

Child Labour

Role	Name	Affiliation
Principal Investigator	Dr.Gyanendra Kumar sahu	Asst.Professor Utkal University
Content Reviewer	Dr.Gyanendra Kumar sahu	Asst.Professor Utkal University

Description of Module

Items	Description of Module
Subject Name	Law
Paper Name	Social Transformation and Social Engineering
Module Name /Title	Child Labour
Module No.	X

Child Labour:

Introduction:

Children are an important component of the social structure and the potential future careers of the culture. Unfortunately, the problem of child labour (especially, age group of 5-14 years) exists in our country. Children receive a rude and unpleasant introduction to life. They not only lack the basic necessities of life, but are also forced to spend a major part of the day working in inhuman and unhealthy conditions for a miserable pittance. As per an estimate of ILO, there are between 190.7 million child labourers in the world. Out of these million, half may be found in South and East Asia. By employing children we are denying their right to education, which is crucial for development. 40% of female sex workers are forced into prostitution before the age of 18. Nearly 60% of the girls who are employed as child labourers live in rural areas.

Concept of Child Labour:

Child labour occurs when children under the age of fourteen are used to do labour. Children are usually forced to do adult work to help provide for their families. The working conditions are poor and children usually suffer physical, emotional and sexual abuse. They work long hours every day and are unable to attend school, which is their fundamental right. But, for understanding of concept of “child labour” let us examine some of the important definitions.

Encyclopedia of Social Science : “When the business of wage earning or participation in itself or family support conflicts directly or indirectly with the business of growth and education, the result is child labour”.

International Labour Organization: “Child labour includes children prematurely leading adult lives, working long hours for low wages under conditions damaging to their health and to their physical and mental development, sometimes separated from their families, frequently deprived of meaningful educational and training opportunities that could open up for them a better future”.

Second National Law Commission on Labour: “Children out of home, away from family, working for wages and the place of work unfriendly and unsuitable for their well-being are child labour”.

Census of India: “Any child engaged in productive work is child labour”.

Operation Research Group, Baroda: “A child falling within the five to fifteen age bracket and who is at remuneration work, may be paid or unpaid, and busy in any hour of the day within outside the family.

Government of Andhra Pradesh: “All children out of school are child labour. Being out of school is equal to worst form of child labour “hazardous”, “intolerable circumstances” and “harmful to the overall growth and development of the child”.

Gujarat State Action Plan for Elimination of Child Labour, 2009: “All children deprived of their fundamental right to education between the age of six to fourteen years are child labour”.

Magnitude of the Problem:

The problem of child labour is not limited to India but is an international issue. If, we look at a glance, the magnitude of the problem at international level, it reveals that in 1950, 27.57% children of the world were working children, which declined in 2000 to 11.32%. The figures in Europe and China have declined faster than in Africa, Asia and India, which attracted the attention of international organizations, researchers and policy makers to eliminate child labour.

After a look at global scenario, let us focus on India. The Census of India, 2001 has revealed that there are 12.67 million child labourers between the ages of 6-14, whereas, they were 11.29 million in 1991. Uttar Pradesh is on the top, followed by Andhra Pradesh, Rajasthan, Bihar and Madhya Pradesh in employing children. These five States had half of the child labour force in the country. There is disagreement regarding the size of the children working in India.

International Commitments:

The international commitments may be divided into two categories namely, with ILO and United Nations as India is the member of the Organizations. The International Labour

Organizations (ILO) was established on April 19,1919 with the object of the improvement of the conditions of the labourers. India is the founder member of the ILO.

Sl. No.	No. of ILO Convention	Contents of ILO Convention	Status of India
1	5 of 1919	Prohibits the employment of person below 14 years of age.	Ratified on 9 th Sep, 1955
2	6 of 1919	Prohibits the employment during night of person below 18 years of age.	Ratified on 14 th July, 1921
3	15 of 1921	Prohibits a person who is below 18 years of age from being employed on Vessels as Toimner or Stockers	Ratified on 20 th Nov, 1922
4	16 of 1921	Compulsory medical examination of child being employed on Vessel as Toimner or Stockers	Ratified on 20 th Nov, 1922
5	90 of 1948	Revised the Convention 6 of 1919 and put 12 consecutive hours.	Ratified on 27 th Feb 1950
6	123 of 1965	Prohibits the employment in mines of a child below the age of 16 years.	Ratified on 20 th Mar 1975
7	124 of 1965	Compulsory medical examination of child working in mines.	Not ratified
8	138 of 1973	Prohibits employment of a child below the age of 15 years but allows after obtaining permission up t the age of 14 years.	Not ratified

The Constitutional Provisions:

Our Constitution framers were aware about the problem of child labour and compulsory education of children, so they made prohibition of children in certain employment as a fundamental right under Article 24 and issued many Directive Principles of State Policies in Part IV. They made provisions under Article 45, by stating that State will make the provisions for free and compulsory education for every child below the age of 14 years within 10 years from the implementation of the Constitution. Unfortunately, it took 52 years to make it a fundamental right under the Constitution. 86th Constitutional Amendment ha inserted it as fundamental right and fundamental duty of the parents to send their ward to school. The Constitutional Provisions may be described as follows:-

Article 15 (3) : The Article provides guarantee of right to equality without any discrimination ; but, on the other hand, empowers the State to make the special provisions relating to child, which will not be violative of right to equality.

Article 21: No person shall be deprived of his life or personal liberty, except according to procedure established by law. The Supreme Court held that “life” includes free from exploitation and to live a dignified life.

Article 21A: The State shall provide free and compulsory education to all children of the age of six to fourteen years, in such manner as the State may, by law, determine. The

Supreme Court directed that where children are allowed to work, in such establishment, it is the duty of the employer to make provisions for the education of child labourers.

Article 23: Traffic in human beings and beggar and other similar forms of forced labour are prohibited and any contravention of this prohibition shall be an offence punishable in accordance with law.

Article 24: No child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment. The Supreme Court held that “hazardous employment” includes construction work, match boxes and fireworks. Therefore, no child below the age of 14 years can be employed. Positive steps should be taken for the welfare of such children as well as for improving the quality of their life.

Article 39 (e) : The State shall, in particular, direct its policy towards securing the health and strength of the tender age of children so that they are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.

Article 39(f): The State shall, in particular, direct its policy towards securing that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity, and that childhood and youth are protected against exploitation and against moral and material abandonment.

Article 45 : The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.

Article 51A (k): It shall be the duty of every citizen of India, who is a parent or guardian to provide opportunities for education to his child or ward, as the case may be, between the age of six to fourteen years.