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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **SEXUAL EXPLOITATION AND CHILD LABOUR IN INDIA: INITIATIVES AND CHALLENGES**

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## **ABSTRACT**

Today's children's are tomorrow's citizens, a well-developed child contributes to the nation welfare and children are the precious resources of the nation. The term „child labour“ is often defined as work that deprives children of their childhood, their potential and dignity, and that is harmful to physical and mental development. Children are the greatest gift to humanity and Childhood is impressionable stage of human development as it holds the potential to the future development of any society. The prevalence of child labour has been more or less in all periods of time though varied in its nature and dimension depending on the existing socio-economic structure of society. Children under the age of 18 who serve in armed forces and groups around the world are vulnerable to serious physical, sexual and psychological violence. Today there are more than 11.24 million children in India who are spending their childhood in carpet–weaving, beedi–rolling, family labour, agriculture and countless other occupations instead of going to school. “The Child Labour Act 1986 in India” which states child means a person who has not completed his fourteenth year of age; It further regulates the conditions of work. The act was amended on 30<sup>th</sup> July, 2016 and it has been named as Child Labour (Prohibition and Regulation) Amendment Act, 2016. In developing countries, it is impossible to control child labour as children have been considered as helping hand to feed their families, to support their families. Due to poverty, illiteracy and unemployment parents are unable to bear the burden of feeding their children and to run their families. So, poor parents send their children for work in inhuman conditions at lower wages.

Keyword: *Child labour, socio-economic, sexual violence, illiteracy and unemployment.*



## INTRODUCTION

“Child Labour” indicates employment of child for economic wage earning work and the child is subjected to various hazards related to his mental, physical and social health. The child loses his “childhood” abruptly and is prematurely pushed to live an adult life and shoulder responsibilities.<sup>1</sup> According to International Labour Organization (ILO,1990) child labour is defined as “children permanently leading adult lives working long hours for a few wages under conditions, damaging to their health and to their physical and mental development” India sadly is home to the largest number of child labourers in the world. A growing phenomenon is children being used as domestic workers in urban areas. The conditions in which children work are completely unregulated and they are often made to work without food, with very low wages, resembling slavery. There are cases of physical, sexual and emotional abuse of child domestic workers. A Ministry of Labour notification has made child domestic work as well as employment of children in dhabas, tea stalls and restaurants "hazardous" occupations.<sup>2</sup>

## DEFINITION OF CHILD AND CHILD LABOUR

- ❖ The Child Labour (Prohibition and Regulation) Act, 1986 defines a child as a person who has not completed fourteen years of age.
- ❖ The Factories Act, 1948 and Plantation Labour Act 1951 states that a child is one that has not completed fifteen years of age.
- ❖ The Juvenile Justice (Care and Protection of Children) Act, 2000 has changed the definition of child to any person who has not completed 18 years of age.
- ❖ The National sample Survey defined child worker as person below the age of 14, who is wage earner.
- ❖ POCSO Act 2012 defines a child as any person below eighteen years of age .<sup>3</sup>

## TYPES OF CHILD LABOUR

Child labour is a term that needs to be unpacked: it cannot be used in a sweeping manner but covers a range and variety of circumstances in which children work. Child labourers are involved in the following forms of works:

- i. Child labour: - Those children who are doing paid or unpaid work in factories, workshops, establishment, mines and in the service sector such as domestic labour. The ministry of Labour,



Government of India has employed the term „child labour' only in the context of children doing „hazardous“ work. By implication, children who are not doing „hazardous“ work are not considered to be child labourers and are said to be doing child work.

- ii. Street children: - Children living on and off the streets, such as shoeshine boys, ragpickers, newspaper-vendors, beggars etc. are called street children. Most children have some sort of home to go back to in the evening or nights, while street children are completely alone and are at the mercy of their employers. They live on the pavements, in the bus stations and railway stations.
- iii. Bonded children: -Bonded children are in many ways the most difficult to assist because they are inaccessible. If the carpet owner has bought them, they cannot escape. If the middle-class housewife has paid for them, they cannot run away. If the landlord in the village owns them, they will spend their life in servitude till they get married and can, in turn, sell their children.
- iv. Working children: - Children who are working as part of family labour in agriculture and in home-based work. If children are working 12-14 hours a day along with their parents at the cost of their education, their situation is similar to that of children working for other employers. In fact children, particularly girls, are expected to take on work burdens by parents in complete disproportion to their strengths and abilities. This is the largest category of children who are out-of-school and are working full time. And it is here that we find the largest percentage of girls working at the cost of education.
- v. Children used for sexual exploitation: - Many thousands of young girls and boys serve the sexual appetites of men from all social and economic backgrounds. Direct links between the commercial sexual exploitation of children and other forms of exploitative child labor are numerous. Factories, workshops, street corners, railway stations, bus stops and homes where children work are common sites of sexual exploitation. Children are especially powerless to resist abuse by employers, either as perpetrators or intermediaries. The physical and psychosocial damage inflicted by commercial sexual exploitation makes it one of the most hazardous forms of child labor. 4

## **CAUSES OF CHILD LABOUR**

Poverty, parental illiteracy, social and economic conditions of the family are the main causes of child labour. The lack of awareness regarding the harmful effects of child labour and lack of access to basic and quality education, the cultural values of the family and the environment of the society in which

it lives, also increases the rate of child labour. High rates of unemployment and under-employment also play a significant role in child labour. Children who drop out or are dropped out of school because of family debt are at higher risk of child labour. Girls from socially disadvantaged groups are at higher risk of being forced into child labour.

## **CHILD LABOUR IN INDIA: A STIGMA ON THE FACE OF SOCIETY 5**

Consequences of Child Labour Children are exposed to accidental and other injuries at work. They should thus be protected to prevent social, economic and physical harm, which persist to affect them during their lifetime. Such injuries include.

- General child injuries and abuses like cuts, burns, and lacerations, fractures, tiredness and dizziness, excessive fears and nightmares.
- Sexual abuse, particularly sexual exploitation of girls by adults, rape, prostitution, early and unwanted pregnancy, abortion, Sexually Transmitted Diseases (STDs) and HIV/AIDS, drugs and alcoholism.
- Physical abuse that involves corporal punishment, emotional maltreatment such as blaming, belittling, verbal attacks, rejection, humiliation and bad remarks.
- Emotional neglect such as deprivation of family love and affection, resulting in loneliness, and hopelessness.
- Physical neglect like lack of adequate provision of food, clothing, shelter and medical treatment.

**CHILD LABOUR LAWS IN INDIA** Various laws have been made in our country since 1933 to control child labour:

1. Children (Pledging of labour) Act 1933.
2. Employment of child Act 1938.
3. The Bombay shop and establishment Act 1948.
4. The Indian factories Act 1948.
5. Plantation labour Act 1951.
6. The mines Act 1952.
7. Merchant shipping Act 1958

8. The apprentice Act 1961
9. The motor transport workers Act 1961
10. The atomic energy Act 1962
11. Bidi and cigar workers (condition of employment) Act 1966.
12. State shops and establishment Act
13. The child labour (Prohibition and Regulation) Act 1986.
14. The juvenile justice (care and protection) of children Act, 2000.
15. Article 24 of our constitution and section 67 of the factories Act, explicitly direct that children below the age of 14 years are not allowed to work in factories.
16. Article 21A (added by the 86th amendment Act 2002) provides that state shall provide free and compulsory education to children of age group 6-14 years. <sup>7</sup>

## **CONSTITUTIONAL PROVISIONS FOR CHILDREN IN INDIA**

Several provisions in the Constitution of India impose on the State the primary responsibility of ensuring that all the needs of children are met and that their basic human rights are fully protected. Children enjoy equal rights as adults as per Article 14 of the Constitution. Article 15(3) empowers the State to make special provisions for children. Article 21 A of the Constitution of India directs the State to provide free and compulsory education to all children within the ages of 6 and 14 in such manner as the State may by law determine. Article 23 prohibits trafficking of Human beings and forced labour. Article 24 on prohibition of the employment of children in factories etc, explicitly prevents children below the age of 14 years from being employed to work in any factory, mine or any other hazardous form of employment. Article 39(f) directs the State to ensure that children are given equal opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and guaranteed protection of childhood and youth against moral and material abandonment. Article 45 of the Constitution specifies that the State shall endeavour to provide early childhood care and education for all children until they complete the age of 6 years. Article 51A clause (k) lays down a duty that parents or guardians provide opportunities for education to their child/ward between the age of 6 and 14 years. Article 243 G read with schedule-11 provides for institutionalizing child care to raise the level of nutrition and the standard of living, as well as to improve public health and monitor the development and well being of children in the Country.<sup>8</sup>

**CHILD LABOUR IS A STUMBLING BLOCK TO A CHILD'S DEVELOPMENT:** Children who work are more likely to grow up feeling lonely and unhappy, which hinders them from developing healthy emotions and can cause a number of physical issues. They are more likely to develop developmental disorders as a result of the significant health hazards associated with hazardous employment conditions and engaging in physically demanding activities beyond their capabilities (Kumar, 2021)<sup>9</sup>

When children do not spend enough time with peers of the same age or even family members, Child Labour has an effect on the development of their social skills as a whole. When children do not spend enough time with peers of the same age or even family members, Child Labour has an effect on the development of their general social life (K., 2021).

For children to thrive and feel protected they need close, quality interactions with adults. Children who work long hours, even part-time, are unable to develop these relationships as they should, which results in anxious adults who are more prone to emotional issues. The groundwork for lifetime learning, behaviour, and health is laid early in childhood. Life experiences have an impact on a child's brain development as well as their capacity for learning, interacting with others, and overcoming challenges on a daily basis. It has long been a concern, especially in developing and underdeveloped countries with minimal resources (Partha De, 2019).

## **CONCLUSION**

Despite each governmental policy regarding minorities in society is implemented surrounding children through various acts and amendments, their condition has not changed a lot over time. Children are the most weak segment of the society and yet their protection has not been guaranteed despite so many years of independence in India. Many governments came and went, introducing and concocted different approach changes and laws for changing the states of youngsters and improving their ways of life. However misuse, harassment, labour and abandonment remain the ground truth of youngsters across India. This research paper has set out some policy recommendations and improvements that might be considered and if followed and properly implemented, could potentially result in a faster decline in exploitation of children's rights.



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