

THE LEGAL FRAMEWORK AROUND CHILD LABOUR IN THE FASHION INDUSTRY

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ABSTRACT

This paper seeks to analyse the prevalence of child labour in the fashion industry and the ways in which it has developed. The innocence and childhood of children are snatched away from them and their beings are exploited for labour by profit-hungry companies who seek cheap labour from them. These children are subjected to inhumane conditions while working. The paper will also delve into the legal framework and conventions which have helped battle child labour. Various organisations such as the ILO, UNICEF and the UNCRC operate globally to protect the interests of children. In India, there are laws that bar organisations from putting children under hazardous working conditions such as The Child Labour (Protection and Regulation) Act 2016. There is a dire need for companies and brands to set up codes of conduct and follow them to ensure that no child is getting exploited because of their production process.

Keywords: ILO, UNICEF, UNCRC, The Child Labour (Protection And Regulation) Act 2016, Exploitation, Profit, Child Labour, Huan Trafficking.

If people were to actively seek answers to the question- “where do our clothes come from?”, they would be appalled to find out the crafty and unethical means that huge fashion brands employ in order to maximise their profits. The increasing demands of consumers to not only fulfill the cardinal need for clothing but to satisfy them aesthetically has led to a rapidly growing culture of fast fashion. Right from the beginning of the process of garment making, i.e. sowing of the cotton seeds till the end, which includes finishing and beautification of the product by dyeing or printing, cost-cutting measures are practised so that companies can keep up with the demands of the consumers and yield profits and expand their surplus at the same time. However, these cost-cutting measures, in most situations, exploit disadvantaged groups and communities who provide their labour and get extremely low wages in return. Bearing the brunt of this are children- children of poverty-stricken families, who rely on them to contribute to the income of the household just to put food on the table.

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The vulnerability of these children is exploited by fashion companies who pay them below the minimum wage limit so that they can offer a new collection every week as a part of an industry that now produces 100 billion pieces per year.¹ About 168 million children across the globe work as labourers, according to a study by the International Labour Organisation (ILO)² and that means that a shockingly huge number of children worldwide are deprived of basic facilities such as education and proper care. They are not only impoverished by these basic facilities but also by the innocence of their childhood. The essence of being a child and being carefree is snatched from them at a very young age. Moreover, the conditions that these children work in are hazardous and extremely detrimental to their health and safety. For instance, in the leather sector, children inhale toxic solvents and glues which affects their health. Apart from physical health issues, the mental health issues of children are also something that is essential to consider as a consequence of child labour. The social and economic setbacks that the communities these children belong to suffer are another consequence that results from the fact that these kids do not have the privilege of enjoying the same opportunities other kids do. The lack of education in their lives excludes them from availing the benefits of it that the other children do. Exclusion from a prosperous society plays a huge role in continuing the vicious cycle that the families of these children find themselves trapped in. Companies and firms in the apparel industry often get away with employing small children and putting them to work in dangerous conditions because it is difficult for consumers and governmental organisations to keep track of how the products are made at every stage of production³.

Human trafficking is also another social evil that children are subjected to in order to get them to do cheap labour against their will. They also have to face sexual exploitation along with economic exploitation and live in horrible conditions where they endure violence and abuse. Three major factors can be attributed to trafficking across various regions to acquire labour for supply chains. First, the cavities and inadequacies in the implementation and enforcement of legislation clubbed with the lack of access to justice for some sections of society. Second, the pressure faced by poverty-stricken and socially backward workers and individuals, and third, the overall lack of sensitivity towards maintaining ethical practices in today's business environment. Various global institutions like UNICEF and the United Nations Convention on the Rights of the Child (UNCRC) collaborate with governments to

¹ <https://www.humanium.org/en/the-detrimental-effects-of-fast-fashion-on-childrens-rights/>

² <https://asiafoundation.org/2017/09/20/forced-labor-child-trafficking-indias-garment-sector/>

³ <https://www.humanium.org/en/the-detrimental-effects-of-fast-fashion-on-childrens-rights/>

ensure that policies that safeguard the human rights of children are properly implemented and companies that violate these rights are held accountable. By enforcing legislative review and reform and strengthening existing laws, these institutions seek Article 4 of the UNCRC stipulates that legislative measures need to be undertaken by the governments to ensure that the rights of children are protected. Article 32 of the UNCRC dictates that - It should be recognised by the governments and the states that the rights of the children need to be protected from economic exploitation and from “performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development.” Governments are expected to take legislative, administrative, social and educational measures to ensure the implementation of the laws pertaining to the article. “To this end, and having regard to the relevant provisions of other international instruments, States Parties shall, in particular, provide for a minimum age or for minimum ages for admission to employment; provide for appropriate regulation of the hours and conditions of employment; provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.”⁴

In India, there have also been cases of children’s rights violations, especially in the fashion sector. For example, in Tamil Nadu, the infamous Sumangali Scheme systematically exploited young girls belonging to marginalised communities. They were employed in textile and spinning mills and were promised a particular sum of money for their labour. Not only were they given less than the promised sum, or no money at all, after providing their labour, but they were also abused physically and mentally and made to work under atrocious conditions⁵. In India, the constitution stipulates that the liberty and freedom of all individuals will be protected under various articles. For example, parts of Article 39 of the Indian constitution provide that the state should ensure that children should not be abused and exploited to perform labour that is unsuited to their age. Additionally, they should be given facilities and opportunities to develop under healthy conditions. Article 21A ensures compulsory education for all children. Despite the fundamentals of freedom and protection of the rights of children being enshrined in the constitution, there was no procedure laid by law that could regulate the working conditions of children in various occupations⁶. For this purpose, The Child Labour (Prohibition and Regulation) Act 1986 was introduced. It was

⁴ <https://thesafiablog.com/2020/08/28/the-prohibition-of-child-labour-under-the-convention-on-the-rights-of-the-child-crc/>

⁵ <https://www.fairlabor.org/understanding-the-sumangali-scheme-in-tamil-nadus-garment-and-textile-industry/>

⁶ <https://cdnbbsr.s3waas.gov.in/s380537a945c7aaa788ccfedf1b99b5d8f/uploads/2023/05/2023050195.pdf>

introduced in the parliament as a comprehensive bill so as to fill the gaps and correct any discrepancies in the existing legislature. It intended to ban the employment of citizens under 14 years of age and lay down proper provisions and a list of occupations that prohibited companies and employers to employ children. Moreover, it sought to modulate and supervise the conditions of work that children were employed in, in places where they were not prohibited from working. It also sought to lay down penalties for the violation of the provisions of the act. The most recent amendment to the act was made in 2016⁷.

There are various sections of the Act that act as instruments to deliver justice to child labourers in many different ways. For instance, Section 3 of the act prohibits employment of children under the age of 14. This is also applied to the garment or the fashion industry. Section 4 ensures that children between the age of 14 to 18 employed in different industries do not work under hazardous conditions and have a safe environment to work in. For instance, children are exposed to harmful substances while they are engaged in processes such as dyeing and weaving. This section protects them from working under such conditions. The Act places responsibilities on the establishment or the employer to ensure that no child works overtime and to ensure that the establishment complies with all the laws and regulations. Section 14 of the Act specifies the punishment or the penalties for the violation of the provisions of the Act. It specifies imprisonment of a period ranging from not less than 6 months to getting extended to 2 years and the additional fines⁸.

The Act, although very comprehensive, has found itself lacking in a number of factors that are very essential to its implementation. First, due to a lack of adequate resources, the absence of effective mechanisms for surveillance, and rampant corruption in the system, enforcing and implementing it has posed a few challenges that have allowed child labour to continue. Second, it is difficult to enforce such a law when so many families depend on the income generated by employing the children in labour to afford the basic necessities. Due to the economic hardships they face, the Act cannot do much since implementing it strictly without establishing any alternate means of livelihood would cause more problems for the families. Third, allowing children to work in non-hazardous industries and processes also has a disadvantage because it can still be used as a venture to exploit their labour and has a negative impact on the child's mental health. In this regard, it can be said that the Act has

⁷https://labour.gov.in/sites/default/files/act_2.pdf

⁸[https://pencil.gov.in/THE%20CHILD%20LABOUR%20\(PROHIBITION%20AND%20REGULATION\)%20AMENDMENT%20ACT,%202016\(1\).pdf](https://pencil.gov.in/THE%20CHILD%20LABOUR%20(PROHIBITION%20AND%20REGULATION)%20AMENDMENT%20ACT,%202016(1).pdf)

restricted coverage in places where exploitation can still take place. Fourth, the exclusion of the informal sector or unregulated processes from the Act makes it difficult to bring to justice those kids who are abused in a domestic setting and are forced to work against their will in family settings and structures.

However, along with the drawbacks, The Child Labour (Protection and Regulation) Act 2016 has also proven to be instrumental and effective in eradicating much of the child labour that existed in society and continues to do so. For example, it has, to a large extent provided a safety net for children and reduced the physical and mental harm caused to them due to the prohibition of children's employment in various fields and processes. The lists under the Act mentioning the hazardous occupations and processes have been diligently formed to protect the children extensively. It has also ensured that children attend school until a certain age by creating an environment where education is encouraged over labour because education provides better opportunities and a chance to get out of the vicious cycle of poverty so that children do not have to resort to means of child labour where they can be exploited. Additionally, it incorporates a framework with supports and protects the rights of the children to have a healthy childhood. It was important for a child to go through a healthy, disease and ailment-free childhood where the child is not exposed to harmful substances affecting the child's body. The social welfare aspect of the law also makes sure that the social reintegration and rehabilitation of child labourers are implemented and for that purpose, rehabilitation centres are set up to provide support, care, and opportunities that will help them develop recreational skills and education. Doing so ensures that they regain the normal, happy childhood that they were deprived of.

We still have a long way to go before we achieve child labour, an exploitation-free world where children get to be children and live a happy childhood. There still are ongoing cases of mass exploitation of children in various parts of the world like the issue of child labour in cotton production in Uzbekistan was very prevalent⁹. The government, however, has taken considerable measures and the situation has become better in recent years. The child labour problem in the garment sector of Myanmar is also taking place on a huge scale, with numerous reports of exploitation and inhumane conditions coming in all the time. The government of the country is known to use coercion and threats against children to make

⁹ <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/uzbekistan>

them work in the country's cotton industry¹⁰. In order for us to eradicate child labour from our society, brands, and companies need to create a culture within themselves by creating their own codes of conduct which will ensure that the clothes they produce, are produced in such a way that does not harm any individual, especially a child. These codes of conduct include the requirement for age verification of the workers, fair wages and reasonable working hours. Collectively, companies, individuals, governments and international institutions can work together to ensure that not even a single child is harmed for mere profits and economic gain. We, as consumers, can also ensure that we hold brands accountable when they violate the rights of children and shop from brands that follow the laws and regulations.



¹⁰ [https://ballardbrief.byu.edu/issue-briefs/child-labor-in-myanmar#:~:text=Myanmar%20has%20a%20higher%20rate,%2FPacific%20region%20\(7.4%25\).&text=Myanmar%20ranked%20in%20the%20top,with%20a%20rate%20of%209.3%25](https://ballardbrief.byu.edu/issue-briefs/child-labor-in-myanmar#:~:text=Myanmar%20has%20a%20higher%20rate,%2FPacific%20region%20(7.4%25).&text=Myanmar%20ranked%20in%20the%20top,with%20a%20rate%20of%209.3%25).