



ENFORCEMENT OF LAWS AGAINST CHILD LABOUR IN INDIA

KEYWORDS

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ABSTRACT *ENFORCEMENT OF LAWS AGAINST CHILD LABOUR IN INDIA*

Childhood is that phase of a human's life which contributes significantly towards the development of one's personality. This very personality gets ruined when children at a tender age are forced to join the workforce of the country in place of joining schools. As per the report of the International Labour Organization (ILO), child labour can be defined as a practice which is mentally, physically, socially or morally dangerous and harmful for the children. The country is home to about 164.5 million children out of which 12.67 million are engaged as child labourers, which is indeed an alarming number. A huge population residing in India lives below poverty line (BPL) most of them being migrants and are deprived of the basic necessities to sustain their lives. The only solution to combat this menace is Education. The proposed study would highlight and bring focus on all the factors leading to the rise in child labour incidences in Delhi, the laws, enactments which were passed by the legislature at national and regional levels to improve educational facilities and its implementation. For the purpose of this research, data has been collected from newspapers, government reports, article and books. It includes field research which mainly comprises of observations, questionnaire, interview, case studies and few landmark judgments.

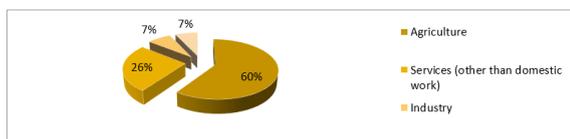
An Introduction to Child Labour

According to the **International Labour Organization (ILO)**, child labour is defined as the work performed by children, which is mentally, physically, socially or morally dangerous and harmful, interfere with their schooling, 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.

India is one of the major employers of children in the world, probably the highest. Even after 30 years of the passing of child labour (Prohibition and Regulation Act), 1986 not much has changed, in fact the situation has become more problematic. The laws are more focusing on the workforce in the hazardous industries leaving about 60% of the under-aged workforce untouched in households and on the roads in small-scale industries.

SECTORS INVOLVED IN CHILD LABOUR EMPLOYMENT

Agriculture is one of the major sectors where child labour persists. When it comes to agriculture child labour often occurs in tobacco-growing areas, and particularly in countries which are suffering at the hands of widespread poverty like India and which are under developed, and have political and social instability, low levels of education and awareness, a deficit of decent work opportunities, and poor infrastructure and social programs. Each and every nation has different social, political, moral background which can lead to this problem Hazardous child labour practices can lead to disastrous effects on a child's life.



FIVE MAJOR CAUSES OF CHILD LABOUR IN INDIA ARE -

- Poverty
- Illiteracy
- Lack of resources and legal policies
- Lack of opportunities
- Lack of awareness

All the five factors are inter-related with each other. Poverty leads to lack of resources, which further deprives them of access to education and leads to illiteracy and the cycle follows. It poses cascading effects

on the socio-economic development of a community. An increase in this practice would further lead the children low education, low income, low employment levels and even unemployment.

In Indian reference, there are several studies (at micro levels or macro levels) which shows that poverty is a main factor behind child work. Poverty compels millions of children to sell their labour at an age at which they should have gone to school.

Children work even in unjust conditions when the income of their family is not sufficient to meet the basic requirement of the family. Though child labour and poverty are intimately linked but, the complexity of the problem increases more when it is coupled with adult unemployment and underemployment, inadequate and intermittent nature of income, low standard of living and stagnation in agriculture. Apart from these factors, lack of educational facilities is another important factor for the higher incidence of child labour in India.

There are laws to avoid this problem but there is evasion of these laws too. Ignorance of law and improper implementation leads to a rise in child labour every year

THEORETICAL ASPECTS

BIRTH OF CHILD LABOUR IN INDIA

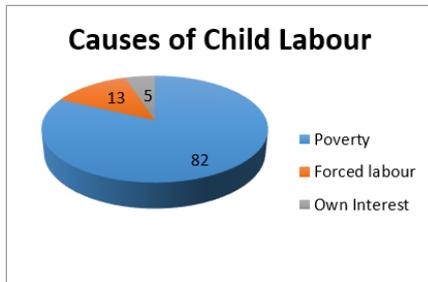
a) Illiteracy of parents and ignorance

One of the most usual problems that is witnessed is shortage of children coming to schools. Parents' positive attitude towards child's education is important in determining school attendance and academic achievement of the child. Parent's involvement in child's education has a significant effect on a student's outcome. People don't think it necessary to send their children to schools if they do not see any benefits in the same. This is one of the major reasons why they want their children to go out and work instead of pursuing their studies.

b) Poverty

It is one of the major contributors to the evils of child labour. People who live below poverty line do not consider sending their children to schools as a necessity rather they prefer that the children should act like an earning hand for the family. In India, approximately 172 million people are still living below poverty line and hardly able to manage two meals in a day. This is what drives them to engage their

children in hazardous labour and risk their future. About 82% children engaged in child labour belong to poor families.



c) Absence of effective primary education

International Labour Organization (ILO) makes clear the linkages between the elimination of child labour and access to quality basic education for all children. Despite of making education free for all it has been noticed that the quality of the education which is imparted is not very useful in keeping children away from working outside.

Promoting quality education for all is a key strategy in tackling the problem of child labour, both at state and national level. In the development of a child's personality the major role is played by the teachers. If teachers are ignorant child will suffer and ultimately would result into a failure of the whole mechanism.

It is a vicious cycle from which escape of a child is very difficult and sometimes even impossible. No single factor contributes to it but is combination of numerous factors and socio-economic reasons. All these factors are a part of a single cycle which leads to the practice of child labour. There is impairment of both physical and psychological health which often lead to permanent consequences over child's personality.

CONSTITUTIONAL AND LEGISLATIVE ENACTMENTS AGAINST CHILD LABOUR AND OTHER SCHEMES

- **Article 21-A** was added to the constitution through 86th amendment, 1997 which provides that the State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine." Right to Education Act was enforced as a fundamental right.
- **Article 24** of the constitution which prohibits the employment of children in factories. No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.
- **Child Labour Prohibition and Regulation Act, 1986** was the first step to lay down a law against Child labour in India. Some notable provisions made under the acts were:-

Some outstanding features of the act –

- makes more stringent penalties for employing children in factories, mines or other working areas.
 - It also established a child labour technical advisory committee, for adding to the list of occupations and processes in which the employment of child labour is prohibited.
 - It also gives power to the people to file a complain against any person who has employed or permitted a child below the age of 14 years in any occupation or processes.
- **National Child Labour Policy of 1987**- It includes three heads under which it was developed. The three heads comprised of Legislative action plan, focus on the programs for the benefit of children and Rehabilitation of children through education.

- **National Child Labour Project Scheme, 1988** - Numerous schemes were undertaken by the government with the objective

of eradicating child labour permanently from India. Keeping them away from the hazardous working areas and diverting them to education was its main goal. The schemes targeted the group of children under 14 years of age and those who are engaged in occupations listed by Child Labour (Prohibition & Regulation) Act, 1986 and the occupations which affects them either physically or mentally.

- **Sarva Shiksha Abhiyan (SSA)** scheme is in operation from 2001 and was started by the government to achieve the Universalization of Elementary Education (UEE) as the 86th amendment to the Constitution of India made free and compulsory Education to the Children of 6-14 years age group, a Fundamental Right.
- **Child & Adolescent Labour (Prohibition) Amendment Bill, 28 August 2012**

In 2012, an amendment was made to the Child Labour Act, 1986 putting a blanket ban on employing anybody below 18 years in hazardous occupation, increasing in the minimum age of child labour from 14 to 18 years. This will only allow employing children between 14-18 years in non-hazardous industries like forest gathering, child care etc. Children between 14-18 years have been defined as "adolescents" in section 2 to Clause a (i) in the Child and Adolescent Labour (Prohibition) Bill, 2012. The amendment prohibits employment of children up to 14 years of age, except in entertainment, sports or home enterprises but only in non-school hours without a subordinate relationship of work and labour. Employing a child below 14 years in any kind of occupation is set to become a cognizable offence, punishable with a maximum three years imprisonment or fine up to a maximum of Rs.50,000.

Landmark Judgments

M.C. Mehta v. State of Tamil Nadu AIR 1997 SC 699

MC Mehta, a lawyer concerned about the situation of children working in the firework industry in state of Tamil Nadu filed a case to prohibit it as it is a breach of child's fundamental rights. Few days later an accident took place in the firework industry in which 39 people were killed including children. SC took an action against the employer to pay a compensation of Rs. 20,000 to the victims of the accident. The court also pointed towards the harmful effects of child labour practice and the laws not being properly implemented. The court also stressed on strong steps to be taken legislatively, educationally and socially. The court also ordered to establish welfare centers for the affected children.

Court on its own motion v. State NCT of Delhi (2009)

The case came forth the Delhi High Court when employment of three children was brought to its notice. In the case, the court stressed over the fact that the laws are not properly implemented because there is a lack of coordination between different levels and departments of the government.

After this, **Delhi Action Plan for Total Abolition of Child Labour** was initiated laying down a strategy to abolish child labour in Delhi and establishing a better coordination between different departments.

Bandhua Mukti Morcha v. Union of India (1984)

In the case filed against the employer of bonded labour in Faridabad, Justice PN Bhagwati held that any practice of bonded labour will invite the Bonded Labour System (Abolition) Act, 1976. The reported pointed out the following practices being practiced :-

- the whole atmosphere in the alleged stone quarries was full of dust and it was difficult for anyone to breathe
- some of the workmen were providing forced labour and no facility of pure water to drink and the labourers were compelled to drink

dirty water.

iii) the labourers were not having proper shelter and some of the labourers were suffering from chronic diseases and no compensation was being paid to labourers.

IMPLEMENTATION OF LEGAL PROVISIONS IN DELHI

Since the passage of the **Child Labour (Prohibition and Regulation) Act, 1986** there are many changes which are made to deal with the problem of child labour in Delhi. There are countless laws in India but the problem lies with its implementation. Now let us have a closer look on how the laws against child labour are implemented. According to 2014 report, approx. 150 cases were registered related to violation of child labour laws in Delhi. Delhi is a massive hub of child labour, from rag-picking to restaurants, from small-scale industries to hazardous industries we find child labour everywhere. One of the main reason behind this is widespread migration of people from different locations to Delhi. People moving to the city in search of better jobs often end up gaining nothing because of lack of education and experience. This results in poverty and to survive in metro-cities like Delhi they force their children to work to get an extra earning hand thereby ignoring the consequences of this act.

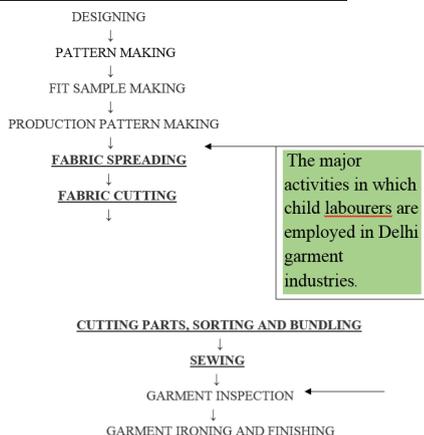
According to Child Right Activist and Nobel peace prize winner Kailash Satyarthi- most of the children in Delhi are trafficked for domestic work and hail from Bihar, Jharkhand, Odisha and eastern Uttar Pradesh. Children are trafficked to the national Capital from states and from here, they are taken to other states and big cities." Satyarthi said Bachpan Bachao Andolan and Kailash Satyarthi Children Foundation save 1,000-1,200 children every year.

- 5,254 children were rescued during the last five years by Bachpan Bachao Andolan.
- Highest number of employment of children in Delhi is witnessed in textiles and footwear industry.

EMPLOYMENT IN GARMENT INDUSTRY IN DELHI

Garment industry is one of the highest employer of child labourers in Delhi region. Delhi is a hub of child labour. The point is that even after knowing that child labour is prohibited by the law in the country a very high number of children are employed by these industries.

PROCESS INVOLVED IN GARMENT INDUSTRY



CASE STUDY

- A 12 years old boy is working in Garment industry in Tughlakabad district, Delhi. His parents migrated to Delhi from Bareilly few years back. He performs the activity of thread cutting from 8 AM TO 1 PM.
- A 14 years old girl working in garment industry of the same district performs the function of piece cutting. When asked how much did she earn, the girl said "Rs.5 per piece".



- When asked about their parent's occupation, most of the children's parents are working as low wage workers and are engaged in occupations like thread cutting, stitching, ironing clothes, cleaning in houses and so on and making a very small amount of income Rs.2000-4000 per month.
- A 10 year old girl, working in garment industry performs the stones pasting activity from 9 AM to 12 PM in the morning and helping her mother in her employment in cleaning the houses.

Pradesh like Agra and Bareilly. Delhi has highest no. of migrants who come from Uttar Pradesh. **Migration is one of the major causes of increase in child labour activities in Delhi.** Delhi faces highest migration from states like Bihar, Uttar Pradesh followed by Jharkhand and Orissa. With limited living place and non-availability of resources, their conditions remain the same or it becomes more difficult and at last they are forced to push their children into child labour.

Despite of having laws against child labour its quiet clear that most of the people do not bother to follow them, some aren't aware of the laws and others are just forced to push their children in the exploitive activities like for the sake of their survival.

Most of the people don't report the exploitation of their children because it's a necessity for them in order earn money, reporting the matter would obviously bring an end to their extra income. Law can never take an action under any of the laws made by the legislation unless the matter is reported to the judicial authority and its quite clear that people are reluctant in reporting the matter to the authority.

Unlike the judicial authorities, there are several organizations and NGOs which are working in order to rehabilitate these children and bring them into mainstream children population by providing them educational opportunity, training and taking care of their health and sanitation.

ROLE OF NON-GOVERNMENTAL ORGANIZATIONS

NGOs in Delhi have taken some very serious measures to bring the affected children to the mainstream education, health and sanitation, awareness. The main aim of the NGOs is to focus on exploitation of children, children suffering at the hands of child labour, education of the children by providing them a chance to learn and improve their lives. In recent times, government has taken some concrete steps for improving the situations of child labourers. NGOs have taken the following steps to deal with the problem

- Providing free education
- Encouraging parents to send their kids to schools with awareness campaigns
- Allocation of funds towards child health and development

NGOs have reached to those remote places in the capital where children are working under-age to help their families financially. The NGOs interventions also include:

- Awareness raising
- Social mobilization
- Encouraging community Participation
- Releasing children from work
- Providing vocational training
- Enrolling children in the mainstream schools and ensuring their retention

- Monitoring the functioning of schools

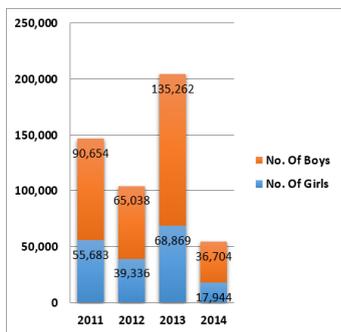
WELFARE CENTERS UNDER NGOS

- A visit to a welfare center named 'Satrangi Duniya' (Colorful world) run by a NGO revealed that students from the age group 6 – 14 attend the center and study from 2 PM to 4:30 PM. In the morning , most of them accompany their parents or work on other sites to earn a handful of amount. When the admissions in the main stream schools start these children are admitted to the government schools.
- Stationery like books, notebooks are all provided to them by the NGO thereby encouraging them for education and providing them an opportunity to move ahead. These centers also provides them with vocational training.



The strategy adopted is especially based on age. Older children (10-14 years) are put through a different course which equips them to catch up with the regular school- going children. Younger children are directly admitted to the mainstream schools. These centers also ensure minimum dropout rates and making education accessible to all the children in their centers equally.

Children in these welfare centers are also given Vocational training for instance stitching, weaving, crafting, making clay pots and other clay items, etc. This training is given to the batch of older children (10-14years). These children are also given training which would help them in getting decent work without getting employed in hazardous industries.



The above data shows the alarming number of children who go missing every year, out of which approx. 20,000 were from the national capital. Delhi is on third place in the list of worst states in context of missing children. These children are pushed into malpractices like begging, child trafficking thereby pushing them into a dark future ahead.

ACTION PLAN FOR ERADICATING CHILD LABOUR IN DELHI

In 2010, **National Commission for Protection of Child Rights (NCPDR)**, chocked out a systematic plan to abolish child labour from Delhi. As decided in **Court on its own motion v. State NCT of Delhi (2009)**, it undertook the strategy which comprised of two different strategies:-

- For the out of school children who are living with their parents in Delhi
- Children who have come from other States (Migrants)

The first strategy is for **out of school children**. Under this strategy, all children in the age group 6-14 years who are out of school will be identified according to area. This strategy was also called as the area-based approach and it was initiated from North – West District. The second strategy is to be adopted for **migrant child labour** which

involves the following four processes:

- IDENTIFICATION
- RESCUE
- REPATRIATION
- REHABILITATION

It was proposed for the south –Delhi regions where there exists a large number of migrant child labourers. Strategy undertaken by the authority was for meeting the following goals:

- Abolishing the problem of child labour and provide the affected children the quality elementary education
- To enroll all children in the age group 6-14 years in school and ensure their retention.
- To withdraw children from the work that they are doing and admitting them to mainstream schools.
- To prepare older children by integrating them into classes according to their age through bridge courses and vocational training.
- To build local institutions for protection of child rights.

The report of the commission also stresses on the enforcement of the **Child Labour (Prohibition and Regulation) Act (CLPRA)**, 1986 and **Delhi Shops and Establishment Act**, 1954, **Juvenile Justice (Care and Protection of Children) Act (JJA)**, 2000 and the **Bonded Labour System (Abolition) Act (BLSAA)**, 1976.

The commission stresses that none of the above objectives could be achieved until and unless the state and society works in cooperation mutually and effectively. For the state CHILD protection is an obligation and on the other hand society also has a duty to put a restraint on the activities which are carried out against children and deprives them of education and their legal rights.

The commission also made certain recommendation related to the rehabilitation of the children whose legal rights are been infringed. It comprised of:-

- Call for an impact assessment on children and their access to all their entitlements. This has to be gender and age specific.
- Within the policy itself all children belonging to SC, ST communities should be given special care and ensured continued schooling. The functioning of ashram schools, hostels, Integrated Child development services, scholarships and all other entitlements of children should be mandated.

INTEGRATED CHILD DEVELOPMENT SERVICES (ICDS)

According to census 2011 population of India comprises 158 million children who are in the age group of 0-6 years. These Children are the future of our country. ICDS is a program which was initiated for providing pre-school non-formal education. It also works to counter issues like malnutrition, high infant mortality rate and so on. The beneficiaries under the Scheme are children in the age group of 0-6 years, pregnant women and lactating mothers. Following are its objectives:-

The ICDS Scheme offers a package six services-

- Supplementary Nutrition
- Pre- School Education
- Health Education
- Immunization
- Health check ups
- Referral services

Convergence is one of the key features of ICDS scheme .This convergence is in – built in the scheme which provides a platform in the form of Anganwadi centers for providing all the services under the scheme. **ICDS** is running about 100s of Anganwadi centers running in South Delhi district located at Badarpur , Jamrood pur , Sangam vihar etc. The Anganwadi Centres are the operational units of ICDS scheme which benefit pregnant women, children and adolescent girls in enhancing their pre-school education, nutrition

and health.

Achievements of ICDS in Delhi

With adoption of the National Policy for Children in 1974 and launching of the Integrated Child Development Services (ICDS) in 1975, the era of the special trust of children's needs began. The first ICDS project was launched in India with 33 projects and **ICDS Jama Masjid** was the milestone project for the State of Delhi. Anganwadi centers have contributed significantly in reaching to the goals set by the the Government of Delhi. The JAMA MASJID Project began in 1975 and the schemes has expanded 50 centers and 6106 Anganwadi Centres covering approx. 7 lacs children below 6 yrs. of age as its beneficiaries.

- In Delhi, NGOs are running around 450 Anganwadi centres.
- In Delhi State, there has been a reduction in underweight children since the working of ICDS has started its working. As per the NFHS report, 34.7% children were under weight in the year but has decreased to 33.1 owing to Nutrition/Health Education Programme and immunization through ICDS network. For reduction in child malnutrition and control of anemia, we are seeking convergence with various programmes e.g. NRHM, MCD etc.
- ICDS has always been an inherent part of campaigns like Pulse Polio, Nutrition & Health Awareness conducted in the state.
- For adolescent girls especially school drop outs and economically weaker sections Kishori Shakti Yojana is running in 34 ICDS Projects in Delhi covering approx. 8856 adolescent girl beneficiaries.

Some of the important components under their working are as follows:

(i) Admitting children to Special Schools and preparing for their entry in the mainstream schools. The children in these schools are also provides with supplementary nutrition, stipend, health care services, etc.

(ii) Awareness Generation: It includes the activity which would make people aware of the evils of child labour. it is helpful in putting a halt on the entry of the children in hazardous employment. In order to achieve this' objective, continuous and sustained awareness generation programmes will have to be carried out on regular basis. For this purpose an enhanced budgetary provision amounting upto Rs. 1.25 lakhs per year has been earmarked in respect of each NCLP.

(iii) Convergence of Services: In the Tenth Plan of the policy the Scheme of **Sarva Shiksha Abhiyan** was initiated by the Department of Elementary Education and Literacy Ministry of child labour and Human Resource Department.

Conclusion

India is home to about 164.5 million children. The country is a developing nation and children are the future resource of this country. India is developing in economy, in agriculture, in transport, in international sphere at much faster pace than many other countries but that one thing which is a hurdle is the situation of the children caught in the cycle of child labour. Since independence, numerous laws and provisions are been made in order to tackle this problem but it still existing.

Whether India will ever be able to abolish child labour or not, it depend upon the people of the nation. The youth of the nation is the one who can make a difference for the bright eyes which are asking for help. No child should be engaged in any kind of work as a labourer both from legal point of view and child's future interest. Children are the only resources through which India can transform itself into a developed nation. Research has shown that change can only happen when the laws are properly implemented and people change their mindset. Education is the only way through which India and its children can achieve their dreams. It is the responsibility of the parents that they must send their children to schools instead of

working sites.

The laws in India against child labour are more based on the type of work that children do. There is a need to change this occupation centered approach to a Child centered approach which would focus more on the atrocities faced by the child labourers and would help in imposing much stricter laws. Laws must be dynamic and should be moulded according to the changing needs of the society only then they can prove to be effective.

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