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1

Child Labour Acts and Laws

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Introduction

Children are the greatest gift to humanity and Childhood is an important and impressionable stage of human development as it holds the potential to the future development of any society. Children who are brought up in an environment, which is conducive to their intellectual, physical and social health, grow up to be responsible and productive members of society. Every nation links its future with the present status of its children. By performing work when they are too young for the task, children unduly reduce their present welfare or their future income earning capabilities, either by shrinking their future external choice sets or by reducing their own future individual productive capabilities. Under extreme economic distress, children are forced to forego educational opportunities and take up jobs which are mostly exploitative as they are usually underpaid and engaged in hazardous conditions. Parents decide to send their child for engaging in a job as a desperate measure due to poor economic conditions. It is therefore no wonder that the poor households predominantly send their children to work in early ages of their life. One of the disconcerting aspects of child labour is that children are sent to work at the expense of education. There is a strong effect of child labour on school attendance rates and the length of a child's work day is negatively associated with his or her capacity to attend school. Child labour restricts the right of children to access and benefit from education and denies the fundamental opportunity to attend school. Child labour, thus, prejudices children's education and adversely affects their health and safety.

India has all along followed a proactive policy in addressing the problem of child labour and has always stood for constitutional, statutory and developmental measures that are required to eliminate child labour. The Constitution of India has relevant provisions to secure compulsory universal primary education. Labour Commissions and Committees have gone into the problems of child labour and made extensive recommendations. India's judiciary, right up to the apex level, has demonstrated profoundly empathetic responses against the practice of child labour. Despite several proactive legislations, policies and judicial pronouncements, the problem of child labour persists as a challenge to the country.

Definition

The term child labour, suggests ILO, is best defined as work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development. It refers to work that is mentally, physically, socially or morally dangerous and harmful to children, or work whose schedule interferes with their ability to attend regular school, or work that affects in any manner their ability to focus during school or experience a healthy childhood.

UNICEF defines child labour differently. A child, suggests UNICEF, is involved in child labour activities if between 5 to 11 years of age, he or she did at least one hour of economic activity or at least 28 hours of domestic work in a week, and in case of children between 12 to 14 years of age, he or she did at least 14 hours of economic activity or at least 42 hours of economic activity and domestic work per week. UNICEF in another report suggests, "Children's work needs to be seen as happening along a continuum, with destructive or exploitative work at one end and beneficial work - promoting or enhancing children's development without interfering with their schooling, recreation and rest - at the other. And between these two poles are vast areas of work that need not negatively affect a child's development."

India's Census 2001 office defines child labor as participation of a child less than 17 years of age in any economically productive activity with or without compensation, wages or profit. Such participation could be physical or mental or both. This work includes part-time help or unpaid work on the farm, family enterprise or in any other economic activity such as cultivation and milk production for sale or domestic consumption. Indian government classifies child laborers into two groups: Main workers are those who work 6 months or more per year. And marginal child workers are those who work at any time during the year but less than 6 months in a year.

Some child rights activists argue that child labour must include every child who is not in school because he or she is a hidden child worker. UNICEF, however, points out that India faces major shortages of schools, classrooms and teachers particularly in rural areas where 90 percent of child labour problem is observed. About 1 in 5 primary schools have just one teacher to teach students across all grades

Child labour acts and laws

Section 12 of India's Child Labour (Prohibition and Regulation) Act of 1986 requires prominent display of 'child labour is prohibited' signs in many industries and construction sites in local language and English. Above a sign at a construction site in Bangalore.

After its independence from colonial rule, India has passed a number of constitutional protections and laws on child labour. The Constitution of India in the Fundamental Rights and the Directive of State Policy prohibits child labour below the age of 14 years in any factory or mine or castle or engaged in any other hazardous employment. The constitution also envisioned that India shall, by 1960, provide infrastructure and resources for free and compulsory education to all children of the age six to 14 years. India has a federal form of government, and child labour is a matter on which both the central government and country governments can legislate, and have. The major national legislative developments include the following:

The Factories Act of 1948: The Act prohibits the employment of children below the age of 14 years in any factory. The law also placed rules on who, when and how long can pre-adults aged 15-18 years be employed in any factory.

The Mines Act of 1952: The Act prohibits the employment of children below 18 years of age in a mine.

The Child Labour (Prohibition and Regulation) Act of 1986: The Act prohibits the employment of children below the age of 14 years in hazardous occupations identified in a list by the law. The list was expanded in 2006, and again in 2008.

The Juvenile Justice (Care and Protection) of Children Act of 2000: This law made it a crime, punishable with a prison term, for anyone to procure or employ a child in any hazardous employment or in bondage.

The Right of Children to Free and Compulsory Education Act of 2009: The law mandates free and compulsory education to all children aged 6 to 14 years. This legislation also mandated that 25 percent of seats in every private school must be allocated for children from disadvantaged groups and physically challenged children.

India formulated a National Policy on Child Labour in 1987. This Policy seeks to adopt a gradual & sequential approach with a focus on rehabilitation of children working in hazardous occupations. It envisioned strict enforcement of Indian laws on child labour combined with development programs to address the root causes of child labour such as poverty. In 1988, this led to the National Child Labour Project (NCLP) initiative. This legal and development initiative continues, with a current central government funding of 6 billion, targeted solely to eliminate child labour in India. Despite these efforts, child labour remains a major challenge for India.

Causes

For much of human history and across different cultures, children less than 17 years old have contributed to family welfare in a variety of ways. UNICEF suggests that poverty is the big cause of child labour. The report also notes that in rural and impoverished parts of developing and undeveloped parts of the world, children have no real and meaningful alternative. Schools and teachers are unavailable. Child labour is the unnatural result. A BBC report, similarly, concludes poverty and inadequate public education infrastructure are some of the causes of child labour in India.

Between boys and girls, UNICEF finds girls are two times more likely to be out of school and working in a domestic role. Parents with limited resources, claims UNICEF, have to choose whose school costs and fees they can afford when a school is available. Educating girls tends to be a lower priority across the world, including India. Girls are also harassed or bullied at schools, sidelined by prejudice or poor curricula, according to UNICEF. Solely by virtue of their gender, therefore, many girls are kept from school or drop out, then provide child labour.

The International Labour Organisation (ILO) and Spreading Smiles Through Education Organisation (OSSE) suggests poverty is the greatest single force driving children into the workplace. Income from a child's work is felt to be crucial for his/her own survival or for that of the household. For some families, income from their children's labour is between 25 to 40% of the household income.

Consequences of child labour

The presence of a large number of child labourers is regarded as a serious issue in terms of economic welfare. Children who work fail to get necessary education. They do not get the opportunity to develop

physically, intellectually, emotionally and psychologically. In terms of the physical condition of children, children are not ready for long monotonous work because they become exhausted more quickly than adults. This reduces their physical conditions and makes the children more vulnerable to disease. Children in hazardous working conditions are even in worse condition. Children who work, instead of going to school, will remain illiterate which limits their ability to contribute to their own well being as well as to community they live in. Child labour has long term adverse effects for India.

To keep an economy prospering, a vital criteria is to have an educated workforce equipped with relevant skills for the needs of the industries. The young labourers today, will be part of India's human capital tomorrow. Child labour undoubtedly results in a trade-off with human capital accumulation.

Child labour in India are employed with the majority (70%) in agriculture some in low-skilled labour-intensive sectors such as sari weaving or as domestic helpers, which require neither formal education nor training, but some in heavy industry such as coal mining.

According to the **International Labour Organisation (ILO)**, there are tremendous economic benefits for developing nations by sending children to school instead of work. Without education, children do not gain the necessary skills such as English literacy and technical aptitude that will increase their productivity to enable them to secure higher-skilled jobs in future with higher wages that will lift them out of poverty.

Conclusion

Children constitute the nation's valuable human resources. The future well being of the nation depends on how its children grow and develop. The great poet Milton said "Child Shows the man as morning shows the day". So it is the duty of the society to look after every child with a view to assuring full development of its personality. Children are the future custodians and torch bearers of the Society: they are the messengers of our knowledge, cultural heritage, ideologies and philosophies. Children are really future components in the form of great teachers, scientists, judges, rulers, doctors, planners, engineers, politicians on whom the entire society founded (rests). Unfortunately millions of children are deprived of their childhood and right to education and there by they are subjected to exploitation and abuse.

The age of the child has been differently defined in different laws. There is no definite criteria or scientific parameters in defining the age of the child. The Constitution of India under Art.24 defines 'Child' as any one below the age of 14 years and who shall not be employed to work in any factory or mine or engaged in any other hazardous employment. Under Child Labour (Prohibition and Regulation) Act, 1986 'Child' means a person who has not completed his 14 years of age. The Constitution states 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. complete the age of six years. But according to Art.1 of the United Nations Convention on the Rights of the Child 1989, a child means every human being below the age of 18 years unless, under the

- 14) Laws on child labour and Education should be implemented in a mutually supportive way.
- 15) The Judiciary should be more sensitive in dealing with child labour cases. The general rule of 'benefit of doubt' cannot be given to the offending employers. When guilt is proved, offending employer should be punished with imprisonment and not with fine. In punishment policy, sentence of imprisonment should be made a general rule and imposing fine should be an exception. This deters the employers. Further there is a need to increase the conviction rate.
- 16) Government should encourage the NGOs for elimination of child labour by granting proper budget periodically and accountability should be fixed on NGOs to ensure that the funds are utilized for the purpose for which it is given.
- 17) To deal with apathy and indifference on the part of the law enforcing agencies in the discharge of their duties, there is need to conduct periodical orientation and training programmes to sensitize them adequately.
- 18) It is suggested to give more focus on implementation and enforcement of child labour laws and other laws meant for the protection of the children. It is humbly submitted that, if all the above suggestions are implemented, the menace of child labour can be effectively tackled and eventually it can be eradicated

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