An Analysis of The Issues and Challenges Related to The Status of Child Labour in India

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Abstract

Children are considered to be the group in society that are most vulnerable to abuse and exploitation. He is viewed as the man's father. We ensure the future of the country by securing his present and ensuring that he has access to the fundamental freedoms required for growth and development. More than 10 million children in India are employed as child labourers in both industrial and domestic settings. These children are vulnerable to workplace physical and psychological abuse as well as working in dangerous factory environments for little to no pay. The kid labourer lacks the education, health, and strength necessary for their development. Such pursuits prevent the growth of the mind and personality. Lack of income for families, migration, social situations, etc. forces a youngster to be made to labour under abusive circumstances. The government has a responsibility to recognize the terrible condition of the child and to take action to protect their fundamental human rights. The implementation of constitutional protections, proper enactment of laws, the involvement of the judiciary and the public at large, as well as recognition of the abhorrent conditions of child labourers' workplaces, have all contributed to efforts to alleviate their predicament.

Key Words: Children, Judiciary, Development, Human Rights.

INTRODUCTION

Childhood is a vulnerable time when one is innocent and easily exploitable. Due to a child's manageable character, it is important to remember that the youngster deserves extra care and protection. The youth of tomorrow are today's children. Slavery and child labour have existed since antiquity. All the legislators, with the exception of Kautilya, remained silent on child labour and the cruel treatment of youngsters who work as slaves. The parents sold the kids as chattels even though they were their own property. Protecting a child's interests while they are still young guarantees their development, health, and chances for future growth and success in their careers. Being dependent on parents or other family members and belonging to the most vulnerable segment in society, children are especially sensitive to abuse, exploitation, and inhumane treatment. With its correlation to widespread unemployment and extreme poverty, the exploitative structure, uneven development, and unjust resource ownership have all contributed to an increase in child labour around the globe. The most significant and heinous instance of a kid's rights being violated is through child labour. It not only robs a child of his childhood but also obstructs all of his future educational and intellectual development opportunities.

With a focus on child labour, it is important to determine who qualifies as a child. "The kid" is defined as "any human being below the age of 18 years, unless under the legislation applicable to the child, majority is acquired earlier" under Article 12 of the United Nations Convention on the Rights of the Child. The Indian Constitution prohibits the employment of children under the age of fourteen in any industry, institution, or dangerous job.

Children under the age of 14 are not allowed to work at all, and teenagers (aged 14 to 18) are not allowed to work in dangerous jobs or procedures, according to the Child Labor (Prohibition and Regulation) Act. As laws change, so does the average age of childhood. Although child labour is not a new problem, it has received attention with the development of human rights, particularly those of children. The efforts made by the Legislature and Judiciary, as well as international organisations like the United Nations and its affiliates like the International Labour Organization and UNICEF, as well as
the Constitution of India, are all vehemently committed to safeguarding children and giving them access to the necessities that are essential to their growth and development.

All Indian laws are based on the Constitution of India, which serves as their fundamental guideline. The Preamble's socialist design aspires to grant all Indian citizens, especially children, equality of status and opportunity as well as freedom from slavery and of person in general. The Preamble to our Constitution contains more than just sixty-three words that are neatly structured and listed in a standard phrase; it is, above all, a statement of the democratic beliefs and ambitions of the Indian people.

Article 24 of the Indian Constitution from 1950 forbids the employment of minors under the age of fourteen in any mine, factory, or institution that poses a risk to their safety. In addition, Article 47 imposes a duty on the State to raise the standard of living, the level of nutrition, and public health. "The health and strength of workers, men and women, and the tender age of children, are not abused, and citizens are not forced by economic necessity to enter occupations unsuited to their age or strength,” states Article 39(e).

According to Article 3(f), the government has a fundamental responsibility to make sure that "youth and childhood are protected against exploitation and against moral and material abandonment, respectively, and that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity." The Constitution's drafters were conscious of the country's children's situation among all the other pressing challenges. They committed themselves fully to the work of safeguarding the nation's future by taking steps to protect children from exploitation and granting them the rights that are necessary for their healthy development.

The legislature's main responsibility is to design bills and pass laws that support the security and development of the populace. According to the obligations outlined in the Indian Constitution, the Parliament has passed numerous acts that are focused on preventing the hiring of minors under the age of fourteen and providing teenagers with safe working conditions and fair pay. Below is a list of some of the laws that forbid child labour in any setting.

The Factories Act, 1948

The Act's Chapter VII addresses young people's employment. Any child under the age of fourteen is not permitted to work in a factory. Only teenagers or children who have reached the age of fourteen are allowed to work after receiving a certificate of fitness, which cannot be provided until the surgeon is confident that the kid has reached the age of fourteen, meets the necessary physical requirements, and is fit for the job. The length of time that employees might work was limited to four and a half hours in an institution and to between six in the morning and seven in the evening in a factory.

The Mines Act, 1952

Under Section 40 of the Act, it is forbidden to employ anyone under the age of eighteen in any mine or portion of a mine. Additionally, it forbids anyone under the age of eighteen from being present in any mine-related workplace, whether it be underground or above ground.

Minimum Wage Act, 1948

The Minimum Wages Act of 1948 allows for the state government to set minimum time rates of pay, minimum piece rates of pay, guaranteed time rates of pay for various vocations, localities of class of labour, adult, adolescent, child, and apprentices.

The Plantation Labour Act, 1951

According to the definition of this Act, a child is anyone under the age of fifteen. It applies to all tea, coffee, rubber, cinkona, and cardamom plantations that are 177 hectares or more and employ 30 people or more. A child may work for this establishment provided they are at least 12 years old and have a fitness certificate.

The Beedi and Cigar Workers (Condition of Employment) Act, 1966

The Act, which is applicable to all of India, forbids the employment of children under the age of fourteen in any industrial premises and forbids the employment of minors between the ages of fourteen and eighteen anywhere between the hours of seven o'clock at night and six o'clock in the morning.

The Children Act, 1960
An Act to "provide for the care, protection, maintenance, welfare, education, training, and rehabilitation of neglected or delinquent children and for the trial of delinquent children in the Union territory" is known as the Children Act 196018. The law stipulates that using underage workers unfairly will result in a punishment of up to 1,000 rupees.

The Child Labour Act

The employment of children under the age of fourteen is forbidden and is specifically defined as someone who has not reached the age of fourteen. According to Section 3 of the Act, certain institutions are designated as Part 1 or Part 2 of the Act and are not permitted to allow children to perform any type of labour there. The Regulation of Children's Working Conditions is covered in Part III of the Act. No child shall be made to labour in any establishment for more hours than may be prescribed for such institution or class of establishments, the law states.

LEGAL STRATEGY

As a foundation of democracy, the judiciary has taken an active role in the effort to protect children's best interests. The idea of public interest litigation has made it easier for people to access justice because anyone with a heart for the community can petition the court on behalf of the victim to have their rights upheld. In regards to children performing in circuses, the Supreme Court issued the following directives:

1. "Within two months starting today, the Central Government must make relevant notifications prohibiting the employment of children in circuses in order to implement the fundamental right of the child under Article 21A.
2. The respondents have been instructed to undertake simultaneous raids at all circuses in order to free the youngsters and stop the infringement of their fundamental rights. The rescued children will be housed in Care and Protective Homes until they become 18 years old.
3. The replies are also instructed to speak with the parents of the kids, and if those parents are willing to send their kids back home after proper verification, they might be told to do so.
4. The replies are tasked with creating a suitable plan for the rehabilitation of circus children who have been rescued.

GRAY AREAS

Child labour is a challenging issue, and parents frequently wish to use their kids in order to make ends meet. This is solely due to economic considerations. Parents frequently choose not to enroll their children in school, leading to high rates of school dropout, because they believe that hiring children will help them supplement their little income. A child's health and well-being are neglected as a result of poverty and the family's low income, and they are forced to work as a child laborer.

Children are especially susceptible to being used as labourers since they are readily available and inexpensive to engage or salary. Due of their lack of negotiating power and ease of replacement, child labourers are prone to working in environments that are risky to their health, development, and well-being. Children can be employed at a reduced cost since they are delicate, manageable, and this is the fundamental reason why child labour as compared to adult labour. In an effort to save money the factories, industries, and several other institutions used in production, the employers encourage the kid labourer working in dangerous and abusive situations for absurdly low pay.

The youngster is also forced into child labour when their family moves from a rural location to an urban area or to another state in pursuit of jobs. A child is forced to work even for minimal pay for exploitative hours and working conditions due to a lack of opportunity and food. Child labour is also brought on by a lack of formal education. A youngster may even be forced to work at an establishment to support themselves and their family after dropping out of school due to financial hardship or poor learning environments.

The Delhi High Court stated in Court on its own Motion v. Govt. of NCT Delhi that “today's children constitute tomorrow's future,” highlighting the connection between education and child labour. We must make sure that our children receive an education and are not exploited if we want to guarantee their future. Children are actually the most defenceless people in any community. Because of their physical and mental immaturity, they are entitled to special attention and support. In developing nations like our own, where children coexist with illiteracy and poverty, the issue is more challenging.

MAGNITUDE OF CHILD LABOUR

As "a human problem of enormous magnitude," child labour in India has been called. 28 Children are the ideal workforce due to their low wages, flexibility in their work schedules, and easy availability. According to recent estimates, 218 million children (ages 5 to 17, excluding those working in child labour in the domestic sector) are employed globally in hazardous jobs like working in mines, using chemicals and pesticides in agriculture, or operating dangerous machinery. Of these, 126
million children are employed globally. There are over 20 million child labourers in India, according to newspaper reports citing government statistics on the issue. Higher estimates from NGOs have this figure at 60 million in India, with a potential increase to 100 million if all children who are not in school join the labour force. 30

According to the 2011 census, there are an estimated 10.1 million youngsters working in the nation. The states with the most child labourers were Uttar Pradesh and Bihar, which together accounted for 32.2% of all child labourers and 30.8% of the nation's children. Uttar Pradesh alone had 2,176,706 child labourers. With 62.8% of their population being children, seven states Uttar Pradesh, Bihar, Rajasthan, Maharashtra, West Bengal, Madhya Pradesh, and Gujarat make up 64.7% of the total child labour.

According to the 2021 Census, children are most commonly employed in agriculture. The agricultural sector employs the youngest people (40.1%) cultivators coming in second at 31.5%, followed by the home industry at 4.6% and other occupations at 23.8%. Other occupations carried out by children in urban areas included household industry (7.3%), agricultural labour (4.8%), and cultivating (4.4%) in rural areas.

SUGGESTIONS

The problem of child labour is one that is deeply ingrained in society. The execution of laws and restrictions prohibiting child labour is insufficient. The author makes some recommendations that may be useful in stopping and preventing child labor.

1. The Indian Statutes do not provide a clear definition of child labour. It is challenging to prevent child labour given the variety of job minimum ages. There should be a comprehensive definition of child labour that applies to all professions and places of employment.

2. Child labour and education are closely related. It is simple to keep kids out of the grasp of child labour by enrolling them in school and providing them with a proper education. The stipulations of Article 21A and the Right to Education Act ought to be faithfully carried out. To ensure that a high standard of instruction is delivered and that the greatest number of pupils are admitted into the system, an analysis of how government schools operate should also be carried out.

3. Children who are found working in dangerous facilities should be subjected to rehabilitation and reformative programmes. After being saved from dangerous situations, provisions should be made to ensure that their mental, emotional, and physical health are maintained.

4. A child's financial situation forces him to labour under subpar conditions. By teaching a craft or offering training in a specific trade, provisions should be made to promote self-reliance.

5. A child may work as a household assistant or in a family-run business. There is no clear description of what family institutions or support for the family are. It is important to specify how the word "family institutions" is used in order to guarantee that the provision is not exploited at the hand of crooked people.

CONCLUSION

Due to a number of problems in the society, including poverty, a lack of financial security and education, unfavourable social conditions, etc., child labour is a pernicious practise. It hinders a child's growth in addition to that it also ruins any potential prospects for progress that might have given him or her a bright future. It becomes challenging to stop the offenders when they have permission to work in family institutions after school hours and no clear description of family institutions is given. The primary remedy to it is not to draught and adopt laws and codes. What is required is the detection of the crime of child labour and the strict application of the legal penalties. The responsibility does not end here; the child must also be rehabilitated and given all the educational, recreational, and reformatory support he needs to become independent and seize possibilities that will assure a bright future in accordance with his or her abilities. The idea of childhood as a golden age is marred by the stains of exploitation, aggression, and physical and psychological abuse caused by child labour. Maintaining the rights of child employees is crucial in order to free them from the vicious cycle of underage labour and subpar pay. A man's father is a child. With his future secured, we not only assure him of a bright tomorrow but also foster optimism for the nation's bright future. Children are the foundation of our nation. I would therefore like to declare, "Make our Future Bright, Shape Our Future Right. STOP CHILD LABOR!"
REFERENCES

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