



Analytical Study of the Status of Constitutional and Legal Provisions of Child Labor

Dr. Kapil Khare*

**Ex. Guest Faculty Department of Political Science Govt. College Bichhua (M.P.) India*

*Corresponding Email: [*kapilkhare@rocketmail.com](mailto:kapilkhare@rocketmail.com)*

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Abstract: *Childhood is that beautiful bud of the nation in the form of a garden of human life, which has to blossom in the form of a flower and make the nation smell. Childhood is a stage in which the physical and mental abilities of a person develop. The foundation of human development is laid in the childhood stage of man because it is the child who prepares the background for future life. In the words of Mahatma Gandhi – “children are the future of the country”, so the way the society and the country will nurture the children, provide them education, provide them values, those children in return will give the society and the country the reward accordingly. The age at which children should get good education, at that age those children work in factories, work in hotels, it is not appropriate. Child labor is such an evil that has got its feet deeply in the Indian society, from which we have not been able to get rid of it even after 74 years of independence. , in the fields, on the roads, in shops, in homes etc. places. No matter what the season, the work of child labor never stops.*

Keywords: *Constitutional, Legal, Provision, Child, Labor.*

Method of Data Collection- *This study is based on secondary data.for the study of research, along with important books, newspapers, magazines, website, government records etc., scholarly guidance has also been obtained.*

1. INTRODUCTION

India has achieved independence in the country, but even after 74 years of independence, child labor is standing in front of the country as a big problem. Employing child labor in various types of gainful work can lead to their exploitation, which can have a serious impact on the development of children. Child labor is engaged in various occupational activities which range from agriculture, animal husbandry, small scale industries to hazardous occupations and production processes. It extends to different regions and territories. Mostly it is concentrated in a particular place, where business or production activities are carried out. Child labor can be mainly divided into two parts - rural and urban. In rural areas, the main



reason for this is the absence of primary school, poverty, forced labor or traditional occupation. Often due to lack of agricultural land, increasing population and lack of employment, these children are forced to move towards the city (1)

According to the Human Development Report of the United Nations Development Program - 40 lakh to 100 lakh children in India are working as child laborers (2)

According to the National Sample Survey – an average of 17.02 lakh children were engaged in child labor in 1987-88. Therefore, the data related to child labor is very vague, which is very difficult to prove.

As per 2001 Census data – there are 1.26 crore working children in the age group of 5-14 years, as compared to the total child population of 252 crores. Out of these, about 12 lakh children are working in hazardous occupations/processes which are covered under the Child Labor (Prohibition and Regulation) Act i.e. 18 occupations and 65 processes.

According to the National Census 2011, the total population in India in the age group of -5-14 years is about 260 million. Of these, about 10 million (about 4%) of the total child population are child laborers who work as main or marginal workers. About 23 million children in the age group of 15-18 years are engaged in various activities.

Definition of Child Labor-

We can know child labor through the following definitions -

- 1) According to Article 24 of the Constitution of India, children below the age of 14 years cannot be employed in any factory, mining or any hazardous work.
- 2) **According to the Child Labor Prohibition Act 1986** - A child or child who is less than 14 years of age, shall be called a child.
- 3) **According to the Census of India** - work means - participation in any economic production activity, so children below the age of 14 working in any industry, factory, hotel and dhaba etc. are called child laborers.
- 4) According to the Juvenile Justice (Care and Protection of Children) Act 2000, 2006, and 2010 - Juvenile or child means a person who has not completed the age of 18 years.

For decades, India has been carrying the canker of child labour. For many decades, India has been suffering from this scourge of child labor. According to the data taken by the International Labor Organization in the year 2016, the reality is that a developing country like India is still far behind in freeing children from labor work.

A report by the International Labor Organization on the Global Estimates, Outcomes and Trends of Child Labor 2012–16 states that 152 million children between the ages of five and seventeen are being forced to labor in undesirable conditions.

Constitutional Provision for Child Labor-

Many provisions have been implemented under the Indian Constitution for the purpose of banning child labor. According to the constitutional system, the Constitution of India, through various articles of Fundamental Rights and Directive Principles of State Policy, states that -

- 1) **Article 15 (3)** - Provides the right to make separate laws for the children.



- 2) **According to Article 21 (a)** - Through the 86th Amendment of the Constitution 2002, children of 6-14 years of age have been provided with the fundamental right to education.
- 3) **Article 23** - Prohibits human trafficking, and the purchase and sale of children.
- 4) **According to Article 24** - Prohibits the employment of any child under the age of 14 in any hazardous employment.
- 5) **Article 39 (1)** - In this article coming under the Directive Principles of Policy, it mandates to provide necessary facilities for the health and physical development of children. The state shall determine its policies in such a way that workers, men and women The health and capacity of the children should be protected and the young age of the children should not be exploited and they should not enter into work unfavorable to their age and strength to fulfill their economic needs.
- 6) **Article 45** - This article, which comes under the Directive Principles of Policy, is also the responsibility of the states for the care and education of children below the age of 6 years. Children shall be given opportunities and facilities to develop in a healthy manner in independent and dignified conditions and childhood and youth shall be protected from moral and material abuse.
- 7) **Article 51 (a)** - lays down a fundamental duty on the mother and father to provide opportunities for the education of the children. (3)

Legal Provisions for Child Labor-

Children Act, 1933, Child Employment Act, 1938, Indian Factory Act, 1940, Industrial Disputes Act 1947, Plantation Labor Act 1951, Mines Act 1952, Motor Traffic Act 1961, Shops and Commercial Establishments Act, Children Act and Child Labor Act 1986, This act regulates the services, working conditions, working hours, rate of wages etc. of child laborers for child welfare, out of which the Child Labor Act of 1986 is the more effective law, under which harsh punishment will be imposed against those who exploit child laborers. provision has been made, According to this law, children below the age of 14 years should not be employed in the work of beedi manufacturing, carpet weaving, cement production, weaving and dyeing of clothes, butcher food, mica cutting, cleaning them, printing, carrying goods of trains etc. could. Similarly, children of young age cannot be employed as servants for lifting coal from railway tracks, rail transport, freight transport, selling food items by roaming on railway platforms, according to the Factories Act 1948, children are kept in unhygienic conditions. Labor cannot be imposed. The Juvenile Justice Act 1986 has been made the primary law for the care, development and rehabilitation of children (as amended in 2000) as well as for ensuring proper justice system. (4)

Actual Situation-

Children are the important assets of a country or society, whose responsibility for proper protection, upbringing, education and development is also the responsibility of the nation and community, because in the course of time, these children become the pillars of the building of the country and the upliftment of the nation. To give prominence to child welfare, the birthday of Pandit Jawaharlal Nehru (November 14) is celebrated every year as Children's Day. While on one hand world public opinion is thinking seriously on many issues related to child welfare, on the other hand the problem of child labor is also growing rapidly. This problem is becoming increasingly visible, especially in developing countries. There are about



250 million child laborers in the world today. (5)

According to the United Nations report, India has the largest number of child laborers in the World. The estimated number of child laborers in India ranges from 440 lakhs to 1000 lakhs, but their number is officially stated to be 17.5 lakhs. 30 percent of the total child laborers are agricultural laborers and 30-35 percent are employed in factories. The remaining parts are engaged in stone quarries, tea shops, dhabas and restaurants and domestic works and lead a life of slaves. (6)

In spite of schemes, welfare programmes, legislation and administrative activities, majority of Indian children in the last four audiences are going through times of distress and suffering. Many parents are neglected, exploited by their guardians and sexually exploited by employers. Although the problem of emotional, physical and sexual abuse of children is increasing in India but it has failed to attract the attention of psychologists and social scientists. (7)

The children, who work in the fireworks industry of Sivakasi or the child laborers working in the glass factories of Firozabad, question the significance of our civilisation? Girls plucking leaves in tea gardens, children washing dishes at hotels and dhabas, children losing their eyesight in the carpet industry of Mirzapur, put a big question on all our progress. There are also many committees to stop their exploitation, many reports were presented, the result is the same three paat of Dhak.

These children, forced to work in inhuman conditions, are the result of our economic condition, on the one hand, it is related to our selfish attitude, which wants more labor at work price. (8)

Many times the question arises that in spite of many legal provisions why the working Conditions of child laborers have not improved? Every time a long list of reasons is presented for this. Whereas the reality is that the society never took this problem seriously. The social and legal responsibility to solve this problem has not been considered, due to which we remain indifference towards it. Not only this, they often get involved in their exploitation in some way or the other. The question arises that how to get rid of this problem? (9)

2. CONCLUSION

Every year on 12th June, World Day to highlight the plight of child labor, governments, employers and labor organizations, civil society as well as millions of people around the world are made aware and many campaigns are also run to help them. Even in a developing country like India, the exploitation of child labor is very widespread. This exploitation happens many times even before the eyes of the authorities. It seems that notified child labor is rarely implemented.

Suggestion –

If all these laws are implemented effectively, then in the coming time a solution like child labor can be found. It is also a fact that many organizations are making efforts to curb child



labor, ILO etc. Responsibility will have to be taken for this work and one has to contribute towards ending child labor. All the government and non-government organizations working in this field deserve thanks. Governments generally focus on the immediate rescue of child labor and not on the long-term situation or the dimension of prevention. Therefore, there is a need to focus on the dimension of prevention. Child labor is socially accepted on a large scale, hence the continuous exploitation of children continues. Therefore, there is a need to adopt '**zero tolerance**' in the society towards child labor.

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