
Legal protection of child labour in India

Muzaffar Alam
Research Scholar
Veer Kunwar Singh
University, Ara (Bihar)

Introduction

Children are also citizen of India they have many rights like of these human beings. Even children have certain rights they shall not be deprived of it. The children's rights is a world widely accepted phenomenon more over UN adopted the declaration of The rights of child. Children have rights as human beings and needs special care and protection "A child is any human being below the age of 18 years unless under the law applicable to the child majority attained earlier.

Recognizing that the child for the full and harmonious development of his or her personality should grow in a family environment in an atmosphere of happiness love and affection. Considering that the child should be fully prepared to live an individual life in society he has to be guaranteed with the spirit of peace dignity tolerance freedom equality and solidarity.

Children's rights are the perceived human rights of children with particular attention to the rights of special protection and care afforded to the young including their right to association with both biological parents human identity as well as the basic needs for food universal state paid education health care and criminal laws appropriate for the age and development of the child the compulsory education law says children up to 14 are entitled to free education.

Child labour refers to the employment of children at regular and sustained labour this practice is considered exploitative by many international organizations and is illegal in many countries children who are below 14 cannot take out a livelihood. If they are found working in an establishment the employer is charged under labour laws that prohibit employment of any child until they attain adulthood.

In this research paper,I tries to identify the rights of children, the problem of child labour and its socio-ethical and legal dimensions in the Indian society.

❖ Meaning of Child Labour

The children should not have to work is universally accepted but there are no universal answer why the problem of child labour persist and how it needs to be tackled. India is faced with the crucial task of eliminating the child labour which is prevalent in all spheres of life; thousand of children are engaged in the carpet factories, glass factories and other hazardous industries all over the country. The term child labour has generally two-fold interpretations. Firstly, it is implied to be an economic necessity of poor households and secondly, the explosive aspect in children's work concerned with the profit maximizing urge of commercial establishment wherein children are made to work for long hours, paid low remuneration and deprived of educational opportunities.

International Labour Organization (ILO) defines child labour to “include children leading permanently adult lives working long hours for low wages under conditions damaging to the health and physical and mental development. sometime separated from their deprived of meaningful educational and training opportunities that could be better future.

❖ Reason For Child Labour

There are many reasons for the existence of child labour and varies with place and place to place in India, poverty is one of the important factors for poverty, but it's not the sole factor. Children provides cheap labour, the person who was wants labour has to pay less to them than adult labour. The child can be commanded more than an adult. The pull factor of the child labour is the profit maximizing.

The main cause to failure to control the child labour are poverty, low wages than adult, unemployment absence of schemes for family allowance, migration to urban areas, large family size, children being cheaply available, non existence of strict provision for compulsory educators, illiteracy, ignorance of parents and traditional attitudes.

❖ Child Labour In India

India accounts for the second highest number where child labour in the world is concerned. Africa accounts for the highest number of children employed and exploited. The fact is that across the length and breadth of the nation, children are in a pathetic condition.

Child labour in India is a human right issue for the whole world. It is a serious and extensive problem with many children under the age of fourteen working in carpet making factories, glass blowing units and making firework with bare little hands. According to the statistics given by Indian government there are 20 million child labours in the Country, while other agencies claim that it is 50 million.

The situation of child labour in India is desperate. Children work for eight hours at a stretch with only a small break for meals. The meals are also frugal and the children are ill nourished. Most of the migrant children, who cannot go home, sleep at their work place, which is very bad for their health and development. Seventy five percent of Indian population still resides in rural areas and are very poor. Children in rural families who are ailing with poverty perceive their children as an income generating resource to supplement the family income Parents sacrifice their children's education to the growing needs of their youngest siblings in such families and view them as wages earners for the entire clan.

In Northern India the exploitation of little children for labour in an accepted practice and perceived by the local population as a necessity to alleviate poverty. Carpet making industries pay very low wages to child labours and make them work for long hours in unhygienic conditions children working in such units are mainly migrant workers from Northern India who are stunted hair by their families to earn some money and send it to them their family is dependence on their income forces them to endure the onerous work condition in the carpet factories.

While experts blame the system poverty illiteracy adult unemployment yet the fact is that the entire nation is responsible for every crime against a child instead of nipping the problem at the bad child labour in India was allowed the increase with each passing year and today young ones below the age of 14 have become an important part of various industries at the cost of their innocence childhood health and for that matter their lives.

❖ **Basic legal protection of child labour**

LEGAL protection to the working child labourers came to service in different ways. There is a legend regarding enactment of child labour laws in the great Britain. Open Street trading of children name to be the notice of magistrates and some philanthropist in the first half of the nineteenth century the Scottish education act of 1878 was the first attempt of parliament to deal with the question of stray children. A few act relating to child labour passed by the British regime. Industrial cities old the pauper children pulled the pauper children into the workforce as they become the victim of the gradual domination off the grid and unscrupulous employers. This was reflected in the report of the royal commission. to improve this situation the royal commission for level in England recommended the enactment of a separate act and proposed that the act should fix the minimum age for admission to such works at 10 years stipulating that the hours of work of children between 10 and 14 years of age should be limited to 7 hours a day with a interval forest of at least one hour and that over time and performance of some types of work by children should be prohibited.

Soon after independence, several laws, which drives its legitimacy from the Indian constitution and which also become the principal declaration of human rights adopted by

the general assembly of the United Nations on 20 November 1959 where formulated to regulate employment of children.

The constitution makers included different provision in the constitution to prohibit employment of children India's abiding interest in the welfare of children has been expressed in the country's commitment content in article 15 (3), 23, 24, 39, 42, 43, 45 and 51 (e) of the constitution the constitutional provisions are as follows:

Article 15 (3) Of the constitution lays down that,

"Nothing is the articles shall prevent the state from making any special provision for women and children".

Article 23 is the most important article it prohibit all traffic in human beings and because and other similar form of forced labour for the its makes any contravention of the article and offence punishable in accordance with the law. It is analogous to the 13th amendment to the constitution of America the constitution does not reset here, it further contains an express prohibition, against employment of children in article 24 clearly States,

"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".

In this respect our constitution has special identity. No other constitution, not even the American constitution, contains any such direct prohibition in the constituent assembly the draft of article 24 was prepared by Dr. Bhimrao Ambedkar and Dr KM Munshi and Shri KT Shah among the proposers Dr. Munshi original propose the following norm:

"Childlabour in all forms is prohibited and employment of children for any purpose whatever shall not be permitted except under conditions prescribed by the law of the union"

The directive principles of state policy reaffirm there specific direction in article 39 in the following terms.

"The state shall in particular, direct its policy toward securing 39 (e) the health and strength of workers men and women and see that the tender age of the children is not abused and the citizens are not force by any economic necessity to inter any avocation constituted to there is and strength" Protection against exploitation of children and youth are installed in the article 39 (f) which states that childhood and you should be protected against moral and material abandonment. A study of the Directive principles shows that there is a distinct emphasis on justice to workers. Under article 42 the state is enjoined to make provision for securing just and human condition of work and for maternity relief. Article 43 further states:-

"The state shall endeavor to secure by suitable legislation or economic organization or in any other way, to all workers, agricultural, identical or otherwise work, a living wage, good conditions of work to ensure a decent standard of life and full enjoyment of leisure and social and cultural opportunity, and in particular the state shall endeavor to promote cottage industries on an individual or cooperative basis in rural areas"

The long cherished ambition of the Indian people has taken a material shape 45th article. It provides for free and compulsory education for all children it reads:

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

But it remains a far cry to the vast millions of Indians children's as yet.

A conducive climate should be created to abolish child labour altogether in tune with the objective of the ILO. Article 51 (c) direct the state to foster respect for international treaty obligations. The general understanding was that right secured by article 24 will hardly be effective in the absence of legislation prohibiting and penalizing its violation. However supreme court clearly stated that article 24 "most operate proprio vigour" even if the prohibition lay down in it is not followed up by appropriate legislation. In labour hours salal hydro project versus state of Jammu and Kashmir it was again held that the employment of child below 14 in construction work violets article 24. It was noted in MC Mehta versus state of Tamil Nadu that means of child labour was wide sprayed therefore it is issued wide ragging direction in the context of employment and exploitation of children in Sivakasi prohibiting employment of children below the age of 14 and making arrangement of their education by creating a fund and providing employment to the parent are the able bodies adult in the family there is directions where reiterated in Bandhu Muktimorcha versus union of India concerning the employment of children in carpet weaving industries in UP. The state shall in particular direct its policy toward securing the health and strength of worker men and women and the tender age of children are not abused and that citizen are not forced by economic necessity to inter avocation on unsuited to their age of strength also the state shall direct its policy towards securing the given opportunities and facilities to develop in a healthy manner and in condition of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment to the children.

❖ **International legal protection of child labour**

The problem of child labour is not limited to our country but is worldwide many international convention where adopted by general assembly of international labour organization and many countries have ratified it we are also the signatory to many of them.

1. ILO Con. No. 5 of 1919 prohibits the employment of person below 14 years of age.
2. ILO Con. No. 6 of 1919 prohibits the employment during night of persons below 18 years of age.
3. ILO Con. No. 15 of 1921 prohibits a person who is below '18 years of age from being employed on Vessel as Toimner or Stokers.
4. ILO' Con. No. 16 of 1921 compulsory medical examination of child.
5. ILO Con. No. 90 of 1948 revised the convention 6 of 1919 and put 12 consecutive hours.

6. ILO Con. No. 123 of 1965 prohibits the the employment in minds of the child below the age of 16 years.
7. ILO Con. No. 124 of 1965 compulsory medical examination of child working in mine.
8. ILO Con. No. 138 of 1973 prohibits the employment of child below the age of 15 but allowed after permission of to 14 years.

❖ **National legal protection of child labour**

Our constitution provides special provision for the protection of child some article are as follows 15 (3) 31, 2132, 21-A33, 2334,2335, 39 (e) 36,39 () 37, 4338, 4539 and 51-A (k). In relation with the above-mentioned conventions and constitutional provisions we have enacted special laws to eliminate the child labour some important ones are as follows:

1. The children (pleading of labour) Act 1933.
2. The factories act 1948
3. The minimum wages act 1948
4. Plantation labour act 1951
5. The mines act 1952
6. The merchant shipping act 1958
7. The motor transport workers act 1961
8. The apprentice act 1961
9. The school and establishment act 1961
10. The Beedi cigar workers (condition of employment) act 1966
11. The child labour (prohibition and regulation) act 1986.

❖ **Role of judiciary in solving child labour**

the supreme court of India in its judgment dated 10th December 1996 in writ petition (civil number) 465/1986,has given certain directions regarding the manner in which children working in the hazardous occupations are to be withdrawn from work and rehabilitated and the manner in which the working condition of children working in non hazardous occupation are to be regulated and improved. The Judgement of the supreme court envisages.

- a. Simultaneous action in all districts of the country
- b. Survey for identification of working children to be completed by June 10 1997)
- c. Withdrawal of children working in hardzous industries and ensuring their education appropriate institutions.
- d. Contribution of Rs 20,000 per child to be paid by the impending employers of children to welfare fund to be established for this purpose.
- e. Employment to one adult members of the family of the child so withdrawn from work and if that is not possible a contribution of Rs 5000 to the welfare fund to be made by the state government.

- f. Financial assistance to the families of the children so we drawn to be paid out of the interest for earnings on the Corpus of Rs 20000/25,000.00 deposited in the welfare fund as long as the child is actually sent to the schools.
- g. Regulating hours of work for children working in non hazardous occupation so that their working hours do not exceed 6 hours per day and education for at least 2 hours in ensured the entire expenditure on education is to be borne by the concerned employer.
- h. Planning and preparedness on the part of Central and state governments in terms of strengthening of existing administrative regulatory enforcement framework covering cost of additional manpower training mobility computerization etc implying additional requirement of funds.

❖ **Conclusion**

Children of the nation are supremely important asset. Children's programs should find a prominent part in our National plans for the development of human resources so that our children grow up to become rebust citizen physically and mentally fit and morally healthy endowed with the skills and motivation needs by the society.

Child labour is a significant problem in India the prevalence of it as shown by the child world participation rates which are higher in Indian than in other developing countries found opportunities for development to all children during the period of growth should be our aim for this purpose even we citizens should join hands with government and other institution which are set up for this purpose.

educating the child can be a solution for solving the problem of child labour to provide compulsory primary education and in order to reduce the body in on parent to meet the expenditure for their children's education while they are struggling for a day's meal our government had allotted funds. But due to the lack of awareness most of the poor families are not availing these facilities.. So proper steps have to the taken to create awarenes.

Child labour cannot be eliminated by focusing on one determinant for example education or by brute enforcement of child labour laws. The Government of India most ensure that the needs of the poor are filed before attacking child labour. If poverty is addressed the need for child labour with automatically diminish. No matter how hard India tries child labour always will exist until the need for it is removed.

The development of India as a nation is a being hampered by child labour, Children are growing of illiterate because they have been working and not attending school. A cycle of poverty is formed and the needs for child labour is reborn after every generation, India need to address the situation by taking the underlying causes of child labour through government policies and the enforcement of these policies Only then will India succeed in the fight against child labour.

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