



Child labour in India

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Abstract

Child labor is a serious problem all over the world today and is a challenge for all countries, especially developing countries. Many countries have made various laws to eliminate child labour. There are many complex reasons for the problem of child labour, of which poverty is one of the main reasons. Child labor is found in both rural and urban areas but it is mainly prevalent in rural areas. Poor families send their children to do jobs to increase the income of their family. Due to child labour, children are losing their innocence and their physical and mental development stops. According to the 2011 census, the total number of child labor in the country decreased from 1.26 crore in 2001 to 43.53 lakh. The objective of this paper is to critically analyze child labor and the laws made for its eradication.

Keywords: Child labour, developing country, child labour laws

Introduction

Childhood for any person is the most enjoyable as well as important time. During this time period, a child learn so many things from his parents, relatives, school and nature. "Hon'ble Mr. Justice P.N. Bhagwati, R.S. Pathak in Sheela Barse v/s The Secretary children Aid Society case said that every society must, therefore, devote full attention to ensure that children are properly cared for and brought up in a proper care for and brought up in a proper atmosphere where they would receive adequate training education and guidance in order that they may be able to have their rightful place in society when they grew up." How a person's personality will be, depends on his past childhood. In childhood, a person's mental, social, physical strength develops that determines a person's future. Child labour is a social and economic problem. According human right law, Indian Constitution law every human being has the right to live a good life. For good life everyone need a healthy childhood, good education, good job, good earnings from their works. But child labour ruins all these.

There are many reasons why Child labour is so common. It has adverse effect on the physical, mental and social development. Problem of child labour is found not only in India but it is spread all over the world.

What is child labour

Child labour means the employment of any child with or without payment in any kind of work. Employment of children often aged 5-14 years is called child labour. The meaning of child labour is employment the child in any kind of work that affects his physical and mental development, deprives his requirement of basic education and entertainment.

The Encyclopedia or Social (1959) defines child labour as "when the business of wage earning or of participation in self of family support conflicts directly or indirectly with the business of growth and education m the result is child labour.

A person who has not completed his fourteenth year of age is called child ^[1]. The Child labour (Prohibition and Regulation) Act 1986 also prohibits employment of a child in any employment including as a domestic help (except

helping own family in non hazardous occupation). Employment of children is punishable offence under the Juvenile Justice (care and protection) of children Act 2015.

The causes of child labour are as follows ^[2]

Poverty

The main reason of child labour is Poverty and it is also a main social issue. Children are considered a helping hand in poor families. Children are sent to work to support the family.

Previous debts

Due to poverty generally, people take loans from local money lenders and lenders give it on at high-interest rates. Poor people don't have another choice and they have to sent their children on work to pay back such loan amount.

Professional needs

Some industries need soft and delicate touch. In such industries, adults are not able to perform the tasks. So that children are employed as child labour in these workplaces. The child are given comparatively lower wages than an adult. Therefore, industries become able to cut the cost of production and its result comes out in increasing the profit by employing child labour.

Bonded labour

Workers get loan at high interest rate by employers and these workers employed at very low wages to pay off debt. According to Supreme Court of India, bonded labour is interpreted as the payment of wages less than the prevailing market wages and legal minimum wages. In bonded labour, peasants from economically disadvantaged communities are forced to work for their landlords. Even after enacting several laws banning such slavery, bonded labour is a significant cause of child labour.

Domestic help

Wealthy educated families typically employ below 14 years children at low payment rates for completing household work. Parents of such children send their children to work for wealthy people and they hope that their child will earn

wages and would live a better life. Rich families keep such children at their homes to take care of their home, perform household chores, and manage their children.

Child sex workers

Children, especially girls, are forced to work as prostitutes especially after attaining puberty. A prospective employer promises the parents of the girl child and the girl a glamorous job that will help her earn a high income.

Poor families don't have enough money to educate their children and they force their children to beg and earn their living.

Poor children are sold or purchased by rich peoples for sexual exploitation.

Example of Child Labour in India and other policies

There are many sectors in India for high child labour employment like bricks, foot wear Textile, carpets, garments fireworks are the common manufacturing sectors, in quarried or mines work, and agricultural work are most common works where children are employed and there working conditions are also not good for them.

Child labour and laws of India

Child Labour (Prohibition and Regulation), Act, 1986

This Act prohibits employment of children below the age of 14 years.

This Act's main purpose is regulate the hours and the working conditions of child workers and to prohibit child workers from being employed in hazardous industries^[3].

Sec. 3A: Prohibition of employment of adolescents in certain hazardous occupations and process^[4]

No adolescents shall be employed or permitted to work in any of the hazardous occupations or processes set forth in the Schedule.

Provided that the Central Government may, by Notification, specify the nature of the non- hazardous work to which an adolescent may be permitted to work under this Act.

Sec. 7: Hours and period of work^[5]

1. No child shall be required or permitted to work in any establishment in excess of such number of hours as may be prescribed for such establishment or class of establishments.
2. The period of work on each day shall be so fixed that no period shall exceed three hours and that no child shall work for more than three hours before he has had an interval for rest for at least one hour.
3. The period of work of a child shall be so arranged that inclusive of his interval for rest, under sub-section (2), it shall not be spread over more than six hours, including the time spent in waiting for work on any day.
4. No child shall be permitted or required to work between 7 p.m. and 8 a.m.
5. No child shall be required or permitted to work overtime.
6. No child shall be required or permitted to work in any establishment on any day on which he has already been working in another establishment.
7. Weekly holidays^[6]

Every child employed in an establishment shall be allowed in each week, a holiday of one whole day, which day shall be specified by the occupier in a notice permanently

exhibited in a conspicuous place in the establishment and the day so specified shall not be altered by the occupier more.

The Child Labour (Prohibition and Regulation) Amendment Act 2016

Sec.3A. No adolescent shall be employed or permitted to work in any of the hazardous occupations or processes set forth in the schedule^[7].

Sec.18. In section 14 of the principal Act^[8]

(a) for sub-section (1), the following sub-sections shall be substituted, namely:—

“(1) Whoever employs any child or permits any child to work in contravention of the provisions of section 3 shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years, or with fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees, or with both: Provided that the parents or guardians of such children shall not be punished unless they permit such child for commercial purposes in contravention of the provisions of section 3.

(IA) Whoever employs any adolescent or permits any adolescent to work in contravention of the provisions of section 3A shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years or with fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees, or with both: Provided that the parents or guardians of such adolescent shall not be punished unless they permit such adolescent to work in contravention of the provisions of section 3A

(1B) Notwithstanding anything contained in sub-sections (1) and (IA) the parents or guardians of any child or adolescent referred to in section 3 or section 3A, shall not be liable for punishment, in case of the first offence.”.

(b) for sub-section (2), the following sub-sections shall be substituted, namely:—

“(2) Whoever, having been convicted of an offence under section 3 or section 3A commits a like offence afterwards, he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years.

(2A) Notwithstanding anything contained in sub-section (2), the parents or guardian having been convicted of an offence under section 3 or section 3A, commits a like offence afterwards, he shall be punishable with a fine which may extend to ten thousand rupees.”.

Factory Act 1948

Section 67 No child who has not completed his fourteenth year shall be required or allowed to work in any factory^[9].

Constitution of India

Art. 15(3) State shall make special provisions for women and child^[10].

Art. 24 Prohibition of employment of children in factories, etc. Article 24 says that “No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment^[11].”

Art. 39(e) State shall safeguard health of children and offered opportunities and education of child^[12].

Art. 21(A) Free and compulsory education to children^[13].

Art. 45 Free and compulsory education to all children of the age 6 to 14^[14].

The Mines Act 1952 Section 45 of Mines Act, 1952 prohibits presence of any person below 18 years of age in any part of the mine above ground where any operation connected with or incidental to any mining operation is being carried on ^[15].

Cases on child labour in India

Unni Krishnan Vs Andhra Pradesh "The Supreme Court in its judgment held that children up to the age of 14 had a fundamental right to free education ^[16]".

Neerja Chaudhary Vs State of Madhya Pradesh On 8 May 1984, it was related to rehabilitation of freed bonded labourers. "In this case the Supreme Court of India stated that the Child Labourers should be rescued and provision for their rehabilitation should be made ^[17]".

U.P. Bandhua Mukti Morcha Vs Union of India "In this case the Supreme Court of India stated that if no steps are taken under Bonded Labour System Act 1976 by the Government then it would be a violation of Article 23 of the Constitution. Article 23 states that children should not be forced to work at cheap wages due to their economical or social disadvantage ^[18]".

Sheela Barse Vs Secretary, Children Aid Society and Others (1986) - On 20th December "The Supreme Court held, "If there be no proper growth of children of today, the future of the country will be dark. It is the obligation of every generation to bring up children who will be citizens of tomorrow in a proper way ^[19]".

M. C. Mehta Vs State of Tamil Nadu This is a land mark decision on child labour. "The Supreme Court has not allowed children to work in a prohibited occupation. According to the judges, "the provisions of Article 45 in the Directive Principles of State Policy has remained a far cry and according to this provision all children up to the age of 14 years are sponsored to be in school, economic necessity forces grown up children to seek employment ^[20]".

Effect of child labour

Every child has the right to education, enjoy a proper childhood, treated equally etc. But child labourers can't enjoy their legal rights in India and all over the world. Main effects are following-

1. Due to child labour a child can't enjoy a proper childhood. They can't get time to study, playing etc.
2. Children feel mental and physical torture due to it. They work in mines, carpet industries and other factories where temperature of working places, dirty environment affects their health.
3. They become mentally and emotionally mature in childhood, that is not good for them.
4. It badly affects their education. Education is the fundamental Right in India under Article 21(A), but due to poverty and any other reasons child labour deprives form this Right.

Conclusion

Child labour problem is a very big problem in present time. For the society children are the blooming flowers. Children are being exploited for their selfishness. The child's ability to develop into a physically and mentally sound adult are being restricted. Many laws and policies have been made for protection of child.

References

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