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Appendices
LEGISLATION AND CHILD LABOUR

Constitutional Provisions

Article 24

Prohibition of Employment of Children in Factories. No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

Article 29 (e)

“the health and strength of workers, men and women, and the tender age of children are not abused and that Citizens are not forced by economic necessity to enter avocations unsuited to their age or strength”

Article 39(e) and (f)

Directive Principles of State Policy

The State shall, in particular, direct its policy, securing:

(e) That the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter a vocation unsuited to their age or strength.

(f) That children are given opportunity 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.


The Child Labour (Prohibition & Regulation) Act, 1986 was the culmination of efforts and ideas that emerged from the deliberations and recommendations of various committees and commissions on child labour. Significant among them are the National Commission on Labour (1966-69),
Gurupadaswamy Committee on Child Labour (1979) and Sanat Mehta Committee (1984). The basic objective of the Child Labour (Prohibition and Regulation) Act, 1986 is to ban the employment of children below the age of 14 years in factories, mines and hazardous employments and regulate the working conditions of children in other employment. The Act:

i) bans the employment of children, i.e., those who have not completed their 14th year, in specified occupations and processes;

ii) lays down a procedure to decide modifications to the schedule of banned occupations or processes;

iii) regulates the conditions of work of children in employment where they are not prohibited from working;

iv) lays down enhanced penalties for the employment of children in violation of the provisions of this Act, and other Acts which forbid the employment of children; and,

v) brings about uniformity in the definition of “child” in related laws.

The Act prohibits employment of children below 14 years of age in occupations and processes listed in Part A and B of the Schedule to the Act. Through a Notification dated 26.5.1993, the working conditions of children have been regulated in all employments, which are not prohibited under the Child Labour (Prohibition & Regulation) Act, 1986. Through a Notification dated 10.5.2000, the Schedule has been modified by adding six more processes, thereby bringing the total to 13 occupations and 57 processes. Section 5 of the Child Labour (Prohibition & Regulation) Act, 1986 provides for the constitution of a Child Labour Technical Advisory Committee to advise the Central Government for the purpose of addition to the Schedule of the Act.
Prohibited Occupations and Processes

13 Occupations including:

1. Transport of passengers, goods or mails by railway
2. Cinder picking, cleaning of an ash pit or building operations in railway premises
3. Work in a catering establishment
4. Work relating to construction of a railway station
5. A Port Authority within the limits of any port
6. Work relating to selling of crackers and fire works in shops with temporary license
7. Abattoir/slaughter houses
8. Automobile workshops and garages
9. Foundries
10. Handling of toxic or inflammable substances
11. Handloom and power loom industry
12. Mines and collieries
13. Plastic units and fiber glass workshops
14. Employment of children as domestic workers or servants;
15. Employment of children in dhabas (road side eateries), restaurants, hotels, motels, tea shops, resorts, spas or other recreational centers

Notified on 10\textsuperscript{th} July, 2006 and came into action 10\textsuperscript{th} October, 2006 onwards.

57 Processes:

1. Bidi making
2. Carpet weaving
3. Cement manufacture
4. Cloth printing, dyeing and weaving
5. Manufacture of matches and fire works
6. Mica-cutting and splitting
7. Shellac manufacture
8. Soap manufacture
9. Tanning
10. Wool cleaning
11. Building and construction
12. Manufacturing of slate pencil and packing
13. Manufacture of products from agate
14. Process using toxic metals and substances
15. Hazardous processes as defined in section 2 (cb) and dangerous operations as notified in rules made under Section 87 of Factories Act, 1948.
16. Printing, as defined in section 2 of Factories Act, 1948.
17. Cashew and cashew nut descaling and processing
18. Soldering processes in electronic industry
19. Agarbatti manufacture
20. Automobile repair and maintenance
21. Brick Kiln sand roof tiles
22. Cotton ginning and processing
23. Detergent manufacture
24. Fabrication workshop
25. Gem-cutting and polishing
26. Handling of chromites and manganese
27. Jute textile manufacture
28. Lime kilns
29. Lock making
30. Manufacture process having exposure to lead
31. Manufacture of cement pipes, cement products, etc.
32. Manufacture of glass and glassware
33. Manufacture of dyes and dyes stuff
34. Handling of pesticides and insecticides
35. Handling of corrosive and toxic substances, metal cleaning and photo engraving
36. Burning coal or coal briquettes
37. Sports goods manufacture
38. Moulding and processing of fiberglass and plastic
39. Oil expelling and refinery
40. Paper making
41. Potteries and ceramic industry
42. Polishing, moulding, cutting, welding of brass goods
43. Processing in agriculture where tractors, threshing and harvesting machines are used
44. Saw mill-all processes
45. Sericulture processing
46. Manufacture of leather and leather products
47. Stone breaking and stone crushing
48. Manufacturing and handling of tobacco
49. Tyre making, repairing, re-treading and graphic benefaction
50. Utensils making, polishing and metal burning
51. Zari making
52. Electroplating
53. Graphite powdering and incidental processing
54. Grinding or glazing of metals
55. Diamond cutting and polishing
56. Extraction of slates from mines
57. Rag picking and scavenging

**Other Acts**

**The Factories Act. 1948 replaced the Factories Act, 1881**

(i) The Factories Act, 1881 provided prohibition of employment of children up to the age of seven years. In 1891, the age was increased to nine years and further raised to fifteen years in 1948.

(ii) The Act of 1881 provided prohibition of successive employment in two factories on the same day.

(iii) The Act of 1881 provided maximum of nine working hours a day with at least four holidays in a month. In 1891, working hours were reduced to seven hours with prohibition of work at night between 8 p.m. and 5 a.m. In 1911, prohibition of work at night was modified between 7 p.m. and 5.30 a.m. In 1922, working hours was further reduced to 6 hours and also added an interval of half an hour, if children are employed for more than 5 1/2 hours in a day.

(iv) The Factory Act, 1881 was applicable to factories employing 100 or more persons. In 1922, it was brought down to establishments employing 20 or more persons with mechanical processes. Power was vested with local governments to exclude the application of provisions to premises employing 10 or more persons. In 1948, the Act was made applicable to factories employing 10 or more persons with the aid of power and for employing 20 or more persons without the aid of power.
(v) In 1911, it provided prohibition of employment of children for work in certain dangerous processes. In 1922, it provided prohibition of employment of children below 18 and women in certain processes. In 1934, elaborate provisions were added for regulating the employment of children of various groups in the factories, such as;

(a) children under 12 and 15 years employment generally prohibited in certain areas;
(b) children under 12 and 15 years employment restricted to 5 hours a day in other areas;
(c) children between 15 and 17 years certain restrictions were imposed;

(vi) In 1911, requirement of certificate of age and fitness was added. In 1922, provision for medical certificate and also certificate of re-examination for continuing work was made.

(vii) In 1926, a provision was added for imposition of certain penalties on the parents and guardians for allowing their children to work in two separate factories on the same day.

(viii) In 1954, a provision was added for prohibition of employment of persons under 17 years at night (“Night” was defined as a period of 12 consecutive hours and which included hours between 10 pm and 7 am).

**1901 to 1952 – The Mines Act, 1952 replaced the Mines Act, 1901.**

(i) The Act of 1901 prohibited employment of children under 12 years. In 1923, age was raised to 13 years. In 1935, it was further raised to 15 years.
(a) It further provided permission of employment of persons between 15 and 17 years only on production of certificate of physical fitness granted by a qualified medical practitioner.

(b) Working time was restricted to maximum of 10 hours a day and 54 hours a week for work above the ground and 9 hours a day underground.

The Act of 1952 stipulated two conditions for underground work in a mine.

(i) requirement to have completed 16 years of age; and

(ii) requirement to obtain a certificate of physical fitness from a surgeon.

1931: The Indian Ports (Amendment) Act 1931

Laid down 12 years as the minimum age that could be prescribed for handling goods in ports. The Report of the Royal Commission on Labour (1931) had an impact on legislation pertaining to child labour during the period between 1931 and 1949.

1932: The Tea Districts (Emigrant Labour) Act 1932

The Act was passed to check migration of labour to Assam. It provided that no under-age child is employed or allowed to migrate unless his/her parents or adults on whom the child was dependent, accompanied the child.

1933: The Children (Pledging of Labour) Act 1933

Prohibited pledging of children i.e., taking of advances by parents and guardians in return for bonds, pledging the labour of their children a system akin to the bonded labour system. Royal Commission, in areas such as Amritasar, Allahabad, Madras, etc. and in carpet and bidi factories noticed this practice of pledging the labour of their children. The children in these situations were found to be working under extremely unsatisfactory conditions.
1938: The Employment of Children Act 1938

The Act was passed to implement the convention adopted by the 23rd session of ILO (1937), which inserted a special Article on India:

Children under the age of 13 years shall not be employed or work n the transport of passengers, or goods or mails by rail, or in the handling of goods at clocks, quays of wharves, but excluding transport by hand. Children under the age of 15 years shall not be employed or work… in occupations to which this Article applies which are scheduled as dangerous or unhealthy by the competent authority.

This Act:

(a) prohibited the employment of children under 15 years in occupations connected with transport of goods, passengers, mails on railways;
(b) raised the minimum age for handling goods on clocks from 12 to 14 years;
(c) provided for the requirement of a certification of age;
(d) In 1951, a provision was added for prohibition of the employment of the children between 15 and 17 years at night in railways and ports and also provided for requirement of maintaining register for children under 17 years;
(e) In 1978, a provision was added for prohibition of employment of a child below 15 years in occupations in railway premises such as cinder picking or cleaning of ash pit or building operations, in catering establishment and in any other work which is carried on in close proximity to or between the railway lines.

1951: The Plantations Labour Act 1951

Prohibited the employment of children less than 12 years in plantation.
1958: The Merchant Shipping Act 1958
Prohibits children under 15, to be engaged to work in any capacity in any ship, except in certain specified cases.

Prohibits the employment of children less than 15 years in any motor transport undertaking.

1961: The Apprentices Act 1961
Prohibits the apprenticeship/training of a person less than 14 years.

1966: The Beedi and Cigar Workers (Conditions of Employment) Act 1966
The Act prohibits:
(i) the employment of children under 14 years in any industrial premises manufacturing beedis or cigars;
(ii) persons between 14 and 18 years to work at night between 7 pm and 6 am.

1986: The Child Labour (Prohibition and Regulation) Act 1986
(mentioned above in detail)

Other Programmes
National Child Labour Projects
The National Child Labour Projects (NCLP) were launched in 1988, in areas of high concentration of child labour. NCLPs are area specific, time bound, where priority is given to the withdrawal and rehabilitation of children engaged in hazardous occupations.

The strategy of NCLP is to implement model programmes consisting of key elements such as:

- Stepping up the enforcement of the prohibition of child labour
• Providing employment to parents of children
• Expanding formal and non-formal education
• Promoting school enrolment through various incentive such as payment of stipend
• Raising public awareness, survey and evaluation

Presently 249 National Child Labour Projects are running in 20 states of India such as Andhra Pradesh, Assam, Bihar, Chattisgarh, Gujrat, Haryana, Jammu and Kashmir, Karnataka, Madhya Pradesh, Maharashtra, Mizoram, Nagaland, Orrisa, Punjab, Rajasthan, Tamilnadu, Uttar Pradesh, Uttranchal, West Bengal.
SUPREME COURT DIRECTIONS ON CHILD LABOUR

The Supreme court of India, in its judgement dated 10th December, 1996 in Writ Petition (Civil) Number 465/1986, has given certain directions regarding the manner in which children working in the hazardous occupations are to be withdrawn from work and rehabilitated, and the manner in which the working conditions of children working in non-hazardous occupations are to be regulated and improved. The judgement of the Supreme Court envisages:

(a) Simultaneous action in all districts of the country;
(b) Survey for identification of working children (to be completed by June 10, 1997).
(c) Withdrawal of children working in hazardous industries and ensuring their education in appropriate institutions;
(d) Contribution of Rs. 20,000 per child to be paid by the offending employers of children to welfare fund to be established for this purpose;
(e) Employment to one adult member of the family of the child so withdrawn from work, and if that is not possible, a contribution of Rs. 5,000 to the welfare fund to be made by the State Government;
(f) Financial assistance to the families of the children so withdrawn to be paid out of the interest earnings on the corpus of Rs.20,000/25,000 deposited in the welfare fund as long as the child is actually sent to the schools;
(g) Regulating hours of work for children working in non-hazardous occupations so that their working hours do not exceed six hours per day.
and education for at least two hours is ensured. The entire expenditure on education is to be borne by the concerned employer;

(h) Planning and preparedness on the part of Central and State Governments in terms of strengthening of the existing administrative/regulatory/enforcement frame-work (covering cost of additional manpower, training, mobility, computerization etc.) implying additional requirement of funds.