

ISSN: 2582-6433



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed 6th Edition

VOLUME 2 ISSUE 7

www.ijlra.com

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ANALYSIS OF CHILD LABOUR LEGISLATION IN INDIA

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ABSTRACT:

Children are the biggest gift to their family ⁸and they are also future pillars of our nation. But due to the various factors they become child laborers. Once they become child labourers they miss so many things which they are supposed to get and experience during their childhood. Recently a lot of labour legislations are formed for the protection of child labourers. Protection of rights of children are also guaranteed by the constitution of India. These child labourers also face a lot of consequences such as injuries, physical abuse, lack of education etc. Thus, it is a biggest challenge to the world to eliminate child labour.

INTRODUCTION:

Children are considered and childhood is typically meant for learning, bonding and exploring. It can be said that carving childhood paves way for a better future. The law provides people below 14 years of age are children and hiring them under any kind of work or occupation is known as child labour. However there are certain exceptions to this restriction. The law provides as to where a child can be employed and where a . The Indian government has enacted various acts to prohibit employment of children and to enhance their welfare. However in India the children are constantly being exploited. The major reason for child labour is due to poor socio-economic conditions and often children are forced to work by their own parents to meet their daily expenses.

CHILD LABOUR:

Child labour is one of the worst concepts which is happening in most of the countries all over the world. In 2013, International Labour organisation made an estimation that around 215 million children who are 5 to 14 years of age works as child labour all over the world. Child labour means group of

children who are too young working in hazardous places i.e) engaged in hazardous activities such as working in mines, engaged in activities which deals with chemicals and pesticides etc. These children are incapable of getting their basic amenities also which they are supposed to get.

Some of the definitions of child labour are,

(i) Children who are engaged in work unsuitable for their capacities as children or in work that may jeopardize their health,

education or moral development and whose age is below 14 years. Children who practice and engage in economic activities, on a part or full-time basis.

(ii) The practice deprives children of their childhood and is harmful to their physical and mental development and

(iii) Child labourers constitute a group of working children who are either too young to work or are engaged in

hazardous activities- that is, work that is potentially harmful to their physical, social, psychological or educational development”¹

CONSTITUTIONAL PROVISIONS:

Article 15 (3)

The State is empowered to make the special provisions relating to children, which will not be violative of the right to equality ².

Article 21

No person shall be deprived of his life or personal liberty, except according to procedure established by law. The Supreme Court held that “life” includes free from exploitation and to live a dignified life³.

¹ United Nations Children’s Fund (UNICEF) (October,2013) .Impact of Unpaid Household Services on the Measurement of Child Labour, Statistics and Monitoring Section, Division of Policy and Strategy.

² Article 15(3) of THE CONSTITUTION OF INDIA,1950

³ Article 21 A of THE CONSTITUTION OF INDIA,1950

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. Where children are allowed to work, in such establishment, it is the duty of employer to make provisions for the education of child labourer.⁴

Article 23

Traffic in human beings and beggar and other similar forms of forced labour are prohibited and any contravention of this prohibition shall be an offence punishable in accordance with law.⁵

Article 24 (Prohibition of Employment of Children in Factories, etc.)

No child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment

The Supreme Court held that “hazardous employment” includes construction work, match boxes and fireworks therefore; no child below the age of 14 years can be employed. Positive steps should be taken for the welfare of such children as well as for improving the quality of their life.⁶

Article 39 (e)

The State shall, in particular, direct its policy towards securing the health and strength of 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 strength⁷.

Article 39 (f)

The State shall, in particular, direct its policy towards securing 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 abandonment⁸.

Article 45

The State shall endeavour to provide early childhood care and education for all children until they

⁴ Article 21A of THE CONSTITUTION OF INDIA,1950

⁵ Article 23 of THE CONSTITUTION OF INDIA,1950

⁶ Article 24 of THE CONSTITUTION OF INDIA,1950

⁷ Article 39(e) of The CONSTITUTION OF INDIA,1950

⁸ Article 39(f) of THE CONSTITUTION OF INDIA,1950

Article 51A (e)

It shall be the duty of every citizen of India, who is a parent or guardian to provide opportunities for education to his child or ward as the case may be, between the age of six and fourteen years.¹⁰

In the case of People's Union for Democratic Rights v. Union of India and Others,¹¹ The Supreme Court observed that it was a clear breach of Article 24 of the Constitution to employ children below the age of 14 in construction work. The court proceeded to prohibit any kind of violation of Articles 23 and 24 and further laid emphasis on strict observance of fundamental rights by private individuals and spoke strongly against any form of forced labour.

The Supreme Court, in the case of Bandhua Mukti Morcha v. Union of India & Others¹², took into cognizance the employment of children in the carpet manufacturing industry in Mirzapur, Uttar Pradesh. It instructed the District magistrate to conduct raids, and subsequently got 144 children, who were under the forced custody of the owners, released.

M.C. Mehta v. State of Tamil Nadu and Others,¹³ the Supreme Court gave directions to the government to eliminate child labour, which included the conducting of surveys for the identification of working children, ensuring the withdrawal of children working in hazardous industries and ensuring their education in appropriate institutions. In cases where a child was withdrawn from work, the Supreme Court directed the Government to ensure that at least one adult member of the child's family receives employment.

REASONS FOR CHILD LABOUR

Children are supposed to work as child labourers because of many socio-economic factors. They are

i) Poverty:

One of the important factors of child labour is poverty. Because of poverty people are unable to

⁹ Article 45 of THE CONSTITUTION OF INDIA, 1950

¹⁰ Article 51A(e) of THE CONSTITUTION OF INDIA, 1950

¹¹ AIR 1982 SC 1473

¹² AIR 1984 SCC 802

¹³ AIR 1997 SC 699

support themselves well, they can't afford proper education for their children and even it is very difficult to run their day-to-day life. So, such families without any choices send their children to work in hazardous places, factories etc.

ii) Lack of education:

Today also in so many villages people are unable to send their children to school because there are lack of facilities for education and if they also wish to get education they have to cross through so many obstacles. And they are also not aware of their rights, so because of illiterate and to reduce poverty in their family they send their children to work as child labour.

iii) Backwardness:

Socio-economic backwardness is one of the main reasons for child labour. Though the world is developing there are also many places where people are not developed. Illiteracy, lack of living standard, unemployment etc. are some of the grounds that cause roots to child labour.

iv) Family Size:

If a family is large, then there must be high income to maintain it. Parents are responsible for the maintenance of children, but due to large family size they may not be able to meet the demands of the family at such circumstance they send their children to work. And in that too, family places gender discrimination, in most of the places girls often go to work with their parents, and they send boys in the family to school.

v) Tradition:

Tradition is one of the essential factors of creating child labour. In our society there are different cultures, in some families they have a culture that children after their certain age must go to work. They believe that making children to work will improve their skills. They think that it will make their children more diligent and wise in future but they forgot that it will affect their children's childhood.

LLEGISLATION FOR CHILD LABOUR:

The State Governments, which are the appropriate implementing authorities, are conducting regular inspections to detect cases of violations. Since poverty is the root cause of child labour growth, the Government is putting a lot of emphasis on rehabilitation of these children and improving the economic condition of their families.

Some of the significant child labour legislations are,

i) The Children (Pledging of Labour) Act 1933: If parents pledge their children as labourers then this

act will impose penalties on parents.

- ii) Employment of Children Act 1938: This act prohibits employment of children in certain industries.
- iii) The Factories Act of 1948: This Act prohibits that children below the age of 14 years should not be employed in any factory
- iv) The Plantations Labor Act 1951: This Act prohibits children below 12 years of age.
- v) The Mines Act of 1952: This act prohibits employment of children below 18 years of age.
- vi) The Motor Transport Workers Act 1961: In this act children below 15 years of age are prohibited from employment in any motor transport undertaking.
- vii) The Child Labour (Prohibition and Regulation) Act, 1986: This act regulates employment of children and employment of children in certain employments.
- vii) The Juvenile Justice (Care and Protection) of Children Act of 2000 : This act states that employing a child in a hazardous area is a crime and is also punishable.
- viii) The Right to Children for Free and Compulsory Education Act of 2009: This act states that children below 6 to 14 years must get compulsory education.
- ix) The Formulation of a new National Child Labour Policy
- x) The setting up of Taskforce on Child Labour
- xi) The Adoption of Convention on the Rights of the Child

CONSEQUENCE OF CHILD LABOUR:

When children becomes child labour we face lot of problems which affects them till the end of their life.

Some of them are,

i) Injuries:

When child laborers engage in work they face accidents like fractures, internal injuries etc which affects them during their lifetime.

ii) Physical abuse:

Child labourers faces lot of physical abuses such as corporal punishment and also emotional maltreatment etc. Young girls face sexual abuse problems by adults, and because of that sexually they get transmitted diseases. Children also get used to drugs and alcohol. And at times they are also not provided with proper food, treatment, shelter etc.

Lack of education:

Children due to work activities had no time to go to school because of that they are not getting proper education, this is also one of the reasons which leads their life towards poverty.

CONCLUSION:

Thus, child labour is the biggest issue and it is a strong challenge before the nation. Poverty, lack of education, family size, tradition and backwardness are the various reasons why children become child labourers.

When children are employed in hazardous areas they will be affected by a lot of health issues such as skin problems and while inhaling toxic gas they get exposed to that. When children becomes child labour due to various factors they forget to get so many things in life such as education, childhood etc. When these children are engaged in work it not only affects their physical health but also mental health. And in most of the places employers take children as labourers for employers advantage i.e., they can pay less for the children in the workplace and children are not likely to demand high wages like adults. So that employers will gain high profit by paying low wages. Thus, Government of India has framed so many policies for the eradication of child labour. Most of the labour legislation are also formed for the welfare of child labour and also for its proper regulation.

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