

CHILD LABOUR IN INDIA: CONSTITUTIONAL SAFEGUARDS, LAWS AND ACTS FOR ERADICATION

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Abstract

According to the 2001 Indian Census, there are 11.28 million working children in India under the age of 14. As reported in the Annual Report of Yojana, 2012, this has reduced from 1.25 crore (Census 2011) to 90.75 lakhs in 2011-12 and lately to 49.6 lakhs (66th Round of NSSO). In India, child labour is still a serious issue. Working children in the Northern belt, which includes Bihar, Madhya Pradesh, Jharkhand, Rajasthan, and Uttar Pradesh, number 1.27 crore and are employed in both hazardous and non-hazardous vocations and activities.

After thorough examination of the child labour issues and problems in India, the paper is going to highlight various constitutional and legal provisions for the eradication of the child labour from the country. **Child Labour and Constitutional Provisions.**“For the protection of rights of children who are working, the Constitution of India was drafted by the framers”. **Article 21 A: Right to Education**“ For the protection of rights of children who are working, the Constitution of India was drafted by the framers”. **Article 24: Prohibition of employment of Children’s in Factories.** A child under 14 years old cannot be employed in any factory, mine, or other dangerous job. **Article 39:** The state shall in Particular direct its policy towards securing.

Key words: Child Labour, Eradication, Constitutional Safeguards, National Child Labour Project (NCLP)

Introduction

The most important Government intervention against child labour has been through National Child Labour Project under by the Ministry of Labour, Government of India (GOI). The “National Policy on Child Labour was formulated on 14 August, 1987 and the National Child Labour Projects were conceptualized and launched around the same time. There initiatives which were rather on a small scale in the beginning were subsequently reinforced and

strengthened”. The main focus is to reduce the incidence of child labour in project areas through rehabilitating child labourers into non-formal schools thereby encouraging the elimination of child labour and also to raise public awareness¹.

Since 1988, the National Child Labour Project (NCLP) has been in place to help children who have been forced to work. The development of special schools that can provide non-formal education, vocational training, additional nourishment, stipends, health care, and other services to children pulled from employment under the programme was a significant activity done under the National Child Labour Project. As a result, nine initiatives in high-child-labor-concentration locations have been launched. Since then, the schemes under project-based plan of action have continued. "By 1995-96, the NCLPs had grown from nine projects to 76, with around 1800 special schools, 2500 instructors, and 1.05 lakh students enrolled." The following are the primary components of the policy:

- a) Legal Action Plan: The focus will be on enforcing the rigorous and effective implementation of legal requirements pertaining to child labour under various labour laws.
- b) Concentration of general development programmes: Wherever feasible, numerous ongoing development programmes are transferred to other ministries / Development for the benefit of child labour.
- c) Project Action Plan: Begin a project to improve the wellbeing of working children in places where there is a high concentration of child labour. A National Child Labour Project's principal goal is to reduce the prevalence of child labour in project regions, hence facilitating the gradual abolition of child labour².

History of Child Labour in India

“Historical and sociological documentation” on early Indian civilizations points to the pervasive biases in education at the time. This was due to factors like caste, kinship, and age. It is remarkable that Ashoka (268-31 B.C.) and other rulers (276-231 B.C. Chandragupta Vikramaditya (c. A.D.375-415), attempted in promoting moral ethics against the exaltation on “obedience towards parents, and respect for elders”. It was argued that “loyalty and obedience to elders was not only” morally right but also socially acceptable behavior³.

India's Current Child Labor Situation

According to the 2001 Indian Census, there are 11.28 million working children in India under the age of 14. As reported in the Annual Report of Yojana, 2012, this has reduced from 1.25 crore (Census 2011) to 90.75 lakhs in 2011-12 and lately to 49.6 lakhs (66th Round of NSSO). In India, child labour is still a serious issue. Working children in the Northern belt, which includes Bihar, Madhya Pradesh, Jharkhand, Rajasthan, and Uttar Pradesh, number 1.27 crore and are employed in both hazardous and non-hazardous vocations and activities. In Uttar Pradesh, there are around 19 lakh child labourers aged 5 to 14. Rajasthan employs around 12.6 lakh people, with over 11 lakh in Bihar and Jharkhand and 10.6 lakh in Madhya Pradesh. However, according to the 2011 census, Andhra Pradesh ranks second on the national list of working children in the 5-14 age category, after Uttar Pradesh, with 13.6 lakh.

The Government of India's labour law says that hiring child labour is punishable by imprisonment for up to one year and a fine of up to Rs. 20,000. However, records reveal that only 1360117 inspections have been conducted under the child labour law since its commencement in 1986, with just 49092 prosecutions and 4774 businesses convicted⁴.

The Different Types of Child Labor

- Street children
- Bonded children
- Working children
- Sexual exploitation of children
- Migrant children
- Children engaged in household activities⁵

Child Labour and Constitutional Provisions

“For the protection of rights of children who are working, the Constitution of India was drafted by the framers”.

Article 21 A: Right to Education

“For the protection of rights of children who are working, the Constitution of India was drafted by the framers”.

Article 24: Prohibition of employment of Children's in Factories

A child under 14 years old cannot be employed in any factory, mine, or other dangerous job.

Article 39: The state shall in Particular direct its policy towards securing

It is important that workers' health and strength, as well as the tender age and children, are protected and citizens are not forced to choose a career path that is not suitable for them⁶.

Laws and Acts of Child Labour in India

- “The Children (Pledging of Labour) Act, 1933”
- “The Employment of Children Act, 1938”
- “The Minimum Wages, Act 1948 and rules made hereunder by the government”
- “The Factories Act, 1948”
- “The Plantations Labour Act, 1951”
- “The Mines Act, 1952”
- “The Merchant Shipping Act, 1958”
- “The Motor Transport Workers’ Act, 1961”
- “The Apprentices Act, 1961”
- “The Atomic Energy Act, 1962”
- “The Beedi and Cigar Workers (Conditions of Employment) Act, 1966”
- “The Shops and Establishment Act in Various States”, and
- “Child Labour (Prohibition and Regulation) Act, 1986”.
- The Juvenile Justice (Care and Protection) of Children Act, 2000
- The Right of Children to Free and Compulsory Education Act of 2009

Other Acts are:

- “Children (Pledging of Labour) Act, 1933”.
- “Employment of Child Act, 1938”.
- “The Bombay Shop and Establishment Act, 1948”.
- “The Motor Transport Workers Act, 1961”.
- “The Atomic Energy Act, 1962”.
- “Bidi and Cigar Workers (Condition and Regulation) Act, 1986”.
- “State Shops and Establishment Acts”.

Right to Education Bill

India's Government introduced the Right to Education Bill in 2009 to ensure that all can access education. To eliminate child labor, this Act will be applied at the grassroots level.

Child labour in India

Year	Percentage of working children (5-14)			Total number of working children (5-14) (in millions)		
	Rural	Urban	Total	Rural	Urban	Total
2001	5.9	2.1	5.0	11.4	1.3	12.7
2011	4.3	2.9	3.9	8.1	2.0	10.1

**Source – Census 2001 and 2011*

Child Labour responding through Policies, Programmes and Projects

The terms "policies", "programmes" and "projects" closely linked strategic view of actions needed to eliminate child labour. A policy on child labour is a public commitment to work towards the elimination of child labour, setting out objectives and priorities, coupled with the resource provision to ensure implementation. Governments can use the Minimum Age Convention and its accompanying Recommendation to help them formulate national policies and programmes. Both propose the following as top priorities for all countries:

a. Identifying and prohibiting child labour in dangerous occupations.

Work in mines, quarries, construction sites, glasswork, and the handling of explosives, pesticides, and poisonous materials should all be eliminated as quickly as feasible under a coordinated programme.

Various programmes (National Programmes)

1. Education and training; 2. Public awareness/advocacy; 3. Welfare assistance; and 4. Protected work schemes 5. Enforcement and regulation

The several social ministries (Labour, Education, Health, and Welfare) design effective machinery for collaboration and coordination as part of a programme approach. Indeed, if child labour is to be placed on the public policy agenda, such institutional arrangements, such

as the establishment of child labour units, are required. The Ministry of Labour, which has a mission in this area, should take the lead⁷.

Legislative Action Plan

This plan was designed “to ensure compliance with the ‘Child Labour (Prohibition and Regulation) Act of 1987’ and other labour laws. This plan was designed to eliminate children from dangerous occupations and processes, ensure they ‘are not reemployed in such activities, and regulate working conditions for children in nonhazardous jobs’”. This plan will identify any hazardous occupations or processes that could pose a risk to the child's safety and health.

The government is taking active steps to combat child labor. They enforce strict legislation and provide rehabilitation centers. The various state governments have set up different authorities that regularly inspect for violations. “The root cause of this problem is poverty. Therefore, the State Government has rehabilitation centres for poor families

Initiatives (Action Programmes)

Programmes are built on the foundation of projects. They are more constrained in terms of scope and duration. Over the course of two to three years, a project may focus on one target population in a certain industry, implementing a small number of interventions.

Projects deal with a wide range of issues. They mainly target specific target groups, such as youngsters involved in agricultural work, match and fireworks manufacture, carpet manufacturing, construction, rag-picking, garbage collection and recycling, and quarry work. Sexually abused children, migrant children, shoe polish and packing boys, domestic service children, and self-employed boys and girls are among them. They differ in terms of the goals they seek to achieve or the sorts of activities they engage in. Some offer a variety of welfare services, including as nutrition and health care, to help employees cope with the stresses of the workplace. Others assist in the development of skills, advocacy campaigns, and the enhancement of organizational capacity. Others encourage education by providing specific assistance to children from low-income families, while some utilize public awareness campaigns and other tactics to discourage child labour in exploitative and dangerous settings.

Access to education and training, as well as activities whose primary goal is to provide safe job and income-earning possibilities, are two of the most promising examples of efforts.

Training and education, welfare benefits, protected work, advocacy, & regulations and oversight would all be part of a holistic solution to child labour. These interventions would be implemented at four different levels in society: child, family, community, and government.

India has always been a strong supporter of the constitutional, regulatory, and developmental measures needed to end child labour. The framers of the Indian constitution purposefully included essential measures in the constitution to provide universal primary education and child labour protection. The abolition of child labour is a significant milestone in social sector policy, and India has taken a proactive approach to addressing the problem of child labour.

Six ILO agreements against child labour have been approved by India, three of them as early as the first part of the twentieth century. A resolution against child labour was approved by the International Labour Conference in 1979.

The resolution of 1979, which was adapted at the International Labour Conference, led in the announcement of a National Policy on Child Labor in 1987. The National Child Labour Policy's action plan consists of the following elements: I A legislative action plan

ii) When practicable, focusing general development programmes on children, and iii) Project-based action plans in regions with a high concentration of child labour engaged in pay / quasi-wage employment.

Since 1988, the Ministry of Labour has been executing the system of National Child Labour Projects (NCLPs) for the rehabilitation of child labour in accordance with this strategy. "The NCLP's main initiatives include:

- (i) the development of special schools to provide non-formal education.
- (ii) Supplementary nourishment (iii) Vocational training
- (iv) Stiphend (v) Health care, etc. for children who have been laid off"⁸.

Minimum Standards of Childcare

Minimum standards in childcare are the basic prerequisites or norms - which must be fulfilled in order to achieve the objective, for which a given child welfare programme has been

launched. The major objective of welfare services for children is Need of Care and Protection is to rehabilitate them as normal citizens in the community. Therefore, it is necessary to consider the minimum standards for these children in order to fulfill their objective.

The need for evolving minimum standards for the Homes for Children in need of care and protection arise for varied reasons.

- i) All action concerning children, whether undertaken by public or private social welfare institution in the best interest of the child has to be a primary consideration.
- ii) For the provision of adequate opportunities to meet developmental needs of destitute children and to facilitate their successful rehabilitation through residential care programme, certain minimum standards of child care need to be observed.
- iii) A considerably large number destitute children are covered under residential care every year whose future prospects are likely to be affected by the standard of services provided in these institutions.
- iv) It is high time that the minimum standards for childcare institutions are reviewed, modified are redefined in the light of changing socio-economic conditions in the country and in view of the priority for child welfare in the national developmental plans.

Educational and Training

Institution should have adequate facilities, formal education, vocational training, citizenship and leadership training and moral education.

Vocational Training

“The children under residential care programme are supposed to leave the institution as soon they complete the age of 18 years (20 years in case of girls). They are expected to be at their own, once they are discharged from the institution”. In view of the present situation of widespread unemployment and underemployment even among the educated youth, these children need special attention in terms of providing them with adequate skills in different vocations so as to make them job worthy.

Some children may not be able to take advantage of the educational programme for various reasons including scholastic backwardness. Besides this category of children, it is necessary for the institution to provide vocational training for all children, mainly for development of good work habits and certain elementary skills. This training should be varied according to child's interest and aptitude⁹.

Citizenship and Leadership Training

Finally, children have to go back to society as normal citizens. They are expected to shoulder varied kinds of adult roles and responsibilities. Once they complete their residential care programme. Facilitate for training in citizenship and leadership, therefore assumes much significance in the institutional care programme.

Staff-Child Ratio

A good staff - child ratio is very important in children's homes. It is necessary to have good ratio between certain kinds of personnel like the House Mother, Case Workers and Teacher and Children. It helps to facilitate an individual attention to children and to build up personal relationship between the staff and children¹⁰.

Conclusion

There should be sufficient avenues for rehabilitation of children, such as apprenticeship job placement, higher education and technical education and restoration to parents/relatives. Girls may be rehabilitated through marriage rehabilitation process which should start as soon as the child is admitted in the institution. The staff at all levels should contribute towards achieving the ultimate goal of rehabilitation of destitute and neglected children. Follow-up and After-care should be integral part of a rehabilitation programmes which is lacking at present.

Thus, these are the main observation and suggestion given by both Governmental and voluntary institutions to bear the responsibility of enforcing minimum standards in children's institutions.

These minimum standards are prescribed either in the reports of committees or in the provisions of various Acts. However, there has been hardly any effort to review the position relating to observance of these standards in the light of changes in the overall socio-economic scenario and the priorities, programmes and approaches in the field of care and welfare of

children. The institute, therefore, organized a workshop on minimum standards in childcare services at the premises in New Delhi from 5th to 7th March 1990. In order to ensure necessary focus and in depths treatment to the theme of the workshop, its scope was limited to childcare services in institutional setting.

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