

The Role of International Conventions in Shaping Domestic Child Labour Legislation

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Abstract: A legal study on child labor explores the intersection of law, human rights, and economic factors contributing to the exploitation of children in various industries. The study examines national and international legal frameworks, including conventions such as the United Nations Convention on the Rights of the Child and International Labour Organization standards, which aim to protect children from harmful labor practices. It critically analyzes the effectiveness of these laws, the role of enforcement mechanisms, and the challenges faced by developing countries in curbing child labor. Additionally, the study highlights the socio-economic conditions that drive families to send children to work, and the legal remedies available to address these issues. The research underscores the need for comprehensive legal reforms, better enforcement of existing laws, and greater international cooperation to eliminate child labor and ensure the protection and education of children worldwide..

Keywords: Child labor, Legal frameworks, International law

I. INTRODUCTION

Every nation in the world is now dealing with the worldwide issue of child labor. Child labor has been found to be primarily caused by poverty, but there are numerous other factors that also play a significant role in its growth, such as illiteracy, unemployment, unequal growth, unequal wealth and resource distribution, and inadequate political and legislative efforts. These other elements have equal responsibility for the emergence and progression of the child labor issue in every community.

It is a worldwide need, and the leaders of nations have expressed it. The primary elements that influence a child's physical, emotional, psychological, and intellectual growth are love, affection, care, and fundamental necessities. Children are an essential component of the society that suffers from their lack. Children are the pioneers in every field. They should be instilled with a sense of sincerity, welfare, brotherhood, justice, liberty, and fraternity from an early age. They are the ones that have the power to bring about a brighter future in the future.

In order for children to have a suitable role in society, the society must give careful consideration to ensuring that they are raised and fathered in a healthy environment. When Justice Subba Rao, the former Chief Justice of India, said, "Social justice must begin with children, unless tender plant is properly nourished, it has little chance of growing into strong and useful tree," it is appropriate to cite him. Therefore, the wellbeing of children should be the top priority on the social justice scale.¹

II. ABUSES OF CHILD LABOUR²

The abuses of child labour system are as under:

A. Physical abuse

It has been noted that youngsters who fall victim to agents, middlemen, contractors, or unreasonable employers are subjected to various forms of torture and abuse, including starvation and prolonged, unrelenting labor in unsanitary and filthy surroundings. Girls who work as child laborers are subjected to sexual harassment and harassment. In addition, the gases, dust, fumes, and chemicals greatly disrupt their growth and development. They often fall prey to infectious diseases.

B. Social abuse

It is a tragic situation that young children are coerced into drug trafficking, sex tourism, narcotics smuggling, and sales; they are even used for pickpocketing, begging, and other illegal acts in this day and age, when humanity has achieved its pinnacle of prosperity and accomplishment. They live a solitary and impoverished existence. Their growth is impeded when they are separated from their parents.

C. Economic abuse

This is on top of the abuse mentioned above. Exploitation is essentially economic and even physical. Child labor is vulnerable to low or nonexistent wages, bad meals in place of wages, various deductions, excessive interest charges, and other cruel forms of maltreatment.

III. RIGHTS OF CHILDREN UNDER INTERNATIONAL LAWS

According to the United Nations' 1948 universal statement, children should get extra attention and consideration. The 1959 Declaration of the Rights of the Children included this idea among other international declaration principles. Children's care was covered by Articles 23 and 24 of the International Convention on Civil and Political Rights as well as Article 10 of the International Convention on Economic, Social, and Cultural Rights. The International Labour Organization has released the universal norms and principles. The organization's goal is to control labor abuses globally. Nonetheless, the problem of child labor is connected to the following international mechanisms.

IV. UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD, 1989³

It's the most capable and completely updated international human rights agreement. It seeks to safeguard children's civil and political, economic, social, health, and cultural rights. This agreement states that a person under the age of eighteen is considered a kid and that they should not have reached the age of majority. There is a law in our nation that prohibits minors under the age of 18 from working in any manner. Nonetheless, child labor is a widespread occurrence across India. The 54 articles of the convention address every facet of children's lives and acknowledge every social, political, economic, and cultural right that a kid should have. Discrimination on the basis of gender, religion, language, etc., is prohibited.

The most ratified human rights convention is this one. The majority of UN members as well as the United Kingdom have approved and adopted it.

In order to realize children's rights, the following basic ideas are implemented and crucial.

- Non- discrimination Article 2
- The interest of the child Article 3
- Right to survival and development Article 6
- Right to be heard article 12

V. CONVENTION ON THE WORSTED FORMS OF CHILD LABOUR 1999

The adoption took place in June 1999. It seeks to establish global rules and norms in order to shield kids from the most severe types of exploitation. After ratifying the convention, the nation is required to take prompt, preventative action to end the most severe types of child labor. India hasn't approved it yet, however.

A. The Worst Forms of Child Labour

- Child slavery (including the sale and trafficking of children, debt bondage, and forced recruitment for armed conflict)
- Child prostitution and pornography
- The use of children for illicit activities (such as drug trafficking)
- Any hazardous work which is likely to harm the health, safety or morals of children

B. The International Programme on the elimination of Child Labour

This IPEC was established to address all issues and complaints pertaining to child labor and to fight it. It is the only worldwide initiative to address the needs and issue of child labor, and it has the approval of 88 nations. Its quantity and range have significantly increased since its beginning. Employers' and workers' organizations, other international and governmental organizations, private companies, community-based organizations, non-governmental organizations, the media, lawmakers, the courts, universities, religious organizations, and, of course, kids and their families make up this group today.

The fact that international labor organizations have it on their agenda as a crucial component of ending child labor is something to be highly commended. In actuality, child labor is a path to humanity. It has a negative impact on the nation's economy because it encourages poverty and causes social shame since it denies youngsters the chance to get an education and develop their skills.

IPEC aims to prevent and eradicate child labor in all its forms, with the following urgent measures against the worst types of child labor being given priority:

1. All forms of slavery or practices similar to slavery;
2. The sale and trafficking of children;
3. Debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
4. Procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
5. Procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
6. Work which is likely to harm the health, safety or morals of children.

VI. RIGHTS OF THE CHILDREN UNDER NATIONAL LAW

The architects of Independent India envisioned a blueprint for the country that would foster better, healthier environments for the advancement of child welfare. In light of this, the constitution includes provisions for amenities and elements that support children's healthy growth. Along with providing free and mandatory education for all children under the age of 14, it also protects them against exploitation and abuse. Recently, it was granted as a basic right in our constitution in Mohani Jain v. State of Karnataka⁴. The following clauses in the constitution prohibit child labor and guarantee children's protection.

A. The Indian Constitution-Fundamental Right

- Nothing in this article shall prevent the state from making any special provision for women and children.⁵
- Protection of life and personal liberty- No person shall be deprived of his life or personal liberty except according to the procedure established by law.⁶
- Human trafficking and forced labour is prohibited and are punishable in accordance with law.⁷
- Children below the age of 14 years are not to be employed to work in any factory, mine or other employment which is of hazardous nature.⁸
- Every child between 6-14 years of age is entitled for free and compulsory education.⁹

B. Constitution of India, Article 21

This article is crucial to protecting the interests of all people and is very important. The term "right to live" refers to the ability to live with dignity and encompasses all elements that support humankind's complete development. It implies that everyone has access to the necessities of life, including enough food, clothes, housing, and the ability to read, write, and express themselves, as well as the freedom to move about and interact with other people. In Bandhua Moukti Morcha v. Union of India¹⁰ and Bandhua Mukti Morcha case¹¹, the Supreme Court noted that it is very wrong and unlawful to torture a young kid. It has been established that the directing principles of state policy are the source and source of the right to human dignity guaranteed by Article 21. It involves safeguarding the health of employees who deal with young children against abuse and giving them the chance and resources they need to grow up in a healthy

way. Articles 14 and 21 of the constitution protected the right to livelihood. These need cannot be denied, and the basic amenities indicate the very minimum that must be supplied for a person to exist with human dignity.

Regarding Chameli Singh v. Uttar Pradesh State.¹² The Supreme Court noted that the right to medical treatment, food, water, a suitable environment, education, and housing are all parts of the right to life. Education is included under Article 21. The Supreme Court ruled in Consumer Education and Research Centre v. Union of India¹³ that the term "life" does not refer to only animal existence or lifelong labor. It covers a wide range of topics, such as the right to a higher quality of life, a clean workplace, and recreational opportunities.

C. Constitution of India, Article 23

1. Article 23 provides that traffic in human being and beggary and the like forms of forced labour are prohibited. A contravention of this provision shall be an offence punishable in accordance with law.
2. Nothing in this article shall prevent the state from imposing compulsory public services and that state shall not make any discrimination on ground of religion, race caste or class or any of them.
3. The purpose of this article's provisions is to safeguard individuals from both the State and other private individuals.
4. The Apex Court noted in the well-known case of People's Union for Democratic Right v. Union of India¹⁴ that using labor or services for pay in excess of the minimum wage is against Article 23. Similarly According to the ruling in Badhuwa Mukti Morcha v. Union of India¹⁵, forced labor is defined as bounded labor. Thus, it is clear that a worker can care for and support his children without difficulty provided he is given a fair income.

D. Constitution of India, Article 24

Children under the age of 14 are specifically prohibited from working in factories, mines, or dangerous jobs under the terms of this article. In Salal Project v. State of Jammu and Kashmir¹⁶, the Apex court made a comment in accordance with this clause.

VII. THE INDIAN CONSTITUTION, DIRECTIVE PRINCIPLES OF STATE POLICY (DPSP)

1. It adumbrates the principles and policies related to security of all children. In order to ensure the children protection from exploitation and against moral and material abandonment.¹⁷
2. The State has to make provisions for securing Right to Education.¹⁸
3. The State should work out ways to provide early childhood care and education until they complete the age of 6 years.¹⁹

A. Constitution of India, Article 39 (f)

Offers chances and resources for growth in circumstances of liberty and respect. It offers defense against exploitation as well. The Apex court noted in Bandhua Mukti Morch v. Union of India²⁰ that children should be fed a suitable and healthful meal while they are at work. The quarry or workplace should be situated far from residential areas. Additionally, it focused on the topic of hygienic and comfortable working conditions for employees as well as the employer's obligation to educate children.

B. Constitution of India, Article 45

In a sense, this essay emphasizes the value of a child's dignity and uniqueness while promoting free and mandatory education for kids under the age of 14. It instructs the state to take all necessary steps to ensure that all children under the age of 14 receive free and compulsory education. The well-known case of Miss Mohini Jain v. State of Karnataka²¹ and Others expressed the same viewpoint. Additionally, "equality of status and of opportunity" is provided. Additionally, it guaranteed each person's dignity. The similar stance was adopted in the landmark M.C. Mehta case²², which held that the state is required under Article 45 to provide children free and compulsory education. Article 45 was only given the status of a basic right after the ruling in Unni Krishann v. State of Andhra Pradesh²³.

C. Constitution of India, Article 47

1. Duties of State to raise the level of nutrition and the standard of living and to improve public health

A state's main responsibility is to achieve this goal. Except in cases of medical necessity, the State will make every effort to enforce the ban on the use of drugs and alcohol that are harmful to one's health. Although the article does not directly address the system of child labor, it does have an influence on children's development.

2. A part from these legislation following are also significant

Guardian's and word's Act, 1890

When choosing a guardian, the court has an obligation to assess the minor's interests and welfare. Even in situations when child labor is an issue, parents' carelessness and recklessness lead their children to do forced labor. Child labor is a long-standing issue, and it has been noted that some individuals even sell their wives and kids, which encourages child labor, bonded labor, and slavery.

3. The Children Act 1937

This Act dealt with pleading of labour the act prohibits children under the age of 14 to be pledged. The Act also provides for punishing the employer, parents and guardians who enter into a agreement to bad effect.

4. Bonded labour Abolition system (abolition) Act, 1976

As a matter of fact, this Act is not directly related to child labour but it aims at protecting the interest of the poor, ill-fated persons deprived of basic human needs.

5. Indian mines Act

Section 40 of the Act prohibits the employment of a person below the age of 14 years.

6. Motor transport workers Act, 1961

Section 21 of the act prohibits the employment of a child in any capacity. The provision of section 14 of the Act read with section 15 of child labour Act, 1986, the violation of section 21 of Motor Transport Workers Act, 1961 is punishable under section 14 of child labour (prohibition and regulation) Act, 1986.

7. Merchant Shipping Act, 1958

There are greater chances of exploitation of children Section 109 of the Act prohibit the employment of child labour for those children who have not completed the fourteenth year of age.

8. Bidi and Cigar Workers (Conditions of Employment) Act, 1966

This is a special Act of its kind that entails through section 24 that no child, who has not completed the thirteenth year of the age, can be employed in any industrial provinces.

9. New legislation (Specialized)

A new child labour (prohibition and Regulation) amendment Act 2016 has been passed as an amendment of the child labour (Prohibition and Regulation) Act, 1986. This new Act provides for prohibition of children below 14 years in all occupation or process save where the child helps his family.

10. Key aspects of the new Child labour (Prohibition and Regulation amendment) Act, 2016

- Addition of a new category of persons called "adolescent". They are person between 14 and 18 years age.
- Prohibition of employment of adolescents in hazardous occupations as specified (mines, hazardous processes and inflammable substance).
- Empowers Union government to add or omit any hazardous occupation from the list included in the Bill.
- Empowers the Government to make periodic inspection of places at which employment of children and adolescents are prohibited.

- Government may confer powers on a District Magistrate (DM) to ensure that the provisions of the law are properly carried out and implemented.

VIII. CONCLUSION

There are undoubtedly several laws that forbid child labor, yet the issue of child labor persists still. because there is no established authority or process for determining which jobs should be filled. Jobs or procedures that involve the hiring of minors are prohibited. Additionally, there is no legislation governing working conditions to prevent child exploitation. It is evident and relevant that poverty, illiteracy, and ignorance are the main causes of child labor. Child labor abuses have emerged as a result of these factors. Education is an obvious answer to the issue of child labor, and it must be eradicated. Above all, because the future young generation will determine the country's progress, it is imperative that gifts be given with the right care and attention to sustain the development and nourishment of the children.

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