



Indian Scenario of Child Labour and Legislations

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ABSTRACT

Engaging children in any sort of work inhibits affects their fullest growth. Legislative provisions are formulated to prevent the menace of child labor. But the children are the most deprived section of population forced to earn a pittance or to contribute to family work sacrificing personal development. Poverty coupled with rapidly growing population, ignorance and increasing dependency load are behind the grim incidence of children employment in the villages and towns of developing countries. Though India is signatory of various international Conventions and Agreements, there is growing number of child labour in India. They work under very hazardous conditions. Given the magnitude and complexity of the problem, this article is an attempt to formulate integrated approach and various intervention strategies towards eradication of the problem of child labour.

Keywords: Labour , Assessment , Legislations , Implications.

INTRODUCTION

Children are the greatest gift to humanity and Childhood is an important and impressionable stage of human development as it holds the potential to the future development of any society. Children who are brought up in an environment, which is conducive to their intellectual, physical and social health, grow up to be responsible and productive members of society. Every nation links its future with the present status of its children. By performing work when they are too young for the task, children unduly reduce their present welfare or their future income earning capabilities, either by shrinking their future external choice sets or by reducing their own future individual productive capabilities. Under extreme economic distress, children are forced to forego educational opportunities and take up jobs which are mostly exploitative as they are usually underpaid and engaged in hazardous conditions. Parents decide to send their child for engaging in a job as a desperate measure due to poor economic conditions. It is, therefore, no wonder that the poor households predominantly send their children to work in early ages of their life. One of the disconcerting aspects of child labour is that children are sent to work at the expense of education. There is a strong effect of child labour on school attendance rates and the length of a child's work day is .Child labour restricts the right of children to access and benefit from education and denies the fundamental opportunity to attend school. Child labour, thus, prejudices children's education and adversely affects their health and safety.

DEFINITION

The term child labour has many definitions by different scholars. According to Suda (2011) the term child labour refers to when children is working in any type of work that is dangerous and harmful to children's health or the work hinders their education.

For Moyi (2011) child labour refers to low wages, long hours, physical and sexual abuse. According to Edmonds and Pavcnik (2005) child labour is viewed as a form of child labour abuse, when children work in bad conditions and hazardous occupations. The meaning of the term of child labour also varies among organizations.

ILO argues that child labour is difficult to define. It depends on the type of the job and, if the age is under eighteen and if the job intervenes the children's education and development (ILO: 2004). A child, according to 13 the UN Convention on the Rights of the Child (CRC) 1989 refers to a person under the age of eighteen.

LEGISLATION FOR CHILD LABOUR IN INDIA



Pre-independence Period

Several preventive measures have been initiated in India for regulating child labour during the pre-independence period by enacting important legislations like The **Indian Factory Act 1881** which defined "child" to be any young person below 12 years of age, and fixed the minimum and maximum ages for employment at seven and twelve respectively, and the hours of work at nine a day with an interval for rest of one hour, and a weekly holiday.

The Children (Pledging of Labour) Act, 1933 came into being to prohibit the pledging of labour of children. The Act lays down that an agreement, oral or written, expressed or implied, made by parent or guardian of child in consideration of some payment or benefit for causing or allowing the services of a child to be utilized in any employment, shall be void (Section- 3).

India passed the **Employment of Children Act, 1938**. The Act prohibits the employment of children who have not completed 15 years of age in any occupation connected with the transport of passengers, goods or mails by railways; or connected with cinder picking, clearing of an ash pit or building operation in the railway premises; or connected with the



work in a catering establishment at a railway station, involving the movement of the vendor or any other employee of the establishment for one platform to another or into or out of the moving train; or connected with the work relating to the construction of railway station or with any other work where such work is done in close proximity or between the railway lines; or connected with a port authority within the limits of any port [Section- 3(1)].

Post-independence Period

India's commitment to children is clearly manifested in its Constitution wherein several articles are incorporated dedicated to children, viz.:-

The Factories Act, 1948 prohibits the employment of child under 14 years of age in factories (Section- 67). A child who has completed the age of 14 years is not permitted to work in a factory for more than 4 hours in any day (Section- 71(1) (a)). They should not work at night i.e. twelve consecutive hours including the period from 10 P.M. to 6 A.M. (Section- 71(1) (b)).

Minimum Wages Act, 1948 provides for the fixation of minimum rates of wages in certain employments which have been specified by appropriate Government in the schedule of the Act. The Act made provisions for fixing minimum rates of wages for adults, adolescents and children (Section- 3).

According to **the Plantation Labour Act, 1951**, a child (below 14 years) or an adolescent between 15-18 years cannot be employed for work unless he is certified fit for work by a surgeon (Section- 26). The certificate of fitness is given by a certifying surgeon who certified that the person being examined by him is fit to work as a child or as an adolescent.

The Merchant Shipping Act, 1958 prohibits employment of children under 15 years in a ship, except in a school ship or training ship; or in ship governed by family members, or in a home trade ship of less than two hundred tons gross; or in a home trade ship of less than two hundred tons gross; or where such person to be employed on nominal wages and will be in the charge of his father or other adult near male relatives (Section 109).

The Motor Transport Workers Act, 1961 covers every motor transport undertaking employing 5 or more persons. The Act prohibits employment of persons under 14 years of age in any capacity in the motor transport undertaking (Section 21).

A National Charter for Children, 2003 emphasizes Government of India's commitment to children's right to survival, health and nutrition, standard of living, play and leisure, early childhood care, education, protection of the girl child, equality, life and liberty, name and nationality, freedom of expression, freedom of association and peaceful assembly, the right to a family and the right to be protected from economic exploitation.

The National Plan of Action for Children, 2005 emphasizes the role of Government to ensure all measures and an enabling environment for survival, growth, development and protection of all children, so that each child can realize his or her inherent potential and grow

up to be a healthy and productive citizen. ICDS is being universalized with enhanced rate of assistance for nutrition.

WHAT NEEDS TO BE DONE

Given the magnitude and complexity of the problem and the relative in effectiveness of the government, many non-government organizations and collaborative efforts by the government and non-government agencies are becoming more prevalent in recent years. Though many organizations are focusing on eradicating child labour by mobilizing community participation for universal primary education, there is a common attitude prevailing in our country to accept child labour as an unavoidable consequence of poverty.



There is a need to formulate a holistic, multi-pronged and concerted effort to tackle this problem. An integrated approach involving various strategies like poverty eradication programmes, Campaigns, budget advocacy, community action, engaging institutions of governance for the ultimate attainment of the desired goal.

Poverty Eradication Programmes

Poverty has an obvious relationship with child labour, and studies have "revealed a positive correlation - in some instances a strong one between child labour and such factors as poverty" (Mehra-Kerpelman 1996, 8). With the growing gap between haves and have-nots, poverty eradication programmes occupy a central position. The poor and needy should get their share in the development process. There is need to create and implement pro-poor, inclusive policies with strong political will. Caste is also an important determinant on child labour.

STRICT IMPLEMENTATION OF LEGISLATIONS

NGOs and voluntary organisations can do an intensive campaign to spread across the civil society organisations through networking to draw the attention of the policy makers, implementors and the community. The organisations working on any issues should involve in the campaign by putting the problem of child labour on the prime agenda. The campaign



should focus on the effective implementation of the various legislations. The strategies should be aimed at change at the local, provincial, national and/or international levels.

Budget Advocacy

The organisations need to take up the issue of budget analysis and advocacy for budget allocation for the implementation of the policies. Most of the time the policies are formulated without proper budget allocation which affect the process of implementation. Budget analysis is an advocacy tool for developing public understanding on policy priorities of the Government which will have a greater impact on those who have little political influence (poor and marginalized). It is important to scrutinize the Government Budgets from the perspective of child development.

Community Action towards Child Education

There is need to bring about wide spread public awareness towards initiating community action in promoting school enrolment. Education helps a child to develop cognitively, emotionally and socially, and needless to say, education is often gravely reduced by child labour. We need to create a conducive climate in which community people at large would not tolerate the child labour in any form any more. There is need to bring about awareness among the poor parents so that they will develop a willingness to make any sacrifice to get their children educated. It is possible only when they are convinced about the significance of education. Once the child is released from labour, the child should be admitted either to formal education or to informal education depending upon various factors like age, level of understanding. This should be accompanied with vocational training depending upon their own choice.

Engaging Institutions of Governance

The institutions of governance at grass root can monitor the policies, programmes and laws to ensure protection of children's interests and rights. Gram Panchayat can play a responsible role in identification of the projects in the Gram Panchayat areas and allocate employment opportunities to the needy. It can also ensure child participation and choice in matters and decisions affecting their lives. There is need to create community monitoring system through their effective participation in the Gram Sabha. Strengthening community participation in the whole process by way of conducting regular social audits of all the programmes is a prerequisite.

Elementary Education as a Right to Every Child

Investment for Education is investment for nation. Education is the most important investments that any developing country can make for its future. Education is the most effective tool for reducing child labour. But in India Elementary Education has been taken seriously and is a matter of consideration. This has been characterized by neglect of education of urban disadvantaged children, the girl child and disabled children and by low budgetary allocation.

Ensuring Right to Food even for street children

Malnutrition of children is one of the biggest public health problems facing the country. It adversely affects the growth and development of children including their learning ability, and



the capacity to cope with the problem of daily living. Female children are more undernourished than male children. Malnourishment is also higher in rural areas. Action Aid estimates that 212 Million People Suffer from chronic hunger and undernourishment in India. India is ranked 67th among 84 developing countries in the Global Hunger Index for 2013 prepared by the International Food Policy Research Institute. Food is the first among the hierarchical need of human being. Therefore, Food Security should have the first charge on the available resources.

POLICY IMPLICATION

Finally our major question is here: How is the Indian Government performing in combating the child labour problem in the era of globalisation? The answer is mixed. Challenges have been met in some areas like education, health and overall development of children in improving the situation since the early 1990s. India has not yet ratified ILO Conventions 138 and 182 on banning child labour and eliminating the worst forms of exploitation. A national law enacted in 1986 (The Child Labour Prohibition and Regulation Act), introduced compulsory education for under 14s and prohibited child labour in dangerous sectors.^{xiv} The Government prohibits forced and bonded child labour but not able to enforce this prohibition. The law prohibits the exploitation of children in the workplace. There is no overall minimum age for child labour. Work by children under 14 years of age was barred completely in "hazardous industries," which includes among other things, passenger, goods, and mail transport by railway.

Recently, a Supreme Court decision increased penalties for employers of children in hazardous industries to \$US 430 (20,000 Rs) per child employed and established a welfare fund for formerly employed children. The Government is required to find employment for an adult member of the child's family or pay \$US 108 (5,000 Rs) to the family. According to the South Asian Coalition on Child Servitude (SACCS) the authorities pursue thousands of cases every year against employers.

The Factories Act mandates an 8-hour workday, a 49-hour working week, and minimum working conditions. These standards were generally enforced and accepted in the modern industrial sector; however, not observed in informal sector and in less economically stable industries. In 1994, government created a National Authority for the Elimination of Child Labour (NAECL). The Ministry of Labour and Employment has been implementing the National Child Labour Policy (NCLP) through the National Child Labour Projects (NCLPs). Around 100 projects were launched under the NCLPs across the country during the Ninth Five-Year Plan (1997/02). The government has committed to extend the coverage of the NCLPs to an additional 150 districts with a budgetary allocation to over Rs 6 billion during the Tenth Five-Year Plan (2003/07). The ILO's IPEC programme along with the NCLPs scheme has started both integrated and state based approaches. The Integrated Area Specific Programme (IASP) started in 2000, looked at all interlinked issues that cause child labour at the district level. This has been completed. The state based programme covers a state as a whole. The Andhra Pradesh State Based Project (APSBP) is one example addressing the issue of child labour covering geographical boundary of the state with all sectors.^{xvi} The United Nation's Children Fund (UNICEF) supported initiatives are also operating in different districts. A great number of Non Governmental Organisations (e.g. Action Aid India,



Butterflies, CARE India, CINI ASHA, Prayas, World Vision India among others) both local and international also exist in assisting working children.

CONCLUSIONS AND SUGGESTIONS

Unless there are socially conscious policies in the country, the policies won't make that much of a difference. It is still true that things are not very good for children. Child rights need to be actively respected rather than simply acknowledged, and we must admit that more than the passage of laws and publicizing the same to stimulate the kind of debate in such a way that leads to attitudinal change. The problem of child labour can be best addressed by adopting various strategies ranging from enrollment and retaining children in the school, income generation avenues for adults, poverty eradication programmes simultaneously. The need of the hour is that the Government should ensure all measures and an enabling environment for survival, growth, development and protection of all children, so that each child can realize his or her inherent potential and grow up to be a healthy and productive citizen. This calls for collective commitment and action by all sectors and levels of governments and partnership with families, communities, voluntary sector, civil society and children themselves.

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