



## Legal Protection of Child Labour in India: Problems and Perspective

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**ABSTRACT**

The children are the most precious asset. They are very much human beings though weak and immature. Their needs and rights should not be attended merely as a byproduct of progress nor are they attended as an end and means of progress. child abuse, physical, sexual, or emotional maltreatment or neglect of children by parents, guardians, neighbour or others responsible for a child's welfare. Child abuse is a growing epideictic in the world. Child abuse comes in many different forms and they are; emotional, sexual, physical, and neglect. People have forgotten that children have a voice and they need to be heard and protected. Child labour is a major problem in India. It is a great challenge that the country is facing. The prevalence of it is evident by the child work participation rates which are higher in India than in other developing countries.

**KEYWORDS**

Legal Protection of Child Labour, Child Labour Abuse, Indian Child Problems.

**INTRODUCTION**

As we know, childhood is for being care free, for playing games and for studying things of life. This contributes to proper mental and physical development of children. But poor and neglected children are obliged to earn living either for them or to aid to the income of the family. The wages paid to the children labourers are usually lower than those paid to adult workers. Children are thus not only exploited but are sometimes engaged in hazardous work also. We find them employed in all sorts of jobs from working in ports to mines.

Child workers, also face significant threats to health and safety- with the majority involved in farming where they are routinely exposed to harsh climate, sharpened tools and heavy loads as well as to toxic chemicals. Girls working as domestic servant away from home are also frequently subjected to physical, mental and sexual abuses. Prostitution is another type of activity in which children, especially girls, are frequently found and blame the AIDS epidemic as a contributing factor.

Since the child labour force in India is the largest in the world and most of the child labourers are of the age of 5 to 14, it becomes a matter of deep concern to find out ways and means which may put an end to the exploitation of children in India who are forced to join the labour stream. We should remember that, welfare of the children is fundamental principle of humanity and one of the important principle is that child should be protected against all forms of neglect, cruelty, exploitation and traffic and shall be permitted to be employed before an appropriate minimum age. In India many major industries and factories which exploit child workers are as under:-The carpet industry of U.P and the fireworks units of Shivakasi are now widely known for their ruthless use of child labour, but apart from these, there is wide range of occupations in which children are engaged for survival. In the slate industry of Mandsour, Madhya Pradesh, thousands of children are working. They cut plates of slate into small pieces with electrically operated saws, a process which emits dense clouds of the light dust. This leads to silicosis which is another name for death. Lungs are gradually eaten away, patients suffer respiratory trouble, begin to spit blood and then die a painful death. The glass factory of Ferozabad employ almost 50,000 children in the age group of 10 to 14 years. The temperature in the furnaces in the glass blowing industry range from 700 to 1400c. Children carry iron rods to the tank furnaces and draw out molten glass. They run with this to the glass blower or bangle maker. Accidents are very common. It takes only 3

or 4 years to destroy their lungs in the dangerously polluted atmosphere.

Thus the highlight of the problem of child labour are lack of schooling opportunities, health hazards due to heavy works and unhygienic working conditions, want of medical and recreational facilities and often development of anti-social tendencies due to exposure to the underworld at a tender age and absence of healthy outlets.

**CASE STUDY:**
**PROTECTION UNDER VARIOUS STATUTES**

As far as the constitution of India is concerned, we find that a number of provisions have been enacted for welfare of the children. According to Article 24 of the constitution of India, but what is hazardous employment is not spelt out anywhere in the constitution or in the labour laws. The constitution of India in Part IV on Directive Principles of State Policy in Article 39 (c) and (f) provide that the state must direct its policy towards the norm, inter alia, that children are not forced by economic necessity to enter avocations unsuited to their age and that childhood and youth are protected against exploitation and against moral and material abandonment. Article 45 of the constitution of India urges the state to provide free and compulsory education for the children up to the age of 14. In *People's Union for Democratic Rights v. Union of India*, A.I.R. 1982, S.C. 1373. the supreme court held that the construction work is a hazardous work and therefore under Article 24 no child below the age of 14 year can be employed in the connection work even if the construction work or industry is not specified in the schedule in the employment of children Act, 1935. This was the landmark decision of the Supreme Court for the protection of the child labour. Similar decision was reiterated also in the case of *Labourers, Salal Hydro Project v. State of Jammu and Kashmir*, A.I.R 1994 S.C. 177. where the court held that employment of children below 14 years of age in construction work violates Article 24 of the constitution of India.

The decision of the court in *Sheela Barse v. Union of India* A.I.R 1986 SC 1773 is also a landmark decision for giving valuable respect to the children. In this case the supreme court held that the child is a national asset. it is the duty of the state to look after the child with a view to ensure full development of his personality.

The decision of the Supreme Court given in the case of *Unnikrishna J.P. v. State of A.P* A.I.R. 1993 SC 2179. is also a

landmark judgment of the apex court of the country. In this case it was held that the primary education is an aspect of personal liberty and this elevated it to the level of child's fundamental rights. A child has fundamental right to free education up to the age of 14.

From the above discussion it is clear that the provisions of the constitution represent noble thoughts and buoyant spirit. It is sacrosanct to be glorified but there is wide gap between precept and practice. The real solution can emerge only with acceleration of economic growth with social justice keeping pace as an essential concomitant of its accompaniment. Legislative dose is proving worse than the disease. Need for massive thrust of economic development is imperative and important to tackle the problem of child labour.

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#### **BENEFICIAL LAW FOR CHILDREN.**

##### ➤ **Children Pledging of Labour Act, 1933.**

This Act was enacted to prevent the practice of pledging the child usy

nder 15 of age. According to this Act any agreement relating to the pledge of the service of a child is void and any person entering into any such agreement is to be punished.

##### ➤ **Factories Act, 1948.**

This is an important piece of central legislation which prohibits the employment of children below 14 years, in factories employing 10 or more persons with the use of power and 20 or more without the use of power.

##### ➤ **The Plantation Labour Act, 1951.**

This Act has not only limited working hours for the child to 27 a week but also provides for one day leave for each period of seven days work in addition to certain other welfare provisions.

##### ➤ **The Mines Act, 1952.**

This Act defines a child to be a person who has not completed the age of 15 years and an adolescent means who has completed 15 years of age but is less than 18 years of age. This Act also provides that an adolescent who has completed the age of 16 can only be employed in any part of the mine if it is under ground, after obtaining a competent medical certificate and that too for only four and half hours on any day, save between 9 p.m to 6 a.m. This Act also prescribes the penalty on the violation of the provisions of law.

##### ➤ **The Motor Transport Workers Act, 1961.**

This Act prohibits employment of children below 15 years of age in motor transport undertakings; however, an adolescent can work subject to production of certificate of physical fitness in such organization.

##### ➤ **The Apprentices Act, 1961.**

This Act provides that a person who is less than 14 years of age will not qualify for apprenticeship training but this rule is not applicable for those apprentices who are receiving vocational training.

##### ➤ **The Child Labour (Prohibition and Regulation) Act, 1986.**

The abovementioned huge set of labour laws could hitherto provide protection to children against their employment or working hours. These are all very valuable provisions but the implementation is quite ineffective. This is so perhaps due to the feeling that the labour laws do not provide any deterrent punishment. But with a firm intention to provide better safeguards to child workers the Government of India has also passed another new Act viz. the Child Labour (Prohibition and Regulation) Act, 1986.

The Employment of Children Act, 1938, and its successor, the Child Labour (Prohibition and Regulation) Act, 1986, are substantially the same. The latter aims at identifying more hazardous processes and industries with a view to banning child labour in these units and regulates working conditions for children in non-hazardous units. The new Act of 1986 has prescribed various valuable provisions for prohibiting and regulating the child labour. The main objects of this Act are as under:-

1. To bring uniformity in the definition of child in the related laws.
2. To ban the employment of children in specific occupations and processes.
3. To enable modification of scope of banned industries and processes by laying down a procedure.

#### **CONCLUSIONS**

To conclude, to prevent the scourge of child labour, attitudes have to change among different social groups and the passivity or indifference must give way to understanding, anger and the will to take actions. But only one factor and idea cannot fight against the child labour. For solving the problem of child labour there must be national efforts supported by international co-operation and active involvement of NGOs as well as workers organizations. The evil has to be combated on several fronts. Furthermore, the most important step towards the elimination of child labour is the proper implementation of laws. Proposal for humanizing child labour by improving work condition, wages etc, thus hold no significance. And can we really think that employers will increase children's wages when minimum wages are not being paid even to their parents? Humanizing child labour, however, laudable the goal, can never lead to the elimination of child labour. The goal should be to eliminate child labour.

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