
Legal Provisions Regarding Child Labour in India: To protect the Rights of Children

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Abstract

This paper presents various legal provisions of child labour, for the purpose of protections and realizing the rights of the children in India. Children are future citizens of the Nation and their adequate development is utmost priority of the country. Unfortunately, child labor engulfs children across the world. In India are home to 25.96 crores individuals aged 5-14 years. Child labors are very alarming. The 2011 national census of India estimated total number of child labor aged 5-14 to be at 1.01 crores. Article 21A, Right to Education is providing free and compulsory education to all children of the age of six to fourteen years. Another fundamental right Article 24: Prohibition of Employment of Children in Factories etc: No child below the age of fourteen years shall be employed to work in any factory/mine or engaged in any other hazardous employment.

Key Words : Fundamental Right, Marginal Child Workers, Juvenile, Adolescent

Introduction

Children are the greatest gift to humanity and childhood is an important and impressionable stage of human development as it holds the potential to the future development of any society. Due to certain forces and circumstances children are compelled to work in the early stages of their childhood which

does harm to the child and society. Hence child labour is considered as an economic and social problem (Lok Sabha Secretariat, 2013).

Child labor is a pervasive problem throughout the world, especially in developing countries. Africa and Asia together account for over 90 percent of total child employment in the world. Therefore, there are a number of social, political and economic factors which are responsible for the use of child labour in poorest countries and regions of the world (Siddiqi and Patrinos, 1995, Malik, et al, 2002). Higher income inequality within a province/region also increases the likelihood of child labour. There is a trade-off between child labour and child schooling. The low adult market wages are key determinants of child labour and that social norms may be responsible for the intergenerational persistence of child labour (Wahba, J., 2006). The parents' level of education plays an important role in reducing this tendency; thus establishing the linkage between social and human capital outcomes in the family (Das and Mukherjee, 2006). It looks at the definition of child labour, the extent of its prevalence, the reasons why children work, and the

occupations they are engaged. It outlines India's position on international obligations, its expanding domestic laws, and the tardy implementation of these laws. It examines some of the inherent cultural constraints and the role of values and beliefs in perpetuating child labour. It analyses the relationship between education and child workers, and a possible solution in the form of compulsory education (Jha, 2008). Both the social fabric and socio-economic conditions of this country should be integral considerations in any honest and intelligent engagement with the evil of child labour. As well as traditional factors such as rigid cultural and social roles in certain countries further limit educational attainment and increase child labor.

Child Labour:

According to UNICEF, define of child labour. it is involved in child labour activities if between 5 to 11 years of age, he or she did at least one hour of economic activity or at least 28 hours of domestic work in a week, and in case of children between 12 to 14 years of age, he or she did at least 14 hours of economic activity or at least 42 hours of economic activity and domestic work per week.

India's Census 2001 office defines child labor as participation of a child less than 17 years of age in any economically productive activity with or without compensation, wages or profit. Such participation could be physical or mental or both. This work includes paid or unpaid work on the farm, family enterprise or in any other economic activity such as cultivation and milk production for sale or domestic consumption. Indian government classifies child laborers into two groups:

1. Main workers are those who work 6 months or more per year.
2. Marginal child workers are those who work at any time during the year but less than 6 months in a year

Child Labour and Constitutional Provisions

The framers of the Constitution of India deemed it necessary to include special provisions in the Constitution for the protection of the rights of working children. India has a federal form of government, and labours being a subject in the concurrent list; both the central and state governments can and has legislated on child labour. The major national legislative developments include the following:

Article/Act.	Title	Description
The Factories Act of 1948	The Act prohibits the employment of children	The Act prohibits the employment of children below the age of 14 years in any factory.
The Mines Act of 1952	The Act prohibits the employment of children	The Act prohibits the employment of children below 18 years of age in a mine.
The Child and Adolescent Labour (Prohibition and Regulation) Act of 1986	The Act prohibits the employment of children	The Act prohibits the employment of children below the age of 14 years in hazardous occupations identified in a list by the law and for helping in non-hazardous family business and of child artists in the entertainment industry and sports). Further, adolescent between 14-18 years will not be allowed to work in hazardous industries and processes.
The Juvenile Justice (Care and Protection) of Children Act of 2000		This law made it a crime, punishable with a prison term, for anyone to procure or employ a child in any hazardous employment or in bondage.
21A	Right to Education	The right to education (RTE) act 1 April 2010 provides children in the 6-14 age group the legal entitlement to free and compulsory education.
24	Prohibition of Employment of Children's in Factories	No child below the age fourteen years shall be employed in work in any factory or mine or nagged in any other hazardous employment.
39	The state shall in Particular direct its policy towards securing	That the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength

The commonality strategy of ministry of labour for eradication of child labour:-

A care group on convergence of various welfare schemes of the government has been

constituted in the ministry of labour & employment to ensure that, the families of the child labour are given priority for their upliftment. Considering poverty and illiteracy are the root course for child labour government is following, education rehabilitation of the

children has to be supplemented with economic rehabilitation of their families so that they are not compelled by the economic circumstance to send their children to work. Ministry is taking various pro-active measures towards between schemes of difference ministries like etc.

- Ministry Of Women and Child Development for supplementing the efforts of this ministry in providing food and shelter to the children withdrawn from work through their schemes of shelter home etc.
- Ministry of Human Resource Development for providing mid-day-meal to the NCLP school children, teachers training, supply of books, etc. under Sarva Shiksha Abhiyan and mainstreaming of NCLP children into the formal education system.
- Convergence with Ministries of Rural Development, urban housing and poverty alleviation, PanchyatiRaj for covering these children under their various income and employment generation scheme for their economic rehabilitation.
- Convergence with ministry of railways for generating awareness and restricting trafficking of children.
- The Nobel Peace Prize awarded to KailashSatyarthi who has worked to end child labour and slavery, prompts a

look at what Indian law rays about children and work. Mr. Satyarthi, who gave up his career as an electrical engineer 31 years ago start BachpanBachaoAndolan, or Save Children Movement in 1983, has in the past stamped India's child labour laws as 'weak and inappropriate.

In this context, the present paper aims to study the objectiveto find out thechild labour in twenty eight majors states of India.

Results and Discussion

This study is based on secondary data obtained from Census of India, Government of India, (2011). The study examines the child labour at state level.Child labour includes paid or unpaid work on the farm, family enterprise or in any other economic activity such as cultivation and milk production for sale or domestic consumption.The problem of child labour continues to pose a challenge before the nation. Government has been taking various positive measures to tackle this problem. According to the census 2011 figures there are 1,01,28,663crores (3.9 percent) working children in the age group of 5-14 as compared to total child population of 25,96,37,338crores (table 1).In fact work plays an important role in the development of child if it involvespurpose, plan and freedom. One of the important arguments against child labour

is, increases adult unemployment and reduces their wages. In spite of globalization of Indian economy, the poor households in study villages could not find better alternative sources of income and employment except farm operations. The income sources of rural poor are restricted to only to daily wage labour in agriculture and MGNREGS.

There are 22 lakhs (22 percent) in Uttar Pradesh followed by 11 lakhs (11 percent) in Bihar out of total children in India. One-third

child labours are in Uttar Pradesh and Bihar in the country. Bihar state is largest density and largest poverty while similarly condition in Uttar Pradesh. While only 8 hundred child labours in Mizoram have due to second largest literary rate in the country table 1.

As far as, Nagaland and Himachal Pradesh have 10 to 14 percent child labour out of total child (age-group 5 to 14). The child workers between the ages of 5 and 14 in Kerala have less than one percent table 1.

Table 1

Child Labour (age-group 5 to 14) in India: 2011

States	Child population (age-group 5 to 14)	Child labour (age-group 5 to 14)	Percent in child labour	Percent in child labour out of total (state total)
Jammu & Kashmir	2825826	114923	4.07	1.14
Himachal Pradesh	1230401	126616	10.29	1.26
Punjab	4951421	176645	3.57	1.75
Uttarakhand	2204144	82431	3.74	0.82
Haryana	5167435	123202	2.38	1.22
Rajasthan	16423256	848386	5.17	8.42
Uttar Pradesh	50931598	2176706	4.27	21.59
Bihar	28956159	1088509	3.76	10.80
Sikkim	123601	10390	8.41	0.10
Arunachal Pradesh	350482	17029	4.86	0.17
Nagaland	481770	63790	13.24	0.63
Manipur	605006	34086	5.63	0.34
Mizoram	234769	7778	3.31	0.08
Tripura	695425	13560	1.95	0.13
Meghalaya	771788	44469	5.76	0.44
Assam	7036066	284712	4.05	2.82
West Bengal	17404332	550092	3.16	5.46
Jharkhand	8242821	400276	4.86	3.97
Odissa	8423393	334416	3.97	3.32

Chhattisgarh	5642771	257773	4.57	2.56
Madaya Pradesh	16830956	700239	4.16	6.95
Gujarat	11985281	463077	3.86	4.59
Maharashtra	20555189	727932	3.54	7.22
Andhra Pradesh	15506027	673003	4.34	6.68
Karnataka	10978155	421345	3.84	4.18
Goa	216957	10009	4.61	0.10
Kerala	5377882	45436	0.84	0.45
Tamilnadu	11728802	284232	2.42	2.82
India (state total)	255881713	10081062	3.94	100.00

Source: Census of India, 2011, Govt. of India C-13 Appendix-B - Single Year Age Returns by Residence, Sex and Work.

Conclusion

India is home to a large number of child labourers in the world. The 2011 national census of India found the total number of child labourers, aged 5 - 14, to be at about one crore (about 4 percent), with many of them working full time or performing hazardous jobs. There are 22 lakhs (22 percent) in Uttar Pradesh followed by 11 lakhs (11 percent) in Bihar out of total children in India. One-third child labours are in Uttar Pradesh and Bihar in the country. Both states are in high density and high poverty. As far as, Nagaland and Himachal Pradesh have 10 to 14 percent child labour out of total children (age-group 5 to 14). The child workers between the ages of 5 and 14 in Kerala have less than one percent. Poverty is one of the important factors for this problem. Hence, enforcement alone cannot help solve it. The Government has been laying a lot of emphasis on the rehabilitation of these children and on

improving the economic conditions of their families.

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