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Law to Combat Child Labour in India

Economics

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ABSTRACT

Law of India passes on the responsibility of combating child labour from society or nation to parents. Rrather to pass on the responsibility from nation to parents, it should be collectively carried out because children are the assets of the parents, society and nation as whole.

Introduction

July 2012 international conference, held in Washington, reconfirmed "slowing down of the global pace of reduction of child labour." The reason behind it was the breaking down of the socio-economic conditions of the world, in general and of India, in the particular. Therefore, the goal of the UNO to "Secure Right of Child" and "Decent Work for All" has been retargeted to achieve in 2016 rather than in 2015.

Introduction

India comprises 6.00 per cent of total number of children as a child labour. Steps taken to combat child labour is not satisfactory. The present chapter deals with law to combat child labour in India.

Objective

To know laws pertaining to combat child labour in India.

Methodology

Children belonging to 5-14 years are treated as child labour.

Literature Review

The pace of quantum change of the child labour depends on national policies and actions in the area of eradication of child labour (Miriam, 2003). National actions should be directed towards raising of awareness regarding negative effects of the child labour (Olivelra, 2003).There should be penal provision of country's law for banning child labour(Mehrotra and Biggeri, 2002). Indian Government has failed to free the bonded child labour that is bound to work in the exchange for a loan to his family (Coursen, 2003). Therefore, Poverty and income stability are key determinants of children's work (Dalep, 2010). However, Poverty alone is not the only factor but there are some other factors that compel children to work (Heather, 2011).

No literature is available showing law, income and child labour in an area which is characterised with concentration of labour force in agriculture along with declining share in GDP without labour transfer from agriculture to industry. Therefore, the present study has been carried out to find out the solution to combat child labour in South Asia, meeting above characteristics.

Analysis

Major factors responsible for Child Labour in India are (a) Parental poverty and illiteracy (b) Lack of enforcement of legal activities (c) Discrimination between male and female child (d) Dependency of parents on agriculture for livelihood (e) High growth of population (f) Less number of schools and infrastructure. To combat child labour following steps have been taken by the Government of India. (1) Indian Factory Act (IFA, 1881): It fixed the minimum age of employment at seven and maximum no. of working hours at nine per day with four months holidays in a year. IFA-1891 & 1954 disallowed the employment of children during night time. (2) Whitely Commission (1929): Rege Committee (1944) and Gurupadswamy Committee (1979) recommended regulating child labour. Based on these committees, child labour Prohibition and Regulation Act was passed by Government of India in 1986. (3) Indian Constitution (1950): Article-14, 15, 15(3), 19(1), 21, 21(A), 23, 24, 45, 36-e, 39-f and Directive Principles are certain constitutional protections which are adopted in India to prevent child labour. Through implementation of these constitutional provisions, India reiterates its commitment to the protection, safety and well being of children. Both the article-24 and Directive Principles prohibit the child labour in factories, mines and other hazardous occupations. Article-24 clearly states "no child below the age of fourteen years shall be employed to work in any factory or mines or in any hazardous employment." Article-45 makes provision of free & compulsory education for upto 14 years age group of children. Article-39-e lies down that no child be forced by economic necessity to enter unsuited occupations. Article-39-f makes a provision to provide healthy opportunities to children to maintain their dignities. (4) Bonded Labour Abolition Act (1976): It purports to abolish all debt agreements and obligations arising out of India's longstanding bonded labour. It orders the economic rehabilitation of freed bonded labourers by the state. (5) Child Labour Prohibition and Regulation Act (1986): It bans employment of children working in hazardous occupations. It defines child as a person who has not completed 14 years of age. It lays down penalties for violation of this provision. This Act accepts that chilld labour can not be abolished so long as poverty exists. (6) The National Child Lanbour Policy (1987): All the released children from employment in hazardous industries are provided educational services, non-formal, under the centrally sponsored National Child Labour Project (NCLP). It is operational in 100 districts in 13 states, in the areas of high concentration of child labour throughout the country. (7) Ratification of UNCRC -1989 (1992): India ratified United Nations Convention on the Right of the Child (UNCRC) in 1992 according to which India is bound to have international standard of children right. It provides following principles for examining the implementation of the convention:- (a) the principle of non-discrimination (Article-2), (b) best interest of the child (Article-3), (c) the right to life, survival and development (Article-6) and (d) respect for the views of the child (Article-12). (8) Unnikrishnan vs State of Andhra Pradesh (1993): The Supreme Court of India lays down a provision according to which right to education for children to be considered a fundamental right. It brought state initiatives to educate child labour. (9) M.C.Mehta vs State of Tamilnadu (1996): When gross violation of Article-24 takes place due to employment of child labour, Article-32 is imposed to stop child labour. The Supreme Court of India gave direction for immediate identification of children in hazardous occupations and their subsequent rehabilitations, including providing appropriate education to the released children.

(10) Ratification of UN convention: India has ratified only three conventions namely ILO Convention No.29, 105 and UNCRC.

Criticism of Law

(1) Almost all laws, in practice, are enforced only in organized sector where only 8 per cent of total child labourers are employed. It ignores unorganized sector where 92 per cent of total child labourers are employed. (2) So long as the child is not forced to work in an exploitative environment, the state does not take legal action. (3) The Act provides a list of hazardous occupations. It does not define what constitutes hazardous work (except 1936 Indian Factory Act.).(4) It does not clarify what the child labour should happen once the employer is prosecuted. However, after the initiative of the Supreme Court of India a provision of rehabilitation of child labour has been started but separate budgetary provision has not been made yet. (5) Under the law, the employer is supposed to notify the Labour Department of any children working in the establishment. This is akin

to asking the murderer to report the crime. (6) The implementation of Act depends on ill-equipped state's bureaucratic machinery. (7) The education of the child is important more for society rather than parents. Therefore, law empowers state to take punitive actions against parents who do not send their children to school. In practice, law should empower parents to do so. (8) Illiteracy is common in South Asian countries. It is a hurdle in getting benefits of constitutional protections. (9) Fees and fines charged to employers for violating law is a small part of profit generated by employing Child Labour. It encourages employers to employ Child Labour. (10) Constitutional Protections are unable to encourage political wills to combat Child Labour.

Conclusion and Policy Implication

Law of India passes on the responsibility of combating child labour from society or nation to parents. Parental income in India is not sufficient to meet out the children's needs. Therefore, rather to pass on the responsibility from nation to parents, it should be collectively carried out because children are the assets of the parents, society and nation as whole.

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