



Rights Inherent to all Children and Child Labour

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Abstract

The Acts which deals with the issue of child rights and child labour are: The Factories Act 1881, Children (Pledging of Labour) Act 1933, the Employment of Children Act 1938, the Factories Act 1948, Employment of Children (Amendment) Act 1951, the Motor Transport Workers Act 1961, the Apprentices Act 1961, the Beedi and Cigar Workers (Conditions of Employment) Act 1966, and Employment of Children (Amendment) Act 1978.

Keywords: Recreational centres; Government policies; Constitution; Fundamental duties; Child labour; Political justice

Introduction

The Child Labour (Prohibition and Regulation) Act, 1986 is the most comprehensive Act to deal with the issue of child labour. The objectives of the Act are, Banning the employment of children, i.e. those who have not completed their fourteenth year, in specified occupations and processes; Laying down procedures to decide modifications to the schedule of banned occupations or processes; Regulating the conditions of work of children in employment where they are not prohibited from working. Thus according to the Act, no child (below 14 years of age) can be employed in any occupation connected with transport of passengers, railways, cinder picking, beedi making, carpet weaving, cement manufacturing, manufacture of matches, cloth printing, mica cutting, explosives and fire-works, building and construction industry, tanning, domestic servants, workers in hotels, restaurants, tea shops, resorts spas or other recreational centres etc. Till date it is the most comprehensive act in relation to child labour in India. But in all these above-mentioned Acts child labour is prohibited only in certain selected formal sectors and is not applied in any family workshop [1]. It is often alleged that the present laws are responsible for institutionalising child labour in India as these acts deals with only listed formal sectors. Two assumptions have broadly influenced Governments policies in respect of child labour. The first is that, child labour is a harsh reality and one can only mitigate some of the harshness of the exploitative aspects of child labour. The second assumption is that there is a distinction between child labour and exploitation of the child labour. It has been accepted that a certain amount of child labour will persist under the family environment, which is non-exploitative. This is not only inevitable but also desirable [2]. Over the years, it is observed that our Government, with some modifications, have been adjusting and implementing its policies by following these two assumptions. The framers of the Indian Constitution consciously incorporate relevant provisions in the Constitution to protect the interest of children. The constitutional provisions in respect of children come under the Preamble, Part III of the Constitution, i.e. Fundamental Rights, and Part IV of the Constitution, i.e. Directive Principles of State Policy and Fundamental Duties.

Discussion

The Preamble provides for social, economic and political justice to all the citizen of India. Article 14 all are equal before law, i.e. equal treatment and protection under law [3]. All children in similar circumstances are required to be treated in a similar manner, Article 15(3) permits the State to make special provisions for children, Article 19(1) guarantees citizens of India the right to freedom of speech and expression, to form associations or unions, etc., to Article 21(a) the State shall provide free and compulsory education to all children of

the age of six to fourteen years, Article 22 provides for safeguards upon arrest, and states that a person should be produced before the nearest Magistrate within 24 hours of arrest [4]. A juvenile in conflict with law or a child in need of care and protection should be produced before the Competent Authority established under the Juvenile Justice (Care and Protection of Children) Act, 2000 within 24 hours of having been picked up by the police. Article 23 prohibits trafficking in human beings and forced labour. Any contravention of this provision is punishable under law. Article 24 prohibits the employment of a child below 14 years in any factory or mine or any other hazardous employment. To Article 39(e) & (f) the State is required to ensure protection of children of tender age from abuse, and from entering vocations unsuited to their age and strength. Children are also to be provided with equal opportunities and facilities to develop in a healthy manner. The State is to further ensure that childhood and youth are protected against exploitation and abandonment. According to Article 41 the State is required to take steps to secure educational opportunities and facilities, to Article 45 the State is to take measures to ensure free and compulsory education for all children till they attain 14 years of age. Article 47 the improvement of public health and the raising of the level of nutrition is a primary duty of the State [5]. Article 51(c) asks the State is to respect international law and treaty obligations. Lastly, to Article 51(k) a parent or guardian has a fundamental duty to provide opportunities for education to his child or, as the case may be, ward between the ages of six to fourteen years. The National Plan of Action for Children, 2005 is the most important milestone regarding the overall development of children in India, which commits itself to ensure all rights to all children up to the age of 18 years. The National Plan has identified the following key areas keeping in mind priorities that require utmost and sustained attention in terms of outreach, interventions and resource allocation. These are, securing all children all legal and social protection from all kinds of abuse, exploitation and neglect. Complete abolition of child labour with the aim of progressively eliminating all forms of economic exploitation of children. Monitoring, review and reform of policies, programmes and laws to ensure protection of children's interests and rights. Ensuring child participation and choice in matters and decisions affecting their lives. In recognition of the fact

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that 41% of India's population is below 18, constituting a significant national asset, the National Plan re-affirms the nation's commitment to wisely, effectively and efficiently invest its national resources to fulfil its commitments to children [6]. To combat child labour, the National Plan goals to eliminate child labour from hazardous occupations, progressively move towards complete eradication of all forms of child labour, and to protect children from all kinds of economic exploitation. According to the National Plan the Strategies to tackle the problem of child labour are Country wide survey to ascertain the existence, prevalence and nature of child labour below ten years of age in both the organised and unorganised sectors. Effectively enforce child labour regulatory legislation and rehabilitation of working children through enrolment in schools. o Link the child labour elimination efforts with education measures an attempt to ensure that all children in the age group of 5-8 years get directly linked to school. o Ensure convergence of national poverty eradication and developmental programmes aiming at prevention and progressive elimination of all forms of child labour. The Convention on the Rights of the Child, 1989 is the latest and almost universally accepted instrument for providing universal legal standards for protection of children's interest. The provisions and rights of the Convention can be broadly grouped into four categories, Right to Survival, Right to Protection, Right to Development and Right to Participation. Our country ratified the Convention in 1992; today the policies adopted by our government shows our commitment to those global standards. Recently Government decides to link the child labour elimination efforts with the scheme of Sarva Shiksha Abhiyan (SSA) and the Right to Education Act, 2009 attempts to ensure that children in the age group of 5-8 years get directly linked to school and the older children are mainstreamed to the formal education system through the rehabilitation centres [7]. Attempts to curb child labour in India are failing miserably as social ignorance, lack of community involvement and support for child rights continue to drive children to work. In general, programmes concerned with working children should aim for their integrated physical, mental and social development. Effective programmes should promote child development in its broadest sense including taking care of the parents needs rather than just react to isolated and local needs [8]. The creation of the National Commission for Protection of Child Rights is a welcome step and it is hoped that the Commission will take appropriate steps to protect the interest of the children and particularly that of the child labourer. Children can no longer be considered as passive recipients of services [9]. Governments and civil society must accept children as partners and facilitate their participation in matters which affect their lives [10]. The challenge

is, therefore, to change the mind-set that children can no longer be objects of charity, philanthropy, and welfare. They have rights and the government is obliged to provide for them. There must be legislative, administrative, and judicial support to implement the policies, plans, and legislations in the interest of the child. Still millions of children are working, even in hazardous conditions all over the country.

Conclusion

Let us hope that within a reasonable timeframe we will achieve the desired goal of a child labour free country. We need to rethink in this regard and start working to make a safe and better environment for Children.

Acknowledgement

None

Conflict of Interest

None

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