



The Indian Journal for Research in Law and Management

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Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

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Child Labour in India: Legal Safeguards and Ground Realities

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When one thinks of childhood, memories are filled with school, fun with friends, time spent in the playground, etc. Unlike privileged children, many lack such basic amenities such as food, shelter, safety and education. Let us consider such kids sacrificing their childhood, working in tea shops, mining factories, farms and even hazardous places such as glass factories and construction fields just to earn a minimal income for their family's survival. Children working underage to earn money so that they can have basic amenities to go by, lose their right to education, right to live happily, right to development and right to protection. It's ironical, children who are supposed to get an education work to earn money.

¹Child labour is a phenomena where children under 14 years are forced to work to earn a livelihood for their family. ²Child Labour is a violation of human rights where children are not given basic rights like education or the right to development. As stated in the United Nations Convention on the Rights of the Child, 1989, Article 3, children are important assets of the nation, and all children are born with fundamental rights. A nation is required to take serious action regarding any activity that affects the fundamental rights of children, as they are considered assets of the country and the future of the country for its social and economic development.

In our country, India, the issue of child labour is a big challenge, because many children under 14 years work at construction sites, glass factories, mining factories, small shops, tea stalls, manufacturing worksites and intensive household chores. ³There are 20 million child

¹ Azad Ahmad Gilani, *CHILD LABOUR IN INDIA - A SOCIOLOGICAL STUDY*, 14 Journal of Society in Kashmir, (2019)

² Asmin Sultana, *Child Labour in India: A Perspective Study of Children's Rights*, 12 IJCRT, (2024)

³ Asmin Sultana, *Child Labour in India: A Perspective Study of Children's Rights*, 12 IJCRT, (2024)

labourers in our country, according to an Indian government report; however, according to other agencies, there are 50 million child labourers in the country.

⁴There are many factors leading to child labour, such as poverty, lack of education, illiteracy and lack of awareness among the people. Poverty is often seen as the main cause for an increase in child labour. Children who belong to families in poverty are unable to receive basic facilities like shelter, education and food, and are forced to work at an early age to earn, so that they can support their family members. Lack of education and, illiteracy among parents is also a cause for child labour, because the parents are unaware of the importance of educating children for their social and economic development. In widespread rural areas, children are often forced or expected to work at farms rather than being sent to schools. Children are victims of child labour as there has always been a big demand for undemanding, cheap and unorganised labour.

⁵Our constitution provides specific rights to the children who are under the age of eighteen regardless of their age, caste, gender or status. ⁶Under Article 14 of the Indian Constitution, every citizen is protected from any discrimination based on caste, gender, race, sex, or place of birth. Article 15 and 15(1) specifically have special accommodations for children. Under Article 21A of the Indian Constitution ensure education for all children under the age of six to fourteen years free, and also makes education compulsory for all children who come under the age group. Under Article 21A, education is a fundamental right that a state may specify through legislation. Under Article 46 (DPSP), every state has to ensure that they promote the economic as well as educational interests of the weaker sections. As children come under the category of weaker sections, the state has the duty to promote their economic and educational interests for their economic and social well-being. Similarly, Article 45, which also falls under DPSP, states that the state should provide education to children under the age of six and ensure early childhood care. Under Article 39(e) of the Indian Constitution(DPSP), the state is directed to ensure that health and strength are not abused of workers and the children who come under the tender age. And under Article 39(f), the State has to ensure that the children are provided with adequate opportunities and basic facilities so that they can develop in a healthy manner, and the State has to ensure that the childhood and the youth belonging to the State are protected from any exploitation which would affect them morally or materially.

⁴ Asmin Sultana, *Child Labour in India: A Perspective Study of Children's Rights*, 12 IJCRT, (2024)

⁵ Asmin Sultana, *Child Labour in India: A Perspective Study of Children's Rights*, 12 IJCRT, (2024)

⁶ INDIA CONST. arts. 14, 15, 15(1), 21A, 46, 45, 39(e), 39(f), 24

Under Article 24, any child who is below the age of fourteen is prohibited from working in a mine, factory or any other work which is hazardous in nature and which would affect their mental as well as physical health.

There are many legal safeguards given by the Indian government to eradicate or eliminate child labour. ⁷Factories Act, 1948 has the provision for having a Child Labour Committee in every factory where in the committee there is a representative committee, employers and workers who have the responsibility in regulating the employment in the factory and also to make sure that no employment or work is provided or given to children who come under the age of fourteen, as it is illegal to employ the children in factory. ⁸Child Labour (Prohibition and Regulation) Act of 1896 states the definition of child as someone who is below the age of fourteen or has reached the age of fourteen. This act mainly governs the working hours and working circumstances of the children and also prohibits the employment of children in hazardous working areas.

⁹In India, the total population of children who come under the age group of 5-14 years is 259.6 million according to the 2011 census. Out of this, 3.9% of the child population, which is 10.1 million children, work as main workers or as marginal workers, and more than 42.7 million children are not attending schools to gain education, which is their fundamental right provided by the Indian Constitution. While between 2001 to 2011 child labour declined in rural areas, it increased in urban areas where the demand for child labour is higher. Many children are victims of child labour due to poverty or lack of resources available to them for their economic, physical and mental well-being. Children who are supposed to enjoy their childhood are forced to work due to the fact that they lack basic resources or become victims of poverty. The central and state governments have to ensure that the children belonging to our country are provided free education for their economic and social well-being. The seriousness of child labour should be voiced out strongly and social awareness must be provided to people who are unaware of such situations and its dire consequences.

⁷ Factories Act of 1948, (Ind.)

⁸ Child Labour (Prohibition and Regulation) Act of 1896, (Ind.)

⁹ INTERNATIONAL LABOUR ORGANIZATION, CHILD LABOUR IN INDIA (2017), <https://share.google/DaZBzn8YQOv0Y7Mes>