

Child Labour Law and its Implimentation in India

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Abstract: *The Children throughout the world are engaged in a great number of activities classified as work. These ranges from harmless, even laudable, activities like helping out in the home, to physically dangerous and morally objectionable ones. Child labor is a complex and a controversial issue. Unfortunately, it is a global phenomenon. In almost all societies, children work in some way, though the type of work they do and the forms of their involvement vary. However, many millions of children work under abusive and exploitative conditions that are clearly dangerous to them. India is not an exception. As per report, India ranks among top nations where the percentage of labor force constituting 'Child Labor' is very high. Like others, India too, have formulated laws in order to reform and bring an end to all forms of child labor, right from its inception as a free nation, but the ground reality is still very dismal in nature. A brief study of the various Socio-legal legislatures formed by the Indian Government, and its implications at the ground level, projects clearly, the road to reform is still a long way ahead.*

Keywords: *Child Labor, ILO, Poverty, Welfare, and Socio-legal Reforms.*

1. INTRODUCTION

Child Labor, actually viewed more as a social problem of a greater magnitude than other related problems connected with the development of human beings, is abnormally high in under-developed and developing countries of the world. There is no denying of the fact that children of today are the grown up citizens of tomorrow, of a country on whose shoulders its multifaceted development and growth wholly depends. It is in fact, in this context that the growth of the children into matured persons with adequate skills and knowledge, gained through support from the state, society and family, necessitate the all round development and growth of both the personality of the child and that of the nation. The governments of all developed countries and many developing countries have showed considerable attention to the needs and vulnerabilities of all children and young people. The existing relationship between State and Children includes relationship in all spheres like socio-economic and political. Indeed, the provisions of domestic statute along with a range of international treaties, rules, and conventions- impose obligation upon the state agencies not only to protect but also to promote their human rights. However, despite such official claims, historically-embedded, children's rights including their claims to care,

protection, welfare and justice are often neglected, if not blatantly violated, especially in case of Child Labor. This holds true in India as well.

2. CHILD LABOR IN INDIA

The In India the problem of child labor is quite alarming. It is said that roughly out of five children below the age of 14 years, one child is engaged in some kind of laborer work, which means 20 percent children are laborer out of the total populations of the children in the country. In fact, there is not proper source of regular collection of statistics on child labor. The only authentic source of collection of data on child labor is the Census conducted every 10 years by the Government of India in the country. According to the Census 2001, figures there are 1.26 crores working children in the age group of 5-14 as compared to the total child population of 25.2 crores. There are approximately 12 lakhs children working in the hazardous occupations/processes which are covered under the Child Labor (Prohibition & Regulation) Act i.e. 18 occupations and 65 processes. As per survey conducted by National Sample Survey Organization (NSSO) in 2004-05, the number of working children is estimated at 90.75 lakh. As per Census 2011, the number of working children in the age group of 5-14 years has further reduced to 43.53 lakh. It shows that the efforts of the Government have borne the desired fruits. However, despite this, still a major section of child population continuous to work under the banner of child labor. A close analysis of the state-wise data further revealed that Andhra Pradesh, still continuous to hold the top rank in terms of maximum number of child labor employed in varied section of the formal and informal sectors of economy in the state, followed by other states like Uttar Pradesh, Madhya Pradesh and Maharashtra. Of all the states and UTs in India, Lakshadweep was found to have the smallest number of working children below the age group of 5-14.

3. CAUSES AND CONSEQUENCES OF CHILD LABOR

Most writings on child labor often lack a theory or theoretical base for understanding the issue. In fact, it is difficult to find any theory that could explain the true dynamics of child labor issue. It is therefore; often assume that the nature and extent of

poverty in a country determine the number of its child labor. Therefore, the theory of poverty—, which often is also reflected in a poverty of theory—is also applicable to child labor. Poverty under a capitalist model of development is a systemic feature involving or requiring cheap labor force. The distributive regime under the capitalist development process is systemically skewed towards owners and managers of capital and its knowledge workers – the middle class. Therefore, the outer peripheries of this distributive regime remain generally impoverished and economically deprived, becoming a haven for child labor. The causes that leads to child labor are:

- i. Poverty
- ii. Parental illiteracy and ignorance
- iii. Tradition of making children learn the family skills
- iv. Absence of universal compulsory primary education
- v. Non-availability of and non-accessibility to schools
- vi. Irrelevant and non-attractive school curriculum
- vii. Social and cultural environment
- Viii. In formalization of production
- ix. Employment's preference to children for their cheap labor and inability to organize against exploitation
- x. Family work
- xi. Level of technology
- x. Apathy of trade unions

4. LEGAL PROVISIONS AGAINST CHILD LABOR

The Constitution of India has lay down that no child under the age of 14 years shall be employed in any mine or engaged in any hazardous employment (Article 24) and any contravention of this provision shall be an offence punishable in accordance with law. The directive principles of state policy in Article 39(e) provide 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 avocations unsuited to their age or strength. Article 39 (f) directs that the Children are given opportunities and facilities to develop in healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and moral and material abandonment. It has been made the duty of the state to raise the level of nutrition and the standard of living and to improve public health.

Legislation to control and regulate child labor in India has existed for several decades. Notwithstanding these constitutional provisions, there are a number of enactments in the country, which protect and safeguard the interest of child labor. The employment of children below 14 years of age has been prohibited under:

- i. The Children (Pledging Labor) Act, 1933.
- ii. The Factories Act, 1948.
- iii. The Mines Act, 1952.
- iv. The Motor Transport Workers Act, 1961.
- v. The Bidi and Cigar Workers (Conditions of Employment) Act, 1966.
- vi. The Plantation Labor Act, 1951.

However, it was in 1979, Government formed the first committee called Gurupadswamy Committee to study the issue of child labor and to suggest measures to tackle it. The Committee examined the problem in detail and made some far-reaching recommendations. It observed that as long as poverty continued, it would be difficult to eliminate child labor and hence, any attempt to abolish it through legal recourse would not be a practical proposition. The Committee felt that in the circumstances, the only alternative left was to ban child labor in hazardous areas and to regulate and ameliorate the conditions of work in other areas. It recommended that a multiple policy approach was required in dealing with the problems of working children. Based on the recommendations of Gurupadswamy Committee, the Child Labor (Prohibition & Regulation) Act was enacted in 1986. The Act prohibits employment of children in certain specified hazardous occupations and processes and regulates the working conditions in others. The list of hazardous occupations and processes is progressively being expanded on the recommendation of Child Labor Technical Advisory Committee constituted under the Act.

The Child Labor (Prohibition and Regulation) Act, 1986, while allowing children to engage in the process of family based work or recognized school based activities, prohibits children to work in occupations concerned with passenger, goods mail transport by railway, carpet weaving, cinder picking, cleaning of ash-pits, cement manufacturing, building operation, construction, cloth printing, dyeing, weaving, manufacturing of matches, explosives and fireworks, catering establishments in railway premises or port limits, Bidi making, mica cutting and splitting, abattoirs, wool cleaning, cashew-nut and cashew nut desalting and processing, 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 Labor was formulated in 1987. The Policy seeks to adopt a gradual & sequential approach with a focus on rehabilitation of children working in hazardous occupations & processes in the first instance. The Action Plan outlined in the Policy for tackling this problem is as follows:

Legislative Action Plan for strict enforcement of Child Labor Act and other labor laws to ensure that children are not employed in hazardous employments, and that the working conditions of children working in non-hazardous areas are regulated in accordance with the provisions of the Child Labor Act. It also entails further identification of additional occupations and processes, which are detrimental to the health and safety of the children.

Focusing of General Developmental Programmes for Benefiting Child Labor - As poverty is the root cause of child labor; the action plan emphasizes the need to cover these children and their families under various poverty alleviation and employment generation schemes of the Government.

Project Based Plan of Action envisages starting of projects in areas of high concentration of child labor. Pursuant to this, in 1988, the National Child Labor Project (NCLP) Scheme was launched in 9 districts of high child labor endemicity in the country. The Scheme envisages running of special schools for child labor withdrawn from work. In the special schools, these children are provided formal/non-formal education along with vocational training, a stipend of Rs.150 per month; supplementary nutrition and regular health checkups to prepare them to join regular mainstream schools. Under the Scheme, funds are given to the District Collectors for running special schools for child labor. Most of these schools are run by the NGOs in the district.

5. REHABILITATION OF CHILD LABOR

For rehabilitation of child labor, Government of India had initiated the National Child Labor Project (NCLP) Scheme in 1988. The focus area of this scheme was to rehabilitate working children in 12 child labor endemic districts of the country. Its coverage soon expanded to more than 200 districts within few years. Under the NCLP Scheme, children are withdrawn from work and put into special schools, where they are provided with bridging education, vocational training, mid-day meal, stipend, health-care facilities etc. and finally mainstreamed to the formal education system. The Ministry of Labor, Government of India, has also setup a National Resource Centre on Child Labor (NRCCL) at the V.V.Giri National Labor Institute, Noida in 1993, with the objective of creating a data bank of child labour and assisting the Central, and State Government, to develop schemes and programmes for elimination child labour in the country. Other measures for bring labor reform and eliminating child labor, made by the Union Ministry of Labor was in the year 1994, by constituting the National Authority for Elimination of Child Labor (NAECL), with the sole objective to withdraw, through suitable working mechanism, child labor found engaged in hazardous occupation and rehabilitate them through special schools. According to the Annual Report of the Ministry of Labor (1999-2000), the objective of the NAECL is "to secure

convergence of services for providing education, health and other inputs to children taken out of schools in cost effective manner by pooling the resources of various ministries

6. LIMITATION: REASON FOR FRAGMENTED IMPLEMENTATION OF LAWS

The most important factor has been the reason most often for its improper implementation has been paucity of funds. However, there are other sorts of evidence to show that the system suffered not so much due to lack of funds, but mostly due to frittering away of scarce resources or by adopting of more expensive measures with lesser outcomes like institutionalization prospects for rehabilitation. There were other various reasons too, revealed by a scrutiny of the pattern of development and implementation in the child labor reforms.

7. CONCLUSION

The Government of all developed countries and many developing ones have removed children from the labor force and required that they attend school. They believe that employers should not be permitted to employ child labor, and parents, no matter how poor, should not be allowed to keep their children out of school. Though India has definitely 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 expand the network of enforcement machinery required for enforcing various existing laws on child labor in the country. This if done, will certainly pave a long way of both the progress of the nation and saving and nourishing the future of millions of children working in both formal and informal labor force of India.

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