

## CHILD AND WOMEN LABOUR: LAWS AND RESTRICTIONS

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### ABSTRACT

*Our country is huge. People of all religions, castes, dress, and different sects live in this country. The country has established new dimensions of success after attaining independence. In the modern race of development, we are walking shoulder to shoulder with other countries. But even after so many successes, there are many problems like population growth, casteism, linguistics, unemployment, inflation, etc. which have not been solved, but their roots are getting deeper. Under these circumstances, they have to face great difficulty in maintaining their children. When the circumstances become extremely unfavorable, they are forced to engage their children in business, that is, in some employment. In this way, these children lead a laboring life untimely, due to which their natural development gets obstructed. It has been established that the practice of child labor has a serious impact on the employment situation in developing countries. This drives down wages and keeps child laborers in a highly insecure employment situation. Employment of child labor often results in the unemployment of adults.*

**KEYWORDS:** Child Labour, Women's Labour, Rights Of Children And Women, Psycho-Social Problems, Laws, Protection.

### INTRODUCTION

Child and women laborers are also one such problem which is gradually taking its expansion. This problem often stems from family poverty. Even today there are crores of people in our country who are living their lives by living below the poverty line. Such people also get full bread after a lot of difficulties and tireless hard work. Their life is plagued by scarcity. Only, by offering education can child labor be prevented be abolished, or only by giving equal rights to women on paper without proper implementation for several reasons, including the fact that their families and parents who send their kids and women to work usually do so because they

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want them to learn a skill or because they lack the intelligence necessary to recognize the value of schooling.

## **CHILD LABOUR**

Children from 5 years to 12 years working as laborers in the country come under child labor.<sup>1</sup> There are more than 6 crore child laborers in the country, of which more than 2 crores are girls.<sup>2</sup> This child labor is present sporadically in all parts of the country. In some parts of the country, such as Uttar Pradesh, Bihar, Bengal, Madhya Pradesh, and Orissa, the number of these workers is comparatively more<sup>3</sup>.

Child labor is generally affected (or suffered) from a physical, educational, and intellectual point of view, when children are engaged in hazardous work from an early age, their opportunities to get an education or develop their working skills in a real sense. For shrinking and going. They are severely crippled, denied access to decent jobs, and unable to get higher wages and higher skills, and thus any hope of social progress is stifled. Under the title 'Children at work' I.L.O.<sup>4</sup> A study conducted by the UK warns that 'there is a high probability that a generation entering work at an early age will end up doing so on the bottom rung of the social ladder, becoming routinely unskilled'.<sup>5</sup>

## **LAW TO PROTECT CHILD RIGHTS<sup>6</sup>**

- Factories Act 1948 – Prohibits children below the age of 14 from working in factories.
- Mines Act 1952 - Prohibits children below 18 years of age from working in mines
- Immoral Traffic (Prevention) Act 1956
- Child Labour Act 1986 - Prohibits children below 14 years of age from working in occupations involving risk to life.
- National Child Labour Policy 1987
- Juvenile Justice Care and Protection Act 2000 - Employment of children punishable

<sup>1</sup> '1507118553P5M33ChildLabourslaw.Pdf'

<[https://epgp.inflibnet.ac.in/epgpdata/uploads/epgp\\_content/S000828HR/P001707/M023640/ET/1507118553P5M33ChildLabourslaw.pdf](https://epgp.inflibnet.ac.in/epgpdata/uploads/epgp_content/S000828HR/P001707/M023640/ET/1507118553P5M33ChildLabourslaw.pdf)> accessed 6 June 2023.

<sup>2</sup> ibid

<sup>3</sup> Kalpana Srivastava, 'Child Labour Issues and Challenges' (2011) 20 Industrial Psychiatry Journal 1 <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3425238/>> accessed 6 June 2023.

<sup>4</sup> ibid.

<sup>5</sup> ibid

<sup>6</sup> 'CHILD LABOUR (PROHIBITION AND REGULATION) ACT, 1986 | Chief Labour Commissioner' <<https://clc.gov.in/clc/acts-rules/child-labour-prohibition-and-regulation-act-1986>> accessed 6 June 2023.

- Child Marriage Prohibition Act 2006
- National Commission for Protection of Child 2007 - work to solve the issue related to violation of child rights
- Right of Children to Free and Compulsory Education Act 2009
- Protection of Children from Sexual Offenses Act 2012
- Juvenile Justice (Care and Protection of Children) Act 2015

The Occupational Health and Safety and Working Conditions Code 2020 and the Wage Code 2019 are no different in this regard. It also provides additional protection for women and children<sup>7</sup>.

**Poor working conditions:** The motive of the employer is to give priority to child labor in the greed of earning more profit, he is not interested in improving the working conditions of children. Even if they keep on violating the minimum provisions mentioned in the Factories Act.<sup>8</sup>

**Risk of the accident:** Child laborers keep on doing the same work continuously for a long time. They get very little time. That's why they are more prone to accidents.<sup>9</sup>

**Chemicals and heavy machinery:** These machines are meant for adult workers, not children. The load-carrying capacity for the children was not determined. There is a high possibility of getting sick from the effects of their special toxins and chemicals like lead and synthetic sawdust etc.<sup>10</sup>

## PSYCHO-SOCIAL PROBLEMS

Children are emotional. At a time when their mind is full of imagination, they have to face harsh control and exploitation. Lack of facilities for social life, and entertainment in childhood, the development of emotional and social understanding is very less. As soon as childhood ends, there are possibilities of being thrown out of the job. Unfortunately, we have not yet been able to answer some basic questions related to health and wages. What will happen to working children when they become adults? How will they be able to adjust themselves to their family, society, and new employment? Or what will be their condition from the point of view of

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<sup>7</sup> ibid

<sup>8</sup> 'Unit-16.Pdf' <<https://egyankosh.ac.in/bitstream/123456789/25919/1/Unit-16.pdf>> accessed 6 June 2023.

<sup>9</sup> ibid

<sup>10</sup> ibid

health? How long will the life span of these child laborers be? When child laborers become unemployed after growing up, what attitude will they adopt towards child labor? So far, studies on the long-term effects of child labor are few, but it is clear from experience around the world that working at a tender age has adverse effects on children.

## **WOMEN LABOUR**

About thirteen crore women work as laborers in the country. In this way, they have a big role in strengthening the country's economy.<sup>11</sup> But most of these women work in the unorganized sector and are highly discriminated against in wages and other facilities. Their basic needs and nutrition, even health is not taken care of properly. In such a situation, the recently passed Wages Code Bill has raised hopes of making women workers respectable<sup>12</sup>.

About 42 crore workers work in the unorganized sector of the country, in which women's participation is more than one-third.<sup>13</sup> It is clear that out of 50 crore women in the country, about 13 crores are directly making their important contribution to the process of economic development of the country in the role of laborers.<sup>14</sup> She is creating a new world of progress by coming out of the limited scope of responsibility. He has also raised many flags of success in entrepreneurship and technical skills.

About eighty percent of women in cities are employed in the unorganized sector, while in rural India it is 56 percent.<sup>15</sup> According to the last three rounds of the annual employment-unemployment survey conducted by the Labour Bureau in the years 2012-2013, 2013-14, and 2015-16, the worker population ratio for females aged fifteen years and above is 25.0, 29.6, remaining 25.8 percent.<sup>16</sup>

## **WORKPLACE DISCRIMINATION**

The cases of violence and sexual exploitation against women workers and women in the unorganized sector are on the rise. In the Unorganized Workers Social Security Bill 2007, women workers were not considered as workers, while the number of women workers in the

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<sup>11</sup> '1507118553P5M33ChildLabourslaw.Pdf' (n 1).

<sup>12</sup> *ibid*

<sup>13</sup> Sher Verick, 'Women's Labour Force Participation in India: Why Is It so Low?'

<sup>14</sup> *ibid*

<sup>15</sup> 'Labour\_and\_Employment\_Statistics\_2022\_2com.Pdf' <[https://dge.gov.in/dge/sites/default/files/2022-08/Labour\\_and\\_Employment\\_Statistics\\_2022\\_2com.pdf](https://dge.gov.in/dge/sites/default/files/2022-08/Labour_and_Employment_Statistics_2022_2com.pdf)> accessed 6 June 2023.

<sup>16</sup> *ibid*

unorganized sector is more than men.<sup>17</sup> If we analyze the situation of women workers in the organized sector, then there are some social security laws in place, but the process of law enforcement machinery is such that women do not get their rights and justice. In many cases of violence and sexual abuse, justice is not achieved because the institutions formed to investigate these cases are very slow. Most women workers are paid less than male workers and their labor is undervalued.

### **Security is poor, inconveniences are unlimited**

Women in the unorganized sector usually do not get any maternity leave. They do not get minimum wage or job security. Women in the garment industry have to do compulsory overtime and are not given leave when needed. Women are harassed daily at the workplace, but most women are unable to raise their voices for fear of losing their jobs and are forced to bear the harassment silently.

### **There is discrimination in wages**

A survey has revealed that women are paid much less wages than men in the country. There is a wide gap between the wages of men and women in both rural and urban areas for workers in the age group of 15 to 69.<sup>18</sup> According to this survey conducted by the National Survey Office, while the average daily wage of male workers in rural areas was Rs 175.30, the average daily wage of women was only Rs 108.14.<sup>19</sup>

### **SIGNIFICANT EFFORT**

The government has taken several steps to increase employment including increasing women's employment. These include encouraging the private sector, speeding up various investment projects, employment generation schemes run by the Ministry of Micro, Small and Medium Enterprises, Mahatma Gandhi National Rural Employment Guarantee Scheme run by the Department of Rural Development and Pandit Deendayal Grameen Kaushalya.<sup>20</sup> Apart from

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<sup>17</sup> Sunita Sanghi, A Srija and Shirke Shrinivas Vijay, 'Decline in Rural Female Labour Force Participation in India: A Relook into the Causes' (2015) 40 Vikalpa: The Journal for Decision Makers 255 <<http://journals.sagepub.com/doi/10.1177/0256090915598264>> accessed 6 June 2023.

<sup>18</sup> 'Labour\_and\_Employment\_Statistics\_2022\_2com.Pdf' (n 15).

<sup>19</sup> 'English Releases' <<https://pib.gov.in/newsite/erelcontent.aspx?relid=62083>> accessed 6 June 2023.

<sup>20</sup> ibid

this, out of seventy-five percent of loans under Pradhan Mantri Mudra Yojana, 9.02 crore loans have been given so far only to women entrepreneurs.<sup>21</sup>

## PROVISION OF FACILITIES

The Ministry of Labour and Employment has taken several steps to increase the female labor force participation rate. These include the Maternity Benefit (Amendment) Act, of 2017. It has provisions to increase paid maternity leave from twelve weeks to twenty-six weeks and provision of compulsory crèche facility in establishments employing fifty or more employees.<sup>22</sup> It is subject to consultation with the States under the Factories Act 1948 to allow women workers to work night shifts with adequate safeguards.<sup>23</sup> Apart from this, many schemes are also being run for women workers. There is a provision to give one time ten thousand rupees to the widow or dependent of those who get ten thousand rupees monthly wages in case of death due to any reason.<sup>24</sup> Along with this, a scheme is also being run by the government to give scholarships to their meritorious children and money for the marriage of their daughters, etc. There are many provisions for financial assistance to workers even in case of accident or disability.<sup>25</sup>

- Often women have to suffer due to the lack of toilets at the workplace (factories, construction work, street vendors, etc.).
- There is no place for the children to sleep or feed.
- Women in the unorganized sector do not have the facility of maternity leave.
- There is also a big problem with their wage rate, working hours rules, etc.
- According to the Food Security Act, there is a rule to provide government assistance of up to six thousand rupees to women for proper nutrition, working women are deprived of this facility.
- Women domestic workers are victims of sexual harassment.

<sup>21</sup> 'Labour\_and\_Employment\_Statistics\_2022\_2com.Pdf' (n 15).

<sup>22</sup> 'Maternity Benefit (Amendment) Act, 2017, Which Provides for Paid Maternity Leave to Women Workers and Crèche Facility by Establishments Being Implemented'

<<https://pib.gov.in/pib.gov.in/Pressreleaseshare.aspx?PRID=1898874>> accessed 6 June 2023.

<sup>23</sup> 'A1948-63.Pdf' <<https://www.indiacode.nic.in/bitstream/123456789/1530/1/A1948-63.pdf>> accessed 6 June 2023.

<sup>24</sup> Sanghi, Srija and Vijay (n 17).

<sup>25</sup> ibid

## CONCLUSION

Article 14<sup>26</sup> of the 1949 Indian Constitution unequivocally states that all persons in the state shall be accorded equality before the law and equal protection under the law. Article 15<sup>27</sup> stipulates that no one shall be discriminated against solely based on sex, religion, caste, race, or place of birth. These two provisions are one of the fundamental rights that form the basis of all other laws in this country, but legislators have sought to strengthen these by enacting specific provisions that give additional benefits to women and children. This is a need of the current period to enhance the future and present of children and women in the whole world.



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<sup>26</sup> 'Article 14 in The Constitution Of India 1949' <<https://indiankanoon.org/doc/367586/>> accessed 24 March 2023.

<sup>27</sup> 'Article 15 in The Constitution Of India 1949' <<https://indiankanoon.org/doc/609295/>> accessed 10 May 2023.