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A CRITICAL STUDY ON THE EXISTING LEGAL LAWS FOR PREVENTION OF CHILD LABOUR

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ABSTRACT

Child labour remains a major issue in India due to poverty and lack of education. This paper looks at the legal foundation for preventing it, including international agreements and Indian laws like the Right to Education Act, the Child and Adolescent Labour Act, and the Constitution. It emphasizes weaknesses including lax enforcement, narrow definitions of hazardous work, and the family company exception while highlighting benefits such legislative prohibition. The study comes to the conclusion that, even with strict rules, child labor must be eradicated and children's rights must be upheld.

INTRODUCTION

Child labour is a global issue. The problem is more acute in the developing countries especially India, where child labour exists mainly due to poverty and illiteracy. The Child Labour (Prohibition and Regulation) Act, 1986 provides for the prohibition of engagement of children in certain employments and for regulating the conditions of work of children in certain employments. Child labour remains a persistent problem in the world today.

LEGAL FRAMEWORK FOR PREVENTION OF CHILD LABOUR

International laws to prevention of child labour:

- International Labour Organization (ILO) Conventions

ILO Convention no: 138 on the Minimum Age for Admission to Employment was passed in 1973 and has been signed by 135 countries. "Light work" is sometimes used to refer to market

work that is not deemed child labour.

ILO Convention no: 182 on the worst form of child labour is adopted this seventeenth day of June of the year one thousand nine hundred and ninety-nine the following Convention, which may be cited as the Worst Forms of Child Labour Convention, 1999.

- United Nations Convention on the Rights of the Child (UNCRC), 1989

Indian laws to prevention of child labour:

The United Nations Convention on the Rights of the Child, an international agreement on childhood, was adopted by world leaders in 1989, marking a historic commitment to the world's children. It has changed children's lives all around the world and is now the most extensively approved human rights convention in history.

- Constitutional provisions

The protection of children is firmly established under the Indian Constitution:

Article 21(A) Right to education-The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.

Article 24: Prohibition of child employment in factories, etc. No child under the age of fourteen may work in a factory, mine, or in any other dangerous occupation.

Article 39(e) states that citizens are not compelled by economic necessity to pursue occupations that are inappropriate for their age or strength and that the health and strength of workers, men, women, and young children are not abused.

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

- Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 (Amended 2016)

Complete ban on employment of children below 14 years in all occupations.

- Right to children to free and compulsory Education Act, 2009

Ensures compulsory education, indirectly reducing child labour.

- Factories Act, 1948

Prohibits employment of children in factories.

- Juvenile Justice Act, 2015

Penalizes exploitation of children.

CRITICAL ANALYSIS OF EXISTING LAWS

1. Strengths of the Legal Framework

The law now prohibits most forms of child labour.

2. Family Enterprise Exception

Definition of “family enterprise” allows inclusion of extended family and home-based industries. No clear monitoring mechanism to verify whether work is genuinely familial or exploitative.

3. Limited Definition of Hazardous Work

The Act prohibits children from working in occupations classified as hazardous. Narrow scope excludes several dangerous sectors:

- Domestic work
- Agriculture
- Small-scale industries

4. Weak Enforcement Mechanism

Insufficient number of labour inspectors and inadequate training and resources.

JUDICIAL RESPONSE TO CHILD LABOUR

There are some cases that are important for children rights.

1. M.C. Mehta v. State of Tamil Nadu (1996)

The case addressed child labour in hazardous industries like Sivakasi’s match and fireworks factories. As a result of the Supreme Court's ruling that such employment breaches Article 24, rehabilitation measures such as compensation, parental employment, and mandatory education for rescued children are prohibited.

2. Bandhua Mukti Morcha v. Union of India (1984)

In this case, the Supreme Court addressed the issue of bonded labourers, including children, working under inhuman conditions in stone quarries. The Court held that bonded labour violates Article 21 and stressed the State’s duty to identify, release, and rehabilitate such workers. It also expanded Public Interest Litigation, allowing social groups to seek protection of fundamental rights.

3. People’s Union for Democratic Rights v. Union of India (1982)

The case highlighted exploitation of workers, including children, during Asian Games construction. The Court held that child labour in hazardous work violates Article 24 and non-payment of minimum wages amounts to forced labour under Article 23, stressing strict enforcement of labour laws.

4. Labourers Working on Salal Hydro Project v. State of Jammu & Kashmir (1983)

This case dealt with the working conditions of labourers employed in the Salal Hydro Project, including concerns about the employment of children. The Court held that development

projects must follow labour welfare laws and constitutional safeguards, making the State and contractors responsible for humane conditions and preventing child labour, and affirming that development cannot override fundamental rights.

5. *Bachpan Bachao Andolan v. Union of India* (2011)

In this case, the Supreme Court dealt with issues of child trafficking and labour across India. The Court directed authorities to identify, rescue, and rehabilitate trafficked and exploited children, stressing coordinated efforts and stronger child protection mechanisms.

CONCLUSION

Legislations such as the Child Labour (Prohibition and Regulation) Act, 1986 (as amended) and more related policies aim to eliminate child labour and protect children's rights. However, multiple structural and systemic issues continue to undermine their effectiveness.

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