

CHILD LABOUR IN INDIA : A LEGAL STUDY

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ABSTRACT: *When a child has no trust, a nation has no future. As children in Indian society has always been a topic less vocal or discussed because of the past or the socio-cultural background of the country. The speculation in the child is, outlay in the future society of a nation that is ideas builds¹. but, Child labour is a work that children should not be doing because they are too adolescent or there are old adequate to work, because it is hazardous or unfortunate for them. Whether or not work performed by children is defined as child labour depends on the child's age, the hours and type of work and the condition in which the work is performed. But many millions of children work under abusive and unequal circumstances that are obviously hazardous to them. India is not an exception. As per report, India ranks among top nations where the percentage of labour force constituting 'child labour' is very high. Like others, India too, have formulated laws in order to reform and bring an end to all forms of child labour, right from its beginning as a free nation, but the ground reality is still very dismal in nature. child labour in India is addressed by child labour act 1986 and national child labour project. Today in India, there are more than 11.24 million children who are spending their babyhood learning, carpet-weaving, beedi-rolling, family labour, agriculture and countless other occupations instead of going to schools.*

In the end the sketch of the plan and strategies as identified. The paper identifies the polices and the need as issue can to really get addressed and determined

Introduction

The implication and the meaning of the child lie in the fact that the child is the universe. If there was no child, there would be no civilization and there cannot be a universe without humanity. Therefore, mankind owes to the child the best that it has to be given².

CHILD LABOUR-As laid down in the Constitution of India, no child below the age of 14 is allowed to work in any factory or mine or engaged in any other dangerous employment³. "The employment of children in a industry or business, particularly when illegal or careful unequal child labour is a work that children should not be doing because there is a risk and probability that a hazard will actually result in injury or illness along with an induction of how serious the harm could be. Today India is the top most whopping country that leads with 31 million of children employed between 5yrs to 14 yrs. The world's largest democracy is yet to ratify the minimum age convention, 1973 (No 138) of the International Labour Organization (ILO), that lays down ground rules for employment of minors across the globe. An estimated 150 million children are involved in child labour worldwide as per UNICEF data. Children are routinely engaged in paid and unpaid forms of work that are not harmful to them. However, they are classified as child labourer when they are either too young to work or are involved in hazardous activities that may compromise their physical, mental, social or educational development. In the least developed countries, around one in four children (ages 5 to 17) are engaged in labour that is considered detrimental to their health and development. UNICEF in another report says, "children's works needs to be seen as happening along a range, one end being destruction or unfair work and benifical work - promoting or enhancing children's development without intrusive with there schooling amusement and rest being the other end. And between these two end there are vast areas of work that may or may not negatively result child's development.

As we know that the categorization of child labour was not a subject matter in traditional societies, since labour and child have been considered as an integral part of social and economic relations. The whole example has been totally changed. The delineation became visible during the British period when child labour was used and exploited in plantation works. This abuse was bring to official notice first in the 1870s. The Labour Investigation Committee of 1946 revealed actual instances of child labour. Before the

¹ Dhingra C-I "Child Labour and the Law" 8-9 Kurukshetra Law Journal, 1982-83, Thomas Paul : Ending Child Labour, Hindustan Times, 4th Nov. 1994

² Miss Y. Vishnupriya, "International Concern for Protection of Right", Supreme Court Journal, Vol. I

³ Article 24 of the Indian Constitution

introduction of Mines Act, 1956, children were employed in industrial units and in cottage industries like beedi and glass making units. In the past, child labour has been a part of the social organization in which all members contributed their labour to produce for the continuation and endurance.⁴

In the census report of 1971, it was predictable that 12% of children were working while it had grown up to 13% in 1981. and after 10 years it declined to 11.28%. It was assumed that the attitude of the employers using children changed due to the civil society and mass media during the last couple of years. Although the drive for universal education seems to be one of the candid attempts to capture all children under the age of 14 in school, the condition has not changed severely. According to the 1983 survey, 90 percent of child workers were establish in rural India, out of which 42.49 %were in agricultural labour and 37.45% were cultivators . The rate of involvement of child labour varies from one state to another. Indeed, highest rate was observed in Andhra Pradesh which accounted for over 10.8% of the total labour in India. In fact some of the micro studies show that initiatives taken to empower women folk in order to curtail child labour practices failed. Similarly though interventions through social labeling in particular work places rid it of child labour practices, those very children shifted and started to work in other undisturbed areas .These empirical evidences show that these working children are far from the fold of legal frame work and all kinds of interventions have been ineffective. Lack of restructuring of existing policies according to the changing socioeconomic conditions seems to be one of the reasons.

Child labour as any work by children that interferes with their full physical development, their opportunities for desirable minimum of education or their needed recreation. Conventionally, working child is defined as a child in the range of 5-14 years who is engaged in labour either paid or unpaid⁵

Reduction in child labour over the course of time

India has seen a fall in child workers in last few years.

2006-2007 to 2011-2012

For example, there was a market 39% reduction in child labour between 2006-2007 and 2011-2012, due to schemes like Right to Education, Mid Day Meal, MNREGA which gave children an incentive to study. The role of NGOs was also important in bringing this fall in child labour. For example, save the children, which is widely hailed as best charity for NonGovernmentalOrganisation has been working in the cotton farms of Maharashtra to maimstream the child labourers into schools

The numbers from 2015

In 2015, there were even more optimistic signs – the no of child labourers decreased by 59% from 1.35 crore to 77.1 lakh between census 2001 to and census 2011. This was part of an answer to a Rajya Sabha question about child labour, which also revealed that India's capital had seen over 1650 child labour rescues between 2014 and 2015.

ANALYSIS OF THE SITUATION

As,child labour are statues adaptable the work of minors. They are planned to avoid children from work that interfere with the children's capacity to attend usual school or that is mentally, physically, socially or honorably hazardous and harmful. Child labour helped fuel the manufacturing declaration by being able to contact slighter work areas and cheaper labor. Prussia was the first country to enact laws restricting children from working in factories. After Prussia enacted its first laws, other countries followed such as France, England and the United States.

According to the Factories Act, 1948, dangerous process is that course or motion of an industry mentioned in Schedule 1 of the Act, if not special care is taken, raw resources used therein or the middle or finished products, bye-products, wastes or effluents thereof would cause material mutilation to the health of the people busy in or connected therewith, or effect in the pollution of the broad environment⁶.

The INTERNATIONAL LABOUR ORGANIZATION, ILO, works to set global minimum standards of labor.

⁴ N.Mitra, "The Slave Children of Mandsour" Sunday 8, 19th December, 1980, pp 10-17

⁵ ibid at 4

⁶ Section 2(cob) of the Factories Act, 1948

The reasons which are generally accountable for child labour may include :

- Dearth,
- Illiteracy,
- Population bang,
- Lack of knowledge ,
- huge amounts of debt on the parents,
- Large size of family but not enough income to support such big family,
- Lack of social security scheme in the country,
- Frail enforcement of labour laws.
- Unawareness

IMMEDIATE ACTIONS

The information may differ according to unlike organizations but the fact is obvious that the statistics of child workers in India are in crore, which is again a sad view, particularly with all the a variety of child labour legislation and the Constitutional necessities. In a Report by the Labour Ministry each 4th child is a child lworker, aged stuck between 5-14 years and there is one child labour in every three families.

But it's not as if Indian governments haven't done anything about this serious social dishonor, over the years it has enacted various legal legislation and Constitutional requirements in order to eliminate the difficulty of child labour, to name some of them, we have: Labour legislation:

- The Mines Act, 1952,
- The Child Labour Act, 1986,
- The Factories Act, 1948, a child is who has not over and done with his fifteen year of age.⁷
- The Minimum wages Act, 1948, that individual who has not completed fourteen years of age is a child.⁸
- The Right of Children to Free and Compulsory Education Act, 2009,
- The Plantation labour act, 1951, a person who has not completed fourteen years of his age is a child⁹
- The Juvenile Justice (Care and Protection) of Children Act, 2000
- Article 24 provides: exactlying prohibits kids to work in risky environment.
- Article 21, 45 gives the right to education to each and every one the children below the age of 14years.
- Article 39 declares the responsibility of the State to give the children a free facilities to expand in conditions of liberty and self-respect in a healthy way

India is also a festivity to the United Nations assertion on the Rights of the Child, 1959. India is also a participant to:

- Development and Protection of Children.
- ILO Abolition of Forced Labour Convention (No. 105);
- UN Convention on the Rights of the Child (CRC).
- World Declaration on the Survival,
- ILO Forced Labour Convention (No. 29);

though, it was in 1979, Government shaped the first board called Gurupadswamy board to study the issue of child worker and to propose actions to begin it. The Committee examine the trouble in factor and complete some far- reaching recommendation.¹⁰ It pragmatic that as long as scarcity sustained, it would be hard to completely get rid of child labour and therefore, any effort to eliminate it during legal option would not be a practical intention.

The board felt that in the situation, the only option left was to forbid child labour in unsafe areas and to control and improve the circumstances of work in other areas. It suggested that a numerous strategy move toward was necessary in commerce with the harms of working children. Based on the recommendations of Gurupadswamy team the Child Labour (Prohibition & Regulation) Act was enacted in 1986.

⁷ Section 2(c) of the Factories Act, 1948

⁸ Section 2(b) of the Minimum Wages Act, 1948

⁹ Section 2 (c) of the Plantation Labour Act, 1951

The Act prohibit service of children in definite particular risky occupations and process and regulate the working circumstances in others. The list of dangerous occupations and processes is increasingly being prolonged on the advice of Child Labour Technical Advisory Committee constitute under the Act.

The Child Labour (Prohibition and Regulation) Act, 1986, while allow children to connect in the process of family based work or familiar school based activities, prohibits children to work in occupations worried with traveler, goods post transport by railway, mat weaving, ashes picking, cleaning of ash-pits, cement manufacturing, building operation, construction, cloth printing, dyeing, weaving, developed of matches, explosives and fireworks, catering establishments in railway building or port limits, Beedi making, mica cutting and splitting, abattoirs, wool cleaning, cashew-nut and cashew nut descaling and meting out, soldering processes in electronic industries and other "hazardous processes", "dangerous operations", "printing" (as defined in Factories Act, 1948, etc.) In consonance with the above approach, a National Policy on Child Labour was formulated in 1987. The protection limb of the law has therefore; to be long and strong sufficient if distributive justice to the adults of tomorrow is to be secured employment of children has continued thereafter to be a problem.¹⁰

The Policy seek to accept a gradual & chronological loom with a focus on treatment of children working in risky occupations & processes in the first case. The act Plan outline in the Policy for tackle this crisis is as follows:

1. Legislative deed Plan for firm enforcement of Child Labour Act and other labour laws to make sure that children are not working in dangerous employments, and that the working situation of children working in harmless areas are in time in agreement with the provisions of the Child Labour Act. It also entail additional recognition of additional occupation and processes, which are unfavorable to the health and protection of the children.
2. Focusing of General Developmental Programme for benefit Child Labour - As shortage is the root reason of child labour; the deed plan emphasize the have to wrap these children and their families also below a variety of poverty mitigation and employment cohort scheme of the Government.
3. Plan Based Plan of Action envisage starting of projects in areas of high attentiveness of child labour. Pursuant to this, in 1988, the National Child Labour Project (NCLP) Scheme was launch in 9 districts of high child labour society in the country. The proposal envisages operation of extraordinary schools for child labour inhibited from work. In the extraordinary schools, these children are provided formal/non- formal education along with professional teaching a pay of Rs.150 per month; extra nutrition and normal health checkups so as to get ready them to join regular conventional schools. Under the plan, finances are given to the District Collectors for management extraordinary schools for child labour. Most of these schools are scuttle by the NGOs in the district.

STRATEGIC ACTIONS

Applying a safety and health organization scheme

- Set an professional safety and health strategy with full contribution of workers.
- Allocate farm duties, responsibility and right for safety and health tricks in the workplace
- Plan the provision of skills and organization of the group including resource allotment.
- Plan risk evaluation.
- Country-wide survey to establish the survival, occurrence and scenery of child labour in both the organized and UN-organized sectors.
- Successfully implement child labour rigid legislation and rehabilitation of working children through enrolment in schools, overpass courses of education/life skills training/counsel etc.
- Link the child labour abolition pains with education actions to make sure that all children in the age group of 5-8 years get openly linked to school and the older children are mainstreamed to the proper education system through the rehabilitation centers.
- Guarantee meeting of national poverty abolition and developmental programs aiming at deterrence and progressive removal of all forms of child labour.
- Educate society not to employ children or inexpensively develop them.
- Safeguard the health, safety and developmental rights of working children with interim protective measures.

¹⁰ Report of the Director General ILO; Youth and Work, Part - II, 1960, P-311

- Ensure involvement of dedicated charitable organizations at the district level to assist.
- Initiate bridge schools for all working children after which they have to be enroll in the formal schools.
- Enlarge mechanisms to make sure that children, currently working in the informal sector counting domestic service, have admission to basic nutrition, clothing, education and protection from all forms of mistreatment and ignore.
- Ensure prevention of trafficking of children for family work and their sexual management and physical and mental maltreatment and neglect. Establish a system for reporting of such occasion
- Licence & control assignment services to make sure that children are not accessible for employment
- make certain execution of Inter State immigrant Workman's Act.
- fortify and implement the Child Labour (Prohibition and Regulation) Act, and the Bonded Labour System (elimination) Act to make certain examination of offenders.
- Ministries and Departments with explicit child budgets and strategy should ensure 100% expenses and should also augment budget in view of large child population.
- Where no unconcealed child budget is accessible in ministries and departments, the delineation should be made of child budget, expenses and monitoring

SITUATION OF GIRL CHILD LABOURER

There is modest credentials on girl child labour, which can also be seen as an confirmation of the invisibility of her labour though it contributes so broadly to the family and the society at large.

Worldwide conjugal and household work is very often not seen as work as such. Also, if a girl helps her mother in the household, it is in most parts unrecognized because homespun work is seen as an inexpert nature with low rank Their lack of educational or professional education due to the first choice given to boys, blocks their aptitude to move uphill. Because she lacks education, she has less leeway on the labour market and is only relegated to low-paid and inexpert jobs. This nasty cycle is solid to fracture because the broken young girl become the broken adult woman who often does not see her work as an economic movement but as under-valued.

The fact sheet of the *Andhra Pradesh Child Rights Advocacy Foundation* (A.P. CRAF) on girl child labour recorded that 145 million children are occupied in child labour worldwide. To say it in other words, one in every fifth children around the world is doing some class of work. This number can be busted along into two categories. The first one includes children among the ages of five and fourteen years. 93 million of them are working, often exposed to the worst forms of child labour. 39% of them are girls. Children between the ages of 14 and 18 form the second category and make up 69.2 million child labourers. Out of them, 42% are girls.

shortening the girl child labourer, they include:

- Unseen work which is not familiar as an economic activity and which is not below the purview of law
- no certain employer
- home-based work
- extensive working hours
- poor situation that prevent them from attending school
- no skill arrangement
- low reimburse and low grade
- physical cruelty and sexual nuisance

CHILD LABOUR- A STIGMA ON THE FACE OF SOCIETY :-

The observe of child labour has been fated as a breach of their basic rights and also for its unhelpful implied on the mental and physical wellbeing of children. still though the constitution says children cannot be employed in factories, mines, and others hazardous work places, there are many children who have at a halt working at restaurants and public carrying The root reason of child labour is great scarcity. Similarly, insufficient education and lack of alertness of society are other cause. abolition of poverty and education and alertness are a must if we were to get rid of child labour. Laws and policies associated to child labour should not be partial to papers only to insure children's rights to education, food and strength

LIMITATIONS

The mainly significant factor has been the cause most often for its indecent execution has been rareness of funds. However, there are other sorts of proof to show that the system suffered not so much due to lack of finances, but frequently due to frittering away of limited resources or by adopting of more luxurious events with smaller outcomes like institutionalization forecast for therapy.¹² There were other range of reasons too, exposed by a close inspection of the model of expansion and execution in the child labour reforms.

PENALTIES

Those employing children below 14 years of age for any work, not including where a child is helping his family post school hours or during holiday, can get up to two-year incarceration and utmost fine Rs.50,000, as per a new law which has got nod from President Pranab Mukherjee.¹¹ Whoever kidnaps any minor or, not being the lawful guard of a minor, obtains the keeping of minor, in order that such minor may be employed or used for the reason of suppliant shall be punished with captivity of either report of term which may expand to ten years and shall also be accountable to fine.

The new legislation bars employment of "pubescent -a person between 14 and 18 years of age-- in harmful occupations like mines and combustible substance or explosives.

The law, though, is not appropriate for a child working in films, announcement or television commerce.

The President has given acquiesce to the Child Labour (Prohibition and Regulation) improvement Act, 2016, on Friday and the law has been notified, officials said. The new law amends Child Labour (Prohibition and Regulation) Act, 1986 to augment the sentence for employing any child in an occupation besides penalty. It empowers the government to carry out periodic check of the places at which the employment of children is banned and perilous occupations.

CONCLUSION

The generally purpose of the study was to produce data on extent of employment and child labour amid children of 5 to 17 years of age, as well as the nature of work they execute, their working situation latent risks and property of employment on health and education of children. The study has produced consistent information for the expansion of the child guard policy and strategy It also allowed to review progress in the completion of the ILO Conventions 138 and 182 as compared to the data of the earlier NCLS (2007). The survey has noticeably strengthened national competence in numerical measuring of child labour in accord with the international values."even with the lessen of child labour rate, there is still high numbers of child labour and harmful child labour in the country.

Government has so been taking hands-on steps to tackle this problem through firm enforcement of legislative provisions along with immediate rehabilitative events

State government which are the fitting implementing authority , have been conducting regular inspections and raids to detect cases of violations. Since scarcity is the root cause of this crisis, and enforcement alone cannot help crack it.

The Supreme Court has heading for the state government in *M.C. Mehta v. State of Tamil Nadu*¹² to implement the constitutional necessities of the Factories Act for providing frivolous facilities and Medical aid to the workers of equivalent Factory act.

*In Rajangam v. State of Tamil Nadu*¹³ employment of children in beedi manufacture was considered as violating the Beedi and Cigar Workers (Conditions of Employment) Act, 1966 and the Child Labour (Regulation and Prohibition) Act, 1986. It is also been suggested that every employee working in this factory should be brought under a group of insurance scheme.

Government has been lay a lot of importance on the treatment of these children and improving the economic conditions of their families.

There is surplus of cases, Though India has positively made a marked progress in over all social development and implemented measures required necessary for the protection of the working children, there is still a need to make bigger the net of enforcement equipment required for enforcing various existing laws on child labour in the country.This is done,will centrally pave a long way of both the

¹¹ Section 363 (A) of the Indian Penal Code.

¹² AIR 1991,SC 417

¹³ (1992) 1 SCC 221; 1992 SCC (L & S) 105

progress of the nation and saving and nourish the future of millions of children working in both formal and informal labour force in Indian.

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