommodations for these people.²

3.1 Protection of Life and Personal Liberty

No person shall be deprived of his life or personal liberty except according to procedure established by law. The Constitution 2002, (w.e.f. 1.4.2010) proposed a new clause Art., 21 A after Art., 21 of the Constitution which impose duty on state and states that “State shall provide free and compulsory education to all children of the age of 6 to 14 years in such a manner as the State may, by law determine.”

3.2. Prohibition of Traffic in Human Beings and Forced Labour

It is illegal to traffic in human beings and beggars, as well as to engage in other forms of forced labour of a similar nature. There are two women of human trafficking: ethical and immoral trafficking of women and children for degrading or other objectives. As well as

protecting private inhabitants, this article protects the person against the State. As a result of this article, every state entity is obligated to take the required efforts to eliminate the evils of human trafficking and constrained employment in every one of its structures. It also restricts the use of bonded labour, which falls under the scope of this article.

3.3. Prohibition of Employment of Children in Factories

Child labour is prohibited for anyone under the age of fourteen. Health and well-being of children is paramount in this offering. They can still be employed in safe activities and jobs despite this article.

3.4. Certain Principles of Policy to Be Followed by the State

Securing is a priority for the state's policies.

1. Everyone has the right to a decent standard of living and shouldn't be discriminated against.
2. That the ownership and control of the community's material resources are distributed in such a way as to best serve the common benefit;
3. To ensure that money and production resources aren't monopolised by a few to the detriment of the rest of us.
4. As a result of this, both men and women should be paid equally.
5. This includes ensuring that employees' health and strength are not mistreated or that children's health is not compromised because of financial necessity;
6. That children be supplied with opportunities and equipment for a healthy growth, as well as conditions of liberty and dignity, and that infancy and youth are protected from exploitation and moral and material abandonment;

3.5. Equal Justice and Free Legal Aid

According to article 39A of the Constitution of India, "The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities."

3.6. Right to Work, to Education and to Public Assistance in Certain Cases

Within the limits of its financial ability and expansion, the state shall make effective provisions to ensure the right to work, education, and government assistance in cases of unemployment, advanced age, disease, and disability, and other unjustified desires.

3.7. Living wage, etc., for workers

Art., 43 ensures that the State shall endeavour to guarantee for all experts, horticultural, mechanical or otherwise, living compensation, working conditions guaranteeing a high standard of living and full enjoyment in recreation and social and social openings by means of suitable enactment or economic affiliation. It emphasis on living wage rather than a minimum wage. The idea of living compensation incorporates into expansion to the minimum essentials of life, for example, sustenance, haven and dress, provision for instruction of children and protection and so forth.

3.8. Provision for Early Childhood Care for and Education to Children Below the of Six Years

State shall endeavour to provide all children with early childhood care and education until they are six years of age.

3.9. Fundamental Duties

Who are parents as guardian for provision the opportunity of education to their children, as the case, shall be guardian of the children of six years to fourteen years of age.

4. VARIOUS LEGISLATIONS

Child labour deserves a greater attention in safety and health aspects. As most of the occupational system disorders manifest their after prolonged exposure of the child by leaving child to be patient before entering into adolescent. The government of India takes all possible effective steps not only to prevent the exploitation of children but also to take necessary and adequate measures for their welfare and protection. A number of laws have been implemented for the upliftment and betterment of children. These Acts have bought about a perceptible improvement in their position in society.

There are many laws have been enacted for the protection of child labour, which we will discuss here in this chapter. We have only selected a few important laws that protect children from dangerous, exploitative or immoral trade or activities. Which is as follows.

- *IPC (Indian Penal Code), 186,*
- *The Children (Pledging of Labour) Act, 199,*
- *The Employment of Children Act, 1938,*
- *The Factories Act, 1948,*
- *The Plantation of Labour Act, 1951,*
- *The Mines Act, 1952,*
- *The Immoral traffic (Prevention) Act, 1956,*
- *The Merchant Shipping Act, 1958,*

- *Motor Transport Workers act, 1961,*
- *The Apprentices Act, 1961,*
- *Shops and commercial Establishment Acts,*
- *Beedi and Cigar Workers (Conditions of Employment) Act, 1966,*
- *The Contract Labour (Regulation and Abolition) Act, 1970,*
- *Bonded Labour System (Abolition) Act, 1976,*
- *Dangerous Machines (Regulations) Act, 1983,*
- *The Child Labour (Prohibition and Regulation) Act, 198,*
- *The Juvenile Justice (Care and Protection of Children) Act, 2000,*
- *The Commission for the Protection Child Rights Act, 2005,*

A part from all these legal enactments from time to time, the amendments have been made in most of the above statues, for the effective implementation and result of these Acts. Government always adopted progressive outlook for the betterment of child labour.

5. INDIAN PENAL CODE 1860

This Code is intended to serve as a general criminal code for India. The following are the relevant provisions of the Indian Penal Code dealing to child labour: The Indian Penal Code applies to the whole country of India, with the exception of the state of Jammu and Kashmir. Slavery is defined as the act of purchasing or selling someone as a slave. Whoever imports, exports, removes, buys, sells, or disposes of any person as a slave, or accepts, receives, or detains any person as a slave against his will is subject to imprisonment of either kind for a time up to seven years, as well as a fine. Slave trafficking is a common occurrence. Whoever regularly imports, exports, removes, buys, sells, traffics, or deals in slaves is subject to life imprisonment or a period of imprisonment of either sort of not more than 10 years, as well as a fine for illegal coercive labour. Whoever wrongfully coerce any person to work against their will is punishable by imprisonment of any sort for a time up to one year, a fine, or both.

6. CHILD LABOUR (PROHIBITION AND REGULATION) AMENDMENT ACT, 2016

The Child Labor (Prohibition and Regulation) Amendment Bill, 2016, was passed by Parliament in July 2016. It corrects the 1986 Child Labor (Prohibition) Act. This amendment bill imposes severe penalties for violating the Child Labor (Prohibition) Act of 1986, which prohibits child labour. The Employment of Children Under the Age of 14 in Dangerous Occupations and Processes Act of 1986 prohibits the employment of children under the age of 14 in hazardous occupations and processes. The President's permission was obtained on July 29, 2016, and the Act went into effect on July 30, 2016.

This act prohibits children under the age of 14 from working in any business or enterprise, unless it is their or their family's business, as long as their education is not hampered. Some

occupations, such as beedi making, mines, electric looms, automobile workshops, carpet weaving, and others, were prohibited from employing children under the age of 14 under the 1986 Act. Add a new category of people called "Kishore" as a result of this act. It classifies youngsters aged 14 to 18 as teenagers and prohibits them from working in any hazardous vocation.

This act makes child labour a cognizable offense. If any person works with children under 14th years of age, then the person is sentenced to 6 months to two years for a jail sentence or a fine of twenty thousand to fifty thousand rupees or both. If the perpetrator is guilty of having child labour more than once, then he will be punished for imprisonment from 1 to 3 years or fine or both. If the perpetrator is the parent of the child, then the penalty provision proposes a fine of Rs. 10,000. The Act provides for the creation of rehabilitation funds for the rehabilitation of the children.

This act has been brought down from the number of hazardous occupations 83, which is now just 3. These three types of business are under the mining, flammable substances and dangerous acts under the Factory Act. This Act empowers the Central Government to add or drop any dangerous occupation from the list included in the Act. With the passage of this Act, the law of India has now been amalgamated with the law of the International Labour Organization Conference. It says full restriction on child labour. So that the children can get mandatory primary education under the right to education. In addition to this, the Act has allowed children to help their families run with their parents in order to promote family enterprises.

6.1 The main objectives of the Act are;

1. to ensure that the definition of a child is consistent throughout all relevant laws;
2. prohibiting the use of children in certain activities and processes;
3. to establish a method for modifying the scope of prohibited industries and procedures;
4. to regulate the employment conditions of youngsters who are not forbidden from doing so; and
5. to impose deterrent sanctions on violators.

The Act went into effect for all types of establishments across the Indian subcontinent. The Act defines a child as someone who has not reached the age of 14 or the age provided in the Right of Children to Free and Compulsory Education Act, 2009 (35 of 2009), whichever is higher.

The Act is broken down into four sections. Parts I and IV deal with definitions and incidental elements, respectively, while Parts II and III, which are the most essential, deal with prohibition of employment and control of working conditions, respectively.

7. THE NATIONAL POLICY ON CHILD LABOUR

The National Policy on Child Labour is a watershed moment in India's efforts to eliminate child labour. In conjunction with legal actions, a National Child Labor Policy was developed to address the socio-economic variables that influence child labour and to provide a framework for a specific programme of action. The policy aims to address situations in which children work, or are compelled to work, on a regular or continuous basis to earn wages for themselves and/or their families, and where their working conditions cause them to be severely disadvantaged and exploited, and where abuses related to such factors affecting wage-employed children require special attention. Education, health, nutrition, children's integrated development, and jobs are all included in the policy.

8. FOCUSING OF GENERAL PROGRAMMES FOR BENEFITING CHILD LABOUR

There are numerous national development programmes in the fields of education, health, nutrition, integrated child development, income generating, and job creation for the underprivileged. These programmes will be used to create socioeconomic conditions in which parents are less compelled to send their children to work and youngsters are encouraged to go to school rather than work for a living.

9. PROJECT BASED PLAN OF ACTION IN AREAS OF HIGH CONCENTRATION OF CHILD LABOUR

This entails implementing projects to improve the lives of working children in places where there is a large concentration of child labour. These programmes take children out of dangerous jobs and help them get back on their feet through education in special schools. According to government sources, ninety-one child labour initiatives have been approved for rehabilitating almost 0.19 million children in the most endemic areas through 2009, with 145,725 children already enrolled in special schools.

10. CONCLUSION

The prevalence of child labour is a highly complex problem because it is the product of the framework under which national economies run, according to a more general understanding of child labour. In the perspective of the modern society ideal, the problem of child labour should be regarded a social concern. Child labour deprives a child of his education, preventing him from reaching his full potential. However, child labour is a problem that affects impoverished and needy families that are unable to urge their children to teach. In India, child labour is not uncommon. It has existed under numerous names since the beginning of time. Despite legal constraints, child labour is an ongoing problem. In the informal economy, children are given priority because employers see them as a source of hard labour and quick profits. Children were worked in for-profit occupations as a child of a

variety of conditions, including extreme poverty, a lack of gainful employment opportunities, a lack of income, and low living standards, to name a few.

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