

ROLE OF JUDICIARY TO PROTECT CHILD LABOUR

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ABSTRACT

Wordsworth stated that "The Child is the Father of the Man." Beginning with love, children eventually judge and, on occasion, forgave their parents. Mahatma Gandhi said that, "We will need in the first place the youngsters on the off chance that we are to show genuine harmony in this world and in the event that we are to carry on a genuine battle against war. The future of children, however, appears bleak due to a rise in child labour in India. Additionally, this social blight has lethal repercussions for the country as a whole. In this essay, we aim to describe the scenario in which child labour increases and the different issues that have arisen as a result of this specific issue, such as violence, child trafficking, etc.

In this paper, we hope to present the situation in which child labour is expanded, as well as various causes that have arisen as a result of this specific issue, for example, savagery, child dealing, and so on. Different realities and information from valid sources have been arranged and introduced into separate areas. The necessary endeavors to conquer these issues are proposed. At last, we presume that the proposed arrangement might be found commendable in defeating the moves that have arisen because of the child's work.

KEY WORDS - Supreme court, High-court, Judgement, Constitution, ILO, Dhaba,s, Poverty, child labour.

INTRODUCTION

Persistently, a large number of Indian children are subjected to forced labor and restricted occupations, depriving them of the experience of growing up, training, and overall mental

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and physical development. According to the 2011 registration of the Public Authority of India, the number of children in the age group of 5 to 14 years was 43.53 lakh. Although this is higher than the 2001 figure of 12.6 million, the most recent global assessment shows that 160 million children – 63 million young women and 97 million young men – were in child work globally in early 2020. children around the world. According to a new study, an additional 8.9 million children will be in child labour by the end of 2022 as a result of rising poverty due to the pandemic. The Indian Constitution is a social document that requires every organ of the state including the legal executive to be committed to transform the present state of affairs into another human request in which there will be equality of status and opportunity for all. After that, the legal executive has a financial goal as well as an inventive role.

Former Chief Justice of India Justice Subha Rao rightly remarked that civil rights must begin with children. Except when a tender plant is properly supported, it has minimal potential to develop into a supporting tree. Thus, in the balance of justice, the main target should be given to the welfare of the children.

The existing legal framework is not sufficient to stop the activity of Child Labour due to the inefficiency of statutes. In this context, there is a need to study the protection and International Journal of Economics, Commerce provisions made by the Indian Constitution itself for child labour and an attempt to review the Indian Constitution from the viewpoint of child labour protection.

OBJECTIVES OF THE STUDY

1. To define the term child labour from different viewpoints.
2. To Find out the areas where child labour existence is more.
3. To analyze various Articles of the Indian Constitution meant for the protection of child labour interests.
4. To discuss various legislation's made by the Indian government against child labour.
5. To discuss the judgments given by the Judiciary in different contexts against state and central governments in the case of child labour.

RESEARCH METHODOLOGY

In this paper, the researcher has opted for doctrinal research methodology ‘and the sources are mainly collected through secondary data such as books, journals, and various e-sources. Secondary data were collected from various media institutions. a large number of cases, newspapers, journals, publications, textbooks, periodicals, etc. were used for the study.

REVIEW LITERATURE

Review of Literature Survival, growth, and development are the basic and essential needs of children. Articles 21A, 24, and 39(e) aims at building up the personality of the childhood by assisting the physical, moral, intellectual, and emotional development (Sen & Dasgupta 2003) Article 14 deals with a child as a person under the age of 14 years. Majorly looks into Articles 14, 15(3), 21, 21A, 23, 24, 39(e), 39(f), 45, and 51A(e) of the Indian Constitution (Zutshi & Dutta 2003) Fundamental Rights and Directive Principles of State Policy ensures protection to interests of children by way of Public Interest Litigation. Parmanand Katara Case deals with the Right to health and Unnikrishnan's case about the Right to Education (Mustafa & Sharma 1996) Education directly influences the growth and development of mankind. The right to life is guaranteed under Article 21 of the Indian Constitution. Also, Mohini Jain’s case deals with the issue of the right to education which is the fundamental freedom of mankind (Kambhampati 2012) Child Labour has been identified mostly among the age group of 11- 13 years which increases with a decrease in parental socioeconomic status. They’re under an obligation to work for more than 6 hours a day with an average of 6.1 days per week. There arises a need to protect girl children to empower and perform economic roles (Lerche 2012)The UN Conventions on the Rights of the child such as education, self-expression, and freedom from exploitative work along with the implementation of international labour standards(Routh 2014) There is an urgent need to safeguard and promote the inherent dignity of all members of human society (Bajpai 2018). Children below the age of 14 contribute to a significant labour force because of acute poverty and other reasons. (Shukla & Ali 2006). It has been excused all these years as an unfortunate consequence of poverty and underdevelopment (Sanghera 2016). Children's education should not be jeopardized (Basu, n.d.). Work under abusive

and exploitative conditions is at one end of the spectrum (Bajpai 2006). About 0.8 percent work in factories. This is a crucial problem in developing countries like India.

LEGISLATIVE PROVISIONS FOR PROTECTION OF CHILD LABOUR

The Indian Constitution has several articles that protect the rights of children, such as Article 24 which prohibits the employment of children below the age of 14 in factories or other hazardous jobs, and Article 21A which provides for free and compulsory labor for all children Making education compulsory. six and fourteen, and article 39 clauses (e) and (f)

which mandate that the State protect the health of children and provide them with opportunities and education. The first law to define a child and set limits on the employment of young children was the Factories Act of 1881. Under the Factories Act of 1911, children were not allowed to work at night or in dangerous jobs. The first ILO convention required that the Act be amended in 1922 to raise the minimum age of a child to 15 years. Yet children below the age of 12 were not allowed to work. In 1935, the Act raised the legal minimum age to 13. The Factories Act of 1948 establishes restrictions that prohibit the employment of minors below the age of 14 years in any factory. Under the India Mines Act of 1952, no child below the age of 16 years can work in an underground mine. The Plantation Labor Act of 1951 forbids employing anyone below the age of 12 years. The Motor Transport Workers Act (1961) makes it illegal to employ children in the transport industry. Additionally, parents who meet their financial needs sometimes exaggerate the ages of their children. Apart from the above legislation, the Apprentices Act, (1961), the Beedi and Cigar Workers (Conditions of Employment) Act, (1966), the Atomic Energy Act, (1962), and the Contract Labour (Regulation and Abolition) Act, (1970) Provide that the employment of children is a punishable offense with the ILO Convention and the National Seminar on Employment of Children in 1975, the Government of India decided to adopt a single Act to deal with the ban on child labour to prevent the exploitation of children. In 1986, the Child Labour (Prohibition and Regulation) Act was passed, under this Act, the employment of children below 14 years in certain hazardous occupations was banned. These include processes such as transportation of passengers, goods and other hazardous work in railways and ports, beedi making, cement manufacturing, manufacture of matches and explosives, mica cutting, soap production, wool cleaning, building and construction. The third section of the Act regulates

working conditions by establishing minimum working hours, outlawing night-time employment, prohibiting overtime, and requiring a weekly day off. The Act also includes provisions for the health and safety of youth workers. It insisted on keeping a register with the information of youths who have been appointed by any organization. The law allows children to be employed in some situations but prohibits it in others, including in particular occupations and processes. This evil practice, which should be completely outlawed regardless of any form of work, got indirect support. The Protection of Children from Sexual Offenses Act of 2012 includes several child-friendly elements.

JUDGEMENTS REGARDING CHILD LABOUR

The Supreme Court has openly accepted every help given by the government for the welfare of the children. The legal executive, with its inventive and spirited judgments, has been the cornerstone of civil rights. This idea of civil rights will remain a legend if youth cannot be protected because children are the future of any country and spoiling their present means spoiling the future of the country. Following are some cases of child labour where the legal executive has shown its lobbyist approach:-

Neeraja Chaudhary vs State of Madhya Pradesh, AIR 1984 SCC (3) 243

In this case, the Supreme Court of India ruled that child labor should be protected and a plan should be made to protect them. For which Indian constitutional provisions and laws dealing with child labour 139 U.P. Provisions were made.

Bandhua Mukti Morcha vs Union of India, AIR 1984 SC 802

In this case, the Supreme Court of India ruled that the Government will be in violation of Article 23 of the Constitution if no action is taken under the Bonded Labor System Act of 1976. In accordance with Article 23, minors shall not be made to work for low pay because of their economic or social disadvantage. For this situation, the High Court of India expressed that assuming no means are taken under Reinforced Work Framework Act by the Public authority then it would be an infringement of Article 23 of the Constitution. it expresses that youngsters ought not to be compelled to work at modest wages because of their financial or social inconvenience.

Sheela Barse vs Secretary, Children Aid Society and Others, 1987

Supreme Court said that, "Without the right advancement of the present youth, the fate of the country will be dreary. It is the responsibility of every generation to bring up the next generation of children in the right way." That is, if there is no proper development of children at present, then the future of the country will be dark, and no healthy nation will ever be ready for this, so it is the responsibility of every person in the society to raise such children and develop them properly. Will be enlightened citizens, Whose mental, physical, and social development will brighten the future of both them and the country.

M.C. Mehta vs State of Tamil Nadu, 1991

The Supreme Court has ruled against allowing kids to work in restricted occupations. the judges said, "The provisions of Article 45 in the Directive Principles of State Policy remain far from being implemented; under this provision, all children up to the age of 14 are sponsored to attend school, but children are compelled to find employment due to economic necessity.

Unni Krishnan vs Andhra Pradesh, 1993 1. SCC 645

The Supreme Court said in its judgment that children up to the age of 14 have a fundamental right to free education. According to the provision of Article 45, it is the duty of the state to provide free school education to all children up to the age of 14 years. So that they develop the powers to live in the society and meet their financial needs, when they are young, they will not have to wander in search of work.

M.C. Mehta vs State Of Tamil Nadu And Others 1996

As part of its recognition of the global predominance of child labour, the Labour Ministry conducted a departmental review of the issue of child labour. However, it is feasible to recognize youngster work in the coordinated area. work service had thus reviewed the issue of kid work departmentally, as a piece of the recognition of Global Youngster wide predominance of kid work.

Sriram Babu vs The Chief Secretary 1997

In this case, focus on following these instructions to lead the case. "Shriram Babu v. Chief Secretary reviewed these advisories on 6th June 1997 to guide the case- child labour is a pervasive practice and not a specific phenomenon or symptom. Nevertheless, it is possible to detect child labour in regulated areas." That is, the "child task" is not a feature or component specific. It is a broad exercise, a broad parallel to youth work. Nevertheless, it is possible to find child labour in a regulated area.

Seema Roy vs State (Govt of Nct Delhi) & others 2011

Suraj, the young person who worked as a child labourer, was told that he was a victim of child labour. claimed by the NGO in their present case, and that Suraj was a child labour survivor.

Bachpan Bachao Andolan vs Union of India and Ors., 2017

All the concerns presented in this petition have been addressed through several judgments issued by this Court from time to time. The most serious issue is that of missing juveniles, the problem of missing children remains the same.

CONCLUSION

Ultimately, it involves extraordinary joy to take note of that the Indian legal executive has delivered superb administrations in lessening the issue of kid work every way under the sun, where it gets a potential chance to safeguard the government assistance of the youngsters as well as the deficiencies. By proposing revisions to the current regulation. The consideration of the articulation 'civil rights' in the preface of our constitution is an acknowledgment of the general benefit of an enormous number without denying anybody of the freedoms gained. They have consistently put forth purposeful attempts to shield their bosses from shady propensities by making rules with respect to well-being and clinical offices. Dr. A.P.J. Abdul Kalam whose words are still in each heart of Indian resident, or at least, the eventual fate of India is in the possession of the approaching age. Kid work is the greatest danger and deterrent for the advancement of our country. Kids are the mainstays of our country. In this manner, I might want to give the decision "Make our future brilliant, shape our future right, Stop child work

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