

INDENTURESHIP OF CHILDREN'S AS VIOLATION OF CONSTITUTION OF INDIA

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Abstract

The prevalence of child labour is one of the most important issues facing the world as a whole, especially in developing countries like India. In many cases, child labour is mainly necessitated by the economic constraints of the parents. Child labour is widespread unemployment and underemployment among poor adult segments of the population, especially due to strong population growth. Large families with low incomes and often lack of educational facilities, illiteracy and ignorance of parents about the importance of education, as well as the impact of work on the health of their children, are some of the reasons that fuel child labour. Over the years, however, a worldwide awareness of the seriousness of the problem has grown. The Indian constitution is also committed to protecting and promoting welfare considerations rather than economic considerations. Therefore, the Indian government has appointed several committees and commissions both specifically on the issue of child labour, providing us with an overview of the problem and suggestions to alleviate this problem. Modern government policies relating to child labour and child development must be pragmatic and inclusive. Child labour that is harmful, dangerous or otherwise exploited can create, exacerbate or perpetuate a cross-generational cycle of poverty, malnutrition and social disadvantage. on child labour, and child labour itself poses problems of neglect and violation of human rights. The harm to people also affects public health in their communities.

Introduction

Children are always seen as close to God, they are seen as carriers of happiness, joy and hope, no matter where they go. The future of the nation depends on the children because they are undoubtedly the springboard to shape the future of any nation. If a nation treats its children properly and provides them with basic facilities, this will be reflected in the nation's future performance. The moral duty of the nation is to ensure that the childhood of every child is protected. Child labour is a global phenomenon, it is not confined to a single country. Child labour is defined as the employment of children in all manual labour. According to the Child Labour (Prohibition and Regulation) Act 1986, a "child" is a person who has not yet

reached the age of 14. At this tender age when a child is expected to grow up, take full advantage of his childhood, seek an education, acquire a strong system of values, be forced to work and earn a living for himself and his family. This not only affects his physical and mental development but also places a very heavy responsibility on the child to provide for his family. It is frequently observed that children are forced to become workers due to some difficulties such as lack of strong financial support, lack of food, clothing, shelter, livelihood, etc.

The International Labour Organization [ILO] defines child labour as work that not only affects their childhood but does not allow children to attend school regularly or have an adequate education. Child labour also robs children of their dignity, potential and childhood. Child laborers under the age of 14 are unable to develop mentally, socially, physically or morally.

A different definition of child labour is given by the United Nations Children's Fund [UNICEF]. According to it, a child is considered to be a worker when:

1. His age is between 5 and 11 years and
2. He exercises at least 1 hour of economic activity or performs at least 28 hours of domestic work in a week.

If the children are between 12 to 14 years of age then either they should be doing at least 14 hours of economic activity or at least 42 hours of domestic work per week to be considered as child labour.

According to the 2001 Indian census, when a child under the age of 17 participates in economic activity with or without compensation, physically, mentally or both. Part-time help or unpaid work on farms, a family business or any other economic activity such as growing and producing milk for sale or home consumption will be included in child labour. Child labour is classified into two groups in India:

1. Primary workers: Primary workers are those workers who work for at least a few months or more per year, and
2. Marginal child labourers: Marginal child labourers are workers who are less than 6 months a year and work any time of the year.

Child labour issue

Child labour is a major problem not only in India but in all developing countries as it physically and mentally destroys a child. Due to poverty, child labour has become more prevalent not only in India but around the world. Children are the hope and the future of a nation, which is why it is a social problem. Many laws have been enacted to ban child labour, but they have not been effective in curbing the problem. The 2017 statistical report explains that India is one of the top countries in Asia with 33 million children employed in child labour. According to the 2011 census, the total child population was 259.6 million, of which million work as primary or marginal workers.

Causes of child labour

Poverty, parental illiteracy, the social and economic situation of the family are the main causes of child labour. Lack of awareness of the harmful effects of child labour and the lack of access to basic and quality education, to the cultural values of the family and the surrounding environment of the society in which we live, also increases the rate of child labour. . High rates of unemployment and underemployment also play a vital role in child labour.

Causes of child labour in India

In India, the main causes of child labour are as follows:

1. Poverty: Children are seen as a helping hand for their families. In developing countries, it is almost impossible to control children's labour because children must not only provide for themselves but also those of their families and their subsistence. Due to poverty, the rate of unemployment and underemployment is also very high, so parents have to send their children to work with low wages.
2. Past debts: Due to their precarious economic situation, people take out loans. But they don't have enough money to repay the loans, so not only do they work day and night to pay off the loans, but they also train their children to work so that the loan can be repaid in advance and easily.
3. Professional needs: Some industries require delicate and soft hands rather than rough hands which are required in the bracelet industries. They, therefore, prefer children and not adults for this job.

4. **Forced Labour:** Children often work long hours in the sun and are deprived of food and water. These children are rarely paid. Bonded labour adds to the large-scale increase in child labour.
5. **Domestic help:** Young children often work for educated families and, despite several laws that violate child labour, they often take in young children so that these children can take care of their homes and children.
6. **Child sex workers:** Often girls who have reached puberty are forced into prostitution instead of the promise that they would have the opportunity to do fascinating occupations.
7. **Forced begging:** Families who cannot provide for themselves force their children to beg in the streets in inhumane conditions. They mutilate their children to get more money from people.

Consequences of child labour

Children are subject to accidents and many other types of hazards in the workplace. These injuries cause them social and economic damage, the effects of which extend throughout their lives. General injuries such as cuts, burns, lacerations, fractures and dizziness are very common. Sexual abuse, sexually transmitted diseases, HIV / AIDS, drugs, alcoholism, sexual exploitation of girls, rape, prostitution are also the consequences of child labour. They also face physical neglect in food, clothing, shelter and medical care. Because of this, they cannot go to school, which deprives them of basic education due to which they have to live in poverty. Emotional neglect is also a consequence of child labour. Children are subjected to physical abuse, including beatings which often result in physical deformity.

Consequences of child labour in India

Child labour largely affects the economic well-being of a country. Child labourers are unable to receive an education and are unable to develop physically, intellectually, emotionally and psychologically. Children are not the same as adults and do not have the strength that adults have and therefore are unable to work longer hours because they are exhausted, which reduces their physical strength, which makes them more prone to disease.

For India, child labour has negative long-term effects. A country's economy will only prosper when the country has an educated workforce, skills, technologies, and the younger generation becomes part of the human capital of the future. If child labour continues to a large extent, then there will be a trade-off with the accumulation of human capital. 70% of child labour is employed in agriculture as it requires less skilled labour while other children are employed in heavy industry.

Child labour laws in India

Compared to other countries, child labour in India is more widespread. Of 179 million children, 90 million aged 6 to 14 are employed and out of school. It contributes to 50% of the children in our country who are involved in child labour. Since 1933, various laws have been enacted in India to control child labour. These laws include:

1. Minimum Wages Act, 1948: The state government sets the minimum wages that must be provided to workers /workers, including working children. The government sets wages according to the type of work and the category of workers.
2. The Plantation Labour Act 1951: this law prohibits the use of children under 12, but a child over 12 can only be employed when the designated doctor issues a certificate of employment. suitability for this child.
3. The 1952 Mining Law: This law stipulates that no child should be present on the site of mining work and that no child should be employed for such work.
4. The Merchant Shipping Act 1958: Except for a training ship, this law does not allow the use of children under 14 years onboard a ship. In addition, a person under the age of 18 cannot be appointed as a trimmer under this law. They can only be appointed under certain specific conditions mentioned in this law.
5. The Apprenticeship Act, 1961: Unless a child reaches the age of 14 and passes the educational level and physical aptitude test, he cannot do a traineeship.
6. Indian Factories Act 1948: No child under the age of 14 shall be employed in a factory. Additionally, there are rules a factory must follow if it employs pre-adults aged 15-18.

7. Child Labour (Prohibition and Regulation) Act 1986: No child under the age of 14 shall be employed in hazardous work listed by law. This list is explained later in the article. This list was amended not only in 2006 but also in 2008.
8. Juvenile Justice (Care and Protection) Act, 2000: if a person employs a child in hazardous work or uses the child as forced labour, then that person will be punishable under this law.
9. Children's Right to free and compulsory education law of 2009: Free and compulsory education should be provided to all children under 14 years of age. To effectively follow this law, 25% of places are reserved in each private school also for children belonging to the disadvantaged group and for disabled children.
10. The other laws are:
 - The Children (Work Engagement) Act, 1933.
 - The Child Employment Act, 1938.
 - The Bombay Stores and Establishments Act, 1948
 - Motor Transport Workers Act, 1961.
 - Atomic Energy Act, 1962.
 - Can and Cigar Workers (Conditions and Regulations) Act, 1986.
 - Shop Acts State and Establishments

Children under the age of 14 cannot work in a factory and are expressly provided for by 24 of the Constitution of India and section 67 of the Factories Act, 1948. Free education and mandatory for all children up to the age of 14 is provided by the guiding principle of state policy under Section 45 of the Indian Constitution.

Child labour (Prohibition and Regulation) Amendment Rules, 2017

In consultation with stakeholders, the Indian government amended the Central Child Labour (Prohibition and Regulation) Acts, 1986. Detailed rules were provided on prevention, protection, prohibition, rescue and rehabilitation. Working children and adolescents. Guarantees such as hours or working conditions. These guarantees are provided to those who

have obtained authorization to work under this law. It also defines the family of the child. It establishes the duties and responsibilities of law enforcement agencies so that all work is carried out by the provisions set out in this law.

Child Labour (Prohibition & Regulation) Amendment Act, 2016

This law entered into force on 1.9.2016. This law completely prohibits the employment of children under the age of 14 and the employment of adolescents in hazardous work and processes. This law also regulates the working conditions in which the employment of a teenager is not prohibited. This law also provides for a sanction in the event of a violation of any provision of this law and the use of children under the age of 14 would be considered a recognized crime. The Competent Government may confer on the district magistrate certain powers and duties to enforce the provisions of this law. For the effective implementation of this law, the State Action Plan is provided to all States / Union Territories.

Child Labour (Prohibition and Regulation) Act, 1986

This Act defines a child. It states that a child is a person who has not yet completed 14 years of age. This Act not only regulates the hours of work but also the working conditions of child labourers and prohibit the employment of child labour in hazardous industries. [Article 24](#) of the Indian Constitution provides that no child who is less than 14 years of age should be employed in any hazardous industry.

Child Labour Act, 1986

This law defines a child, It states that a child is someone who is not yet 14 years old. This law regulates not only the hours of work but also the working conditions of child workers and prohibits the employment of children in hazardous industries. Article 24 of the Indian Constitution stipulates that no child under the age of 14 shall be employed in hazardous industries.

This law is divided into four parts which include 26 sections and two articles A and B. The act is as follows:

1. Part I: Preliminary. It includes section 1 which talks about the short title, scope and beginning of this law and section 2 talks about the different definitions that are included in this law.

2. Part II: Prohibition of the employment of children in certain trades and processes. It includes article 3, 4, 5 of this law. There are two articles A and B which cover section 3. Section 3 lists various trades and processes that are already mentioned, while section 4 talks about the power to amend this law and section 5 states that the central government has the power to amend this law. power to form an advisory body on child labour.
3. Part III: Regulation of working conditions for children. It includes Articles 6 to 13. Section 6 includes a request that can be submitted, Section 7 talks about hours and work period while Section 8 talks about weekly leave. Section 8 tells you how to notify the inspector and Section 10 explains what to do when there is an age-related dispute. According to Article 11, the keeping of the register is compulsory and Articles 12 and 13 deal with other formalities.
4. Part IV: Miscellaneous includes articles 14 to 28 of the Law. This part deals with the provisions relating to sanctions, the appointment of inspectors, the power to issue rules, the power to remove difficulties, etc.

Child Labour Act, 2016

The Child Labour (Prohibition and Regulation) Amendment Bill, 2016 was passed by Parliament in July 2016. This law not only amends the 1986 Child Labour Prohibition and Regulation Act but also broadens its scope and provides for severe penalties for violations.

1. The Child Labour Prohibition and Regulation Act 1986 prohibits 83 hazardous activities and processes for children under the age of 14. 14 years old. But if the child is employed in a family business and his education is not hindered, he can continue to be employed.
2. In this law a new category of persons is added which is known as "adolescent". These are children over 14 but under 18. They are prohibited from engaging in any dangerous activity.
3. Child labour is considered a recognized crime under this law. If a child is employed when he is less than 14 years old, the employer is punished by imprisonment of 6

months to 2 years or he is punished with a sentence of twenty thousand or fifty thousand or both for the first time. But in the case of a repeat offender, the employer is liable to imprisonment from 1 year to 3 years. If the parent is the offender, a sum of Rs is paid. 10,000 as a fine and parents are subject to flexible penal provisions.

4. The Rehabilitation Fund for the Rehabilitation of Children is established under this Act.
5. Dangerous occupation reduced from 83 to 3. The Union government has the power, by this law, to add or remove any profession from the list provided for in this law.
6. This law gives the government the power to carry out periodic inspections in areas where the use of children is prohibited.
7. To ensure the proper application of the provisions of the law, the Government may, for this purpose, confer powers on the District Magistrate.

Following the adoption of this law, Indian law is now also aligned with the ILO Convention. A total ban on child labour is placed so that under the right to education every child can obtain compulsory education. The law also created and allowed children to help their families and manage their family affairs. The penalty for violating the provisions of this law is also increased and constitutes a recognized crime.

Constitutional Provisions for Child Upliftment

There are various constitutional provisions for the education of the child, such as:

Article 21A: Right to education

Article 21A of the Indian Constitution stipulates that free and compulsory education shall be provided to all elderly children from 6 to 14 years old. . Free and compulsory education must be provided by the terms set by the State and by the terms set by law.

Article 24: Prohibition of the use of children in factories, etc

Article 24 of the Indian Constitution stipulates that no child under the age of 14 shall be employed in factories, professions or hazardous industries.

Article 39: The State shall in particular orient its policy towards guarantee

Article 39 (e) of the Indian Constitution stipulates that in factories or industries where workers are employed, the employer shall not abuse the health and strength of workers, whether men, women or young children. It also provides that citizens for economic needs are not forced to exercise professional activities unsuited to their age, health or strength.

Legislative Provisions Prohibiting and Regulating Employment of Children

Some laws not only prohibit but also regulate child labour. These are:

1. According to the Child Labour (Prohibition and Regulation) Act 1986, a child is a person under 14 years of age.
2. Article 3 of this law contains a program that provides for various hazardous works and procedures which abolish child labour.
3. A technical advisory committee is also established under this law, which may add other activities and processes that it considers dangerous for children.
4. This law also regulates working conditions and hours of work in all professions and processes that are not covered by Part III.
5. If you violate section 3 of the Child Labour (Prohibition and Regulation) Act, 1986, you will be liable to sanctions under section 14 of the Child Labour Act (prohibition and Regulations), 1986. is punished with imprisonment of at least three months and can be extended up to one year or a fine of at least ten thousand rupees and even up to twenty thousand rupees or both.
6. The provisions of this law are applied by the central government and the state government in their respective fields.

ILO core conventions related to Child Labour

The International Labour Organization [ILO] was founded in 1919. It is a United Nations agency responsible for establishing labour standards, developing policies and formulating programs to promote work for all. women and all men. The ILO brings together government, employers and employee representatives from 187 member states. Conventions and

recommendations are established by international labour standards. This was the main action of the ILO. Countries that ratify treaty conventions and international instruments create a legally binding obligation with them while recommendations are not only non-binding but set guidelines that guide national policies as well as actions. There are 8 core conventions of ILO. These are:

1. Convention n ° 29:Convention on ForcedLabour.
2. Convention n ° 105:Convention on the Abolition of Forced Labour.
3. Agreement number 100:Agreement on equal remuneration.
4. Convention n ° 111: Convention on Discrimination (EmploymentEmployment).
5. Convention n ° 87: Freedom of association and protection of the right to an organized convention.
6. Convention n ° 98: Right to organize and collective bargaining.
7. Convention number 138: Convention on the minimum age.
8. ConventionNo. 182: Worst Forms of Child Labour Convention.

Convention number 138 which is the minimum age for admission to work and Convention number 182 which is the worst form of child labour are directly related to child labour and this is ratified by India.

Convention Number 138 – Minimum Age

ILO Convention 138 was adopted by the International Labour Conference in June 1973 at its 58th session. This convention is also known as one of the fundamental human rights conventions. The ILO is actively involved in promoting its ratification. Each country that has ratified it must commit:

1. For the effective abolition of child labour, each country must develop a national policy.
2. It also specifies the age of entry into the world of work and that this age must not be lower than the age required for compulsory education.
3. There should be full physical and mental development of young people.
4. It should be ensured that the minimum age required for entry into the world of work does not endanger the health, safety and morale of young people and is not less than 18 years.

Convention No.182 on Worst Forms of Child Labour

This ILO convention accompanies Recommendation No. 190. It was adopted by the ILO at its 87th session held in Geneva in June 1999. It is listed as one of the “Fundamental Conventions of Rights”. of man ”. The main provisions of this convention are:

1. The term child will apply to any person under the age of 18.
2. The worst form of child labour includes:
 - All forms of slavery as well as the practices of slavery. Includes sale, trafficking, debt bondage, serfdom, forced labour, forced labour for use in armed conflict.
 - Purchase or use and trafficking of children for illegal purposes. It also includes the production and trafficking of drugs which are defined in some relevant international treaties.
 - Use of the child for prostitution or pornography or pornographic representations.
 - Also includes any work which is harmful not only to the health but also to the safety and morale of children.

Article 23 of the Indian constitution

Articles 23 and 24 of the Indian Constitution provide for the right not to be exploited. Trafficking in human beings and forced labour such as beggars are prohibited by article 23 of the Indian Constitution. The term "beggar" was defined when the British government and the Zamindars used to force people to take their wares with them when they moved from place to place, these people were called beggars. It was also called forced labour because no remuneration was paid to these people. Trafficking in human beings is the modern form of slavery because there is an illegal trade in human beings for various commercial purposes such as sexual exploitation, prostitution or forced labour.

The government adopted the Immoral Trafficking (Prevention) Act, 1956 and the bonded labour system and # 40, abolition and # 41; Act, 1976 under the provisions of the Constitution of India. The state cannot pay workers below the prescribed minimum wage even if it undertakes relief work. Reasonable salaries must be paid to prisoners who are sent into strict detention. The Supreme Court ruled that if prisoners do not receive such a salary, it will not be considered a violation of Article 23 of the Indian Constitution. people who are in simple prison or pre-trial detention cannot be forced to do manual labour but can do the job if they wish and would need a salary.

Forced labour results not only from the physical and legal force but also from duress due to economic circumstances. It is forbidden. The Supreme Court of India in People's Union for Democratic Rights and Others union of India et al [5], also known as the Asiad Workers case, provided that when a person provides a service which is a labour service and in return receives a wage lower than the minimum wage, this case falls within the scope of forced labour which is covered by article 23 of the Indian Constitution.

Conclusion

Child labour remains a problem for the nation. Various measures have been taken by the government to actively tackle this problem of child labour. However, due to socio-economic problems such as poverty, illiteracy which are the main cause of child labour, it can only be solved if and until there is a collective effort of all members of society. If every individual takes responsibility for child labour then this problem can be solved and we can have a better and developed India. If the public supports the functions of government, the problem of child labour can be largely controlled. It is important to raise awareness about the wickedness of child labour and to make it clear that a child needs to grow up and enjoy his childhood as they are the future of our country.

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