



## Organizational and legislative safeguards of *Child Labour: A review*

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### **Abstract:**

Child labour, for the entire advocacy towards its abolition remains a confusing social phenomenon. If child labour it to include all types of work done by children, even by children who other wise go to school and assist in the house hold the problem would indeed be on a massive scale. This issue is a major policy priority to tackle the work form of child labour first, the impetus and forms has been lost there is a need to have more realistic approach to combat the meanaces the present paper given a description of Laws and Acts that protect the abuse of child being considered as labour.

**Key words:** , children rights, *struggle for the liberation,*

*"Glory to those who would keep on their struggle for the liberation of the enslaved an in spite of heavy odds, parching humiliation, storm, and danger still the down trodden secure their human Rights"- Dr. B. R. Ambedkar.*

### **Introduction**

The most violated human rights are children rights. Around 185,000 children are working as domestic labour (2001 census). It is the most highlighted problem globally. The children's are being forced in many labour works, domestic works, bonded labour, rag picking, forced to work in roadside eateries, prostitution, in factories etc. are factual issues of violation of child rights. It is internationally identified and efforts have been made in the form of protection of human rights.

Human rights are those rights which every individual must have against the state or other public authority by virtue of his being a member of human family irrespective of any other constitution i.e., a human being is first human being with his rights first the history of human civilization is a history of assertion of individual freedom the Quest for the attainment of fullest

utilization of one's in alienable right since the individual because conscious of individuality has been arduous one.

### **Constitution of India and the Human Rights**

The constitution of India declares fundamental rights of the individual. Some of these can only be claimed by a citizen of India. Other apply Equally to non-citizen also the fundamentals of the constitution of India are contained in its preamble We, the people of India, having solemnly resolved to constitute India into Sovereign Democratic and to secure to all its citizens. Justice, Social, Economical and Political Liberty, of thought, Expression, belief, and for the worship. Equality, of status and opportunity and to promote among them all Fraternity, assuring the dignity of the individual and the unity of the nation.



### Constitutional Provisions

Fundamental rights are the modern name for what have been traditionally known as Natural Rights, under the Indian Constitution the fundamental rights have been provided in different forms declaration of rights eg Article 29 (1), 30 (1), 25, 26 and 32. Some are declared as propitiatory without any reference to any person or body to enforce them eg Articles 28 (1), 23 (1), 24 & 28 (1). Rights that talk specific form of restriction on state actions Articles 14, 15, 16, 20, 21, 22 (1), 27 and 28 at the same time quite a few of them authorise the state to make laws in derogation (undelivered words in capitals) of the same eg Articles 15 (4), 16 (3), 16 (4), 16 (5), 22 (3), 22 (6), 25 (2), 28 (2) and 28 (3) some of them are also given the form of positive declaration and simultaneously providing for the imposition of restrictions on those rights eg Articles 19 (1) and 19 (2) to 19 (6) the fundamental rights do not follow a uniform pattern but they seek to protect the rights of individuals or groups of individuals against the infringement of these rights with in specific limits, express or implied with each right having different dimension of fact. Fundamental rights of the constitution of India are based on the humanitarian grounds fundamental rights and human rights are the names only to protect the human race all over the world. Just as a written constitution has evolved from the concept of Natural law as a higher law, so the fundamental rights may be said to have spring from the doctrine of Natural rights. Supreme court of India held "fundamental rights are the modern name what have been traditionally known as Natural Rights".

The children lack the economic opportunities the knowledge and the

rights which could help protect them from frolickers and pimps. In India, child labour has been in existence for a long time the efforts made towards eradication of child labour has not reached its fullest fruits. It is embarrassing that the society is not so build to stop this vehemence (evil). The children have rights to enjoy all the fundamental rights which are guaranteed to the citizens of India Articles 15, 16, 19 and 20 of the constitution because the children's in India are also citizens of India special provision ensuring justice to children have been incorporated in part III with fundamental rights and part IV devoted to directive principles of state policy.

Article 14 guarantees equality before law and equal protection laws to all persons with in the history of India and Article 15 prohibits discrimination on the grounds of them. But article 15 (3) enables the state to make special provisions in its laws for giving favorable treatment to children and women through, no ground is mentioned preferential treatment is permitted on consideration of inherent weakness of children, Article 15 (3) serves as an exception to Article 15 (1) and 15 (2), Article 14 in general prohibits the discrimination on the ground of religion, race, caste, sex or place of birth the Article 15 (1) does not make age a prohibited ground of discrimination the reference to children in Article 15 (3) appears to be pointless the state can make law for welfare of children giving them preferential treatment over other persons in the society the state shall, I particular, direct its policy to wards security that the health and strengths of the tender age of children are not fussed by economic necessity to enter avocation



unsuited to their age or strength of further enjoys that child hood and youth are to be protected against exploitation against moral and material abandonment the constitution endeavors to provide free and compulsory education to all children until they complete ages of fourteen years. Article 20 provides the protection of life and personal liberty of the people including children's "Right to life" children are the most valuable section of the society. It is a known fact that many children one explained even by their an parents. A lot of discrimination goes towards children when the male child and female child are treated with separated fielding many one desired of education moral support care because poverty nor exportation. Exploitation even by closer relation in rural areas, children one pledged by destitute parents to the land lords as full time servants or part time worker to look after both domestic and agriculture operation in urban areas the exploitation exists such as helper to anti and skilled workers and on children in that they are captured and main by criminal games to indulge them in begging business. The children of tender age one enticed for the flesh trade all in violation of Article 23.

Article 24 prohibits the employment of children below the age of 14, further this provision clearly lays no one can employ a child in a hazardous employment to achieve the goals of child welfare the constitution has some provisions in part IV. Article 29 (e) and (f) direct the state to evolve a policy eliminating the abuse of tender age and to free constitution from the circumstances taking them to enter into avocation – un suited to their age of strength. Article 41 deals with right to work to education and public assistance in certain cases their provision

is expected to promote the welfare of the children proportionately and to ensure distributive justice to them.

Article 42 requires the state to make provisions for maturity relief. Article 45 is a duty imposed upon the state to provide free and compulsory education for all children until they complete the ages of 14 years. Article 45 is supplementary to article 24 on the ground that when the child is not to be employed under the age of 14 years he is to be kept occupied in some educational institution. Article 24 supplements the clauses (e) and (f) of Article 39, ensuring distributive justice to children in the matter of education. It suggests that article 24 and 45 should be amended to raise the age limit from 14 to 16 years. Article 46 provides the state shall promote with special case the educational and economic interests of the weaker sections of the people and in particular of scheduled castes and the scheduled tribes and shall protect them from social in Justice and all forms of exploitation Article 47 impose a primary duty upon the state to raise the level of nutrition and the standard of gifts people and improvement of public health.

#### **Legislative provisions:**

**Child welfare legislation and acts the factories act 1948:-** The factories Act 1948 prohibits the employment of child under 14 years of age in factories (see – 67) section 71 (1) (a), 71 (1) (b), 71 (2), 71 (4) specifies that children should not be employed in two separate factories and specifies about the working hours i.e. not more than 4 hrs in a day (see 69)

**Plantation Labour Act 1951:** According to the plantation labour Act 1951, a child below 14 yrs as all adolescent between 15 – 18 yrs cannot



employed unless he is certified fir for work by a surge (sec 26) this Act makes the provision for education as the responsibility of the employer.

**The Mines Act, 1952:** the act prohibits employment of person below 18 years the act prescribes punishment of fine up to Rs. 500 in case of employment of persons below 18 years (sec - 68) there is provision of imprisonment up to three months or five up to Rs. 1000 of both (Sec - 73).

**The Hindu Minority and Guardian Ship Act, 1956:** under this act, 1956 it codifies laws of Hindus relating to minority and guardian ship it lays down that a child is a minor till the age of 18 years and gives superior right to further and then mother prior right of mother is recognised only for the of children below five must take the welfare of children into consideration.

**Hindu Adoptions and Maintenance Act, 1956:** This act specifically deals with the legal process of adopting children's by a Hindus adult as well on legal obligation of a Hindu to provide "maintenance" to various family members the adopted child may fall under male or female.

**The Children Act, 1960 (Amendment in 1978):** the Act was to provide for the case, protection, maintained welfare, training education and rehabilitation of neglected or delinquent children and for the trail of delinquent children in the unions territories. The Act consists of VII chapters and 60 sections with constitution.

**The Orphanages and other Charitable Homes (Supervision and Control) Act 1960:** This act meant to provide for the supervision and control of orphanages, names for neglected woman

or children and other like institutions and for matters connected there with this Act consisting of fire chapters with 31 sections including the board of control and its powers and functions (ss 5 to 12) recognitions of names (ss 20 to 23) and miscellaneous provisions (ss 21 to 31).

**The Banded Labour Systems Abolition Act, 1976:** The Act must be used as an instrument to book cases against the employers of children the vigilance communities under the Act have to be activated and the revenue and labour departments must enforce the law strictly.

In this context children's homes observations homes, special homes, after care organisation have to be established.

**Indian child welfare act,1978:-** This act was designed to prevent the break down of native American families, preserve tribal culture, and ensure tribal jurisdiction in order to respect and strengthen tribal sovereignty.

**The immoral traffic (prevention) Act,1986:-** The Act was enacted for the prevention of immoral traffic of children the act being cognisable search without warrant, rescue of person is to be implemented.

**The juvenile justice act,1986:-** The act is virtually a verbatim reproduction of the children act 1960. Introducing only a few major and no vital changes. It deals with two types of juveniles i.e. (i) requested juveniles and (ii) delinquent juveniles. As stated in the preamble, the act is to provide for the care, protection, treatment development and rehabilitation of neglected or delinquent juveniles and for the adjudication of certain matters related to and disposition of delinquent juveniles and it contempt both reformatory and preventive treatment to curb the criminality.



### **The child labour prohibition and regulation act,1986**

Amendment act,2002 This act discusses issues relating to prohibition of work among children. A child who has not completed his fourteen year of age. Free and compulsory education, penalties of allowing a child to work in occupation a minimum of and imprisonment in this direction same programmes have been in implementation in the country. The infant milk substitutes, feeding Bottles and infant foods Regulation of production, supply and distribution Act,1992:- This act states that no person should advertise promote or mislead people to believe that infant food, feeding bottles and infant milk substitutes are acceptable replacement of mothers milk. Informational or educational material that is used to promote milk substitutes or infant food should have labels professing the superiority of breast feeding, the harmful effects of bottle feeding the difficulty in switching back from bottle feeding, the social and financial implications of using milk substitutes of infant food the health risks to using mild substitutes or infant food and proper publication information

### **Commission for protection of child rights Act,2005**

This Act provides the constitution of state commission for the protection of child right against children or of violation of child rights specify at least a court in the state. Prohibition of child marriage act, 2006:- Under this Act permitting child marriage is punishable appointment of child marriage prevention ricers to deal with cases, the court can order maintenance for and residence to the female contracting party.

### **Tight to children to free and compulsory education Act. 2009**

The RTE 2009 in an instrument that legalizes the existing multi layered education system, which depends on the economic capacity of the parents. It legalizes the current four operating systems govt schools, Aided private schools ,the special category schools, and non-aided private schools.

**Conclusion:** The most violated human rights are children rights. Around 185,000 children are working as domestic labour. It is the most highlighted problem globally. The children's are being forced in many labour works, domestic works, bonded labour, rag picking, forced to work in roadside eateries, prostitution, in factories etc. are factual issues of violation of child rights. The abolition of child labour in developed countries has taken one century to bear fruition. An increasing number of people seem to be sufficiently that labour is a bad option for childhood and large number of organization and movements national and international are actively paving the road policies and new practice. "Not all work performed by children is Equivalent to child labour". The problem has to draw a line between acceptable frames of work by children (which may be regarded as positive) one the one hand and child labour that needs to be eliminated as the other. Today a move has been made towards reaching the millennium development goals on universal education which has been under taken on war – there is a need still for more independent, so that more governmental intervention can be made in this regard.



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