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CHILD LABOUR LAWS UNDER INDIAN LEGAL SYSTEM

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ABSTRACT

Child labour means working of children or forced them to do work for the earnings. Child labour is still prevalent in India especially in pastoral areas. Children used to work due to numerous reasons similar as poverty, unemployment, lack of good schools etc. not only that child labour is very harmful as it affect the physical as well as the internal development of the child. Indeed by this their childhood is also destroying. We have seen on roads that how they used to do beggar so that they can fulfil their basic needs. Many children do work so that they can earn and fulfil their family with that earnings. The primary end of this composition is to colourful vittles and legal fabrics in India legislated to help child labour. It also shed lights on various challenges that hamper the goal of child labour in India. This article gives an outstanding view on the child labour and their major problems. It also give the measures or the policies taken by the government of India to control this. Its high time to understand the concept of child labour in rural areas especially.

-Keyword: Child labour, children, India

INTRODUCTION

Child labour is principally that work that deprives the childhood, their growing years not only that it even harm physical and mental development due to this they won't be able to grow properly. They don't even get the environment as they grow up in the backward society where from the Day of birth they were told to work and help their family. The girl child was born then she was forced to do work and taught her to do all the household work because she was born to do that task. Child labour is one of the most important factor for the overall

development of country. As if the children work and not get education then the country economy can't be boost. As youth are the upcoming future if the country and if they are not there then one country can't be developed. Even many acts were passed where it was mentioned that all those who employed children of below 14years of age are punishable by law.

In this composition it also tells about the condition of the children whom are working and how the government take initiatives to control this. As it was the one of the human trafficking too that people used to do with them.

Many amendments and acts were passed to control this. So that they can secure the future of the youth of India. As they were the one who boost the Indian economy in later times.

Even right against exploitation is one of the basic fundamental right which was guaranteed in the Indian constitution. Despite its efforts and numerous legal frameworks, India continues to lag behind many other countries in achieving this.

CHILD LABOUR AND CAUSES TO INDIA

“Child”¹ as defined 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.

Children's work needs to be seen as happening along a continuum, with destructive or exploitative work at one end and beneficial work – promoting or enhancing children's development without interfering with their schooling, recreation and rest – at the other. And between these two poles are vast areas of work that need not negatively affect a child's development.²

Child labour in earlier times was a practised which was done so that their children can be engaged in the profitable or non-economic activities and induce the income for the same.

By birth this was made them clear that their duty is to serve the family and take over the family needs. By this their physical and internal development got worse.

Due to this their childhood, which was the most pivotal period of the child was taken down as in that period only their body grow. The term child labour is defined for the work that would restrict children from entering education.

Children by this move to various hazardous work which may cause serious illness and occasionally that also lead to death. In India, the slavery system leads to child labour by instilling in families the belief that females are burden. As utmost of the times child labour was done by the females of the family.

¹ INTERNATIONAL LABOUR ORGANIZATION (ILO)

² UNICEF

By birth it was clear in pastoral families that they were meant to do household and serve family in every way possible and if they didn't do so then they were also held liable for all the task.

India has been furnished with numerous reforms for the upliftment of children and has created a huge impact in tackling the problem of child labour but still, there has not been a complete eradication of child labour and the problems continue.

CAUSES OF CHILD LABOUR

1) POVERTY

Poverty has direct link with child labour. As families in rural areas are poor and they made their children as the source of income so that they can fulfil all the needs of them. These families have to survive, so to survive only they used their children and made them do the dangerous work, even sometimes risking their life.

This was seen in the developing countries where they cannot control the population, as in rural areas their family members are large in number.

2) PREVIOUS DEBTS

So as their conditions are not good they used to borrow money from the moneylender.

If they won't be able to pay off the debt they have taken on the high interest rate then they have to sell their children to pay the debt or to leave their house and gave it to the moneylender.

Due to insufficiency of income, debtors find it difficult to pay off the debt taken. They were sold against their will as a slave.

Children are forced to work in order to support their families because they are under pressure to provide food and shelter as well as to pay off debt that their parents owe.

3) PROFESSIONAL DEEDS

The children are mostly seen in the bangle industry as in that work basically little hands were required to do the minute work.

There the owners used to hire the children of poor family and gave them amount and made them realise that their children are very beneficial and help those family too so that they can pay back the debt.

These poor people don't know that it was very dangerous for their children to work their as glass is very harmful for them and cause the eye injuries too.

4) SOCIAL CAUSE

In India, people those are poor, are from the backward society and they are not educated enough that have the knowledge about the child labour.

Many times, parents are unaware of different programmes for children's education because of ignorance. And this was the one of the main factor of child labour in India.

Countless women are forced to work in low-paying domestic services, organized prostitution, or as migratory labourers as a result of poverty and a lack of education. The practice is common across all regions, classes, and religions.

Apart from these, the other challenges hampering India from attaining child labour involve, lack of access to credit, gender-based violence, lack of awareness, etc. contributing to child labour.

LEGAL AND CONSTITUTIONAL SAFEGUARDS FOR CHILD LABOUR

The Preamble to the Indian Constitution outlines the goals of establishing social, economic, and political justice for all people, as well as giving equality of position and opportunity to everyone. In terms of Articles, Acts, and other State initiatives, there are numerous frameworks.

➤ CONSTITUTINAL ARTICLES

Article 24: Prohibition of employment of children in factories, etc.³ it means no child who was lower than 14 years of age engaged in work.

Article 39 (e): The State shall, in particular, direct its policy towards securing⁴ in the state shall made the policy so that they can support the workers and their conditions.

Article 39(f)⁵: it gives the children the opportunity so that they can live a healthy life and no one is allowed to work who is lower than 14 years of age.

Other provisions of the Constitution provide that there should be free and mandatory education that needs to be handed to the children, which indicates that children are supposed to be at academy and not at work place:

³ Labour department- Ministry of labour and employment, 'Constitution of India' < [Constitution of India | Labour Department | Ministry of Labour and Emplyment | Go](#)> accessed 15 January 2024

⁴ ibid

⁵ ibid

Article 21 A⁶: Right to free and compulsory education in this state declared that all the children who are less than 14 years of age should get free and compulsory education.

Article 45⁷: provides that the State shall make sure that within a period of 10 years from the commencement of the Constitution of India it shall give free and compulsory education for all the children till the age prescribes by the government i.e, 14 years of age .

➤ ACTS

The parliament also ensures that various acts are brought in the best social interest of preventing child labour between genders, eliminating exploitation of women, and giving them equal status in society.

Such legislations include Child labour (protection and regulation) Act, 1986⁸ as it prohibit the children to work who are lower than 14 years of age in any occupation.

Child and Adolescent Labour (Prohibition and Regulation) Act, 1986⁹ in this it gave the extended scope on child labour in India. Where ILO even gave 5 conventions such as the Minimum Age Convention, 1973 and Worst forms of Child Labour Convention, 1999 with the objective of so that they can eliminate the child labour in India.

Factory Act, 1948¹⁰ as in this government declared only 15 to 18 years of age group can work in factories only if they were fit and had certificate for the same with an authorized medical doctor.

The Minimum Wages Act,1948¹¹ in this the minimum wages was set by the government for the work they have performed. It even gave privilege to amend the minimum wage rates. And this is the tool for children so that they can earn according to their work and no discrimination was made with them regarding the same.

The Mines Act,1952¹² the Act prohibits or restricts employment of children who are below the age of 18 times to work in a mine. And those who are above the age of 16 years should only work under special supervision.

It's crucial to recognize that these laws are often introduced to correct child imbalances and prevent child labour. Addressing potential concerns or unintended consequences should involve a balanced approach that ensures the rights and opportunities of all children, regardless of gender. Child labour policies and ongoing debates can help achieve this balance.

⁶ ibid

⁷ ibid

⁸ Chief labour commissioner (central) under ministry of labour and employment , 'Constitution of India' < [Constitution of India |Labour Department |Ministry of Labour and Emplyment |GoI](#)> accessed 15 January 2024

⁹ ibid

¹⁰ ibid

¹¹ ibid

¹² ibid

CONSEQUENCES OF CHILD LABOUR

As poor people made their children work due to this it hamper the economic growth of the country and even hamper the future of the country. As the present youths are the main tool to enhance the growth and by them we can gain the economic status in the world. By having the problem of child labour this made India as under developed country rather than developed one.

Since they started to work at very young age, due to this they didn't get the job opportunities in future as they are uneducated and to get job in urban area one should be educated enough to get the job.

Working at several places may cause diseases especially if these children are not working at a good place. Children who take up to work for any reason remain illiterate for the rest of their lives thus limiting their own ability and for that reason they get discriminated

By this it widen the gap between poor and rich and to control this government implement many policies but these policies are not beneficial. As in pastoral areas they used to make their children work and made them illiterate.

Due to this Child Labour (Prohibition and Regulation) Amendment, 2012¹³ came in which gave many suggestions like-

- the employer should be arrested if he made the children work in hazardous occupation
- definition of adolescent has changed
- below 14 years of age no one is allowed to work in any industry. They should get free and compulsory education
- made parents aware about the policies and programs that government made for them.

Are these legal framework enough?

In India, there exist suitable laws and frameworks that address child labour and empower children but, in a male-dominated society, the Constitution allows for discriminatory laws in favour of women, who are regarded as the weaker sex, disadvantaged, and discriminated against. The government's action plan for combatting child labour has proven the laws to be ineffective. In India, the fact that these laws only exist in books is a huge issue. The supreme court in one of the case which is *M.C Mehta V. State Of Tamil Nadu*¹⁴ held the ways to eradicate child labour from India.

These ways are:

¹³ *ibid*

¹⁴ [M.C Mehta v. State of Tamil Nadu \(1996\)](#)

1. by doing surveys one can find out who all children are working especially those lower than 14 years of age.
2. Withdrawal of the children who are working in the hazardous occupation
3. Even put fine on those who employed children who are lower than the prescribed age.
4. By lowering the working hours of the children so that they can study also.

However, to eliminate child labour in society, these laws must be implemented in a practical sense.

CONCLUSION

It can be correctly said that Child labour is an issue and a significant problem in a developing country like India. The rates of child labour in India are veritably high, and the major reason for similar high rates is due to poverty. It has come a vicious cycle, poor families are unable of educate their children, and therefore these children start to work and no way get proper education. Therefore, their fiscal conditions substantially doesn't change, and their unborn generations also have to face the same consequence. Along with poverty, other reasons like lack of education supply is another crucial factor of child labour since there aren't accessible to education supplies which are conceivably a weak point of the government as many times they fail to give seminaries that could give free and mandatory education to children. Child labour cannot be cancelled or removed by just fastening on one of its determinants it's kind of a process, and it needs to have a full- fledged program and action by the government and a lot of participation by the Non- Governmental associations. Only by furnishing education child labour cannot be excluded because of several reasons, one being that parents who shoot their children to work have either transferred them because they want their children to gain some chops or because they themselves aren't educate well enough to understand that how important education could actually be. Thus, there has to be measures to help remove poverty to educate parents and why there's a need for putting a complete ban on child labour. This has come a cycle where child labour is born in every generation, and this can only be removed by expansive measures and lot of determination through wide programs; it might take several times to do the same.

