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Practice of Child Labour in India

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ABSTRACT

The growth of the nation is directly proportional to the welfare of children and women. Children at the age of dreaming fantasies should be pampered with care and motivation. Protecting children includes safeguarding their dream and the growth of the nation. However, in India, the crime rate against juveniles is getting intense day by day. Juveniles all over the world are being major victims of many crimes; one of such common crimes is child labour. This paper attempts to throw the light on laws protecting juveniles, causes of child labour and solutions to child labour. Section 2 (35) of the Juvenile Justice (care and protection) Act, 2015 defines who a juvenile is. The history of civilization reveals juveniles were materially tortured, caged, exploited and killed. Hunger and poverty are the two main rudiments that drive the children to hunt for jobs. The Indian government has endorsed certain commandments to protect children from exploitation. Children between the ages of 14 to 18 are termed an adolescent. They can be employed if it does not violate the laws in the factories Act, 1948. Crimes against juveniles are punishable under special laws. According to the survey of the International Labour Organization, it specifies that India alone contributes 7 per cent of the total child labours in the world. The contribution of the Indian judiciary system toward child labour is highly laudable.

Keywords: *welfare of children and women, child labour, Juvenile justice (care and protection) Act, 2015, hunger and poverty, an adolescent.*

I. INTRODUCTION

"There's nothing more satisfying than seeing a happy and smiling child. I always help in any way I can, even if it's just by signing an autograph. A child's smile is worth more than all the money in the world" - Lionel Messi.

Child Labour is a global challenge. This is a problem that affects many countries, not just India. It is the practice of hiring minors in manual

labour for the benefit of the employer. It is a social evil that causes bodily pain and mental anguish to children who do not deserve it. There is no single reason for child labour; there are a variety of factors that force youngsters to look for work. Child labour is defined by the International Labour Organization as work that interferes with a child's childhood and prevents them from attending school. Child labour denies children the right to a decent existence. There are

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numerous laws in place to address this issue, yet they are ineffective.

II. HISTORY

During India's industrial revolution, child labour became more prominent. It is nothing more than a transition from an agrarian to a manufacturing economy, in which things were no longer made only by hand but rather by machines. Employers of factories and mines installed machinery, and their twisted minds wanted to extract tasks with the least amount of money, so they chose juveniles to operate those machines. However, as we all know, India is mostly an agricultural country. The science, art, or practice of cultivating the earth, producing crops, and keeping livestock are known as agriculture. This necessitates a significant amount of manual labour. Children and their families worked together to get on their farms for their daily food and needs. Despite the fact that this activity was difficult and exhausting, it did not contribute to their anxiety about the future.

Some parents believe that putting their children to school will not help them earn a living; therefore, they send their children to work for financial reasons. This worldview stifles the country's progress and opportunities.

III. CAUSES AND CONSEQUENCES OF CHILD LABOUR

The government and non-governmental organizations have taken numerous measures to address India's child labour problem. As already mentioned, there is not only one cause but also

many interlinked causes of child labour. Children should be treated with social and economic justice, and it is the state's responsibility to provide for them, which is mentioned in the case *Hemant Goswami v. Union of India*³.

1. Poverty: poverty is the first and foremost cause. Poverty and child labour, as well as poverty and other factors of child labour, have a significant association. This chaotic association can be described as a cause-and-effect relationship in economic terms. When a family's fundamental necessities are not met, individuals of the family are forced to look for work, regardless of their age. Child labour will continue to exist as long as poverty exists, and legislation will not be able to eliminate it, which is stated in *Salal hydro project v. state of Jammu and Kashmir*⁴.

2. Lack of proper education: Due to administrative issues, children in rural areas do not have access to school. Pressures of their families, some children drop out of school and prefer to work. The right to obtain education till they reach the age of 14 is a fundamental right of the Indian constitution, according to the court.⁵ According to statistics, one-third of children do not complete four years of education, limiting their opportunities to develop. The right to education of children is also mentioned in the case *T.M.A. Pai Foundation v. Union of India*⁶.

3. Debts from the past: Some families take out a loan from creditors due to their poor economic conditions. They are unable to repay it due to a lack of income. They drag their children

³ Civil Writ Petition No.20726 of 2012.

⁴ (1984) 3 SCC 538

⁵ *M.C.Mehta v. Union of India*, 1987 AIR 1086.

⁶ 1994 SCC (2) 734.

to work day and night till their loan is paid off because they are unable to pay it off on their own by working all themselves.

4. The lure of low-cost labour: Children are frequently thought to be readily persuaded and deceived. Profit-driven business owners exploit youngsters by forcing them to work longer hours than adults and pay less. Some business owners exploit minors by forcing them to do dangerous work for their profit. In the case of *P.U.D.R v. Union of India*⁷, it is held that children should not be employed in hazardous work and amended the list of hazardous work in Employment of Children Act, 1938.

There are many other driving factors that push children into child labour. Migration, growing populations, customary traditional occupations, parental expectations, family breakdown, and a lack of minimum salaries are just a few of them. The COVID-19 health pandemic has had and continues to have significant negative business and employment ramifications that have harmed people's livelihoods. In periods of economic distress, destitute families and their children are generally the first to suffer, which will almost certainly result in many more vulnerable kids being forced into child labour conditions. There are a variety of effects as a result of the reasons, including stifling the nation's progress, sexual abuse, drugs, drunkenness and so on. The lack of quality in their childhood will transform a child into a child in conflict with the law. A child who is alleged or found to have committed an offence and has not completed eighteen years of age on

the date of commission of such offence⁸ is termed as a child in conflict with the law.

IV. CHILD LABOUR LAWS IN INDIA

The duty for fostering ability in children should be shared by parents and society. Society should contribute to the abolition of child labour and ensure that anti-child labour legislation is successfully enforced. There are many laws that protect children against social evils. Some of them are,

1. The Minimum Wages Act, 1948, aims to protect workers from exploitation by guaranteeing that they are paid a fair wage necessary to improve the living conditions and maximize their effectiveness. The regulation regulates salaries based on the type and class of labour.

2. The Plantation Labour Act, 1951 prohibits the Employment of children who are below 12 years. Children above the age of 12 are employed only after the certification from the doctor on their fitness.

3. The Mines Act 1952 strictly prohibits children from working in mines.

4. The Merchant Shipping Act of 1958 prohibits children from working in the shipping industry.

5. According to the Apprentices Act of 1961, minors beyond the age of 14 can only be engaged as apprentices only if they have the necessary education and fitness.

of Children) Act, 2015.

⁷ 1982 AIR 1473.

⁸ Section 2 (13) of Juvenile Justice (Care & Protection

6. The Indian Factories Act of 1948 places restrictions on the Employment of children. Children under the age of 14 should not be employed, but pre-adults between the ages of 15 and 18 should be. In the case of State of Gujarat v. Bhupendrakumar jagjivandas⁹, the court punished the accused with imprisonment and a fine.

7. The Child Labor (Prohibition and Regulation) Act of 1986 states that children under the age of 14 should not be employed in dangerous jobs. There are 65 hazardous occupations and 16 other occupations in which no children can be employed who are under the age of 14.

8. An employer who employs the minor in hazardous work, bonded labour, slavery are punishable under the Juvenile Justice (Care And Protection) Of Children Act, 2015.

9. Right of children to free and compulsory education, 2009 regulates, children who are below the age of 14 should get compulsory education. 25 % is reserved in private schools for children who are from the disadvantaged group and physically disabled.

The common objective of the above acts is to protect the children from child labour. There are also many other acts that have provisions to protect children.

Constitution of India provides, Article 21A from which every child between the ages of 6 and 14 must get a free and obligatory education. Free and compulsory education must be provided in

accordance with state rules and government obligations.

Article 24 of the Indian Constitution, no child under the age of 14 shall be employed in any hazardous factories, occupations, or industries.

Article 39(e) of the Indian Constitution, employers should not exploit the power and vitality of workers, even if they are men, women, or children of young age, in factories or industries where labour is employed. It also states that citizens should not be forced to work in jobs that are unsuitable for their age, health, or strength due to economic need.

V. RECOMMENDATIONS

Child labour can be stunted by various actions. Firstly, Individuals should also take **responsibility** on their shoulders, notifying any employee with children under the age of 14. However, due to the broad extent of the problem, collective efforts from all sectors of society are required to make a difference.

Secondly, To combat this injustice, we must ensure that children have access to their fundamental right to **free education** and that awareness of the dangers of child labour is propagated throughout rural and urban regions to eradicate it at its origin.

Thirdly, **Control measures** inside the family must also be implemented effectively. This will relieve the family's financial burden. In fact, the government must guarantee a minimum income to every family in order for them to exist.

⁹ (2001) ILLJ 1517 Guj.

Fourthly, **Adult occupation** options should be expanded in order to battle poverty and child labour. There are millions of adults who are unemployed around the world; child labour should be substituted with adult workers. The child will be free of child labour.

VI. CONCLUSION

The abolition of child labour is an essential part of the development of full and open society, but it will only be achievable with the cooperation of all elements of society as well as law enforcement organizations. The COVID-19 lockdown has shown flaws in India's child protection system and highlighted the urgent need for a cohesive, proactive approach. If the public work together, we will be able to regulate and erase this problem from our country and transform it into the better country of our dreams.
