



CHILDLABOUR IN INDIA – CRITICAL ANALYSIS

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ABSTRACT

Child labour is considered as a serious form of violation of human rights. Human rights of little human being get violated very frequently. The future of nation depends upon the overall development of the children of nation. Therefore, it is moral as well as legal responsibility of nation to protect rights of children. Child labour is one of problems which fail states to make future citizens as educated, well developed. There are many causes of child labour including poverty, unemployment of adults, illiteracy, poor standard of living etc. Only family is not main cause of child labour but society at large is also responsible for child labour. Child labour has many disadvantages as children are being deprived from their fundamental rights, but it has advantage also as it trains children some kind of work, make ready for future, and learn disciplines and protect them against delinquency. But advantages are very less than disadvantages as it is means of exploitation, malnutrition, health hazards etc. No doubt child labour supports poor family economically, therefore to prohibit child labour totally may be impossible as it will deprive support of family and may cause to increase crimes rate in India. Therefore, it is necessary to regulate the employment of children. The Constitution of India and other laws are existing to prohibit and regulate child labour. This paper has objective to study meaning, causes of child labour, to study constitutional provisions and to see provisions of The Child Labour (Prohibition and Regulation) Act, 1986. Even though total eradication of child labour is not possible but some efforts can be made to reduce it. Therefore, this paper concludes with some suggestions and conclusions.

INTRODUCTION

Child labour is considered as a serious form of violation of human rights. In this form particularly human rights of little human being is infringed very frequently. The future of any nation depends upon the present little's of the nation, therefore they are treated as "Future of Nation". The overall progress and development of children of country is necessary and inevitable. Hence it is always constitutional as well as moral obligation of State (Nation) to protect rights of children and to ensure their mental, moral, physical, psychological and educational growth. But child labour is treated as an obstacle for nation to perform its obligation. Child labour exist all over the world be it any nation developed, undeveloped, or developing. It is said that problem is more serious in developing, and undeveloped countries. According to estimates, there are more than 250 million working children between the ages of 5 and 14 in developing countries and the majority of child workers live in the developing countries of Asia, Africa and Latin America; but there are also child labours in many industrialized countries.¹

¹Surendra Kumar Yadav and GowriSengupta, " Environmental and Occupational Health Problems of Child Labour: Some issues and Challenges for Future", J Hum Ecol, 28(2)



The definition of child labour can't be find which would be applicable all over the world due to age factor involved and more over nature of work done by children in their employment. Every work done by child can't be treated as child labour as such process may include the intention to learn importance of work and to make ready child for future occupation. Hence child work and child labour these even though look similar but these are different. Child work involves to strive or to develop the natural abilities and potentialities of child, but when work becomes means for the fulfilment of some other needs, exploitative and deleterious in nature it converts into child labour.

Committee on Child Labour 1979 defined child labour as “that segment of child population in work either paid or unpaid”.²

Hommerfalks, Chairman of UN Child Labour Committee, has defined child labour as or any work by children that interfere with their full physical development, their opportunities for a desirable level of education of their needed creation.³

Therefore, child labour means employment of children in occupations which are injurious to their physical, mental, moral, social and over all proper development.

CHILD LABOUR IN INDIA

India has the largest number of children employed than any other country. According to the statistics provided by the Government of India around 90 million out of 179 million children in the age group of 6 to 14 don't go to school and are engaged in some occupation.⁴

India being an agricultural country, before industrial revolution huge number of children's was engaged in agricultural sector. Industrial revolution engaged children in industrial organized sectors like carpet, matches, firecrackers, bidis, brassware, diamond, glass, hosiery, leather, bangles, sporting goods, plastic etc. Large numbers of children are employed in an unorganised sector like domestic servant, hotels, restaurant, wayside shops, newspaper selling, family business, agriculture etc. In all these sectors children work for number of number of hours beyond physical capacity, in unhygienic condition at workplace, at low wages than adult.

The engagement of child in labour result into illiteracy as these children can't attend school during work time. Where children have migrated to urban for work don't have residence to stay or due to poor wage they are forced to stay in slum colonies where basic amenities like water, sanitation, electricity lack. They spend night either in night shelters or on footpath. Due to very young body they get tired easily but still they continue to work. The working place is unhygienic, no ventilation and bad light. For long hour thy have to sit in uncomfortable position. In carpet waving they sit in crouched position for 8 hours a day because of which their legs and joint become stiff and their growth get retarded. The continuous concentration on loom leads to pressure on eyes. In match and fireworks industry, fumes from chemical, intense heat run the risk of being badly injured. In glass industry like glass or bangles factory their lungs affect from silica dust causes silicosis, intense heat including in manufacturing process affect body cell and may cause in accidental burns and

²S.S. Jaswal, Child Labour and the Law(1996), Deep &Deep Publication, p.13

³ibid

⁴www.ecoindia.com/views/labour.html retrieved on 10/4/2015



other injuries.⁵ In agricultural work they come in contact with pesticides and fertilizers which lead to health problems.

CAUSES OF CHILD LABOUR IN INDIA

The basic reasons for child labour are poverty, unemployment, low wages, illiteracy, poor standard of living, ignorance etc. Nearly 300 million people live in extreme poverty in India⁶ and this is deprived them access to basic services including food, education, health, water and electricity. To fulfil family's basic needs of food, shelter children engage themselves in work. Adult family member don't have jobs or even if they have job, they are poorly paid due to their unskillness. Continuously rising inflation makes many lower strata families to compel their children to work.

Illiteracy is another cause of child labour. Illiterate parents don't understand advantage of education and they feel that educated children would not help to feed them. Hence they prefer child labour than work. Hence children form integral part of the household economy. They are trained while still young and gradually start contributing individually to family's income.⁷

Even though reasons for child labour seem different but they are inter-related with each other. Today's industrial and technological development has replaced human being with machineries. For production now special skill is required to be obtained. But due to illiteracy parents fails to learn that skill, children due to their ability to acquire skill learn all things very easily. On other side rising inflation requires more money for family survival. Parents' poor pay due to lack of skill and inflation forced parents to employ their children even though they are paid less than adult.

Here only family is not main cause of child labour but society at large is also responsible for it. Employers employ such children because it is ultimately results into economic profits to them as they pay low wages to children. Children are always honest, sincere in their work, due to tender age they acquire skill very early, they perform work more accurately than adult. Some of employers treat that by employing children, they try to help their poor families hence performing their social responsibility towards nation.

LAWS IN INDIA

No doubt child labour supports poor family economically, therefore to prohibit child labour totally may be impossible as it will deprive support of family and may cause to increase crimes like theft, robbery, gambling etc. Therefore, it is necessary to regulate the employment of children rather than prohibiting it totally. For some kind of simple work children can be employed and total prohibition for hazardous work can be possible. The Constitution of India and other laws are existing to prohibit and regulate child labour.

The Constitution of India ensures justice, equality to all. India is democratic and welfaristic nation, its constitution confers fundamental rights under Part III of the Constitution to citizens and also set out certain goals to be achieved by state in governance of

⁵Mohd Mustafa &Omkar Sharma, child labour in India- a bitter truth(1997), Deep & Deep Publication, p.5

⁶ Rediff.com>business retrieved on 10/4/15.

⁷ Supra note 5, p.7



country by state under Part IV. Fundamental rights include rights of children too. Therefore children are also entitled for all those rights which are applicable to adults of nation. But some fundamental rights are applicable to children specifically as such specific rights give them preferential treatment which they do require due to tender age and inherent weakness.

Art. 15(1) of the constitution ensures not to be discriminated against any citizen on the grounds of religion, race, caste, sex and place of birth or any of them.

Art.15(3) enables the state to make special provision for women and children.

Art.21A ensures right to free and compulsory education to all children of the age of 6 to 14 years.

Art.23 prohibits traffic in human beings and beggar and other similar forms of forced labour.

Art.24 prohibits employment of child below the age of 14 years to work in any factory or mine or engaged in any other hazardous employment.

Art.39(e) directs the state to make policies in such manner so as to secure health and strength of workers and the tender age of children are not abused and that citizens are not forced to enter avocations unsuited to their age or strength due to economic necessity.

Art.39(f) directs the state to frame policies so as to give opportunities and facilities to children to develop in healthy manner and in conditions of freedom and dignity and to protect childhood and youth against exploitation and moral and material abandonment.

Apart from constitutional provisions there are number of legislations⁸ have been enacted to prohibit or to regulate child labour. The main and prime Act is Child Labour (Prohibition and Regulation) Act, 1986. This Act does not prohibit employment of child totally. The aim of the Act is to prohibit the engagement of children in certain employment and to regulate the condition of work of children in certain employment. S. 3 of the Act prohibit employment of child who has not completed 14 years of age in any occupation specified in Part A of schedule given in Act or in any workshop where any process specified in Part B of schedule carries on. But training centres and family units are not covered under this section. The Central government has power to amend the schedule by notification after giving 3 months' notice of its intention. The Act also lays down provision to set up Child Labour Technical Advisory Committee to advice government for addition of occupation and processes in schedule.⁹

Part III of the Act applicable to such establishment which are not covered by schedule under s.3 of Act. In such establishment to employ child is permitted but this part regulate condition of work of children in such cases. S.7 of the Act regulates hours and period of work. As per this section no child shall be permitted to work continuously more than 6 hours per day with rest period of one hour after 3 hours of work. No child shall be permitted to work between 7p.m. and 8 a.m. and overtime. The provision is also there for weekly holiday.¹⁰ Such establishment where child labour is allowed is required to give notice to Inspector appointed by appropriate government under this Act. Such notice must contain particulars relating to and establishment like name, address, nature of process, management. Such establishment is required to maintain register of child labour specifying the details of

⁸Like The Children(Pledging of Labour) Act, 1933; The Employment of Children Act, 1938; The minimum wages Act, The Factories Act, 1948 ; The Mines Act, 1952; The Apprentices Act, 1961 etc.

⁹S.4 and s. 5 of Act respectively.

¹⁰S.8 of the Act.



child labour such as name, date of birth, work permitted, nature of work, hours and periods of work including intervals of rest. Similarly Act is made mandatory to occupier to display notice containing abstract of s.3 and s.14 of the Act.

S.14 of the Act prescribe the penalties for contravention of S.3, the occupier shall be punishable with imprisonment from 3 months to 1 year with fine of Rs. 10,000 to Rs.20, 000. For repeated offence punishment shall be from 6 months to 2 years imprisonment. Failure to give notice to inspector, to maintain register, and to display notice containing abstract of s.3 and s.14 shall be punishable with simple imprisonment which may extend to 1 month or fine up to Rs.10, 000 or both.

The one more advantage of the Act is that any person, police officer or Inspector may file a complaint in any court of competent jurisdiction. Metropolitan Magistrate or a Magistrate of the First Class has power to try cases under this Act.

CRITICAL ANALYSIS OF THE ACT

Every attempt is made in the Act to make it complete, but still certain loopholes are existing.

- 1) This Act covers only organised sector and not unorganised sector. In India more children are employed in unorganised sector.
- 2) Family Units and training centres are exempted.
- 3) Schedule though has given list of establishments and processes where child labour is prohibited, but it can't be treated as complete and perfect schedule.
- 4) The real problem arises when any offence is registered under the Act, and age of child need to be proved. Ultimately age certificate by Medical Practitioner is conclusive evidence of proof of age. But due to corruption in all fields including medical it is not difficult for parents to obtain medical certificate containing false age.
- 5) The number of child labour and Inspector appointed under the Act and total numbers of establishments are disproportionate. Big establishments and factories have good relations and contacts with these Inspectors.
- 6) Many establishments may prepare false register and make false entries. Hence it is very difficult to catch them.

SUGGESTION AND CONCLUSION

Child labour is socio-economic problem which can be reduced and eliminated by adopting various policies for reduction of poverty, unemployment, illiteracy and low wages. Proper policies shall be framed to ensure children education, health, and nutritional food. Now doubt laws are existing to mitigate problem of child labour, but ultimately laws are only words and actual experience of law and operation is necessary. The implementation of law has been always a big issue in our country. Child Labour Laws have been ineffective because of lack of enforcement machinery, lack of political will, deliberate will of employer not to follow laws, lack of will of parents to educate child. Therefore, only to rely on laws and state machinery can't change the scenario. There must be initiative be taken by each occupier as well as private persons to eliminate this menace. Non-governmental organisations (NGO) may also play vital role for protection of child rights. To make them more active some help



from government is required to be provided to them so that these organizations can form programmes to divert mind of children and parents. Part time education courses can also attract such children towards education. To make ready to them for future vocational courses can be introduced. While imparting education scheme like 'learn and earn' can be introduced, this would fulfil both object education as well as money earning. Flexible school timing may also be possible to mitigate problem. Child should be made conscious about their rights, therefore radio, media, various campaigns and NGO, law professionals, students, and colleges may play vital role in this process. Social security programmes to aid to families should be started. So here social movement from people is necessary.

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