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Child Labour in India

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ABSTRACT

Child labour which is a global problem, is one of the greatest problems in India, as it affects a child in every way of his development. Not only in India but most of the developing countries are facing this problem. Some of the main causes of child labour in developing countries are poverty, unemployment of parents of those children who are engaged in child labour, not getting access or not being aware of free and compulsory education etc. There are many laws made by the government and many treaties, agreements made to prohibit child labour, but still, child labour could not be prohibited completely. Some of the major reasons why child labour still exists are because unemployment of parents of those children engaged in child labours and poverty. The remedy is in the hands of the government; it should take the necessary step to eradicate poverty by providing employment to parents of child labour and also by making child labour laws stricter and punishing those who violate it and by encouraging parents more to send their children to school. We can also help the government by not accepting child labours in mines or any field like factories or domestic settings. So it can be said that only the government alone cannot remove this problem we will also have to join hands and help our country to get rid of this problem completely.

I. INTRODUCTION

The 'Child Labour' is work performed by a child that is likely to interfere with his or her right to education or to be harmful to their health or physical, mental, spiritual, moral or social development. All work done by children under the age of 15 and dangerous work done by children under the age of 18 is illegal. Child labour is prohibited under international treaties and agreements.

Child labour has been a great problem in India as it affects children both physically and mentally. Child labour is a problem faced in most developing countries. There were many laws enacted to prohibit child labour, but they are all ineffective.

A major concern about child labour is that it often interferes with children's ability to attend and do well in school. But one must be careful about assuming that all forms of child labour necessarily interfere with school attendance and performance. Though full-time work (whether

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hazardous or not) is clearly incompatible with school attendance and performance, part-time child labour does not necessarily interfere with them when it occurs during the school holidays or for a few hours a week during the school year. Although it is uncertain the number of hours children may work during the school year before their school performance suffers, it is likely to be at least 2-3 hours per day or 15 or so hours per week²

No information is available to show how many of these children are working. The Census of 1931 gave the total number of persons engaged in gainful occupations-i.e. persons, excluding dependants, who obtain their livelihood by some form of labour, wage-earning or other-as 154 million³, but the number of children included in this total was not given. Moreover, it may be assumed that, following the example of the Census of 1921⁴, the Census of 1931 included only the children over 12 years of age among those who were helping in fieldwork. It is unquestionable, however, that large numbers of young children are working both in agriculture and in handicrafts.

It is equally impossible to estimate with any degree of accuracy the number of children employed as wage earners. Of the total number of persons gainfully occupied in 1931, 31.4 million⁵ were agricultural labourers, of whom 23 million were landless labourers or farm servants entirely dependent upon employers for a livelihood, while the. The non-agricultural or industrial labour population in British India was estimated by the Indian Franchise Committee of 1932 to be about 25 million, including labourers employed in organised and unorganised industries, commerce, and other kindred occupations⁶. Although no estimate has been made as to the number of wage-earning children, there is no doubt that considerable numbers of these wage workers are children. The Royal Commission on Labour in India found that children of 6 and 7 years of age were employed in organised industries, such as plantations and unregulated factories.

According to 2017 statics, India is one of the leading countries in Asia, has a whopping 33 million children employed in various forms of child labour.

² According to a study in Ghana, school attendance is negatively affected when a child works more than 10 hours per week (Addison et al., 1997). According to a study in the United States, academic performance of children aged 12-17 is negatively affected by 15 or more hours of work per week (Steinberg and Dornbush, 1981 cited in Government of the Netherlands, 1997). Somewhat contrasting results for the United States come from D'Amico (1984) who found that while employment for more than 20 hours per week increased dropout rates, employment for under 20 hours per week was associated with higher school grades.

³ East India (Census 1931) : Abstract of Tables, p. 12

⁴ Census of India, 1921, p. 240.

⁵ East India (Census 1931) : Abstract of Tables, p. 12.

⁶ India (Constitutional Reforms): Report of the Indian Franchise Committee, Vol. I, pp. 91-92. Cmd. 4086. London, H.M. Stationery Office, 1932.

1. India alone has 33 million child labourers
2. Rural India has the highest percentage of child labour, accounting for 80% of the total burden in India.
3. Children from rural India are most vulnerable to the vicious web of child labour in India.
4. According to Census 2011, the highest number of child labourers work in Uttar Pradesh.
5. Apart from industrial and agricultural tasks, many are made to work as maids, baby sitters by the privileged.
6. Did you know there is a 25 percent reservation for free education in private schools for children from lower economic backgrounds?
7. As per Census (2011), a little over 10 million child labours are under 14 years of age

Not all work done by children should be classified as child labour.

According to the ILO, Child Labour refers to work that deprives children (any person under 18) of their childhood, their potential and their dignity, and that is harmful to their physical and/or mental development. It refers to work that is mentally or morally dangerous and harmful to children; and/or interferes with their schooling by:

- depriving them of the opportunity to attend school
- obliging them to leave school prematurely
- requiring them to attempt to combine school attendance with excessively long and heavy work.

In its most extreme forms, child labour involves children being enslaved, separated from their families, exposed to serious hazards and illnesses and/or left to fend for themselves on the streets of large cities – often at a very early age. Whether or not particular forms of “work” can be called “child labour” depends on the child’s age, the type and hours of work performed, the conditions under which it is performed and the objectives pursued by individual countries. The answer varies from country to country, as well as among sectors within countries.

ILO Conventions and Recommendations also recognize that some forms of child labour are worse than others and allow for differences in the minimum age according to the type of work. The Minimum Age Convention, 1973 (No. 138) allows for a lower minimum age in less

developed countries (e.g. age 14) and for light work and non-hazardous work (e.g. age 12).⁷ Convention No. 182, adopted in 1999, calls for renewed efforts to eliminate intolerable forms of child labour (below age 18). National legislation frequently excludes certain types of light work from minimum age legislation; around 60 countries exclude family undertakings, and some 135 countries specify in law that exceptions to general rules may be made by the competent authority.

II. CAUSES OF CHILD LABOUR:

1. Poverty and unemployment levels are high.
2. Access to compulsory, free education is limited
3. Existing laws or codes of conduct are often violated.
4. Laws and enforcement are often inadequate.

Child labour exists because:

- people accept it and invent excuses for it;
- children's rights are not respected;
- governments do not provide compulsory, free and accessible education;
- international agreements and conventions are not observed;
- the education system excludes poor and vulnerable children;
- consumers worldwide demand cheap products;
- employers can benefit from cheap labour;
- there is no decent work for adults; we have not done enough to stop it.

III. A NATIONAL FRAMEWORK TO ELIMINATE CHILD LABOUR

Our Constitution provides special provisions for the protection of children. Some Articles are as follows – 15(3)31, 2132, 21-A33, 2334, 2435, 39 (e)36, 39 (f)37, 4338, 4539 and 51-A (k)40. In relation to the above-mentioned Conventions and Constitutional provisions, we have enacted special laws to eliminate child labour; some important ones are as follows.

1. The Children (Pleading of Labour) Act, 1933.

⁷ In Article 7, paragraph 1, ILO Convention No. 138 classifies light work by children as work which is "(a) not likely to be harmful to their health or development; and (b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received" (ILO, 1996c, p. 528). It should not be undertaken for more than the prescribed number of hours. A frequent condition in national law is that work only be permitted in a family undertaking or under parental supervision (ILO, 1996b, p. 35).

2. The Factories Act, 1948.
3. The Minimum Wages Act, 1948.
4. Plantation Labour Act, 1951.
5. The Mines Act, 1952.
6. The Merchant Shipping Act, 1958.
7. The Motor Transport Workers Act, 1961.
8. The Apprentices Act, 1961.
9. The Schools and Establishments Act, 1961.
10. The Beedi Cigar Workers (Conditions of Employment) Act, 1966.
11. The Child Labour (Prohibition and Regulation) Act 1986.

The Royal Commission on Labour in India made several recommendations for the amendment of the Indian Factories Act, and with a view to giving effect to these recommendations and to consolidating and amending the law regulating labour in factories, the Government of India circulated a draft Bill to local Governments and Administrations on 10 June 1932 in order to elicit public opinion. The Bill has three main objects : (1) the reduction of hours of work; (2) the improvement of working conditions; and (3) better observance, on the part of factory occupiers, of the requirements of the Act.⁸

Child Labour (Prohibition & Regulation) Act, 1986

Recognizing the increasing problem of child labour in India, the Parliament passed „The Child Labour (Prohibition and Regulation) Act, 1986’. The purpose of this Act was to declare child labour as illegal and make it a punishable act by any citizen of India. The Act is to bring to the notice of the people of this nation that there are child labour laws to protect the child. However, in spite of this, the situation has not improved, nor has it been brought under control.

IV. ROLE OF JUDICIARY IN SOLVING 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;

⁸ GOVERNMENT OF INDIA, DEPARTMENT OF INDUSTRIES AND LABOUR: Circular Letter No. L/301, 10 June 1932 ; Labour Gazette (Bombay), Jan. 1933, pp. 357-359. Since this article was written, the Factories Bill has been introduced into the Legislative Assembly. For a summary of its provisions cf. Industrial and Labour Information, Vol. XLVIII, No. 7, 13 Nov. 1933, pp. 203-205.

- (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 a 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.5000 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.20,000/25,000.00 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 framework (covering the cost of additional manpower, training, mobility, computerization etc.) implying additional requirement of funds.

Together we can stop child labour:

By no longer accepting it, not in mines, not on fields, not in factories, not in domestic settings and not in the products we buy...

Child labour is a global problem that requires a global solution. In India, Africa and Latin America, local authorities, teachers, employers, parents and children in child labour free zones work together to get children out of work and into school. They are all convinced that no child should be working: every child should be in school. These child labour free zones are successful and are continuing to spread to other areas and countries.

But real change requires more. This is why we call on governments, businesses and consumers worldwide to shoulder their responsibility. And work together towards a child labour free world.

The remedy is only in the hands of the government; it should take necessary steps to eradicate poverty through employment to the parents of child labour. Necessary practical steps should be taken to educate the children. The government should allocate the necessary funds to educate

and nurture poor children. The violators of child labour laws should be punished accordingly.

V. CONCLUSION

Poverty is one of the important factors for this problem. Hence, enforcement alone cannot help solve it. The Government has been laying a lot of emphasis on the rehabilitation of these children and on improving the economic conditions of their families.

Many NGOs like CARE India, Child Rights and You, Global March Against Child Labor, etc., have been working to eradicate child labour in India. Child labour can be stopped when knowledge is translated into legislation and action, moving good intention and ideas into protecting the health of the children. The endurance of young children is higher, and they cannot protest against discrimination. Focusing on grassroots strategies to mobilize communities against child labour and reintegration of child workers into their homes and schools has proven crucial to breaking the cycle of child labour. A multidisciplinary approach involving specialists with medical, psychological and socio-anthropological level is needed to curb this evil.

It is in this context that we have to take a relook at the landmark passing of the Right of Children to Free and Compulsory Education (RTE) Act 2009, which marks a historic moment for the children of India. For the first time in India's history, children will be guaranteed their right to quality elementary education by the state with the help of families and communities. The world cannot reach its goal to have every child complete primary school by 2015 without India. Although there have been significant improvements in the proportion of children from socially disadvantaged groups in school, gaps still remain. Girls are still less likely to enrol in school than boys; in 2005, for upper primary school (Grades 6–8), girls' enrollment was still 8.8 points lower than boys, for Scheduled Tribes (ST), the gender gap was 12.6 points, and it was 16 points for Scheduled Castes (SC). RTE provides a ripe platform to reach the unreached, with specific provisions for disadvantaged groups such as child labourers, migrant children, children with special needs, or those who have a "disadvantage owing to social, cultural economic, geographical, linguistic, gender or such other factors." Bringing 8 million out-of-school children into classes at the age-appropriate level with the support to stay in school and succeed poses a major challenge. Substantial efforts are essential to eliminate disparities and ensure quality with equity. Successful implementation of the Act would certainly go a long way in eradicating child labour in India.
