



Enforcing Ban on Child Labour in India A Socio Legal Perspective

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ABSTRACT

As rough weather will destroys the buds of spring so does too early an experience of life's hard toil blight the young promise of a child faculties and render any true education impossible. How true these (words of people Leo-XIII) sound in the context of children being forced to work. Enforcement of labour regulations in the formal sector may drive workers to informality because they increase the costs of formal labour. As a result, lower paid formal sector jobs become attractive to some informal workers, inducing them to want to move to the formal sector. Child labour is the one chief source for formal adjustment to the labour market. There is some effort to seed out this evil were made but their effect could at-best be said to minimal. The problem continues to grow and wide spread as an ulcer into society. This is a shame to the mankind and burning issue to our country from decade to decade.

KEYWORDS : Child Labour, Labour regulation, Labour in formal and nor formal sector, Role of education

Introduction

Child hood is an unforgettable period of one's life so a happy child hood is the right of every child and to facilitate the same is a concern of every welfare State, here happiness is not available to majority children. They exploited in work field being a labour which is essential for their sustenance. Child labour means the employment under a specified legal age; to avoid confusion, it's best to explain- "Child Labour i.e. working under the age of 18 in some way harms and exploits them physically, mentally and morally and blocks them from education. Child Labour is predominantly a rural/urban phenomenon. Rural areas account for 85% of child workers and the incidence of child labour is higher in rural areas than in urban areas. There are some urban pockets with high incidence and visible concentration of child labour, they works in the canteens and restaurants or engaged as domestic servants, picking rags and hawking goods, etc. those who are employed in hazardous industries for instances the fireworks and match box units, pencil industries and so on. Preference for the child workers are most common in un-organized sector as it is easy for the employer to circumvent laws and earn more profits by giving less wage. However, in cases where the child is working for someone else's establishment, then it is a violation of law. (Prohibition and Regulation Act, 1986) is concerned only with the engagement of children in certain employment and such lists of specific occupation (Part-A) and processes (Part-B). The occupations specified in the act include work in the Railways, Ports and the sale of fireworks and processes specified include Bidi making, Carpet weaving and the manufacture of soaps, Matches and Cement, which injures their health condition and development. Problem of child labour is a socio-economic issue and need to be looked into the backdrop of poverty and unemployment. Therefore, On 1st August 2006. The Ministry of labour, (Gov't of India) added the following occupations to the list of hazardous occupations, domestic servants, workers in Dhabas, Hotels, Motels, Tea shops, resorts, restaurants and other recreational centers were in effect from 10th October 2006 and banned all forms of child labour with stringent penal provisions like fine and jail. This amendment to the Child Labour Act, which extended the ban on employment of children below the age of 14 years as domestic helper in organized and non-organized sectors, has been largely ineffective till yet. The street children who have no families constitute one of the most vulnerable groups of child labour in Odisha.

Children cannot become the hope of the future unless they are properly brought up, educated and trained. Hence society at large should collectively think about this point and make every effort to prevent the growth of child labour in the society. Bringing child labour into International arena in focus with observation of certain strategies to stop the menace is an essential aspect to develop India. Our national goal to end child labour in all forms, not just the employment of children in stipulated conditions. Despite of all affords Child labor continues to be a great concern in many parts of the world, in 2010, some 60% of the 215 million boys and girls were estimated to be child laborers in worldwide out of which 115 million are working in hazardous occupations. The condition is worse in our country. As such Major engagement is in agriculture sector, followed by fisheries, aquaculture, livestock and forestry. In addition to work that interferes with schooling and is harmful to personal development, many of these children work in hazardous

occupations or activities that are harmful. Mumbai has the largest number of child labourers. According to ILO's "Accelerating Action against Child Labour" Report (2010) the child labourer has displaced the adult worker, leading to adult unemployment and creating a huge pool of black money in the country. The children perform unskilled activities that can be done by adults. This affects the labour market dynamics and adult unemployment negatively.

According to official sources of the labour department, they are facing with a practical problem when dealing with such cases in the unorganized sector: They aren't able to charge or fine the employers in such cases as they simply move shop. Officials said that children working in dhabas and other roadside establishments are employed by the unorganized sector. "Whenever we get a notification of such cases, we immediately investigate the matter. But according to law, we are supposed to fine the employer Rs 20,000. However, the employer just disappears and as a result the proceedings come to a halt," said a labour department official. According to officials of Child line a Union government initiative planned to curb child labour and crimes against children, there are catenas of such cases pending with them wherein the labour department and other government bodies have been unable to take action as the accused work in an unorganized sector and are difficult to trace. The children are victimized in every respect that means they are condemned to the life of misery squalor, ignorance and probably premature death. In India, besides poverty one major factor which has a strong relationship with child labour is caste. Lower caste children tend to be pushed into child labour of their family's poverty and social stigma and the attitudes of parents also contributes to the child labour. Some parents feel that children should work in order to develop skills useful in the job market, instead of taking advantage of formal education. Indeed the stark poverty compels parents to engage their children in any available opportunity, so that more hands can feed their half-starved bellies and in the context hunger evaporates their affection and the concern for the child's future. The combination of poverty and the lack of a social security network are also responsible for banned child labour. Non-availability of accurate and up to-date data on child labour has been a major handicap in planned intervention for eradication of this social evil. To prevent and to safe guard the interest and to prohibit child labour number of legislation have been enacted and child labour (Prohibition and Regulation) Act 1986 is one of them. The constitution of India Article-24, Article 15(3) and Article 23 and Article-39 (e) and development measures that are required to eliminate the child labour. These constitutional guarantees are only in the paper and reality is very shocking. There is no social security for children belonging to poor and weaker section of the society. They do not even redress their grievances before the authority if any harm caused to them therefore stringent action by the agency and enforcement of laws is only can check the malacie. The legal aid movement is any eye wash and temporary in every respect. The Apex Court in a significant judgment given on 10th December 2006, aimed at preventing exploitation of children and safe guarding their economic, social and humanitarian rights, banned child labour on hazardous jobs and ordered setting up a child labour "Rehabilitation Welfare Fund". It further brought into drastic changes in the legislative endeavor to protect child labour.

Conclusion:

Child labour is a national shame and one of the forgotten issues of our country. Undoubtedly, poverty is one among other on the seedbed for child labour and enhances the problem greatly. It is the socially and economically deprived section of the population who are working. Hence, enforcement alone cannot help to solve it. Thrust area is Rehabilitation of these children and on improving the economic conditions of their families. Ample of grounds come to the research but it is usually two in my view; that is one, a concern for the poor household that depends on the earnings of the child workers and secondly, the inability to enforce a ban on child labour in a situation of poverty.

The health conditions that have a deleterious impact on their physical ability and development, multiple remedies need to be adopted. The law must be enforced stringently, with strong mechanism for inspection and prosecution against the daredevils. Rescued children need speed educational intervention to prepare them for regular schools. It should also be made mandatory for all employers to take steps for intellectual, vocational and educational well-being and upliftment of child workers who were so far engaged by them. The Non-Govt. Organizations should make it a pertinent duty to convince the parents that a promising future awaits for them and for their children if they send their kids to the schools instead of work field and no matter in the sea of educated unemployment their children may get through and can expect a bright future instead of perpetuating their poverty and degradation by not doing so.

Many NGOs like CARE India, Child Rights and You, Global March against Child Labor, etc., have been working to eradicate child labor in India. The child labor 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 labor and reintegration of child workers into their homes and schools has proven crucial to breaking the cycle of child labor. 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 re-look 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 enroll 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). "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 may certainly go a long way in eradicating child labor in India.

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