

Child Labours in India Constitutional and Legislative Framework

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ABSTRACT

This paper about deals with draws the attention towards the social menace of child labour in India and it also discuss the constitutional and legislative legal frame work provisions relative the child labour India . The 2011 national census of India found the total number of child Labours, aged group 5-14, to be 4.35 million, out of a total child population of 259.64 million in child labour 5-14 age group. of India has ratified international convention & treaties related to the rights of children because of its ideological commitment to the child development & welfare. India has also accepted the dogma of socialism in view of this there are various provisions are incorporated in the constitution. Article 15(3) empowers the state to make special provisions for women and children.

KEYWORDS: Child labour in India, Constitutional Provisions in child labour, Child Labour Judicial Dimentions Case.

INTRODUCTION

The Child labour has been the subject of special provision of laws and legal provisions. since of its tender years, weak physique, and inadequately developed mind and understanding every children needs protection against moral and physical harm and exploitation by others. In the formative years of its life of the children needs special care and take and service to help realize its full potential for growth and development. There are about total 300 Central and State Statutes concerning children. These have been enacted with an intention to protect and help children and achieve the goal of child labour welfare and safeguard enshrined in our National charter. Further these various laws are applicable to children in various spheres of life, which are regulatory, protective and safe guard correctional in nature. These laws are seeking to protect and promote the rights of child. Under these legislation children's are entitled to special care and attention assistance and essential needs and they should be given highest priority in the allocation of resources.

1.1. Define Child labour

The term “Child Labour [1] is often defined as work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development.- International Labour Organization (ILO)

1.2. Children work

Most children job because their family condition is poor and their labour is necessary for their survival of every date life. Discrimination on grounds including gender, race or religion also plays its part in why some children work. The Children are employed and exploited because, compared to child , they are more, capable of being physically and emotionally wounded cheaper to hire and are low wages likely to demand more wages or better working conditions. Some owner of company fairly argue that children are particularly suited to certain types of work because of their small size and “nimble fingers”

- In households as domestic workers ,in factories making products such as matches, fireworks and glassware and bricks, On the street – as beggars, Outdoor industry: Brick kilns, mines, construction, In bars, hotel and tourist establishments, In working place sexual Harassment , and sexual exploitation.

II. LEGISLATIVE PROVISIONS FOR PROTECTION OF CHILD LABOUR ACT

The Legislation provision[2] to the child labour denote by Factories Act of (1881) was the first law to define child and to prescribe prohibitory regulations for employment of children below 7 years of age.2.The Factories Act 1911 prohibited employment of child labour dangerous occupations and working during night duty .3.The first Convention of International labour organization compelled amendment of the Act in 1922, to rise the minimum age of child to 15 years.4.The Factories Act-1948, prescribes prohibitory regulations for employment of children below 14 years of age in any factory.5. Indian mines Act, 1952 prohibits employment of child below 16 years in any underground mines..6. Contract Labour (Regulation and Abolition) Act, (1970) these Acts provide that employment of child is a punishable offence.7.The Child Labour (Prohibition and Regulation) Act was the start in 1986. This Act prohibited employment of children below the age of 14 years in certain occupations and processes.

The important laws relating to child labour are listed below:

1. The Children (Pledging of Labour) Act, 1933
2. The Employment of Children Act, 1938
3. The Minimum Wages Act, 1948
5. The Plantation of Labour Act, 1951
6. The Merchant Shipping Act, 1958
8. The Motor Transport Workers Act, 1961
9. Beedi and Cigar Workers (Conditions of Employment) Act, 1966
10. Shops and Commercial Establishment Act, 1969
11. Radiation Protection Rules, 1971

Laws for Child Labour

The Indian Penal Code (IPC) 1860 considers age of children till Below 7 seven year and for mental disability child till twelve years (Sec 83 IPC). Article 21 (a) of the Indian Constitution considers the ages of six to fourteen, The Child Labour (Prohibition and Regulation) Act, 1986 fourteen years of age, The Juvenile Justice (Care and Protection of Children) Act, 2000 as eighteen years.

**III. THE CONSTITUTIONAL PROVISIONS AND LEGISLATIVE FRAMEWORK
CHILD LABOUR**

Art- 21(A) Right to Education. All The State shall be provide free and compulsory education to all children of the age of 6 to 14years in such manner as the State may, by law, determine.

Art - 23: Prohibition of traffic in human beings and forced labour.

Art- 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. Article-39(e) and (f):DPSP The state shall, in particular, direct its policy, securing: (e) That the health and strength of workers, men and women, and the tender age of child are not abused and that citizens are not forced by economic necessity to enter avocation unsuited to their age or strength. (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.

Article- 45: free and compulsory education for children The state shall endeavor to provide within a period of 10 years from the commencement of this constitution, for free and compulsory education for all children until they complete the age of 14years.

IV. JUDICIAL DIMENSIONS OF CHILD LABOUR CASES

1. Human Rights jurisprudence in India has a constitutional status and sweep; Article 21 of the Constitution can be termed as 'Magna Carta' of human rights. This Art right to life and liberty to every human being. Supreme Court replaced the liberal concept [3] Art21 taken in **Maneka Gandhi v. Union of India**, and [4] **Francis Coralie Mullin v. Union Territory of Delhi**, held that Art 21 included protection of health and strength of workers, men, women and tender age of children against abuse According to the court, the opportunities and facilities for children to develop in a healthy manner and in conditions of freedom and dignity and educational facilities.

2. **Labour in Beedi Industry, in Rajangam, Secretary, Dist. Beedi Workers Union v. State of Tamil Nadu and others**, [5] with **K.C. Chandra Segaram v. State of Tamil Nadu and others** [6] various allegations were made regarding failure to implement the provisions of the labour laws, manipulation of records regarding employees, non-payment of appropriate dues for worker taken etc. including the child labour and specifically the non implementation of the Beedi and Cigar Workers (Conditions of Employment) Act, 1966. To protect child labour, the Apex Court suggested that "tobacco manufacturing has indeed health hazards. Child labour in this trade should therefore be prohibited as far as possible and employment of child labour should be stopped either immediately or in a phased manner to be decided by the State Government the provisions of the Child Labour Act, 1986 should be strictly implemented. The Court further admitted that the exploitation of labour is rampant in the beedi trade and suggested that 'in view of the health hazard involved in the manufacturing process, every worker including children, if employed, should be insured for pay a minimum amount of Rs. 50,000 and the premium should be paid by the employee.

3. **M.C. Mehta v. State of Tamil Nadu and other** [7] Supreme Court allowed children to work in a prohibited occupation like fireworks. Ranganath Mishra and M.H.Kania JJ opined that "the provisions of Article 45 of Constitution in the Directive Principles of State policy still remained a far cry and through according to this provision", all children upto the age of 14 years are supposed to be in the school, but economics necessary forces grown- up children to seek employment.

4. M.C. Mehta v. State of Tamil Nadu and others [8] popularly known as ‘Child Labour Abolition Case’ has held that the children below the age of 14 years cannot be employed in any hazardous industry, mines or other work. It would be appropriate to quote brief facts that, when news about an accident in one of the Shivakasi crackers factories was published in the media, wherein several children reported dead, the Supreme Court took “Suo motu” cognizance of it. The Court given certain directions regarding the payment of the compensation. An Advocate’s Committee was also constituted to visit the area and report on the various aspects of the matter. A three judge bench of the Supreme Court comprising justice Kuldip Singh, Justice B.L.Hansaria and Justice Mujumdar delivered a landmark judgement on 10 December 1996 in writ petition (Civil) No.465/1986. This Judgement is of considerable importance and is a progressive advancement in public interest litigation and child jurisprudence. The option has attempted to tackle the problem of child labours. M.C.Mehta , an environmentalist, lawyer, filed a writ under Article 32 of the Constitution of India, as the fundamental right of necessity forces grown- up children to seek employment .

V . REVIEW OF LITERATURE

B.N. Juyal et. al (1985) in their survey report which is an outcome of the research activity generated by International year of the Child, 1999. The National Committee on child labour which visited Varanasi identified the problem of child labour in Varanasi's craft industries. This survey emphasized on the magnitude of child labour and the family background characteristics, wage and employment pattern work environment, degree of enforcement of existing legal and welfare provision, etc. and also placed special empires on the forms of exploitation of the working children.

Manjari Dingwaney et. al (1988) in their manual children of darkness is a completion on child labour in India delves into the history of child labour, definition, magnitude of the problem, sectors in which children work, their occupations, conditions of work and health hazard. The book attempts to construct a comprehensive picture relating to the problem of child labour. It doesn't provide ready-made answers to all the questions pertaining to child labour. It is primarily, directed to familiarize voluntary organization's and social action groups, Government functionaries, with the problem, so that they can further reinforce their attempts in resolving it.

VI. OBJECTIVE OF THE STUDY

- To know and understand the term child labour in India.
- To reveal causes of children coming in labourship.
- To study child labour pertaining laws and Constitutional and Legislative Frame work .
- To highlight policies framed by Government of India for eradication of child labour India.
- To analyses the working conditions and also the problems faced by the child labourers and rehabilitation measures provided by the and constitution legal provisions. .
- To assess the role of NGO's along with the programs of NCLP on child labour rehabilitation.

VII. METHODOLOGY OF THE STUDY

The present study is of descriptive type. The entire study is based on secondary sources of data. The secondary data has been collected from reputed journal and websites .Government census Report. In order to fulfill designed objectives of the present study the secondary data has been assembled.

VIII. NATIONAL CHILD LABOUR POLICY

The National Child Labour Policy 1987: growing attention is now being paid to strengthening the enforcement machinery related to child labour. The Government of India adopted a NCLP 1987, in accordance with the constitutional provisions and various legal legislative frame work on child labour. The idea of adopting a separate policy on child labour was not only to place the issue on the nation's agenda, but also to formulate a specific program of action and NCLP programme to initiate the process of progressive elimination of child labour. The policy consists of three type measures:

Legal Action Plan: This policy envisages strict enforcement of the provisions of the Child Labour (Prohibition & Regulation) Act, 1986 and other child-related legislation.

Focus On General Development Programmes Benefiting Children Wherever Possible: The NCLP policy envisage the development of an extensive system of non-formal education for working child labour withdrawn from work and increase the provision for service and income generating schemes meant for their parents. A special cell and Child Labour Cell was

constitute to encourage Non government organisation to take up activities like non-formal learning, employment training, provisions of health care, and Food and nutrition.

Area Specific Projects: To focus on main area known to have high attention of child labour and to adopt a NCLP project approach for identification, removal and rehabilitation of working children. India has announced a NCLP as early as 1987, and was probably the first among the initial countries to have such a progressive policy. Under the action plan of the NCLP, there has been National Child Labour Projects set up in different areas to restore child labour. A major activity undertaken under the NCLP is the establishment of special schools to provide non formal education, employment training, supplementary food etc. to children withdrawn from employment. Under the project based action plan of the policy, 271 NCLPs Sanctioned project following Districts.

S.No.	Year	No. of NCLPs Sanctioned	Total
1	1988	12 NCLPs	12
2	IX Plan	88 NCLPs	100
3	X Plan	150 NCLPs	250
4	XI Plan	21 NCLPs (INDUS)	271

National Child Labour Project Districts (9)

S.No	Name of the State	No. of District	Name of the District
1	Jammu and Kashmir	3	Srinagar, Udhampur, Jammu
2	Punjab	3	Jalandhar, Ludhiana, Amritsar
3	Uttarakhand	13	Haridwar, Nainital, Champawat, Tehri Garhwal, Almora, Pauri Garhwal, Bageshwar, Pithoragarh, Chamoli, Uttar Kashi, Dehradun, Udam Singh Nagar, Rudra Prayag
4	Haryana	3	Gurugram, Faridabad, Panipat
5	Delhi	1	New Delhi
6	Rajasthan	27	Pali, Jhunjhunu, Dausa, Churu, Kota, Jodhpur, Jhalawar, Bikaner, Udaipur, Bhilwara, Jalore, Baran, Bundi, Chittaurgarh, Alwar,

			Ganganagar, Dungarpur, Banswara, Nagaaur, Barmer, Dholpur, Sikar, Jaipur, Hanumangarh, Bharatpur, Tonk, Ajmer
7	Uttar Pradesh	51	Mainpuri, Agra, Sambhal, Hapur, Gautam Buddha Nagar, Sant Kabir Nagar, Aligarh, Jhansi, Lalitpur, Rae Bareilly, Azamgarh, Bulandshahr, Varanasi, Saharanpur, Sultanpur, Meerut, Moradabad, Mathura, Barabanki, Bhadohi, Rampur, Maharajganj, Ballia, Bareilly, Sitapur, Ghaziabad, Kheri, Firozabad, Shahjahanpur, Balrampur, Banda, Basti, Etawah, Faizabad, Unnao, Shravasti, Gonda, Gorakhpur, Kannauj, Mau, Ghazipur, Hardoi, Kushi Nagar, Pratapgarh, Budaun, Bijnor, Bahraich, Etah, Sonbhadra, Jaunpur, Mirzapur
8	Bihar	23	Nawada, Jamui, Kishanganj, Patna, Saharsa, Muzaffarpur, Purnia, Gaya, Samastipur, Purbi Champaran, Begusarai, Supaul, Madhubani, Madhepura, Araria, Darbhanga, Sitamarhi, Pashchim Champaran, Khagaria, Bhagalpur, Saran, Banka, Nalanda
9	Nagaland	1	Dimapur
10	Assam	5	Bongaigaon, Kamrup, Nalbari, Lakhimpur, Nagaon
11	West Bengal	21	Purulia, Kolkata, 24 Paraganas South, Jalpaiguri, Dinajpur Uttar, Dinajpur Dakshin, Maldah, Birbhum, Nadia, 24 Paraganas North, Bankura, Howrah, Medinipur West, Medinipur East, Hooghly, Coochbehar, Darjeeling, Paschim Bardhaman, Purba Bardhaman, Murshidabad, Alipurduar
12	Jharkhand	7	Garhwa, West Singhbhum, Pakur, Dumka, Ranchi, Palamu, Hazaribagh
13	Odisha	24	Koraput, Bhadrak, Jajapur, Dhenkanal, Khordha, Malkangiri, Mayurbhanj, Nabarangpur, Nayagarh, Nuapada, Rayagada, Kendujhar, Sambalpur, Bargarh, Baleswar, Anugul, Deogarh, Balangir, Cuttack, Gajapati, Ganjam, Jharsuguda, Sundargarh, Kalahandi
14	Chhattisgarh	8	Raigarh, Rajnandgaon, Surguja, Bilaspur, Raipur, Dantewada, Korba, Durg
15	Madhya Pradesh	21	Shivpuri, East Nimar, Katni, Jabalpur, Satna, Jhabua, Chhindwara, Sidhi, Guna, Barwani, Rewa, Mandasaur, Gwalior, Damoh, Indore, Shajapur, Dhar, Ujjain, Sagar, Ratlam, Khargone
16	Gujarat	9	Panch Mahals, Ahmadabad, Rajkot, Dohad, Banas Kantha, Kachchh, Surat, Vadodara, Bhavnagar
17	Maharashtra	16	Dhule, Nandurbar, Solapur, Thane, Buldhana, Sangli, Aurangabad, Mumbai Suburban, Jalna, Parbhani, Gondia, Nanded, Pune, Nashik, Beed, Yavatmal
18	Andhra Pradesh	12	Srikakulam, Vizianagaram, Krishna, Visakhapatnam, East Godavari, Anantapur, Guntur, Chittoor, West Godavari, Prakasam, Spsr Nellore, Kurnool

19	Karnataka	16	Tumakuru, Bengaluru Urban, Davangere, Kalaburagi, Ballari, Raichur, Kolar, Belagavi, Mandya, Dharwad, Chitradurga, Bengaluru Rural, Koppal, Vijayapura, Bagalkot, Haveri
20	Tamil Nadu	18	Chennai, Tirunelveli, Krishnagiri, Dindigul, Tiruchirappalli, Erode, Namakkal, Virudhunagar, Tiruvannamalai, Salem, Dharmapuri, Pudukkottai, Coimbatore, Thiruvallur, Theni, Kanchipuram, Vellore, Tuticorin
21	Telangana	30	Karimnagar, Nagarkurnool, Siddipet, Warangal Urban, Kumuram Bheem Asifabad, Medak, Nalgonda, Suryapet, Jogulamba Gadwal, Medchal Malkajgiri, Peddapalli, Bhadradi Kothagudem, Rajanna Sircilla, Warangal Rural, Wanaparthy, Jayashankar Bhupalapally, Nirmal, Jangoan, Mancheri, Hyderabad, Jagtial, Yadadri Bhuvanagiri, Adilabad, Nizamabad, Kamareddy, Sangareddy, Vikarabad, Khammam, Mahabubnagar, Mahabubabad
Total		312	

CONCLUSION

The constitution of India guarantees special provision and protection of law to the children and woman constitution legal framework children. Some special provisions are specially protected the rights of children. State is under duty to promote the welfare of the child worker and help them to grow into good citizen and proper National Child Labour Project Districts should be framed for welfare and protection of children. Child labour is a social problem which can be eliminated by changes in attitudes of society. Awareness must be created through mass media. All sections of society should take dynamic step for removal of child labour. Even though there are number of government schemes are in operation from researcher view important suggestion has been given viz., The government implementing the various laws but the 2011 census shows that the number of child Labours, aged group 5-14, to be 4.35 million, out of a total child population of 259.64 million in child labour 5-14 age group. is 1.51 lakhs in the study area. .

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