

CHILD LABOUR (PROHIBITION AND REGULATION) AMENDMENT ACT, 2016: A COMPREHENSIVE ANALYSIS

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INTRODUCTION

The Child Labour (Prohibition and Regulation) Act of 1986 forbids minors from engaging in hazardous jobs, addressing a long-standing problem with child labour in India. This Act has established a minimum age of 14 years required for employment. Restrictions under this act have contributed to India's declining child employment rate. The establishment of regulations for limits on hours or periods of work and other relevant matters has decreased the dangers of exploitation and other hazardous situations to which minor employees are exposed at work. It has made a very important contribution to decreasing child labour in India. If the employer is hiring a child for labour and the Act is violated, the employer will face the consequences and be held liable for penalties that could include both jail time and a fine. Even if the Act has reduced the cases of child labour, socioeconomic problems like poverty and illiteracy continue to exist in our society and contribute to the sin of child labour. To address such issues, legislation such as the Child Labor (Prohibition and Regulation) Amendment Act of 2016¹ is vital. The Children (Pledging of Labour) Act of 1933² was the first notable statute. It was followed by the Employment of Children Act of 1938³ and the Factories Act of 1948⁴. However, the reach of these rules was narrow, and their enforcement was frequently insufficient. The Child Labour (Prohibition and Regulation) Act 1986 marked a more comprehensive approach, prohibiting the employment of minors under the age of 14 in perilous occupations and regulating their working environment in non-perilous occupations.

AMENDMENT IN SECTION 3⁵

No minor shall be working or allowed to work in any profession that is hazardous.

Sub-section (1) shall not apply where the child who -

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¹ Child Labour (Prohibition and Regulation) Amendment Act 2016 (India).

² Children (Pledging of Labour) Act 1933, No. 2 of 1933.

³ Employment of Children Act 1938, No.26 of 1938.

⁴ Factories Act 1948, No. 63 of 1948.

⁵ Child Labour (Prohibition and Regulation) Amendment Act 2016, s 3.

Helps his/her family or family venture, which should be other than any unsafe work environment or processes laid down, after his or her school hours or during vacations;

Works as an expert in visual and audio entertainment transmitted via radio waves-visual the entertainment industry, containing placards, films, television serial broadcast drama or some specific other pleasure or sports exercises except the festival, subject to specific environments and security measures as may be arbitrary: Provided that no aforementioned work under this passage shall influence the school instruction of the juvenile.

Examining real-life examples can provide a deeper understanding of the Act's impact: BACHPAN BACHAO ANDOLAN This movement was founded by LAREATE KAILASH SATYARATHI; this organisation helps rescue thousands of children from forced labour and an unsafe work environment.

Many states have provided various campaigns to promote education and reduce child labour.

ADDITION OF NEW SECTION 3A

The central government may, by notification, specify the type of non-hazardous work that an adolescent may be permitted to work under this Act. **ADDITION OF NEW SECTION 3A:** No adolescent shall be employed in or permitted to work in any of the hazardous occupations or processes set forth in the schedule.

AMENDMENT IN PENALTIES (SECTION 14)

Anyone who hires a child or allows a child to work in violation of section 3 will face a minimum sentence of six months in prison, a maximum sentence of two years in prison, a fine of not less than twenty thousand rupees but not more than fifty thousand rupees, or both. However, parents or guardians of such children won't face punishment unless they allow the child to violate section 3 for commercial purposes.

(2) Anyone convicted of a crime under section 3 or section 3 A who subsequently commits another crime faces a minimum sentence of one year in prison and a maximum sentence of three years in prison.

(2A) Notwithstanding anything in sub-section (2), if the parent or guardian commits a similar offence after being found guilty of one under section 3 or section 3A, they will be subject to a fine that might reach ten thousand rupees.

"Child Labour Technical Advisory Committee" should be replaced with "Technical Advisory Committee."

LEGISLATIVE BACKGROUND

The 2016 Amendment to the Child Labour (Prohibition and Regulation) Act 1986 introduced important changes to the prohibition of child labour and addressed loopholes in previous legislation. This amendment was made in the need for strict regulation and better alignment with various (ILO) Conventions and international standards.

KEY PROVISIONS OF THE 2016 AMENDMENT ACT

Significant modifications were made to the 1986 Act by the 2016 Amendment Act, which primarily strengthened the ban on child labour and brought the law into compliance with international labour standards, as well as the Right of Children to Free and Compulsory Education Act of 2009.

The key provisions of the amendment include:

The Amendment Act completely forbids the working of children below the age of 14 years in any procedure or occupation, with the exception of helping family members or the family business, as long as the labour does not conflict with the child's education. This aims to ensure that children can fully benefit from the Right to Education Act of 2009⁶.

This Act also introduces the category of "adolescent", including children specifically of the age group from 14 to 18 years, and prohibits their employment in perilous occupations and processes.

This Amendment Act mandates the establishment of a Child and Adolescent Labour Rehabilitation Fund in every district, funded by the penalties imposed on violators. This fund

⁶ Education Act, 2009, c 22.

is intended to provide for the rehabilitation of rescued children and adolescents, ensuring their return to education and overall development.

The Act establishes a Technical Advisory Committee to inform the government on the inclusion of jobs and procedures in the list of hazardous activities.

IMPLEMENTATIONS AND CHALLENGES

While the 2016 Amendment Act represents a significant step against child labour, its implementation faces several challenges:

Enforcement Mechanisms

Implementation Techniques: Enforcing the Act effectively continues to be a significant challenge. The informal sector, which includes domestic work, small-scale manufacturing, and agriculture, employs a large number of underage labourers due to lax regulatory control. To ensure effective enforcement, labour inspectors must be strengthened, and their inspections must be conducted on a regular basis.

Socio-Economic Factors

Aspects of Socioeconomics Socioeconomic variables and poverty are major contributors to child labour. Families in underprivileged areas could be dependent on the money their kids make. Comprehensive social policies, such as those pertaining to social security, access to high-quality education, and programs aimed at reducing poverty, are necessary to address the underlying causes of child labour.

Awareness and social norms

Consciousness and customs The Act's effective implementation depends on altering societal norms and increasing public awareness of the detrimental impacts of child labour. Campaigns for education and community involvement can influence attitudes and motivate families to place a higher value on education than on child labour.

International Commitments

Global Assertions India has updated its child labour legislation in harmony with its worldwide obligations. India is a party to a number of international agreements, such as the Convention

on the Rights of the Child (CRC) of the United Nations and the Conventions of the International Labour Organization (ILO), particularly Convention No. 138⁷ on the Minimum Age for Admission to Employment and Convention No. 182 on the Worst Forms of Child Labor⁸.

THERE ARE MANY OTHER GOVERNMENT INITIATIVES YEARLY

Such as 1979: Gurupad Swamy Committee to study and tackle child labour issues.

Such as the 1986 Child Labour (Prohibition and Regulation) Act.

Such as 2016: The Child Labor (Prohibition and Regulation) Amendment Act forbids hiring children younger than 14 years old.

Such as 2017: Amendment to the Prohibition and Regulation of Child Labor laws prohibiting child labour

CONSTITUTIONAL PROVISIONS FOR THE PROTECTION AND WELFARE OF CHILDREN

The Constitution of India has provided various following provisions for the safety of children, such as:

Article 14⁹: This article clearly says that no person living on Indian territory shall be denied equality before the law and equal protection under the law by the state.

Article 15(3)¹⁰: This article clearly says that Nothing in this Article shall prevent the state from making any laws or special provisions for women and children.

Article 21¹¹: This article clearly says that it is provided for the Protection of Life and Personal Liberty, in which no person shall be deprived of his life or personal liberty.

⁷ International Labour Organization, 'Minimum Age Convention, 1973 (138)' (International Labour Organization, 1973)

⁸ International Labour Organization, 'Worst Forms of Child Labour Convention, 1999 (No. 182)' (International Labour Organization, 1999)

⁹ The Constitution of India (1950) art 14.

¹⁰ The Constitution of India (1950) art 15.

¹¹ The Constitution of India (1950) art 21.

Article 21A¹²: This article clearly says that it provides free and fair education for all children in the age group 6 to 14. Free and compulsory education must be provided in the manner laid down by the state.

Article 23¹³: Prohibition of Human Trafficking and Forced Labour

Article 24¹⁴: Prohibition of Children's Employment in Factories, etc. No child below or less than the age of 14 shall be employed in any hazardous factory, etc.

Article 39(e)¹⁵: This article of the Indian Constitution states that the employer should not abuse the health and strength of the workers or labourers working in factories or industries, whether it is a man, woman, or child.

SALIENT FEATURES OF CHILD LABOUR (REGULATION AND PROHIBITION) AMENDMENT ACT 2016.

The employment of children below the age of 14 years is completely prohibited in all hazardous industries.

Strict penalties and punishment for violations include higher fines and imprisonment terms for employers who make children work in hazardous industries.

Enhance the inspection and investigation to ensure that no child is forced to labour in the unorganised sector.

Enhance the working hours and conditions for adolescents who are not prohibited from working under this act.

Provisions for rehabilitation of the rescued labourers include access to education and skills development.

CONCLUSION

It has made a very important contribution to decreasing child labour in India. If the employer is hiring a child for labour, and the Act is violated, the employer will face the consequences

¹² The Constitution of India (1950) art 21A.

¹³ The Constitution of India (1950) art 23.

¹⁴ The Constitution of India (1950) art 24.

¹⁵ The Constitution of India (1950) art 39(e).

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To address such issues, legislation such as the Child Labor (Prohibition and Regulation) Amendment Act of 2016¹⁶ is vital. The Children (Pledging of Labour) Act of 1933¹⁷ was the first notable statute. It was followed by the Employment of Children Act of 1938¹⁸ and the Factories Act of 1948¹⁹. However, the reach of these rules was narrow, and their enforcement was frequently insufficient. The Child Labour (Prohibition and Regulation) Act 1986 marked a more comprehensive approach, prohibiting the employment of minors under the age of 14 years in perilous occupations and regulating their working environment in non-perilous occupations.

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¹⁶ Child Labour (Prohibition and Regulation) Amendment Act 2016 (India).

¹⁷ Children (Pledging of Labour) Act 1933, No. 2 of 1933.

¹⁸ Employment of Children Act 1938, No.26 of 1938.

¹⁹ Factories Act 1948, No. 63 of 1948.