

**CHILD LABOUR IN INDIA – CONSTITUTIONAL PERSPECTIVE****Avishkar Kamble**

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**INTRODUCTION**

Child labour is the practices of having children engage in economic activity, on part or full time basis. The practice deprives children of their childhood, and is harmful to their physical and mental growth. Children who are our national asset but who are faced with problems of child labour. The 2011 national census of India found the total number of child labour, aged 5-14, to be 4.35 million, out of a total child population of 259.64 million in 5-14 age group. This vulnerability of children to exploitation gained attention and led to the passing of various provisions in Constitution to protect the right of children.

**CONSTITUTIONAL PROVISION WITH RESPECT TO CHILD LABOUR**

The adoption of constitution of India in 1950, is the beginning of planned era and greatly influence the efforts of the state and central governments. On 26<sup>th</sup> January, 1950 India became a sovereign Democratic Republic with its own written constitution. The idea of welfare state was given added significance by the framers of the fundamental law of the land. The establishment of a welfare state is a constitutional mandate and the ultimate objective is the well-being of the society as a whole. Therefore material progress of a country depends largely on development of all section of society.

The preamble of the Indian Constitution embodies the concept of socio-economic justice where the people of India have solemnly resolved to secure justice, social, economic and political to all its citizens based upon liberty of thought, expression and belief, assuring dignity to the individual and equality of status and opportunity.

Social justice implies that justice shall be done to all the members of the society irrespective of their status. Economic justice lies in the removal of inequalities on economic front. The broad ideals, the preamble, have been given shape and content in fundamental rights and directive principles of state policy.

Article 14 of the constitution provides for equality before the law. It states that the state shall not deny to any person equality before the law and equal protection of the laws within the territory of india. Though “equal protection” clause prohibits the state from making unreasonable discrimination in providing preferences and facilities for any section of its people, nonetheless it requires the State to afford substantially equal opportunities to those, placed unequally.

The fundamental principles of human rights are principles of equality and non-discrimination. The simplification of the same is of saying that every individual is equal before the law and has the right to be protected by law on an equal basis is affirmed in all the main human rights treaties.

Children are the most vulnerable section of society. They become the victims of exploitation and ill-treatment easily. The constitution makers reflected their anxiety to protect and safeguard the interest and welfare of the children incorporated Article 15(4) empowers the state to make special provisions with respect to women and children as they need special care and protection. In accordance with this parliament has passed several enactments like Equal Remuneration Act, 1976, The Medical Termination of Pregnancy Act, 1971, The Child Labour (Prohibition and Regulation) Act, 1986.

Article 23(1) states that traffic in human beings and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with the law. In accordance with this parliament has passed the Bonded Labour System (Abolition) Act, 1976, providing for the abolition of the bonded labour system. This



article imposes a positive duty on the state to initiate necessary steps for the eradication of traffic in human beings and beggar and other similar forms of forced labour.

Article 23 does not make an express mention of slavery, but it is implied in the expression traffic in human beings. In view of the authorization under this Article, Parliament has passed the Suppression of Immoral Traffic Act, 1956. Now this enactment is known as Immoral Traffic (Prevention) Act, 1956.

Article 24 of the Constitution prohibits employment of children in factories etc. this Article states that “ no child below the age of 14 years shall be employed to work in any factory or mine or engaged in other hazardous employment”

Article 45 of the Constitution requires the state to make provision within 10 years for free and compulsory education for all children until they complete the age of 14. In *Unni Krishnan v. State of A.P.* has held that the “right to education” upto the age of 14 years is a fundamental right within the meaning of Article 21 of the Constitution. The right to education flows directly from the right to life. Thus every child has a right to free education until he completes the age of 14 years. Articles 21-A and 51-A(k) of the Constitution is relevant with this.

Article 39(f) protects children and youth from exploitation and moral and material abandonment. The general provisions relating to Article 38, 42, 43 and 47 of the Directive Principles of State Policy dealing with the welfare measure of the people in general and weaker section in particular include children in their purview.

Apart from Constitutional provisions with respect to the evil of child labour, Center and States have enacted various legislations to combat this evil. It is a sad aspect of all these enactments that none of these enactments has been successful in the prevention of child labour.

## CONCLUSION

Our Constitution makers had known that the India of their vision would not be a reality if the children of the country are not nurtured and educated. Considering the fact that India is a welfare state, the founding fathers of the constitution recognized the importance of the rights of the child in a nation’s development.

Children’s Programme should find a prominent place in national plan for the development of human resources, so that children grow up to become robust citizens, , physically fit, mentally alert and morally health. Equal opportunities for development to all children during the period of growth should be aim for this would serve large purpose of reducing inequality and ensuring social justice. Children shall be protected against neglect, cruelty and exploitation.

Thus the constitution mandates that every child shall have the right to health, well-being, education and social protection without any discrimination. Several other rights of the child including right to mid-day meal, right to participate in society, right against child marriage, etc. can be best protected if the child is in school and not at the workplace. The only way to prevent child labour is to recognize that the rightful place of children is in school, the not in the workplace or in house.

## REFERENCES

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