

# CHILD LABOUR IN INDIA

Devika Pankaj  
Student of B.A.L.LB  
DEPARTMENT- LAW

Uttaranchal University, Law College Dehradun, Dehradun, India.

## **ABSTRACT**

The prevalence of child labour is one of the most important problems confronting the world at large, especially developing countries such as India. In many cases, child labour is mainly necessitated by economic compulsions of the parents. The main reason which gives rise to child labour is widespread unemployment and underemployment among the adult poor strata of the population, inter alia, due to sharp growth of population. Large families with low income and often lack of educational facilities, illiteracy and ignorance of parents about the importance of education as well as about the impact of labour on the health of their children are some of the reasons which breed child labour. Over the years, however, global consciousness about the seriousness of the problem has created. The constitution of India also committed to the protection and promotion of the welfare considerations over the economic ones. Therefore, series of committees and commissions have been appointed by the Government of India either specifically on the question of child labors, which gives us insights into the problem and to give suggestions to alleviate this problem. Policies of modern governments in relation to child labour and child development must be pragmatic and comprehensive.

## **KEYWORDS**

Child labour, global consciousness, illiteracy, ignorance.

## **INTRODUCTION**

Child Labour, actually viewed more as a social problem of a greater magnitude than other related problems connected with the development of human beings, is abnormally high in under-developed and developing countries of the world. There is no denying of the fact that children of today are the grown up citizens of tomorrow, of a country on whose shoulders its multifaceted development and growth wholly depends. It is in fact, in this context that the growth of the children into matured persons with adequate skills and knowledge, gained through support from the state, society and family, necessitate the all round development and growth of both the personality of the child and that of the nation. The governments of all developed countries and many developing countries have showed considerable attention to the needs and vulnerabilities of all children and young people. The existing relationship between State and Children includes relationship in all spheres like socio-economic and political. Indeed, the provisions of domestic statute along with a range of international treaties, rules and conventions- impose obligation upon the state agencies not only to protect but also to promote their human rights. However, despite such official claims, historically-embedded, children's rights including their claims to care, protection, welfare and justice are often neglected, if not blatantly violated, especially in case of Child Labour. This holds true in India as well. Though the definition and concept of child labour may vary widely depending mainly on social, economic, environmental or physical postulates, the child labour is that segment of the child

population of a country which is found to have engaged them in paid or unpaid employment in a given situation. Here, an attempt has been made to analysis the problem of child labour in the context of those working below the age of 14 years in any gainful industrial and non-industrial occupation, which are viewed not only injurious to their physical, mental or moral development but also hamper their social progress in a big way. Some of the areas where one can find them being significant part of the labour force are in<sup>1</sup>—agriculture fields, performing heavy work and exposed to many hazards associated with the introduction of modern machinery and chemicals; in dangerous industries and occupations such as, glass making, construction, mining and carpet weaving; in domestic service, carrying out arduous work under conditions of isolation, over excessively long hours and with physical and sexual abuse; in the streets, working as a rag pickers, vendors and child prostitutes often under the threat of violence from street gangs and the police and with exposure to life-threatening diseases; in small industrial workshops like fireworks and Crackers making small industries; at home, tendering domestic services; as bonded laborers in outcry slavery and in predominant exports industries, such as textiles, clothing, carpets and footwear making smalls units of production. Child labour included children prematurely leading<sup>2</sup> adult lives, working long hours for low wages, under conditions damaging to their health and to their physical and mental development, sometimes separated from their families, frequently deprived of meaningful education and training opportunities that could open up for them a better future<sup>3</sup>. Child labour is therefore all work that places children at risk.

### **MAGNITUDE OF THE CHILD LABOUR PROBLEM**

The estimates on the magnitude of the problem of child labour vary due to multiplicity of definitions, different methods of computation and the collection of data at different points of time. Statistics on child labour are therefore not only elusive because of the special and practical difficulties involved in terms of design and implementations of child survey conducted to estimate the problem of child labour, but also because of differences in perception about what constitute a child, or child work, or child labour. According to a Report of the International Labour Organization, the number of working children in the 5-14 age groups in the developing countries is more than 250 million<sup>4</sup>. Geographical area of these figures exhibit that, the magnitude of child labour is as high as 61 percent in Asian countries followed by 32 percent in African countries and a little over than 7 percent in Latin American countries.

### **CAUSES AND CONSEQUENCES OF CHILD LABOUR**

Most writings on child labour often lack a theory or theoretical base for understanding the issue. Infact, it is difficult to find any theory that could explain the true dynamics of child labour issue. It is therefore; often assume that the nature and extent of poverty in a country determine the number of its child labour. Therefore the theory of poverty—which often is also reflected in a poverty of theory—is also applicable to child labour. Poverty under a capitalist model of development is a systemic feature involving or requiring cheap labour force. The distributive regime under the capitalist development process is systemically skewed towards owners and managers of capital and its knowledge workers – the middle class. Therefore, the outer peripheries of this distributive regime remain generally impoverished and economically

<sup>1</sup> Asha Bajpai, "Child Rights in India: Law, Policy and Practice" (New Delhi: OUP, 2003), 148.

<sup>2</sup> The International Labour Organization, 1983

<sup>3</sup> Report of the Director General of the International Labour Organization, 1983

<sup>4</sup> Ibid

deprived, becoming a haven for child labour<sup>5</sup> Studies that have been undertaken in various countries around the world do show that child labour and poverty are intimately linked. However, it is also clear that the specific circumstances of child labour are influenced by many other factors. No single factor cause can be isolated for the prevalence of child labour. It is a combination of several factors. It is inherent in the cycle of poverty, unemployment, underdevelopment and low wages caused by inequitable distribution of resources and economic policies. The state can intervene by filling the void caused by systemic failure, but such state-led alleviation cannot take us far unless the distributive regime is altered significantly. But again no cause can justify the existence of child labour. The costs of child labour cannot be overstated. There is a complete loss of their invaluable childhood. There is an impairment of both the physical and psychological health at a critical stage of life, often with permanent consequences. There is also the permanent damage to social development of the child. Lack of education condemns children to the worst employment prospects as adults and pushes them into the army of low wages earners. The causes that leads to child labour are:<sup>6</sup>

- Parental illiteracy and ignorance
- Tradition of making children learn the family skills
- Absence of universal compulsory primary education
- Non-availability of and non-accessibility to schools
- Irrelevant and non-attractive school curriculum
- Social and cultural environment
- In formalization of production
- Employment's preference to children for their cheap labour and inability to organize
- Against exploitation Family work
- Level of technology
- Apathy of trade unions

### TYPES OF CHILD LABOUR

Child labour is a term that needs to be unpacked: it cannot be used in a sweeping manner but covers a range and variety of circumstances in which children work. Child labourers are involved in the following forms of works:-

- **Child labour:** - Those children who are doing paid or unpaid work in factories, workshops, establishment, mines and in the service sector such as domestic labour. The ministry of Labour, Government of India has employed the term 'child labour' only in the context of children doing

<sup>5</sup> Anil Kumar Vaddiraju, "Sisyphian Efforts? State Policy and Child Labour in Karnataka", (Newcastle: Cambridge Scholars Publication, 2013), 13.

<sup>6</sup> Helen Sekar, "Ensuring Their Childhood", V.V.Giri National Labour Institute, New Delhi, 2001.

hazardous work. By implication, children who are not doing hazardous work are not considered to be child laborers and are said to be doing child work.

- **Street children:** - Children living on and off the streets, such as shoeshine boys, rag pickers, newspaper vendors, beggars etc. are called street children. Most children have some sort of home to go back to in the evening or nights, while street children are completely alone and are at the mercy of their employers. They live on the pavements, in the bus stations and railway stations.
- **Bonded children:** - Children who have either been pledged by their parents for paltry sums of money or those working to pay off the inherited debts of their fathers. Bonded children are in many ways the most difficult to assist because they are inaccessible. If the carpet owner has bought them, they cannot escape. If the middle-class housewife has paid for them, they cannot run away. If the landlord in the village owns them, they will spend their life in servitude till they get married and can, in turn, sell their children.
- **Working children:** - Children who are working as part of family labour in agriculture and in home-based work. If children are working 12-14 hours a day along with their parents at the cost of their education, their situation is similar to that of children working for other employers. In fact children, particularly girls, are expected to take on work burdens by parents in complete disproportion to their strengths and abilities. This is the largest category of children who are out-of-school and are working full time. And it is here that we find the largest percentage of girls working at the cost of education.
- **Children used for sexual exploitation:** - Many thousands of young girls and boys serve the sexual appetites of men from all social and economic backgrounds. Direct links between the commercial sexual exploitation of children and other forms of exploitative child labor are numerous. Factories, workshops, street corners, railway stations, bus stops and homes where children work are common sites of sexual exploitation. Children are especially powerless to resist abuse by employers, either as perpetrators or intermediaries. The physical and psychosocial damage inflicted by commercial sexual exploitation makes it one of the most hazardous forms of child labor.
- **Migrant children:** – India faces a huge challenge with “distress seasonal migration”. Millions of families are being forced to leave their homes and villages for several months every year in search of livelihoods. These migrations mean that families are forced to drop out of schools, something that closes up the only available opportunity to break the vicious cycle generation after generation. At worksites migrant children are inevitably put to work. Many industrial and agro- industrial sectors like brick-making, salt manufacture, sugar cane harvesting, stone quarrying, construction, fisheries, plantations, rice mills and so on run largely on migrant labour.
- **Children engaged in household activities:** – Apart from children who are employed for wages (either bonded or otherwise) as domestic help, there are a large number of children (especially girls) who are working in their own houses, engaged in what is not normally seen as “economic activity”. These children are engaged in taking care of younger siblings, cooking, cleaning and other such household activities. As seen in the literature on women’s work, such activities need to be

recognized as 'work'. Further, if such children are not sent to school, they will eventually join the labour force as one of the above categories of child labour.

## **LEGAL PROVISIONS AGAINST CHILD LABOUR**

The Constitution of India<sup>7</sup> has laid down that no child under the age of 14 years shall be employed in any mine or engaged in any hazardous employment (Article 24) and any Contravention of this provision shall be an offence punishable in accordance with law. The Directive principles of state policy in Article 39(e) provide that the health and strength of Workers, men and women, 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. Article 39 (f) directs that the 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 moral and material abandonment. It has been made the duty of the state to raise the level of nutrition and the standard of living and to improve public health. Legislation to control and regulate child labour in India has existed for several decades. Notwithstanding these constitutional provisions, there are a number of enactments in the Country which protect and safeguard the interest of child labour. The employment of children below 14 years of age has been prohibited under:

- The Children (Pledging Labour) Act, 1933.
- The Factories Act, 1948.
- The Mines Act, 1952.
- The Motor Transport Workers Act, 1961.
- The Bidi and Cigar Workers (Conditions of Employment) Act, 1966.
- The Plantation Labour Act, 1951.

However, it was 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<sup>8</sup> 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 Gurupadswamy Committee, the Child Labour (Prohibition & Regulation) Act was enacted in 1986. The Act prohibits employment of children in certain specified hazardous occupations and processes and regulates the working conditions in others. The list of hazardous occupations and processes is progressively being expanded on the recommendation of Child Labour Technical Advisory Committee constituted under the Act. The Child Labour (Prohibition and Regulation) Act, 1986, while allowing children to engage in the process of family based work or recognized school based activities, prohibits children to work in occupations concerned with passenger, goods mail transport by railway, carpet weaving, cinder picking, cleaning of ash-pits, cement manufacturing, building

<sup>7</sup> See the Constitution of India, Part III and IV. The Fundamental Rights are embodied in Part III and Directive Principle of State Policy is embodied in Part IV.

<sup>8</sup> Ministry of Labour and Employment, Government of India.

operation, construction, cloth printing, dyeing, weaving, manufacturing of matches, explosives and fireworks, catering establishments in railway premises or port limits, Bidi making, mica cutting and splitting, abattoirs, wool cleaning, cashew-nut and cashew nut descaling and processing, soldering processes in electronic industries and other "hazardous processes", "dangerous operations", "printing" (as defined in Factories Act, 1948, etc.) In consonance with the above approach, a National Policy on Child Labour was formulated in 1987. The Policy seeks to adopt a gradual & sequential approach with a focus on rehabilitation of children working in hazardous occupations & processes in the first instance. The Action Plan outlined in the Policy for tackling this problem is as follows:

1. Legislative Action Plan for strict enforcement of Child Labour Act and other labour laws to ensure that children are not employed in hazardous employments, and that the working conditions of children working in non-hazardous areas are regulated in accordance with the provisions of the Child Labour Act. It also entails further identification of additional occupations and processes, which are detrimental to the health and safety of the children.
2. Focusing of General Developmental Programmers for Benefiting Child Labour - As poverty is the root cause of child labour; the action plan emphasizes the need to cover these children and their families also under various poverty alleviation and employment generation schemes of the Government.
3. Project Based Plan of Action envisages starting of projects in areas of high concentration of child labour. Pursuant to this, in 1988, the National Child Labour Project (NCLP) Scheme was launched in 9 districts of high child labour endemicity in the country. The Scheme envisages running of special schools for child labour withdrawn from work. In the special schools, these children are provided formal/non-formal education along with vocational training, a stipend of Rs.150 per month; supplementary nutrition and regular health checkups so as to prepare them to join regular mainstream schools. Under the Scheme, funds are given to the District Collectors for running special schools for child labour. Most of these schools are run by the NGOs in the district.

## **CONCLUSION**

In 2015, the country of India is home to the largest number of children who are working illegally in various industrial industries. Agriculture in India is the largest sector where many children work at early ages to help support their family. Many of these children are forced to work at young ages due to many family factors such as unemployment, a large number of family members, poverty, and lack of parental education. This is often the major cause of the high rate of child labour in India. A variety of Indian social scientists as well as the NonGovernmental Organization (NGOs) has done extensive research on the numeric figures of child labour found in India and determined that India contributes to one-third of Asia's child labour and one-fourth of the world's child labour. Due to a large number of children being illegally employed, the Indian government began to take extensive actions to reduce the number of children working, and to focus on the importance of facilitating the proper growth and development of children. Due to the increase of regulations and legal restrictions on child labour, there has been a 65 percent decline in child labour from 2001 to 2011. Although this is a great decrease in the country of India, there is still high numbers of children working in the rural areas of India. With 85 percent of the child labour occurring in rural areas and 15 percent occurring in urban areas, there are still substantial areas of concern in the country of India.