

Laws to protect the Human Rights of Child Labour in India

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Abstract - India joined the ranks of countries that have accepted the UN Convention on the Rights of the Child since 1992, yet the topic of child rights protection is seldom brought up in public discourse. Numerous laws in India provide a legal framework for discovering and punishing instances of child labor, including the Child Labour Act, of 1986 and the Juvenile Justice of Children Act, of 2000. No one under the age of fourteen should be employed in factories, mines, or other potentially hazardous jobs, and all minors should be subject to appropriate controls about their working situations. The Child Labor Act of 1986 was enacted with this overarching purpose in mind. In the name of the Child's Rights Convention lays out four fundamental rights for children: the right to survive, the right to grow, the right to participate, and the right to be protected. However, in India, children are still not seen as a distinct group demanding special protections. To further safeguard children's rights in the workplace, further laws have been enacted. The 2009 Integrated Child Protection Scheme, the 2010 Indira Gandhi Matritva Sahyog Yojana, the 2010 Rajiv Gandhi Scheme for the Empowerment of Adolescent Girls, and 2012 The Integrated Child Development Program have been reorganized. Despite all the laws that already exist, researchers stress the importance of properly implementing the laws discussed in this article and note that the involvement of all members of the family, the community, and the society at large is essential to safeguarding our future, which means the healthy development of every child in the nation.

Keywords - Child Labour, Child Rights, Exploitation, Protection, Child Development, and Human Rights, Conventions

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INTRODUCTION

Our society recognizes five basic rights of children: the right to a happy and healthy childhood, a good education, time for play and relaxation, financial stability, and to protection from harm. Children and young people's economic, social, cultural, civil, and political rights are safeguarded under the U.N. Convention on the Rights of the Child. Here are twelve areas of children's rights that every adult should know: Central ideas include people's rights to be treated fairly under the law, cared for by their loved ones, protected from harm, maintain their own unique identity, to receive a good education, to be open to new ideas, to have their own space, to enjoy the arts, to receive restitution when wronged, and to hold their government accountable. Child labor and exploitation may be traced back to a variety of underlying issues, including economic hardship, social norms that condone such practices, a scarcity of suitable job opportunities for adults and adolescents, migration, and crises. These factors are both the cause and the consequence of the reinforcement of social inequality caused by prejudice. The advice given by Gabriel Mistral should be taken seriously.

"We are guilty of many mistakes and wrongdoings, but our biggest crime is abandoning the young, disregarding the basis of existence,

There are many things we need that can wait.

The youngster cannot,

His skeleton is developing at this very moment.

Being created is his blood,

Additionally, his senses are maturing.

No, we can't respond to him

'Tomorrow'

The man's name is Toda.

Do we dare say "tomorrow"?

They are the blossoming roses of civilization. Since "children of today are the Potential citizens of tomorrow," they are a country's most precious resource. Their current standard of living has a direct impact on the standard of living of the nation's future citizens. Like everyone else, kids need to have their rights and wishes taken into account and respected. But even more crucially, children in India are not

even afforded the most fundamental human rights that they should have in any civilized society.

Children, who are helpless and have no voice of their own, have suffered. All human rights, including the right to one's own life, body, privacy, and opinions, are guaranteed to children. Millions of children, for example, have suffered physical or sexual abuse or economic exploitation at the hands of people who were supposed to grant them protection and affection, including society, community, and Parents, at various points in history. Post-fifty years of intensive planning of welfare programs, legislation, and administrative activities, notably after the International Year of the Child in 1979, have not improved the lives of the vast majority of children in India. In terms of the number of children employed as wage earners, we continue to lead the globe.

Because of cultural and socioeconomic variations from nation to country, a universal definition of "kid" and "Labor" is elusive, making it impossible to pin down exactly what it is that children do in the workplace. International Labor Organization's Minimum Age Convention of 1973 further defines the concept by recommending that countries adopt a minimum age that is no lower than the age at which compulsory schooling is finished, or in any case no lower than the age of fifteen. Under Indian law, a child is deemed to be engaged in child labor if they are under the age of 18, are not enrolled in formal education, and have no other significant interests in life outside employment. The vast majority of youngsters in every community do some kind of paid or unpaid labor by the time they reach adulthood. The vast majority of Indian children live and work in rural regions, where they are heavily engaged in agriculture, farming, forestry, etc., yet this activity is not seen as child labor.

DEFINITIONS OF CHILD LABOUR

In its definition of child labor, the International Labor Organization (ILO) states, "work that robs children of their youth, their potential, and their dignity and that is damaging to their physical and mental development." Kid labor refers to any kind of work that hurts a youngster's mental, physical, social, or moral health, or that hinders a child from consistently attending school or focusing on their studies.

The UN Children's Fund (UNICEF) has a narrower definition of "child labor" than other organizations. UNICEF considers a child to be engaged in child labor activities if they perform at least one hour of economic activity or at least 28 hours of domestic work per week while between the ages of 5 and 11; if they are between the ages of 12 and 14, and they engage in economic activity for at least 14 hours per week, or if they engage in economic activity and domestic labor for at least 42 hours per week. According to a report by the United Nations Children's Fund, it is important to view children's work as existing along a continuum, with beneficial work - work that promotes or enhances

children's development without interfering with their schooling, recreation, and rest - located at one end of the spectrum and destructive or exploitative work located at the other end. Spaces of this site may be utilized in ways that aren't detrimental to a kid's growth and development.

According to the 2001 Census of India, children under the age of 17 who "participate in any economically productive activity with or without compensation, wages, or profit" are deemed to be working as child laborers. Such involvement might consist of either physical activity or mental activity, or both. Planting crops and milking cows for profit or personal use are examples of the kinds of work that may be done by volunteers or unpaid workers on a farm, in a family company, or any other economic activity. There are two types of child laborers recognized by the Indian government: regular and temporary. Teens who work for less than half the year aren't reliable employees.

TYPES OF CHILD LABOUR

Industrial Child Labour

When it comes to working, the industrial sector in India is where most children under the age of 18 find work. A staggering 10 million kids, including nearly 4.5 million young women, work in the informal economy. Small enterprises, such as those in the clothing industry, brick kilns, agriculture, fireworks industries, diamond industries, etc., are some of the largest employers of children. These operations are often conducted out of people's homes, making it difficult for the authorities to take appropriate action. The informal sector of the Indian economy is a major employer of youngsters. It's not unusual to see kids as young as 10 or 11 working at roadside dhabas, cafés, tea booths, and even grocery stores. Younger workers are chosen since they are easier to supervise and dismiss.

Domestic Child Labour

Seventy-four percent of India's domestic workers are minors; most of them are twelve or thirteen years old. People of both sexes do domestic labor for wealthy households. Instead of going to class and having fun with their peers, these kids have to work to support their families. For the most part, financial hardship is to blame. Typically, parents give their approval in the expectation of securing financial aid and a stable living situation for their kids. Statistics show that females predominate among domestic workers and that over 20% of all domestic workers employed are less than 14 years old. These kids are the family's live-in servants, and their work includes things like cooking, cleaning, and looking after the family's pets or small children.

Bonded Child Labour

The youngster is considered "bound" when they are used as a slave to help support their family. Though the use of bonded labor has considerably decreased in recent years due to strict government oversight and rules prohibiting it, it is still practiced covertly in certain locations. Children in rural areas do a disproportionate amount of agricultural work. If a farmer is in serious debt to creditors, he may agree to hire his brothers to work for the affluent creditors. The government says that there are no longer any bonded youngsters working in any sector, and the number of bound workers has declined substantially over the last decade.

CAUSES OF CHILD LABOUR

Poverty, previous debts, professional needs, a lack of alternative options, social causes, family traditions, addiction, disease, disability, lack of compliance with laws, and discrimination between boys and girls are just a few of the many factors that contribute to the widespread use of children as laborers in India. The other minor explanations include the fact that certain stores, companies, and factories recruit them because they want to pay their workers less. Those in charge of stores and other small businesses often force these individuals to work longer hours for less money than retirees. Research has revealed that when youngsters are given jobs, there is a corresponding drop in incidents of stealing, greed, and monetary misappropriation. Child labor has become commonplace in India due to the country's expanding need for low-cost labor, which in turn is tied to the financial needs of low-income families.

EXPLOITATION OF CHILD LABOUR IN INDIA

Child labor is a major issue, and the world's attention has recently shifted to India. Mr. Burton from Indiana raised the issue of human rights violations by the Indian government against minorities in Kashmir and Punjab during the recent examination of Human Rights 1968, the foreign assistance allocations Bill for 1996, in the Provincial Legislative Assembly debate. However, there is another, perhaps more pressing human rights issue in India that receives far less attention.

Major problems, such as the use of minors as cheap labor, have been largely overlooked. The widespread use of children as workers is an issue that has gotten little attention from the governments of the United States and other countries. Now is the time to do something about this problem.

The pervasive and alarming problem of forced child labor in India. The carpet business, along with the glass and explosives industries, often employs children as young as 14 as employees. While the government in India estimates there are only 20 million child workers, some organizations put the number closer to 50 million. The extensive usage of child labor is permitted in northern India because many residents see it as a necessary evil to escape the region's abject

poverty. Young people are often used as workers in the carpet industry. Young people are forced to labor in factories in situations of danger and filth for wages that adults refuse to accept. Most of these young people are migrant workers from northern India, sent abroad to earn money for their families. Children are compelled to work in the appalling circumstances of the carpet factory because their families depend on their salaries.

The working circumstances for young factory workers must be drastically enhanced. The average person works 12 hours a day, seven days a week, with only short breaks for sleeping and eating. These children suffer from malnourishment since they are only provided with the bare minimum in terms of nutrition. Most migrant kids who can't go back to their homes at night sleep with their moms, which is bad for their health.

Seventy-five percent of the population resides in rural areas, which are often stricken by poverty. Children are considered a kind of economic stability, vital to help augment their family's income, which makes it difficult to take an aggressive effort to remove this problem. A lot of parents prioritize their employment or other ambitions above their children's education because they feel pressure to have their children help support the family financially.

Several steps have been taken by the government of India to deal with this urgent problem. In 1989, India passed a law that made it illegal, except family-owned businesses, to hire anybody younger than 14 years old as an employee. In theory, this rule should not apply to the hiring of family members, but in fact, it seldom is. In light of this, many factories simply tell the truth and claim their workers are distant cousins to sidestep the law. Furthermore, enforcement processes are lacking in rural areas, and businesses that violate the law face little to no consequences.

MEASURES FOR PROTECTION OF CHILD LABOUR

Constitutional Provision

The Constitution of India explicitly recognized the need of expanding protections for children. The article delves into the provisions of the Indian Constitution that protect minors from being forced into labor.

Compulsory education

Following Article 21(A) of the Indian Constitution, all children in India between the ages of 6 and 14 must attend free and obligatory school.

prohibition of forced labor and human trafficking

Violators of Article 23, which prohibits human and beggar trafficking as well as other forms of forced labor, are subject to legal consequences.

preventing the use of minors as laborers in industries

In addition, Article 24 prohibits employing minors in dangerous occupations that might result in permanent psychological or bodily harm.

Prevention from coercive factors

To exploit the health and strength of employees, men, and women, or children at a vulnerable age for economic benefit is illegal under Article 39(e), and the state will not compel its citizens to do such employment.

Fundamental duty

All individuals, including parents and legal guardians, are required under Article 51A(k) of the Constitution, which can be found in the DPSP, to give their minor children access to formal education between the ages of 6 and 14.

The State's responsibility is to improve nutrition

Article 47 mandates that the state improve the quality of life, nutrition, and health of its citizens.

Protection from exploitation

It is the policy of this government to safeguard children against exploitation and abandonment of all kinds, as stated in Article 39(f). They must have the chance and resources to grow up in an atmosphere that values health, autonomy, and decency. To that end, the government has been given the responsibility of expanding individuals' access to nutritious food and other basic requirements.

Child care

When Article 243G is read with Schedule 11, it aims to formalize childcare by giving the responsibility for women's and children's development to the local panchayat (item 25 of Schedule 11). This is in addition to the items dealing with children's health and safety (items 23 and 24), family support (item 25), and education (17).

In 2002, as part of the 86th amendment to the Constitution, a provision was added to ensure that all children have access to free and mandatory education. This provision is included in Article 21-A of the Constitution. In line with Article 21-A and the state's legal authority, all children between the ages of six and fourteen should be provided with a free and appropriate public school education. Free and mandatory education was originally promised in Article 45 of the chapter headed "Directive Principles of State

Policy." Employment of children younger than 14 in hazardous occupations like mines, factories, and construction sites is prohibited under Article 24. Article 24 is a fundamental right that "is obviously and indubitably enforceable against everyone," according to the Supreme Court of Asia. Article 24 makes it clear that no one may legally hire a kid younger than 14 for employment in a hazardous industry like construction. As a result, employers cannot legally employ minors (defined as those under the age of 14) on a construction job.

Directive Principles of State Policy

State policy directives are laid forth in Article 39 of the Constitution.

1. No one takes advantage of youngsters, and no one is forced to do something they aren't good at just to make ends meet.
2. Young people and children be protected from abuse and neglect, both moral and material, and given the resources, they need to thrive as they age.

Article 45 states that all children under the age of 14 shall attend a free and compulsory public school within 19 years of the constitution's passage.

The Union of India had been using children younger than 14 in construction labor until the discovery of the now-famous "Asiad Worker" case, *People Union for Democratic Right v. Union of India*. The Children's Act of 1938 was supposedly not broken since it did not apply to construction. Bhagwati. It is sad, as J. noted, that despite India being a signatory to ILO Convention 29, which outlaws child labor, the Children Act does not extend to construction work, which is a dangerous profession. The court, however, ruled that Article 24 of the Constitution, which provides that no kid under the age of 14 should participate in any risky activity, had been grossly disregarded. It restated that no one under 14 may be employed in the construction industry (Article 24). The top court in Michigan's McCreary County affirmed an earlier decision that prohibited kids from doing occupations that may be harmful. According to Article 45 of the Constitution, all minors shall be obliged to attend school until they become 14 years old. This is so because young children are considered to be in their "prime of life" until the age of 14. This ruling was given in the matter of *Mehta v. State of Tamil Nadu*.

Article 45 of the Directive Principles of State Policy states that all children under the age of 14 must attend school; yet, many have been forced to drop out due to financial hardships. The National Human Rights Commission has advised against using minors in the pairing process due to safety concerns.

LEGISLATIVE ENACTMENTS

India passed comprehensive legislation on child labor which is as follows:

The Labour Act, 1986

For this definition, a "child" is someone who hasn't reached the age of fourteen. It seems that this concept of "child" has become the standard for use in other labor legislation.

The Child Labour Act, 1986

By codifying existing common law, this Act forbids the use of minors in various forms of labor. Multiple relevant sections of the Act are reproduced here:

Prohibition on using minors in hazardous jobs and processes

No minors are to be used in any of the jobs listed in Appendix A of the Schedule or in any workplace where any of the activities listed in Appendix B of the Schedule are performed :

No provision of this section shall apply to any school founded by, or with the support or recognition of, the government, or to any workplace where any procedure is carried out by the occupant with the aid of his family.

House and Period of work

1. No more than the maximum number of children allowed to work in any business or kind of establishment should be required or authorized to do so.
2. Every day's work time must be scheduled such that no shift lasts more than three hours without providing at least one hour of relaxation.
3. Third, a child's work schedule must be set up in such a way that his total work day (including his rest break under subsection (2)) does not exceed six hours. This includes any time spent waiting for work.
4. No minor may be expected to labor between the hours of 7:00 and 8:00 p.m.
5. No extra hours of labor are to be expected of, or given to, a minor.
6. No employer may have a youngster work for them on the same day they've worked somewhere else.

Weekly holiday

Every minor working in a commercial establishment is entitled to one full day off each week, on a day designated by the occupier and displayed at all times in a prominent location within the business; provided, however, that the day designated may not be observed more than once every three months.

Health and Safety

When it comes to the well-being of minors in the workplace, the relevant government may issue regulations through a notice in the official Gazette. Without limiting the scope of the aforementioned provisions, the regulations may include provisions for (but are not limited to) the following:

- The workplace's cleanliness and lack of annoyances.
- Waste and wastewater disposal.
- Temperature and ventilation.
- Fumes and dust.
- Creating artificial humidity.
- Lighting
- Drinking water
- Latrine and urinals
- Spittoons
- Fencing of machinery
- Operate close or around moving equipment.
- Using young people to operate hazardous equipment.
- Instructions, supervision, and training related to the use of minors operating hazardous machinery.
- Device for cutting off power.
- Self-acting machines.
- Easing of new machinery.
- Floor, stairs, and access points.
- Floor openings, sumps, pits, etc...
- Excessive weights.
- Protection of the eye.
- Explosive or inflammable dust, gas, etc.
- Precautions in case of fire.
- Maintenance of buildings and
- Safety or buildings and machinery.

The Juvenile Justice Act of 2000 was enacted to make the Juvenile Justice Act of 1986 more kid-friendly. It modernizes and simplifies laws meant to safeguard and care for kids who are in trouble with the law or who need care and treatment to attain their full potential. This measure creates a framework to help in the rehabilitation of these children via various institutions and encourages their adoption, complementing the Hindu Adoption and Maintenance Act of 1956, which has limited applicability.

Sad but true, modern medicine has shown that the impatient fetus is more like a little adult than a newborn. From what I've heard, he's already being steered toward a successful corporate career. Only the human species is mistreated, either purposefully or unintentionally, and this generates great unease in the human mind. So, it's clear that safeguarding kids from exploitation is more pressing than debating their legal rights anywhere around the globe. The goal will not be achieved just via legislative actions; rather, the executive machinery and society at large will need to be nurtured as well. Malnutrition-related deaths among children in Khandwa District (M.P.) are frightening. Starvation has claimed the lives of at least 15 youngsters from the Tribe in the tribally

dominant Khalwa section of Khandwa district. The government and UNICEF surveyed all the communities in the Khalwa block on Wednesday to find the youngsters (aged six months to six years) who require medical attention at a hospital.

Initiatives are taken to enhance things like seating arrangements and extracurricular activities so that students feel at ease in the classroom. When it comes to reducing the rate of student attrition, the NREG program is an encouraging development. The Education for All Act of 2000 calls for free public education until the 14th year. This approach may help any country raise a population with a strong work ethic.

Though it is against the law in India, it is very unusual to see children as young as 14 working at roadside Tea shops, cafes, residences, agricultural fields, etc.

CONCLUSION

According to the International Labour Organization and UNICEF, there are now 160 million children working as minors globally, an increase of 8.4 million children over the previous four years, and millions more are in danger owing to the effects of COVID-19. As of 2015, 12.9% of Indian children and adolescents aged 7 to 17 were employed, according to the International Labor Organization. Working kids are less likely to attend school, particularly if they do unpaid work, which feeds the cycle of poverty in their families. Since the present COVID-19 pandemic situation has pushed schools to close and parents to hunt for other employment to support their children, all attempts to avoid child labor have been rendered ineffective. UNICEF believes that COVID-19 directly prevented 1.5 billion children from attending school. The worldwide job market as a result has collapsed. India can eliminate child labor if the widespread negative impacts of child work are publicized and existing regulations are effectively implemented. The success of our nation depends on our children, thus we must invest in their growth and education.

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