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Child Labour and Laws Governing Them

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ABSTRACT

Worldwide millions of children are affected as they work hard in the early age itself, by working as child labour, which deprives them of their childhood, exposes them to physical and mental problems and affects their future. The main reason behind child labour is poverty. As poverty leads to child labour as a result child labour suffer from poor wages and meagre education which deteriorates labour standard and it further leads to poverty which forms a vicious circle. Child labourers are unreported and underreported. A child labour is engaged in various fields of work including agriculture, mines, factories, house keeping, etc. 71 percent of child labourers work in the agricultural sector. 12 percent work in mines and factories and the rest 17 percent work in hotels and houses, says an International Labour Organization's report. In India 1.2 million girl children are used in prostitution. The children are being used as cheap labour. It is very difficult to analyse and give an exact report on child labourers in India as it is often underreported. 18 million children in India are found in torpid lists which means they are not reported either in schools or employment. They would be engaged in some sort of hard labour. This situation is to be considered seriously and proper steps should be taken by enforcing strict laws and bringing welfare schemes and rehabilitation for the affected children. In this article let us examine the causes of child labour and its effect on children and also the legal provisions in India which protects child labour and recommendations to overcome this problem of child labour.

I. INTRODUCTION

In general terms a child is one who is below 18 years of age. According to Child Labour (Prohibition and Regulation) Act, 1986, a child is person below 14 years of age. Child labour means when a child is engaged in some labour which deprives them of their education and affects their psychological and physical health. According to Save the Children movement, 2016 there are about 8.3 million child labourers in India in the age group of 5 to 14. In India there are 12.9 million child labourers between the age group of 7 to 17 says an International Labour Organization report.

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II. CAUSES OF CHILD LABOUR:

The main causes of child labour are poverty, unemployment, lack of access to quality education, illiteracy of parents and lack of proper awareness regarding the physical and mental ill effects of child labour.

(A) Poverty

The first and most important cause of child labour is obviously poverty. Unable to meet basic needs of food, clothing and shelter with their income, the poor families send their children to work for additional income. Still one third of Indian population lives below the poverty line which is Rs.1,059 per month in rural areas and Rs.1286 per month in Urban areas. In India the poverty line is based on food requirements only and ignores health, shelter, education, etc, so it is considered a starvation line.

(B) Lack of education

As the children lack proper education they can't get access to a decent job as a result, they work as hard labourers and work in hazardous Industries. As their parents are illiterate they can't understand the value of education.

(C) Cheap labour

Children work for extended time but are paid very low, as they are deprived of food and water they long for it, so they are used as cheap labour.

(D) Bonded labour

Children are made to work as bonded laborers to pay the debts incurred by their parents. They work for several years to pay the debt and are at the mercy of their employers.

(E) Domestic work

Children are often subjected to domestic work as they obey their owners orders without questions, as well as they take care of their children and give a friendly company to them. The sad part here is that often educated families employ children in domestic work.

(F) Forced beggary

Parents who are unable to earn enough for food send their children to beggary forcibly as people would give more money by seeing the innocent faces of children where these children are subjected to subhuman conditions.

(G) Prostitution

Girl children are most exposed to prostitution, these children for the sake of food accept these

offerer even without knowing about it. Many girl children are forced into prostitution by promising them a better future and opportunity in glamorous work.

III. EFFECTS OF CHILD LABOUR

1. Children are deprived of their childhood as they lack opportunity to learn life lessons.
2. The children are exposed to mental depression due to the work and lack of proper emotional care.
3. The children suffer from physical torture as they work hardly for very less amount.
4. The children suffer from starvation as they are paid less and on days of no work they don't even have savings to eat for a single day.
5. They are deprived of the right to liberty and personal dignity.
6. These children become victims of sexual and physical violence.
7. They suffer from depression and malnutrition.
8. They mature in an early stage which creates a negative and lifelong psychological impact in their lives.

IV. LEGAL PROVISIONS THAT PROHIBITS AND REGULATES CHILD LABOUR

(A) Constitutional Law

- Article 15 (3) states that special laws can be made for the welfare of children.
- Article 21(A) states all children of age 6 to 14 have the right to education.
- Article 24 prohibits the employment of children in factories, mines and hazardous occupations.
- Article 45 states that free and compulsory education should be provided to children.
- Article 39(e) states that the health and strength of workers should not be abused . No citizen should be forced by economic necessity to enter avocations unsuited to age or strength.
- Article 39 (f) Children should be given opportunities and facilities to live in a healthy manner with freedom and dignity . Childhood and youth should be shielded from exploitation.

(B) Child And Adolescent Labour (Prohibition And Regulation) Act 1986

Section 3 of this act prohibits the employment of children in certain occupations and processes. Children are prohibited to work in railway, ports, slaughterhouses, firecrackers , explosive industries, mining and a number of other manufacturing processes. It allows the employment

of children for family or family enterprise but it should not be a hazardous occupation and it also permits the employment of children in audio-visual entertainment or sports activities except circuses but this should not affect the education of the child. This act also prohibits the employment of adolescents in certain hazardous occupations.

Section 7 of this act fixes the working hours for children that should not exceed six hours (including rest interval and time spent waiting for work) and an interval of one hour after three hours of work. Children should not be allowed to work between 7pm and 8am or overtime.

Section 9 of this act says the employer must send a written notice to the local inspector about the child labourers working in the establishment.

Section 11 of this act says the employer must maintain a register of children working in the establishment.

Section 14 deals with the Penalties for violating the act. Anyone who violates the act will be imprisoned upto a month or fine up to rupees 10,000 or both.

Anyone who employs the child in the prohibited works can be imprisoned for 3 months to a year or fined rupees 10,000 to 20,000 or both.

If a person violates the act more than once can be punished with imprisonment for 6 months to two years.

(C) Right To Children To Free And Compulsory Education Act 2009

It was enacted to accord effect to Article 21A of Indian Constitution. Section 3 of this act says elementary education should be free and compulsory to a child below 14 years of age. Government obligation is not only to provide free and compulsory education but to ensure the completion of elementary education for every child from 6 to 14 years of age. Free education refers to no direct or indirect fees that should be charged.

(D) The Juvenile Justice Care And Protection Act 2015

Section 76 of this act says that any person who employs or uses a child to beg will be punished with imprisonment that may extend upto 5 years and fine of rupees one lakh. Any person who amputates the child for the purpose of begging shall be punished with 7 to 10 years of imprisonment and fine of rupees five lakh.

Section 79 prevents the exploitation of child labour. If a child is bonded for the purpose of employment by a person or if a person withholds his earnings or if a person uses such child earning for his own purpose will be punished with rigorous imprisonment upto 5 years and fine of rupees one lakh.

(E) The Factories Act 1948

- Section 23 of the act prohibits the employment of young people on dangerous machines.
- Section 22 of this act says youth shouldn't be allowed to wash ,lubricate or adjust any part of a prime mover or of any transmission machinery while the prime mover or transmission machinery is in motion.
- Section 67 of this act prohibits the employment of young children in any factory.
- Section 71 says no child should work for more than four and half hours and during night.
- Section 72 says a notice to be displayed mentioning working hours and name of the child in the factory.
- Section 73 says every factory manager should maintain a record of the child laborers.
- Section 27 of this act prohibits the employment of children near cotton openers because it hurts and causes pain .
- Section 60 of this act prohibits the double employment of children in any factory.
- Section 99 says if a child is double employed in two factories then who enjoys the benefit of wages will be penalized rupees thousand .

(F) The Mines Act 1952

Section 40 of the Mines Amendment Act 1983 says that no person below eighteen years should be employed in any mine. Apprentice and other trainees (who are not below sixteen years of age) can be allowed to work but under proper supervision and there should be prior approval of the inspector.

Section 45 prohibits the presence of the person who is below eighteen years in any part of mine above ground where any operation connected with or incidental to any mining operation is being carried on.

(G) The Beedi And Cigar Workers (Conditions Of Employment) Act 1966:

Section 24 of this act strictly prohibits the employment of children in this industry.

(H) Domestic Workers (Registration Social Security And Welfare) Act, 2008:

Section 14 of this Act prohibits the employment of a child as a domestic worker.

(I) Plantation Labour Act 1951:

This act prohibits the employment of children below 12 years in plantations but a child above 12 years can be employed by getting a fitness certificate from the doctor.

Section 25 of this act says children can be employed only between 6am to 7pm.

(J) Minimum Wages Act 1948

Minimum wage is fixed by the state government to all workers including child laborers . The wage depends on the type and class of work. This act prevents the employment of children with low wages and more labour.

(K) Dangerous Machine Regulation Act 1983

This act prohibits the employment of children for the operation of dangerous machines. It also prohibits the presence of children near these machines.

(L) Motor Transport Workers Act 1961

Section 21 of this act also prohibits the employment of children as motor transport workers.

(M) Merchant Shipping Act 1958

This act prohibits the employment of children as trimmers or stockers in any ship.

(N) Apprentices Act 1961

A person below fourteen years of age should not be employed as an apprentice in any designated trade. Minimum eligibility to be employed as an apprentice not only depends upon age but also on minimum standard of education or physical fitness.

(O) Bonded Labour System Abolition Act 1976

The bonded labour system abolition act 1976 put an end to bonded labourers.

V. RECOMMENDATIONS

1. Many laws have been enacted to abolish child labour but in practice some of the laws are not followed. More stringent laws and effective implementation should be there in reality.
2. Child labour's parents should be given employment to get rid of poverty. So they can satisfy their basic needs and their children will not be employed.
3. The RTE Act provides free and compulsory education to children so parents must send their children to school.
4. Be aware if anyone employs a child in your locality then report it to the police or child helpline at 1098 or concerned authority in your locality.
5. Owners should not employ children in households, shops and factories.
6. Support and donate funds to the NGO'S like Save the Children.
7. All citizens and the government together should fight against this evil.
8. Moral education should be given to children and parents about how child labour affects the childhood.

VI. CONCLUSION

The government has enacted several laws that prohibit and regulate the child labour. The judiciary has framed the laws that safeguards the child labourers by fixing the working hours , minimum wages and prohibits the employment in hazardous occupations. But due to socio economic problems it cannot be eradicated. The police cannot go to every workplace to check whether they are employing child labourers or not .So the citizens should come forward to put an end to this evil. The whole society is responsible for the eradication of child laborers. Child labour deprives all the rights of children and causes intergenerational cycle of poverty. Unless the society work together to abolish child labour, this situation can't be changed. Life of little ones is destroyed, when child labour is employed.
