



Research Article

A CRITICAL STUDY ON IMPLEMENTATION OF CHILD LABOUR LAWS FOR PREVENTING CHILD LABOUR IN INDIA

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ABSTRACT

Child labour is a serious problem from many decades and a challenge for many developing countries. It has existed over the centuries not only in the impoverished areas of developing countries but also in developed countries until the beginning of the 20th century. Many countries have enacted various laws and have taken serious initiative to eradicate child labour, yet still the problem is very widespread throughout the world. The problem of child labour appears in severe form and various factors are involved with it. The causes for the incidence of child labour in India are complex and deeply rooted into the society. Poverty seems to be the main cause. Child labour can be found in both urban and rural areas. However the vast majority of child labour occurs in rural areas since poverty is more rampant. Although many poor rural families struggle for a better life in urban areas, this pushes families to force their children to work in order to increase the family income and ensure survival. This paper deals with the labours laws laws implemented for preventing child labour in India. In addition the objective of this paper is to make a critical analysis of child labour in India.

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INTRODUCTION

For many years, child labour has been one of the biggest obstacles to social development. It is a challenge and long-term goal in many countries to abolish all forms of child labour. Especially in developing countries, it is considered as a serious issue these days. Child labour refers to children who miss their childhood and are not able to have the basic amenities which a child should have.

According to ILO (2013) the largest Numbers of child labourers are working in hazardous work and the total number of child workers is increasing, even though it is forbidden by law. These children are vulnerable to diseases and they struggle with long-term physical and psychological pain. The main cause that induces children to work is poverty. These children work for their survival and their families (Mapaure, 2009). Some studies like Dessay and palling (2003) argue not all the work that children do is harmful or brutal. Some work may provide successful learning opportunities, such as babysitting or newspaper delivery jobs, but not if the work exposes them to psychological stress, like human trafficking, prostitution and pornographic activities. The international organizations have made great efforts to eliminate child labour across the world. Many countries have adopted legislation to prohibit child labour, nonetheless child labour is widespread throughout the world. It is not easy task for developing countries like India to achieve banning child labour.

Child Labour Laws in India

Various laws have been made in our country since 1933 to control child labour:

1. Children (Pledging of labour) Act 1933.
2. Employment of child Act 1938.
3. The Bombay shop and establishment Act 1948.
4. The Indian factories Act 1948.
5. Plantation labour Act 1951.
6. The mines Act 1952.
7. Merchant shipping Act 1958
8. The apprentice Act 1961
9. The motor transport workers Act 1961
10. The atomic energy Act 1962
11. Bidi and cigar workers (condition of employment) Act 1966.
12. State shops and establishment Act
13. The child labour (Prohibition and Regulation) Act 1986.
14. The juvenile justice (care and protection) of children Act, 2000.
15. Article 24 of our constitution and section 67 of the factories Act, explicitly direct that children below the age of 14 years are not allowed to work in factories.
16. Article 21A (added by the 86th amendment Act 2002) provides that state shall provide
17. Free and compulsory education to children of age group 6-14 years.

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18. Article 45 provides for free and compulsory education for all children up to the age of 14 years.

Efforts by Government of India to Control Child Labour

The child labour (Prohibition and Regulation) Act 1986 prohibits the employment of children below the age of 14 years in 16 occupations and 65 processes that are hazardous to the children's lives and health. According to Supreme Court's direction on 10th December, 1996, recovery notice have been issued to offending employees for collection of a sum of Rs 2000 per child employed under the provision of Act. No child can be employed in hazardous occupations. Many states including Haryana have constituted the child labour rehabilitation –cum-welfare funds at district level and separate labour cells are being formed to address the issue. National child labour projects have been implemented by the central government in states from 1988 to provide non-formal education and pre-vocational skills. From 2001, Sarva Shiksha Abhiyan (SSA) has been launched to educate poor and employed children in all states. Ministry of women and child development has been providing non-formal education and vocational training. Establishment of Anganwadis is also a big step by the government for the welfare of children and their physical, mental and educational development.

The Rights of Children That Are Violated

(The UN Convention on the Rights of the Child)

- The right to be cared for by his/her parents (Article 7).
- The right to education (Article 28).
- The right of a child separated from his/her parents to maintain regular contact with them (Article 9).
- The right to be brought up by parents or guardians whose basic concern is the best interest of the child (Article 18).
- The right to protection from physical or mental ill-treatment, neglect or exploitation (Article 19).
- The right to conditions of living necessary for the child's development (Article 27).
- The right to protection from economic exploitation and from performing any work that interferes with her education or is harmful to her mental, spiritual or social development (Article 32).
- The right to be protected from all forms of sexual exploitation and sexual abuse (Article 34).
- The right not to be arbitrarily deprived of liberty (Article 37).
- The right to rest, leisure, play and recreation (Article 31).

Obstacles In The Way of Proper Implementation of Child Labour Laws

In the country like India with diverse culture, language, and unique social issues is a very big task. The Non-awareness among citizens about child labour laws. People who engage children, are not aware about the child labour laws, its provisions, penalty on defaulters. In India, a large number of people are living below poverty line, they do not have money to support their families so that they send their children for work and to earn money for their living. Illiterate people are not able to earn more and do not able to read and understand about rules and regulations. Lack of political will and

ineffective role of local government regarding the control over the child labour. Lack of efficiency in administrative machinery responsible for implementing the law. The Unemployment issues that is prevalent in the Indian society and the Will of parents who want to place their children in the jobs are considered to be the main obstacles in the way of proper Implementation of the child labour laws.

Amendments Needed in Child Labour Laws

The present title of Child Labour (Prohibition and Regulation) Act, 1986 should be amended as Child Labour (Prohibition and Rehabilitation) Act, so that more focus should be given to rehabilitation rather than regulation. Proviso annexed to section 3 of Child Labour (Prohibition and Regulation) Act, 1986 should be amended to prevent the misuse of this provision by employers under the heading of family occupations and no exceptions should be provided. Distinction made between Part-A and B Schedules annexed to section 3 of the Child Labour (Prohibition and Regulation) Act, 1986 shall be removed, as both Schedules namely, occupations and processes, are equally hazardous to the health of children. Therefore prohibition to employ a child should exist in both. Under section 9 of the Child Labour (Prohibition and Regulation) Act, 1986, it should be made mandatory that every occupier after establishment should send a notice to the Inspector containing the information regarding the employment of a child, either in the affirmative or in the negative, annually. The age of the child provided under Child Labour (Prohibition and Regulation) Act, 1986 i.e., 14 years should be enhanced to 18 years so as to bring it on par with United Nations Convention on the Rights of the Child, 1989.

The Advisory Function of the Technical Advisory Committee under section 5(1) of the Child Labour (Prohibition and Regulation) Act, 1986 should be expanded so that it shall receive petitions from individuals etc, for addition of occupations and processes to the Schedule. The punishment for violation under section 14(3) of Child Labour (Prohibition and Regulation) Act, 1986 shall be enhanced to three months simple imprisonment or fine which may extend to fifty thousand rupees or with both. In Section 16 of Child Labour (Prohibition and Regulation) Act, 1986 a time limit from Six months to One year should be fixed for the disposal of the case so that, the aggrieved party may get relief on time.

Suggestions

1. Government of India should ratify the Convention No.182 and Recommendation No.190 which deal with the "Prohibition and Immediate Action for the Elimination of the Worst Form of Child Labour". The Convention was adopted in 1999 but the Government has not yet ratified it.
2. The Employment of children in any other employment including Agricultural /Farm Sector should be made a cognizable offence, non-bailable and noncompoundable.
3. A separate and independent body should be constituted under Labour Ministry at Centre, State and District level for monitoring the affairs of child labourers after 14 years who were rehabilitated and mainstreamed.
4. Every State Government shall frame Rules under the Right to Education Act, 2009 immediately for the proper implementation of the provisions of the Act.

5. Laws on child labour and Education should be implemented in a mutually supportive way.
6. The Judiciary should be more sensitive in dealing with child labour cases. The general rule of 'benefit of doubt' cannot be given to the offending employers. When guilt is proved, offending employer should be punished with imprisonment and not with fine. In punishment policy, sentence of imprisonment should be made a general rule and imposing fine should be an exception. This deters the employers. Further there is a need to increase the conviction rate.
7. Government should encourage the NGOs for elimination of child labour by granting proper budget periodically and accountability should be fixed on NGOs to ensure that the funds are utilized for the purpose for which it is given.
8. To deal with apathy and indifference on the part of the law enforcing agencies in the discharge of their duties, there is need to conduct periodical orientation and training programmes to sensitize them adequately.
9. It is suggested to give more focus on implementation and enforcement of child labour laws and other laws meant for the protection of the children. It is humbly submitted that, if all the above suggestions are implemented, the menace of child labour can be effectively tackled and eventually it can be eradicated

CONCLUSION

Children constitute the nation's valuable human resources. The future well being of the nation depends on how its children grow and develop. The great poet Milton said "Child Shows the man as morning shows the day". So it is the duty of the society to look after every child with a view to assuring full development of its personality. Children are the future custodians and torch bearers of the Society: they are the messengers of our knowledge, cultural heritage, ideologies and philosophies. Children are really future components in the form of great teachers, scientists, judges, rulers, doctors, planners, engineers, politicians on whom the entire society founded (rests). Unfortunately millions of children are deprived of their childhood and right to education and thereby they are subjected to exploitation and abuse.

Socio-economic conditions prevailing in the society are strongly responsible for the abuse of child in different forms. High literacy and low literacy rate, equally contribute to the problem of child abuse. Among the various forms of abuse of children it would be more pertinent and relevant to focus on child labour.

Child labour is a abuse and exploitation of children and children pre-maturely leading an adult like life. They receive low wages and work for long hours under conditions that are likely to damage their health as well as physical and mental development. Child labour can be checked only when we people have little concern about the physical, mental and educational development of children around us. It is the duty of civil society not to physical help from them but provide them their childhood.

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