



ROLE OF GOVERNMENT IN CHILD LABOUR

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INTRODUCTION

Child labour is a persisting social evil. A well nourished child is priceless asset of a nation. A child should be facilitated to grow in multiple dimensions to attain the physical and mental fitness. The society and the Government have responsibility to create conducive environment for the healthy growth of a child.¹

The complex issue of child labour is a developmental issue worth investigating. The notion that children are being exploited and forced into labour, while not receiving education crucial to development, concerns many people. India is the largest example of a nation plagued by the problem of child labour.

Mahatma Gandhi said “Dignity of labour is honour in hour of work culture”. If child and labour are jointly used then it is a greatest manmade disaster on the earth and has long term adverse effect on human mind. Healthy child is the base of healthy human society, but if he remains hollow then society remains weak.² Child labour not only persists in our country but is a worldwide phenomenon.³

Child labour is a source of income for poor families. A study conducted by the ILO Bureau of Statistics found that “Children’s work was considered essential...” (Mehra-Kerpelman 1996, 8). However, there is a questionable side to this study because the parents of the child labourers gave the answers to the survey. Parents want to support their decision to end their children to work by saying that it is essential. What is clear is the fact that child labourers are being exploited.

WHAT ARE CHILDREN DOING IN TERMS OF WORK?

The 1981 Census of India⁴ divided child labour into nine industrial divisions.

- I. Cultivation,
- II. Agricultural Labour,
- III. Livestock, Forestry, Fishing, Plantation,
- IV. Mining and Quarrying,
- V. Manufacturing, Processing, Servicing and Repairs,
- VI. Construction,
- VII. Trade and Commerce
- VIII. Transport, Storage and Communication, and
- IX. Other Services

¹ M. Rajashekher (Edotor), Child Labour Global Perspectives, First Edition, 2007 at p. 111

² Malik and Raval, Law and social transformation in India, Allahabad law agency, 2nd Edition, 2009, at p.206

³ Supra note 1 at p. 112

⁴ cited in Nangia 1987, 72



Human rights organizations tend to focus on the manufacturing types of child labour because most children in these situations are bonded labourers. Bonded labourers work in conditions similar to slavery in order to pay off a loan, and for children this is usually a parent's debt. Estimates place the number of bonded child labourers in India at close to one million⁵.

CAUSES OF CHILD LABOUR IN INDIA

Even though poverty is cited as the major cause of child labour, it is not the only cause. Poor schools, a lack of schools, or even the expenses of schooling leaves some children with little else to do but work. The attitudes of parents also contribute to child labour; some parents feel that children should work in order to develop useful skills. . In addition to poverty, the lack of adequate and accessible sources of credit forces poor parents to use their children as bonded child labourers. Another cause is poor access to education. In some areas, education is not affordable, or is found to be inadequate. With no other alternatives, children inevitably spend their time working.

RIGHT TO EDUCATION

The Indian state of Kerala distinguishes itself from the rest of India with its educational system. Kerala spends more money on school-level education than colleges and universities. Weiner (1991) also points out that “The Kerala government has made no special effort to end child labour. It is the expansion of the school system rather than the enforcement of labour legislation that has reduced the amount of child labour”. (p. 177).

Article 45 of the Constitution of India states that “The State shall endeavour to provide within a period of ten years from the commencement of this Constitution for free and compulsory education for all children until they complete the age of fourteen years”⁶. This goal has not been reached yet.

The ongoing Child Labour Free India Campaign, by the BBA and Global March has strongly encouraged and demanded the following amendments in the Child Labour Act:

1. All forms of employment should be prohibited for children up to the age of completion of education in accordance to the Right to Education Act;
2. Employment of children up to 18 years of age in any hazardous occupation or processes or any economic activity which is dangerous for children must be prohibited in conformity with the Juvenile Justice (Care and Protection of Children) Act 2000;
3. Child Labour should be made cognizable and non-bailable offence under law and punitive actions against offenders should be made more stringent and time-bound;
4. An effective national programme with sufficient resource allocation for comprehensive rehabilitation of child labourers and also for clear monitoring and accountability framework must be in place; and
5. India should reiterate its new role as a leader in global economy by immediately ratifying ILO Conventions No. 182 on the worst forms of child labour and the No. 138 on the minimum age of employment at the earliest.

⁵ International Labour Organisation (ILO) 1992, 15

⁶ Jain 1985, 219



In the course of the campaign, during the National Consultation on Child Labour Free India on 10-11 May 2012 opened by the Honourable Minister Shri Mallikarjuna Kharge, the Minister made a clarion call to take immediate steps to curb child labour and bring forth the amendments as demanded by the BBA and Global March. Demand letters were also presented to Honourable Prime Minister Shri Manmohan Singh, Mrs Sonia Gandhi, Mrs Sushma Swaraj as well as all Members of the Parliament, and 65 MPs strongly supported the demand for a complete ban on child labour.

It is heartening to see that the government has accepted the key demands of the campaign for a child labour free India through the proposed amendments, and a step forward in protection of children's rights in India.⁷

CONSTITUTIONAL & LEGISLATIVE PROVISIONS

Since its independence, India has made a commitment to work against child labour and government laws do not allow children to work under the age of 14⁸. Article 24 of the Indian constitution clearly states that "No child below the age of fourteen years shall be employed to work in any factory or mine or employed in any hazardous employment"⁹. Article 39 (e) directs State policy such "that the health and strength of workers . . . and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength"¹⁰.

These two articles show that India has always had the goal of taking care of its children and ensuring the safety of workers. The Bonded Labour System Act of 1976 fulfills the Indian Constitution's directive of ending forced labour. The Act "frees all bonded labourers, cancels any outstanding debts against them, prohibits the creation of new bondage agreements, and orders the economic rehabilitation of freed bonded labourers by the state"¹¹. In regard to child labour, the Indian government implemented the Child Labour Act in 1986. The purpose of this act is to "prohibit the employment of children who have not completed their 14th year in specified hazardous occupations and processes". ILO convention No. 138 suggests that the minimum age for employment should not be less than fifteen years, and thus the Child Labour Act of 1986 does not meet this target¹².

INDIAN GOVERNMENT POLICY ON CHILD LABOUR

In pursuance of India's development goals and strategies, a National Child Labour Policy was adopted in 1987 following the Child Labour (Prohibition and Regulation) Act, 1986. The national policy reiterates the directive principle of state policy in India's Constitution. It resolves to focus general development programmes to benefit children wherever possible and have project based action plans in areas of high concentration of child labour engaged in wage/quasi-wage employment.

⁷See at <http://www.globalmarch.org/NCCL2012>

⁸ Constitution of India cited in HRW 1996, 29

⁹ Constitution of India cited in Jain 1985, p. 218

¹⁰ Constitution of India cited in Human Rights Watch 1996,p. 29

¹¹ Ibid 30

¹² Subrahmanya 1987, p.105



A recent advance in government policy occurred in August of 1994, when then- Prime Minister Narasimha Rao announced his proposal of an Elimination of Child Labour Programme. This program pledges to end child labour for two million children in hazardous industries as defined in the Child Labour Act of 1986, by the year 2000. The program revolves around an incentive for children to quit their work and enter non-formal schooling: a one hundred rupee payment as well as one meal a day for attending school¹³. Where the funds for this program will come from is unknown. The government needs eight and a half billion dollars for the program over five years, and yet "about 4 percent of the five-year estimated cost was allocated for child labour elimination programs in 1995-1996"¹⁴.

The Ministry of Labour and Employment has been implementing the national policy through the establishment of National Child Labour Projects (NCLPs) for the rehabilitation of child workers since 1988. Initially, these projects were industry specific and aimed at rehabilitating children working in traditional child labour endemic industries. A renewed commitment to fulfil the constitutional mandate resulted in enlarging the ambit of the NCLPs in 1994 to rehabilitate children working in hazardous occupations in child labour endemic districts.

The strategy for the NCLPs includes the establishment of special schools to provide non-formal education and pre-vocational skills training; promoting additional income and employment generation opportunities; raising public awareness, and conducting surveys and evaluations of child labour.

The experience gained by the Government in running the NCLPs over several years resulted in the continuation and expansion of the projects during the Ninth Five-Year Plan (1997/02). Around 100 NCLPs were launched across the country to rehabilitate children working in hazardous industries such as glass and bangles, brassware, locks, carpets, slate tiles, matches, fireworks, and gems. The Central Government made a budgetary allocation of Rs 2.5 billion (about US\$57 million) for these projects during the Ninth Five-Year Plan. The Government of India has expanded the coverage of the NCLPs to an additional 150 districts and increase the budgetary allocation to over Rs 6 billion during the Tenth Five-Year Plan (2003/07). Children in the age group of 5 - 9 years were enrolled directly under the Sarva Shiksha Abhiyan or the Education for All Movement commenced under the 10th Five Year Plan. Further, those in the age group of 9 - 14 were admitted to special schools under the NCLP schemes. Besides this, components of healthcare and vocational training were also augmented.

Most significantly in 2001 - 02 the Government launched the Sarva Shiksha Abhiyan or the Education for All Programme which is an effort to universalize elementary education. This programme aims to achieve the goal of universal elementary education of satisfactory quality by 2010.

Schemes for Children under the 10th Five Year plan include the Planning Commission's Integrated Programme for Street Children which aims to prevent the destitution of children and engineer their withdrawal from streets by providing facilities like shelter, nutrition, health care, education, recreation and protection against abuse and

¹³ Human Rights Watch 1996, p.119-120

¹⁴ Ibid p. 120



exploitation. Accordingly to the Government, during the 10th Five Year Plan, over 200,000 children benefited from this.

Further, the Scheme for Working Children in Need of Care and Protection by the Ministry of Women and Child Development provides non-formal education, vocational training to working children to facilitate their entry into mainstream education. This scheme has been implemented through NGOs. According to the Government, around 7,000 children benefited from this programme from 2005 - 2007.

The strategy outlined for the 11th Five Year plan (2007 - 12) includes expanding the NCLP scheme to ensure universal enrolment of children in the 6 - 14 age group to cover those in the hard-to-reach segment. It also includes substantial improvements in the quality and standard of education and teacher training. Another notable Government initiative under the 11th plan is to amend all laws to recognize everyone under the age of 18 as children and to take appropriate measures to protect their rights accordingly.¹⁵

In September 2009, IPEC launched a Convergence Project against Child Labour which covers 5 States - Bihar, Gujarat, Jharkhand, Madhya Pradesh and Orissa. The project will demonstrate effective convergence-based models for elimination and prevention of child labour including trafficking/migration of children in each state.

CONTRIBUTION BY NATIONAL INSTITUTIONS

A number of national institutions such as the V.V. Giri National Labour Institute (VVGNI) and the National Institute of Rural Development (NIRD) and some state level institutes have played an important role in the areas of training and capacity building of government functionaries, factory inspectors, officials of panchayati raj institutions, NCLP project directors, and heads of NGOs. These institutions have also made a significant contribution in the areas of research and surveys, awareness raising and sensitization, thus bringing the discussions on this issue to the forefront.

CONCLUSION AND SUGGESTIONS

All of the policies that the Indian government has in place are in accordance with the Constitution of India, and all support the eradication of Child Labour. The problem of child labour still remains even though all of these policies are existent. Enforcement is the key aspect that is lacking in the government's efforts. No enforcement data for child labour laws are available: Although the lack of data does not mean enforcement is nonexistent, the number of child labourers and their work participation rates show that enforcement, if existent, is ineffective.

Child labour is a significant problem in India. Its prevalence is shown by child work participation rates which are higher in India than in other developing countries.

The major cause of child labour is poverty. Even though children are paid less than adults are, whatever income they earn is of benefit to poor families. Despite policies enforcement is a problem. If child labour is to be stopped in India, the government and those responsible for enforcement need to start doing their jobs. Policies without enforcement are useless.

¹⁵ The 11th Five Year Plan, Volume II, available at <http://planningcommission.nic.in>
Special Issue 6 - June, 2015



Education in India also needs to be improved. High illiteracy and dropout rates reflect the low quality of the educational system. Dropout rates are high because children are forced to work in order to support their families. The attitudes of the parents also contribute to the lack of enrolment. Compulsory education may help in regard to these attitudes. The examples of Sri Lanka and Kerala show that compulsory education has worked in those areas. Hopefully the future will show that progress will be made towards universal education, and stopping child labour.

Child labour cannot be eliminated by focusing on one cause, for example education, or by strict enforcement of child labour laws. The government of India must ensure that the needs of the poor are filled before attacking child labour. If poverty is addressed, the need for child labour will automatically be reduced. Children grow up illiterate because they are working and not attending school.

Due to poverty people send their children for work so govt is under duty to provide employment to adult. India is agricultural country, if Govt. distributes surplus land to poor people & provides seeds, pesticides, irrigation facilities in rural area and protection to agri based industry then this evil practice will be stopped. A cycle of poverty is formed and the need for child labour is constant from one generation to the next. India needs to deal with the underlying causes of child labour and the enforcement of laws. Only then will India succeed in the fight against child labour. Vocational training will also reduce problem of child labour. Mid day food and cloth should be given to the child labour so that they will attract towards school. It can be eradicated by developmental programmes, publicity and awareness among people.