



## CHILD LABOUR IN INDIA - PRESENT SCENARIO

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### INTRODUCTION

Every child is a gift of God –a gift must be nurtured with care and affection, with in the family and society. But unfortunately due to socio-economic and cultural problems, the code of child centeredness was replaced by neglect, abuse and deprivation, particularly in the poverty afflicted sections of the society. While child labour is a complex problem that is basically rooted in poverty. The strategy of progressive elimination of child labour underscores India's legislative intent, and takes cognizance of the fact that child labour is not an isolated phenomenon that can be tackled without simultaneously taking into account the socio-economic milieu that is at the root of the problem. An International Moral Code of Right and Wrong Behaviour said that "human rights and fundamental freedoms are the birthright of all human beings" and as a result such rights may neither be granted nor be taken away by legislation. The position of India in terms of child labour is not an appreciable one; with a credible estimates ranging from 60 to 115 million, India has the largest number of working children in the world. Whether they are sweating in the heat of stone quarries, working in the fields 16 hours a day, picking rags in the city streets, or hidden away as domestic servants, these children endure miserable and difficult lives. They earn little and are made to work more. They struggle to make enough to eat and perhaps to help feed their families as well. They do not go to school. Many of them have been working since the age of four or five, and by the time they attain adulthood they may be irrevocably sick and deformed they will certainly be exhausted, and in this way they are debarred from enjoying the basic human rights, which are essential for the advancement of one's personality. According to the statistics given by Indian government there are 20 million child labourers in the country, while other agencies claim that it is 50 million.

Child labour is a conspicuous problem in India. Its prevalence is evident in the child work participation rate, which is more than that of other developing countries. Poverty is the reason for child labour in India. The meagre income of child labourers is also absorbed by their families. The paucity of organized banking in the rural areas creates a void in taking facilities, forcing poor families to push their children in harsh labour, the harshest being bonded labour. That declaration stated that all ILO members have an obligation "to respect, to promote and to realize in good faith" a set of fundamental rights which include freedom of association the effective recognition of the right to collective bargaining the elimination of all forms of forced or compulsory labour the effective abolition of child labour and the elimination of discrimination in respect of employment and occupation.

### REVIEW OF LITERATURE

Leonel Figueroa, in Cornia, Jolly & Stewart study shows the effect of stabilisation policies have led to contractions in incomes and employment in the urban, modern sector, while reduced social expenditures have had a greater impact in rural area. There was an overall decline in real public expenditures in social sectors between 1977 and 1985, and in 1985 per capita food consumption was 26 percent lower than the already low levels of consumption ten years earlier. All these

converged and resulted in an overall decline of living standards of the population, higher morbidity, greater number of children prematurely in the labour market, and higher rate of school drop-out.

Robert Castle, D.P. Chaudhari, Chris Nyland and Trang Nguyen study shows the agricultural sector employed 76 percent of child labour in 1991. The percentage of child labour involved in manufacturing rose from 3.1 percent of total labour in 1971 to 5.7 percent in 1991. Out of the 12.7 million full-time child labourers, 35.2 percent worked as cultivators while 42.5 percent were agricultural labourers. Children in peasant families grow up assisting the family in various tasks. As observed by Jayadevan: The unemployed and underemployed are too poor to remain unemployed for any significant length of time. They have little choice except to end up taking any casual work wage labour on a day-to-day basis irrespective of the quantum of return. These hordes of casual workers suffer from frequent unemployment and mostly remain in abysmal poverty.

### ABOUT THE TOPIC

#### Rights of Children under International Law

The concept of equality of all human beings, as embodied in the Universal Declaration of Human Rights of 1948 stipulates under Article 25 para 2 that childhood is entitled to special care and assistance. The above principle along with other principles of the Universal Declaration concerning child were incorporated in the Declaration of the Rights of the Child of 1959. The International Covenant on Civil and Political Rights under Articles 23 and 24 and the International Covenant on Economic, Social and Cultural Rights under Article 10 made provisions for the care of the child. However the International Labour Organization (ILO) provides universal standards and guidelines. The ILO, a specialized agency of the UN, aims to provide guidance and standards for labour practices around the world. The International Convention and other international instruments, which deal with the subject of child labour are as follows:

1. Convention on the Rights of the Child, 1989.
2. Worst Form of Child Labour Convention, 1999; and
3. Worst Form of Child Labour Recommendation

The International Program on the Elimination of Child Labour (IPEC) is a global program launched by the International Labour Organization in December, 1991. India was the first country to join it in 1992 when it signed a Memorandum of Understanding (MOU) with ILO. The MOU that expired on 31.12.1996 has been extended from time to time and has recently been extended till 31st December, 2006. The long-term objective of IPEC is to contribute to the effective abolition of child labour. IPEC-India has, during the period 1992-2002, supported over 165 Action Programs. The Govt. of India and the US Department of Labour have also initiated a US\$ 40 million project aimed at eliminating child labour in 10 hazardous sectors across 21 districts in five States namely, Maharashtra, Madhya Pradesh, Tamil Nadu, Uttar Pradesh and NCT of Delhi. This project, popularly known as INDUS,

is being implemented by I.L.O. An estimated 80,000 children will be withdrawn and rehabilitated through this project. Support activities will also be directed to 10,000 families of former child workers. On 20 November 2009, the global community celebrates the 20th anniversary of the adoption by the United Nations General Assembly of the Convention on the Rights of the Child, the unique document that sets international standards for the care, treatment and protection of all individuals below age 18.

### **Rights of Children under National Laws**

India has all along followed a proactive policy in the matter of tackling the problem of child labour. India has always stood for constitutional, statutory and development measures required eliminating child labour. The Indian Constitution has consciously incorporated provisions to secure compulsory universal elementary education as well as labour protection for children. Labour Commissions in India have gone into the problems of child labour and have made extensive recommendations. The Constitution of India, too provides certain rights to children and prohibits child labour. Such provisions are as follows:

1. No child below the age of 14 years shall be employed in any factory or mine or engaged in any other hazardous work.
2. State, in particular, shall direct its policy towards securing that the health and strength of workers, men and women and the tender age of the children are not abused and that citizens are not forced by economic necessity to enter vocations unsuited to their age or strength.
3. Children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitations and against moral and material abandon.
4. The state shall endeavour to provide, within the period of 10 years from the commencement of the Constitution, free and compulsory education for all children until they complete the age of 14 years.
5. The state shall provide free and compulsory education to all children between the ages of six to 14 years in such a manner as the state may by law determine
6. Who is parent or guardian to provide opportunities for education to his child or the case may be, ward between the age of six and 14 years.

There are a wide range of laws, which guarantee to a substantial extent the rights and entitlement as provided in the constitution and in the UN convention. Some of them are given below:

1. The Apprentices Act, 1861
2. The Child Labour Act, 1986
3. The Child Marriage Restraint Act, 1929
4. The Children (Pledging of labour) Act, 1929
5. Children Act, 1960.
6. The Guardian and Wards Act, 1890
7. The Hindu Minority and Guardianship Act, 1956
8. The Hindu Adoption and Maintenance Act, 1956
9. The Immoral Traffic (Prevention) Act, 1956
10. Juvenile Justice Act, 1986
11. The Orphanages and other charitable Homes (supervision and control) Act, 1960
12. Probation of offenders Act, 1958
13. Reformatory schools Act, 1857
14. The women's and children's institutions (licensing) Act, 1956
15. The young persons (Harmful publications) Act, 1956

Apart from these laws mainly concerning children, there are a host of related welfare and criminal laws, which have beneficial provisions for the case, and protection of children. Even the laws relating to commerce, industry and trade have protective provisions beneficial to children. The first Act in India relating to child labour was the Enactment of Children (Pledging of Labour) Act of February 1933. The child of today is

the future of our country. So the investment made on children is an asset for the future of our country. As a child is not a vase to be filled, but a fire to be lit, they should not be exploited by engaging them in employment in tender age but they should be given all necessary amenities and support so that they become responsible citizens of the nation and make the world a happier place to live in. Children under fourteen constitute around 3.6% of the total labour force in India. Of these children, nine out of every ten work in their own rural family settings. Nearly 85% are engaged in traditional agricultural activities. Less than 9% work in manufacturing, services and repairs. Only about 0.8% works in factories. In 1979, Government formed the first committee called Gurupadswamy Committee to study the issue of child labour and to suggest measures to tackle it. The Committee examined the problem in detail and made some far-reaching recommendations. It observed that as long as poverty continued, it would be difficult to totally eliminate child labour and hence, any attempt to abolish it through legal recourse would not be a practical proposition. The Committee felt that in the circumstances, the only alternative left was to ban child labour in hazardous areas and to regulate and ameliorate the conditions of work in other areas. It recommended that a multiple policy approach was required in dealing with the problems of working children. Based on the recommendations of Gurupadaswamy Committee, The Child Labour (Prohibition and Regulation) Act, 1986 was passed. This Act prohibits the employment of children below the age of 14 in factories, mines and in other forms of hazardous employment, and regulates the working conditions of children in other employment. Sec.3 of this Act imposes prohibition on employment of children in dhabas, restaurants, hotels, motels, tea shops, resorts, spas or other recreational centres etc. Recently, child labour is totally banned by the government with free education and other facilities to the child upto the age of 14. The list of hazardous occupations and processes is progressively being expanded on the recommendation of Child Labour Technical Advisory Committee constituted under the Act. According to a 2001 census, an estimated 185,595 children are employed as domestic help and in small roadside eateries. Most child domestic workers in India are trafficked by placement agencies operating in states like Orissa, Jharkhand, Uttar Pradesh and Bihar. India has announced a National Policy of Child Labour as early as 1987, and was probably the first among the developing countries to have such a progressive policy. Through a notification dated May 26, 1993, the working conditions of children have been regulated in all employment not prohibited under the Child Labour (Prohibition and Regulation) Act, 1986. Further, following up on a preliminary notification issued on October 5, 1993, the government has also prohibited employment of children in occupations such as abattoirs/slaughter houses, printing, cashew de-scaling and processing, and soldering. Child labour would be abolished in hazardous occupations by the year 2000, reflects a national consensus and commitment. After this declaration, several far-reaching initiatives have been taken by the Government to effectively tackle the problem India's National Policy on Education, 1986 gives the highest priority to the program of universal elementary education, and recommends that free and compulsory education of sufficient quality be provided to all children up to the age of 14 years before we enter the 21st century. The present thrust is on three aspects, namely, universal access and enrolment, universal retention of children up to 14 years of age, and substantial improvement in the quality of education to enable all children to achieve essential levels of learning. All these aspects have been incorporated in the various initiatives taken up by the Ministry of Human Resource Development.

### **Role of Judiciary**

Indian higher judiciary has played good role in protecting rights of children and specifically in the case of child labour. The Supreme Court of India, in its M.C. Mehta Vs State of Tamil Nadu 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. Withdrawal of children working in hazardous industries and ensuring their education in appropriate institutions; 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; 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; 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; 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; as a follow up of the directions of the Supreme Court, all the State Governments were sent detailed guidelines on December 26, 1996 indicating the manner in which the directions of the Supreme Court were to be implemented. A meeting of the NAECL was convened on 31st December 1996 to discuss the directions of the Supreme Court on child labour. It was decided in the meeting that the Ministry of Labour should immediately release funds to the State Governments so as to enable them to conduct surveys of working children before June 10, 1997.

With child labour are filled with a high poverty level. These children have no choice but to go and work because if they don't they will starve and die. Child labour for these children is survival; there are no other chances for them. None of these children have the privilege of going to school and being able to go to a house at the end of a day. Most of these children work from the crack of dawn and don't stop working till late into the night. Child labour in India is a human right issue for the whole world. It is a serious and extensive problem, with many children under the age of fourteen working in carpet making factories, glass blowing units and making fireworks with bare little hands. According to the statistics given by Indian government there are 20 million child labourers in the country, while other agencies claim that it is 50 million. According to the statistics given by ILO and other official agencies 73 million children between 10 to 14 years of age reemployed in economic activities all over the world. The figure translates into 13.2 of all children between 10to14 being subjected to child labour. The child labour is prevalent at a large scale in the country. In Punjab it is found in hotels, restaurant, tea-stalls, rag collecting as domestic help in brick Killeen etc. for which

the authorities ,parents ,educationist, police and employers or responsible. There is lack of implementations of child laws .Since politicians and other authorities exert pressure not to prosecute the child law violators. There are instances of bounded child labour are found in Punjab but the authorities ignore it and the various departments for the implementation of labour laws either lack funds or lack will to prosecute the child law defaulters and the laws remain merely on the paper for which the lack of control of population and increasing unemployment or the major causes and the politicians fear to tackle these problems in view of their vote banks.

### SUGGESTIONS

The Govt. should take proper effective steps to decrease the population and give the employment to the parents of child labour. Necessary practical steps should be taken to educate the children. Provided the necessary sufficient funds to the organizations working for the education and removal of child labour. There should be effective implementations of child protective laws. There should be necessary prosecution of child labour defaulters. The involvement of the religious leaders, trade unionist and non government organizations and to tackle the child labour by forming advisory committees on child labour on block level should be there. The authorities should not bend before the pressure of the politicians while tackling the problems of child labour.

### CONCLUSION

At present, inspite of policy of the government regarding removal of child labour. The various steps taken in this direction and the laws passed about it haven't controlled the ongoing child labour. This is possible only with the co-operation of all sections of the society and the law enforcement agencies and by removing or minimizing the causes of child labour. The main thrust should be on controlling the population of the country, education of the children and providing sufficient funds for its removal from the gross domestic product of India.

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