

## CHILD LABOUR IN INDIA: LAW AND PRACTICES

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Children are the hope and future of a nation. Yet, “Child Labour” is a great social problem. There are millions deprived children in our country who have never known a normal, carefree childhood. The problem of child labor is a serious matter not only in India but a global phenomenon. **Child Labour** has been an international concern because it damages, spoils and destroys the future of children. Child Labour refers to work that: - is mentally, physically, socially or morally dangerous and harmful to children; and interferes with a child’s ability to attend and participate in school. Child labour typically means the employment of children in any manual work with or without payment.

### DEFINITIONS

“**Child**” as defined by the Child Labour (Prohibition and Regulation) Act, 1986 is a person who has not completed the age of fourteen years. A child of such tender age, is expected to play, study and be carefree about his life. But as a fact of nature, expectations hardly meet reality. Children, by will or by force are employed to work in the harsh conditions and atmosphere which becomes a threat to their life. Child labour leads to underdevelopment, incomplete mental and physical development, which in turn results in retarded growth of children.

*International Labour Organisation (ILO)* defines the term child labour as, “work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development.

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*UNICEF* defines child labour differently, as a child is involved in child labour activities if between 5 to 11 years of age, he or she did at least one hour of economic activity or at least 28 hours of domestic work in a week, and in case of children between 12 to 14 years of age, he or she did at least 14 hours of economic activity or at least 42 hours of economic activity and domestic work per week.

*India's Census 2001* office defines child labor as, "participation of a child less than 17 years of age in any economically productive activity with or without compensation, wages or profit. Such participation could be physical or mental or both. This work includes part-time help or unpaid work on the farm, family enterprise or in any other economic activity such as cultivation and milk production for sale or domestic consumption. Indian government classifies child laborers into two groups: Main workers are those who work 6 months or more per year. And marginal child workers are those who work at any time during the year but less than 6 months in a year."

Despite constitutional provisions against child labour, a large number of children continue to be exploited under hazardous work conditions. Poorly paid for long hours of work, they have to abandon their studies to support their family at an age when they are supposed to just play around and have fun. They are made to forego all the joys of childhood by a cruel and ruthless world.

## **HISTORY OF CHILD LABOUR**

In British India, a large number of children were forced into labour due to the increasing need of cheap labour to produce a large number of goods. The companies preferred recruiting children as they could be employed for less pay, better utilised in factory environment, lacked knowledge of their basic rights, and possessed higher trust levels.

The practice of child labour continued even in the post-Independence India, though the government continued to take legislative measures against child labour. The Universal Declaration of Human Rights passed in 1948 incorporated the basic human rights and needs of children for proper progression and growth in their younger years. Article 24 of the Constitution bans engagement of children below the age of 14 in factories, mines, and other hazardous employment. Article 21A and Article 45 promise to impart free and compulsory education to all children between the ages of 6 and 14. The Child Labour (Prohibition and

Regulation) Act enacted in 1986, prohibited children younger than the age of 14, from being employed as child labour in hazardous occupations. Significantly in 2009, India passed the Right of Children to Free and Compulsory Education Act (RTE). Nevertheless, child labour has now led to alarming proportions. As per an estimate, India contributes to one-third of Asia's child labour and one-fourth of the world's child labour.

## **CAUSES OF CHILD LABOUR**

Child labour in India is now not confined to the agricultural sector. In recent times, children are engaged into activities such as beedi-making, brick kilns, carpet weaving, commercial sexual exploitation, construction, fireworks and matches factories, dhabas, hotels, hybrid cottonseed production, leather, mines, quarries, silk, synthetic gems, etc. There are various causes of child labour like,

- To have or increase the income of a poor family
- To reduce the labor cost in a production organization
- Misc. reasons for engaging as domestic aid as the children are less doubtful about dishonesty or less liable to misbehave or be violent.
- Wide spread poverty and the lack of social security network.
- Lack of effective Education Policy.
- Unemployment or Under employment of the Parents and Guardians of the Child.
- Population explosion, Traditional Occupations.
- Homelessness
- Parental Attitude

## **CONSEQUENCES OF CHILD LABOUR**

Child labour inflicts damage to a child's physical and mental health. A child labourer has no basic rights to education, development, and freedom. Children employed as labourers work in unsafe environments where there is a constant danger of fatal accidents. They are forced to lead a life of poverty, illiteracy, and deprivation. They are required to perform gruelling and physically demanding tasks and in return receive only meagre wages. Poor working conditions cause severe health problems to such children. A child labourer not just suffers physical and mental torture but also becomes mentally and emotionally mature too fast which is never a good sign.

## VARIOUS LEGISLATIONS

Apart from the enactment of the Child Labour (Prohibition and Regulation) Act, 1986, the Indian Constitution has incorporated various provisions against child labour such as the following:

- According to **Article 24**, no child below the age of 14 years shall be employed to work in any factory or in any hazardous employment (but not in non-hazardous industries).
- As per **Article 39(f)**, childhood and youth are to be protected against exploitation and against moral and material abandonment.
- **Article 45** stipulates that the state shall endeavour to provide within a period of 10 years from the commencement of the Constitution free and compulsory education for all children until they complete the age of 14 years.
- **The Factories Act of 1948**: The Act prohibits the employment of children below the age of 14 years in any factory. The law also placed rules on who, when and how long can pre-adults aged 15–18 years be employed in any factory.
- **The Mines Act of 1952**: The Act prohibits the employment of children below 18 years of age in a mine. Mining being one of the most dangerous occupations, which in the past has led to many major accidents taking life of children is completely banned for them.
- **The Juvenile Justice (Care and Protection) of Children Act of 2000**: This law made it a crime, punishable with a prison term, for anyone to procure or employ a child in any hazardous employment or in bondage. This act provides punishment to those who act in contravention to the previous acts by employing children to work.
- **The Right of Children to Free and Compulsory Education Act of 2009**: The law mandates free and compulsory education to all children aged 6 to 14 years. This legislation also mandated that 25 percent of seats in every private school must be allocated for children from disadvantaged groups and physically challenged children.

Unfortunately, these laws and regulations have not been backed by effective and proper implementation and enforcement.

## **HAZARDOUS OCCUPATIONS**

Part III of 'The Child Labour (Prohibition and Regulation) Act of 1986 provides for the 'Prohibition of employment of children in certain occupations and processes'. The Schedule gives a list of hazardous occupations in two parts, via; A and B

**Part A** provides that, No child shall be employed or permitted to work in any of the following occupations like, Transport of passengers, goods; or mails by railway, Cinder picking, clearing of an ash pit or building operation in the railway premise, Work in a catering establishment at a railway station, involving the movement of vendor or any other employee of the establishment from one platform to another or into or out of a moving train, Work relating to the construction of railway station or with any other work where such work is done in close proximity to or between the railway lines, The port authority within the limits of any port, Work relating to selling of crackers and fireworks in shops with temporary licenses, Abattoirs/slaughter Houses, Automobile workshops and garages etc.

**Part B** provides that, No child shall be employed or permitted to work in any of the following workshop wherein any of the following processes is carried on like, Beedi making, Carpet Weaving, Cement manufacture including bagging of cement, Cloth printing, dyeing and weaving, Manufacture of matches, explosive and fireworks etc.

## **HOURS OF PERIOD AND WORK**

No child shall be required or permitted to work in any establishment in excess of number of hours prescribed (Section-7). The period of work on each day shall not exceed three hours and no child shall work for more than three hours before he has had an interval for rest for at least one hour. No child shall be permitted or required to work between 7 p.m. and 8 a.m. No child shall be required or permitted to work overtime. (Section-7).

## **PENALTIES**

Violations under Section-3 shall be punishable with imprisonment which shall not be less than three months which may extend to one year or with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees or with both. Continuing

offence under section (3) shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years.

Any other violations under the Act shall be punishable with simple imprisonment, which may extend to one month or with fine, which may extend to ten thousand rupees or with both.

### **GOVERNMENT EFFORTS TO CONTROL CHILD LABOUR**

The child labour (Prohibition and Regulation) Act 1986 prohibits the employment of children below the age of 14 years in 16 occupation and 65 processes that are hazardous to the children's lives and health. Many states including Haryana have constituted the child labour rehabilitation –cum-welfare funds at district level and separate labour cells are being formed to address the issue. National child labour projects have been implemented by the central government in states from 1988 to provide non-formal education and pre-vocational skills. From 2001, Sarve shiksha Abhiyan has been launched to educate poor and employed children in all states. Ministry of women and child development has been providing non-formal education and vocational training. Establishment of Anganwadies is also a big step by the government for the welfare of children and their physical, mental and educational development.

Collective efforts are needed on the part of society and the government to put an end to the practice of child labour. In fact, every citizen should take a pledge to never employ child labourer, rather discourage others too from doing so. We should create awareness amongst people employing child labourers and the parents sending their children to work. We need to provide our children a happy childhood where they are able to enjoy the best period of their lives with a merry and carefree attitude. The government should make efforts to increase the incomes of parents by launching various development schemes. Efforts should be made towards poverty eradication combined with educational reforms to provide free or affordable access to quality education. Only by taking comprehensive steps, the Government can hope to eliminate all forms of child labour.

## **JUDICIAL RESPONSE AND CHILD LABOUR**

The Supreme Court of India has been conferred with the duty of guardian of Constitution. Our Judiciary has played a very important role in ensuring child welfare.

**M C Mehta vs State of Tamil Nadu**, AIR 1991, SC 417, Supreme court while interpreting Article 21 held that right to receive education by child worker until they completed 14 years of age is an integral part of right to life and personal liberty.

**PUDR vs Union of India**, AIR 1982 SC 1473, In this case Supreme Court directed the State Government to amend the schedule of the employment of Children Act, 1938. Further Court held that construction work is hazardous occupation.

**Salal Hydro Project vs State of J & K**, AIR 1984 SC 177, In this case Child labour is a difficult problem and it is purely on account of economic problem and it can not be solved by mere legislation. So long poverty continues the problem of Child Labour eradication is not possible.

**Bandhua Mukti Morcha vs Union of India**, AIR 1997 SC 2218, Supreme Court held that child today should be developed to be responsible and productive and child should be assured social and physical health.

**Bachpan Bachao Andolan vs. Union of India & Others**, 2011 5 SCC 1, A Public interest litigation under Article 32 of the constitution in the wake of serious violations and abuse of children who are forcefully detained in circuses, without any access to their families under extreme inhuman conditions. There are sexual abuses on a daily basis, physical abuse as well as emotional abuse. The Juvenile Justice (Care and Protection of Children) Act 2000 was amended in 2006 by Act 33 of 2006. It is a special legislation for children and defines children as —a person upto the age of 18 years. The Juvenile Justice Act is built upon a model which addresses both children who need care and protection and those who are in a conflict of law. The petitioner convened a meeting with the circus owners on 18th and 19th August, 2003 where a few owners agreed to make a declaration that there shall be no further use of children in the circuses in India and a full list of children employed by them will be submitted. The Court ordered to implement the fundamental rights of children under Article 21A of the Constitution, by the central government by issuing suitable notifications prohibiting the employment of children in Circuses with in two months. The court has given a detailed guidelines brought out for the enforcement of the Juvenile Justice (Care and Protection) Act, 2000.

## **SUGGESTIONS**

1. Strict implementation of Child Labour Legislations and practical and healthy alternatives to replace this evil can go a long way to solve the problem of Child Labour.
2. Application of Compulsory education policy to curb the problem of Child Labour.
3. Special Social Development programme should be implemented for assistance of domestic workers.
4. Organization of literacy and awareness programme to prevent children from employment.
5. Amendment and Modification into Social Security Legislation governing Child Labour.
6. Control on Population growth to eliminate Poverty which is basic cause of Child labour issues.
7. Mandatory on industrialists for equal pay without discrimination as to age, status, religion etc.
8. Adequate health services for children at large living in the society.
9. Need to provide training and education to the child workers during their free time.

## **CONCLUSION**

Problem of child labour is still a burning issue in India and the need is to find proper and effective mechanism to tackle this problem. The various organizations in the area of child labour, child right violation, child abuse need to make effective efforts to protect and eradicate the same. The joint efforts should be taken from the Government with the help of NGO's to eradicate this problem. If awareness about the cons of child labour is spread across the nation and strict policing of implementation of existing laws are done, India can combat the issue of Child Labour. Every individual must understand how important it is for the children to grow and study, as they are the ones who will shape the future of the nation.

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