



CHILD LABOUR IN ROADSIDE *DHABAS* ON NATIONAL HIGHWAY NO. 5 : A SOCIO - LEGAL STUDY (WITH SPECIAL REFERENCE TO THE STATE OF ODISHA)

Dr. Soumitra Kumar Chatterjee

Lecturer, Madhusudan Law College (Utkal University), Cuttack – 753003, Odisha.

ABSTRACT

Child labour is a concrete manifestation of violations of a range of rights of children and is recognised as a serious and enormously complex social problem. In India, the problem is one of alarming dimensions. One in every five children below the age of 14 years is a labourer. Over ninety percent of the child labourers are working in the unorganised sector and they are denied of their right to survival and development, education, leisure and play, and adequate standard of living, opportunity for developing personality, talents, mental and physical abilities, and protection from abuse and neglect. In this context, the author has attempted to discuss the problem of child labour in road side *dhabas* and has also suggested some remedies to tackle the problem.

KEYWORDS

Child labour, *Dhaba*, Unorganised Sector

1.0. INTRODUCTION

The existence of child labour in our society is a barbarous practice as it is illogical, inhuman and against all ethics. This problem has remained intractable even after sixty-eight years of our having independent, despite dozens of legislative enactments prohibiting the use and abuse of children in the workplace. Irrespective of various causes of child labour in India, most of the rural children are employed in agricultural sector whereas in urban areas they are employed mainly in the unorganised sector and most of them are bread winners, not the workers at leisure.

According to the statistics of International Labour Organisation (ILO), India has the largest number of working children. Though it is too difficult to present the exact statistical data about child labour due to informal and unorganised nature of labour market and lack of precise uniform definition of child labour, still different non-governmental sources depict that there are about 100 million working children in our country.

Today, there is virtually no sector in which a child is not found employed. In cities and towns they are engaged in almost every occupation like domestic and household services, hotels and restaurants, road side *dhabas*, construction work, trade and commerce, automobile workshops, tailoring shops, printing press etc. besides the traditional occupations. Reviewing the existing literatures, it was found that in national level a very few research works have been done on the problem of child labour in road side *dhabas* whereas not a single work from the socio-legal angle was noticed on the same in the State of Orissa and that is the driving force behind the attempt to conduct the present study. Accordingly, a case study of child labour in the road side *dhabas* on national highway no.5 passing through the State of Odisha was conducted to have a close view on the problem in this area as well as to study different dimensions of the socio-economic life of children employed in the *dhabas* along with the legal protections granted to them.

1.1. UNIVERSE OF THE STUDY

For convenience and also due to paucity of time and fund, *dhabas* on national highway no.5 from Panikoli to Khurdha in the State of Odisha were only taken as universe of the present research work.

1.2. FOCUS OF THE STUDY

In the present research work, a modest attempt has been made to examine the problems of child labourers at a micro level. The main objectives of the study are :

1. to assess the incidence of child labour in the study area;
2. to analyse their socio-economic background;
3. to find the factors responsible for compelling the children to

- enter into this work at such a tender age;
4. to look into the working conditions of the children at work; and
5. to know how far they are legally aware.

1.3. METHODOLOGY

The data for the present study was collected from primary and secondary sources. For the collection of primary data, field study was conducted in the study area. Approximately, there are more than two hundred *dhabas* along with the national highway no. 5 passing through the state of Odisha, and its number is 48 in the study area. But for the purpose of the present study only 25 numbers of *dhabas* were selected from the universe on random basis and two respondents from each workshop were interviewed. Relevant information were thus collected from 50 respondents and at the same time information were also collected from the employers of the selected *dhabas* to examine the views expressed by the child labourers.

1.4. HYPOTHESES

The present empirical study has the following hypotheses:

1. Poverty, lack of education and population overgrowth are the main reasons behind the problem of child labour working in *dhabas*;
2. Children employed in the *dhabas* work under deplorable and inhuman conditions; and
3. Child labourers in the study area are mostly unaware about the legal safeguards meant for their protection.

1.5. DATA ANALYSIS

1.5.1. Incidence of Child Labour

The present study reveals that the incidence of child labour is fairly prevalent in the study area. As per the statements of the interviewed employers of the selected *dhabas*, there are total 328 numbers of workers out of which 72 are children i.e. below the age of 14 years, which constitutes 21.95 percent of the total workers engaged in the *dhabas* and they are all male children.

1.5.2. Socio-economic details of the Sample Children

From the age structure of the surveyed child labourers, it is evident that the age group of 12–14 constitutes the major working group i.e. 88 percent as against 12 percent child labour population under the age group of 9–12. All the children working in the study area belong to Hindu community and are from the lower income group staying in the nearby villages.

So far as educational status of the surveyed child labourers is concerned, it is quite evident that 09 percent children have read up to Class V whereas 07 percent are totally illiterate. On the other hand, only 34 percent have the educational status of Class VI and onwards. The main reason for their discontinuance is the poor

economic condition of the family which constitutes 72 percent of the total children followed by 28 percent who do not like to go to school.

It is the large family size of the sample children, where their parents are unable to provide even a square meal per day, forced them to join the labour force at such tender age and thus, it is not at all possible to provide education to these unfortunate children by their parents. Rather it was observed that the parents of the lower socio-economic group have always a tendency to send their children to work as a result they could supplement a meager amount to their family income. In the study area, 11 percent child labourers have 07 and above family members. From the study it was found that only 09 percent among them have the annual family income of Rs.50,000 and above. Most of them i.e. 82 percent have income less than Rs.50,000 per annum. So far as monthly income of the sample children is concerned 34 percent of them get up to Rs.500 per month whereas 58 percent children get Rs. 501 – Rs. 1000 only per month. A very few i.e. only 08 percent children earn above Rs. 1000 against their labour. It was learnt that every child employed in the *dhabas* during first few months of his employment does not get anything as his wages but is given lunch and dinner only. During this period, 100 percent of the employers are of the opinion that they are the learners/trainees and therefore they are not eligible to get any wages.

1.5.3. Causes of Child Labour

The major cause of child labour as revealed from the study is poverty (36 percent). The employed children (32 percent) of the study area admitted the fact that their family members forced them to work and if they will not work and earn something, they will be driven out from their home by the elder members of the family or even by their own parents, whereas 14 percent of them are bound to earn something as there are no other earning members in their families. The percentage of illiteracy is 18 percent.

1.5.4. Working Condition

During the field study it was seen that most of the children i.e. 58 percent working in the study area were working as boys. They have to serve foods to the customers and also to clean the tables and wash the utensils. It is followed by the helpers (24 percent) who mainly help the cook and do different other related activities as and when necessary. Only 18 percent of them were found working in other miscellaneous works and are known as '*chhotu*', '*chuin*' etc.

During the study it was revealed that about 38 percent children work more than 12 hours a day whereas most of them i.e. 62 percent have to work for 8–12 hours. But in reward they earn a negligible amount and 85 percent of them are not paid for holiday or leave or extra remuneration even for their extra work.

Out of the health hazards at the worksite, 28 percent children are of the opinion that they suffer from various health problems like body pain, eye sight defect, skin burns etc. whereas 36 percent have to tolerate the ill treatment by the employers. Even 44 percent of the sample children do not

get any medical facility by their employers whereas only 34 percent and 22 percent of the respondents are provided with this facility regularly and occasionally respectively.

1.5.5. Legal Awareness

Although there are several provisions for the prohibition and upliftment of the child labourers in Indian Constitution and various other labour laws, still it is prevalent in the society. The most remarkable feature is that among the surveyed child labourers, 94 percent children are not at all aware about the legal provisions/safeguards meant for their protection whereas only 06 percent of them have just heard that they can be legally protected, but do not know their rights and what the law is!

1.6. LEGAL SAFEGUARDS

Realising the needs for putting curbs on child labour problem, the

framers of the Indian Constitution through Article 15(3) enables the State to make special provisions for the children. The essence of Article 21 provides the right to live with human dignity and to be free from exploitation. Similarly forced labour has been prohibited in Articles 23, 42 and 43 whereas Article 24 prohibits the employment of children below the age of 14 years as workers in any factory or mine or in any hazardous employment. Article 39(e) and (f) of the Constitution says that the State shall, in particular, direct its policy towards securing the health and strength of workers, men and women and tender age of children are not abused and the citizens are not forced by economic necessity to enter avocations unsuited to their age and strength and that 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 exploitation and against moral and material abandonment. At the same time Article 21 A and Article 45 deal with the provisions relating to education for the children.

In addition to the Constitutional mandates, a number of legislations have also been enacted which directly or indirectly deal with the welfare of child labourers. Among them, the notable enactments are Factories Act, 1948; Plantations Labour Act, 1951; Mines Act, 1952; Motor Transport Workers Act, 1961; Apprentices Act, 1961; Beedi and Cigar Workers (Condition of

Employment) Act, 1966; Different States' Shops and Commercial Establishment Acts; Child Labour (Prohibition and Regulation) Act, 1986 etc.

To protect the interests of the child labourers who are deprived of their basic human rights, Supreme Court of India has delivered a number of noteworthy decisions on the subject among which *People's Union for Democratic Rights and Others v. Union of India*¹; *Labourers Working on Salal Hydro Project v. State of J & K*²; *J.P. Unnikrishnan and Others v. State of A.P. and Others*³; *Bandhua Mukti Morcha v. Union of India*⁴; *M.C. Mehta v. State of Tamil Nadu*⁵ etc. can never be ignored. In the latest decision of *M.C. Mehta v. State of Tamil Nadu*⁶, the Supreme Court issued the directions to the State Governments regarding fulfillment of legislative intention behind the enactment and ordered to set up a corpus fund with a Rs.25,000/- contribution by the employer of a child labourer employed in a hazardous industry. Besides, every offending employer will have to pay Rs.20,000/- as compensation for violation of the Child Labour (Prohibition and Regulation) Act, 1986 and thus totally banned the child labour in hazardous industries and directed the Government to ensure compulsory education to the children.

1.7. DIFFICULTIES WITH THE IMPLEMENTING AUTHORITIES

So far as inspection and prosecution for the violation are concerned, it was learnt that the implementing authorities under different laws for granting protection to child labourers are inadequate in number and handicapped with various infrastructure facilities. Lack of interest, paucity of time, other humanitarian considerations etc. have also contributed for non-implementation of different labour laws meant for the protection of working children. Moreover, the parental poverty and the country's socio-economic condition have allowed the inspecting authorities to be the silent spectators and to continue the practice as such.

1.8. SUGGESTIONS

Keeping the above facts in view, the following suggestions are offered to tackle the problem of child labour in the study area to some extent :

1. In the present research work it was revealed that most of the children have large family size. To check this population overgrowth, enforcement of Uniform Civil Code is suggested by which, though indirectly, the population explosion could be checked to some extent. Of course for this, sufficient propaganda, seminars, workshops, meetings, advertisements etc. are definitely necessary and the social/voluntary organisations should come

forward for this noble step as the parents of the lower socio-economic group are not ready to realise easily the evil consequences of large size family.

2.As poverty is the main cause of child labour problem in Indian society, it is to be minimised by providing better employment opportunities to the poor or by providing some allowances to the rescued child labourers.

3.Proper educational facilities i.e. free and compulsory education up to the age of 14 years should also be provided to the child labourers positively and therefore provisions of the Constitution should be applied in a mandatory way taking the parental poverty into consideration at the same time.

4.The problems before the law implementing authorities should be eradicated sincerely and a separate wing for the protection of child labourers should be created in district level.

5.After rescue of the child labourers there should be proper rehabilitation facilities otherwise, there is every chance for these children to come back for joining the labour force.

6.Vocational training need be imparted to the children to make them economically independent in their adulthood.

7.Last but not the least; while the practice of child labour has been approved by the Child Labour (Prohibition and Regulation) Act, 1986, practically it is too difficult to eradicate this problem. Therefore the said Act should be amended properly and no exception should be made in any Act to legalize child labour even if the work is carried on with the aid of family members.

It is hoped that by taking these steps, the intended goals could be achieved.

REFERENCES:

1. AIR 1982 SC 1473.
2. AIR 1984 SC 177.
3. AIR 1993 SC 2178.
4. AIR 1984 SC 802.
5. AIR 1997 SC 699.
6. Ibid.