



Child labour menace: An uncontrollable beast

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Abstract

Child labour is a serious issue for all the countries including India and is a social problem. Children are hope and future of a nation and therefore, many laws have been enacted globally to prohibit child labour. However, in spite of many legislations and efforts by the Central & State Govt, these laws seems to be highly ineffective. According to 2017 statistics, India is one of the leading countries and has whopping 33 Million children employed in various forms of child labour including employment in hazardous work and bonded labour. They are forced to work in garment, quarrying stones, producing bricks, agriculture sector and manufacture of fire crackers and to work as domestic labour and labour in small manufacturing units/service industry. The situation in India is very grim as inspite of many legislations the conviction rate of child labour offences is 6186 nos. (2009-2013). The goal that was set to eliminate it in its worst forms by 2016 was not achieved. UN General Assembly has rightly declared 2021 as the Year for the Elimination of Child Labour. This paper give an insight of various laws and policies governing the child labour and resultant effectiveness.

Keywords: Child labour, united nations, child labour laws

Introduction

The root causes of child labour are many and complex, we have to tackle the issue on several fronts, through the ratification and implementation of international conventions, practical programmes on the ground and the mobilization of key sector of society. Children have same rights as adults. They need additional rights because they have less powers than adults are still growing. A report by UN indicates that a significant share of child labour and human trafficking in global supply chains occurs at their lower tiers, in activities such as raw material extraction Amongst those in child labour, the percentage in global supply chains varies across regions: 26 per cent in Eastern and South-Eastern Asia. 22 per cent in Latin America and the Caribbean. 12 per cent in Central and Southern Asia. 12 per cent in sub-Saharan Africa. 9 per cent in northern Africa and Western Asia. Child labour was more pronounced in domestic production processes than global supply chains, the study suggested. Most of the child labour in supply chains is deployed in countries of origin, known as the 'upstream reaches' of a chain. This part accounted for 28-43 per cent of the total child labour engaged by the sector. According to the report, 97 per cent of the estimated child labour contributing to the export of agricultural goods comes from children working in the agricultural sector itself. The report also outlines a broader preventive approach focused on root causes, including child and family deprivation, particularly in the upstream and outsourced segments of global supply chains. It considers not only the risk factors and policy interventions related to addressing the vulnerability of people but also the unique complexity of global supply chains.

Definition of Child

The Child Labour (Prohibition and Regulation) Act, 1986

^[1] defines a child as a person who has not completed fourteen

years of age. The Factories Act ^[2], 1948 and Plantation Labour Act 1951 ^[3] states that 'a child is one that has not completed fifteen years of age'. The Juvenile Justice (Care and Protection of Children) Act, 2000 ^[4] has changed the definition of child to any person who has not completed 18 years of age. POCSO Act 2012 defines a child as any person below eighteen years of age.

Child Labour

UNICEF has categorized child work into three categories: Within the family: Children are engaged in domestic household tasks without pay. Within the family but outside the home: Example- agricultural laborers, domestic maids, migrant laborers etc. Outside the family: Example- commercial shops in restaurants and jobs, prostitution etc

Magnitude of Child Labour

Global Scenario: Worldwide 218 million children between 5 and 17 years are in employment. Among them, 152 million are victims of child labour; almost half of them, 73 million, work in hazardous child labour. Almost half of child labour (72.1 million) is to be found in Africa; 62.1 million in the Asia and the Pacific; 10.7 million in the Americas; 1.2 million in the Arab states and 5.5 million in Europe and Central Asia. Almost half of all 152 million children victims of child labour are aged 5-11 years. 42 million (28%) are 12-14 years old; and 37 million (24%) are 15-17 years old. Among 152 million children in child labour, 88 million are boys and 64 million are girls. Child labour is concentrated primarily in agriculture (71%); 17% in services; and 12% in the industrial sector, including mining.

Data for India

The data for India is quite dismal Between 2015 and 2018, authorities were able to attain conviction in only 25 per cent of

the cases where a violation of the Child Labour Act was recorded. In February 2019, a study revealed that 10,826 cases of violation of the Child Labour Act were reported across the country in the past four years. Of these, only 56 per cent cases (6,032) went to the stage of prosecution. Among states, Odisha had the most number of violations (4,517) - nearly 42 per cent of the national figure. This was followed by Uttar Pradesh (1,416), Telangana (747), Punjab (898) and Gujarat (422). The census for 2011 entails that over 80 per cent of children below 14 years of age engaged in child labour are based in rural areas. The Census 2011 data revealed that 53.69 lakh children aged 5-14 years were working as agricultural labourers and cultivators in India. The overall number of child labourers (marginal and main workers put together) was estimated to be around 1.3 crore. International Labour Organisation (ILO) in a report on child labour in India said while the nearly 4 per cent of India's child population (5-14 years) is working as child labour (either main worker or marginal worker)

Causes of Child Labour in India

The most common causes of child labour in India are as under -

Poverty: Due to poverty, parents cannot afford the studies of their children and make them earn their wages from a tender age. They are made to work to increase the income of their poor families at the earliest.

Lack of educational resources: There are thousands of villages in our country where there are no proper facilities for education. And if there is any, it is miles away.

Addiction, disease or disability: In many families, due to addiction, disease or disability, there is no earning, and the child's wages are the sole means of family's sustenance.

Population Growth: Population growth is also increasing unemployment, which has an adverse impact on child labor prevention.

Sexual Exploitation: In 2005, a study was conducted by the National Human Rights Commission of India (NHRC) found that India was fast becoming a source, transit point and destination for traffickers of women and children for sexual and non-sexual purposes.

Illegal Activities: Children, over adults are often chosen to be trafficked for illegal activities such as begging and organ trade, as they are seen as more vulnerable. The lure of cheap labor: In the greed of cheap labor, some shopkeepers, companies and factory owners employ children so that they have to pay less to them and it amounts to employing cheap labour.

Consequences / Effects

Loss of Quality childhood: Child labour leads to loss of quality childhood as children will be deprived of the opportunity to enjoy the amazing experiences that come with being young. Health Complications: Due to poor working conditions and undernourishment, child labour leads to health complications. Working in places such as mines and badly conditioned factories

may result in lifetime health issues for children employed to work in these places.

Mental Trauma: Issues such as bullying, sexual exploitation, and unfavorable working hours may result in mental trauma in these children.

Illiteracy: Children that are employed do not have the time to go to school. The lack of education and illiteracy makes them individuals with limited opportunities as far as employment is concerned.

Indulgence into Crime Field: Uneducated/ Unguided children who work in society sometimes get influenced by criminal activities and commit crimes at a low age.

Actions taken by the Government

The Govt. of India since independence has taken many measures to combat child labour as briefly given below

Constitutional provisions

Through various articles enshrined in the Fundamental Rights and the Directive Principles of State Policy, lays down that: No child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment (Article 24). The State shall provide free and compulsory education to all children of the age six to 14 years. (Article 21 (A)). The State shall direct its policy towards securing that the health and strength of workers, men and women and the tender age of children are not abused and that they are not forced by economic necessity to enter vocations unsuited to their age and strength (Article 39-e). Children shall be given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth shall be protected against moral and material abandonment (Article 39-f). The State shall endeavor to provide within a period of 10 years from the commencement of the Constitution for free and compulsory education for all children until they complete the age of 14 years (Article 45).

National Legislations

National Commission for Protection of Child Rights (NCPCR): It was established by an Act of Parliament, thus is a statutory body. The commission works under the aegis of Ministry of Women and Child development, GoI. The commission established with an objective to ensure that all Laws, Policies, Programmes, and Administrative Mechanisms are in consonance with the Child Rights perspective as enshrined in the Constitution of India and the UN Convention on the Rights of the Child.

Pencil for Child Labour: It is an online portal which has been launched for the better monitoring & reporting system to ensure effective implementation of the provisions of the amended Child Labour (Prohibition & Regulation) Act 1986 ^[1] and National Child Labour Project scheme.

National Child Labour Project: NCLPS is a central sector scheme where 100% of the funding is provided by the Government of India through the Ministry of Labour and

Employment. The NCLP Scheme seeks: To eliminate all forms of child labour through Identification and withdrawal of all children in the Project Area from child labour, Preparing children withdrawn from work for mainstream education along with vocational training. Ensuring convergence of services provided by different government departments/agencies for the benefit of child and their family. The scheme focuses on all child workers below the age of 14 years in the identified target area, adolescent workers below the age of 18 years in the target area engaged in hazardous occupations / processes and families of Child workers in the identified target area.

POCSO Act: The POCSO Act is a gender-neutral Act which has been enacted to strengthen the legal provisions for the protection of children from sexual abuse and exploitation. The act also prohibits child sex labor. Child Labour (Prohibition and Regulation) Act (1986) ^[1], “to prohibit the engagement of children in certain employments and to regulate the conditions of work of children in certain other employment” (preamble of the CLPR Act).

National Policy on Child Labour (1987): with a focus more on rehabilitation of children working in hazardous occupations and processes, rather than on prevention. Amendment to the Juvenile Justice Act of 2000 ^[4]: Amendment to the Juvenile Justice Act of 2000 was amended in 2015 with a provision allowing for Children in Conflict with Law (CCL) to be tried as adults under certain circumstances. It defines a child as someone who is under age 18. For a CCL, age on the date of the offence is the basis for determining whether he or she was a child or an adult. The J S Verma Committee stated that it was not inclined to reduce the age of a juvenile from 18 to 16. The amendment was made in 2015.

The Right to Education Act of 2009: has made it mandatory for the state to ensure that all children aged six to 14 years are in school and receive free education. Along with Article 21A of the Constitution of India recognizing education as a fundamental right, this constitutes a timely opportunity to use education to combat child labor in India.

The Supreme Court: Had earlier directed the Central Bureau of Investigation (CBI) to investigate allegations involving 17 shelter homes for children, destitute women, beggars and senior citizens in Bihar following the case of sexual abuse of more than 30 girls in a shelter home in Muzaffarpur in the State. The Apex Court had also asked the Centre to consider framing a national policy on the protection of children.

Child Labour (Prohibition and Regulation) Amendment Act, 2016

The central legislature of India had promulgated a legislation Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 ^[1] ("CL Act") to regulate the child labor practices in India. The central legislature has made substantial changes in the provisions of the CL Act in the year 2016 and the said amendments have been made effective from July 30, 2016. A complete prohibition has been imposed on employment of child labor (i.e. a person below the age of 14 years) in any establishment whether hazardous or not. A child is permitted to work only to help the family, in a family enterprise or as child artist after school hours or during vacations. The amendment has introduced the concept of adolescent labor for the first time. The number of hazardous occupations and processes has been reduced from 83 to only 3. The offenses under the Act have now been made compoundable and cognizable notwithstanding the provisions of the Criminal Procedure Code. The CL Act provides for rehabilitation of children and adolescent who have been victims under the provisions of the CL Act. It provides for setting up of the Child and Adolescent Labour Rehabilitation Fund in which all the amounts of penalty have to be realized. Liability has been affixed to the parents and guardian of the affected child/children separately from the employers. The Act provides for increased penalty and imprisonment which shall not be less than 6 months and may extend up to 2 years and fine which may vary between Rs.20, 000 to Rs. 50,000.

The Offences/ Behaviours for protection of child rights are given in Table 1. These offences are punishable by law and it is the duty of every adult citizen to abide by these laws.

Table 1: Offences of protection of Child Rights

Offences/Behaviors	Name of the Law
Sexual assault, sexual harassment, use of a child for the pornographic purpose	Protection of Children from Sexual Offences Act 2012
Production, dissemination and use of child sexual abuse materials	The Information Technology Act, 2000
Disclosing the identity of the child victim to anyone other than the appropriate authority	Protection of Children from Sexual Offences Act 2012, JJ Act 2015
Sale and procurement of children for any purpose including illegal adoption, trafficking of children for sexual exploitation, use of children by militant groups, giving children intoxicating liquor, narcotic drug or tobacco products or psychotropic substances, offences against disabled children, trafficking of children for sexual exploitation/exploitative labour/other reasons and, kidnapping	JJ Act 2015; Immoral Traffic (Prevention) Act 1956; Human trafficking (section 370 & 370A IPC), after the creation of specific section in IPC by the Criminal Law (Amendment) Act 2013
Corporal punishment in child care institutions	JJ Act, 2015
Corporal Punishment in schools Adopting a child without due procedure through CARINGS and child welfare committees/ promoting or facilitating such illegal adoption	Right of Children to Free and Compulsory Education Act, 2009
Employment of children below 14 years in any occupation or industry	JJ Act, 2015
Employment of children 15-18 years in hazardous occupation or industries	Child Labour (Prohibition and Regulation) Amendment Act, 2016

International Laws

Human Rights of 1948: The principles of the Universal Declaration concerning child was incorporated in the Declaration

of the Rights of the Child of 1959. The International Covenant on Civil and Political Rights under Articles 23 and 24 and the International Covenant on Economic, Social and Cultural

Rights under Article 10 made provisions for the care of the child. The International Program on the Elimination of Child Labour (IPEC) is a global program launched by the International Labour Organization in December 1991. India was the first country to join it in 1992 when it signed a Memorandum of Understanding (MOU) with ILO. The long-term objective of IPEC is to contribute to the effective abolition of child labor. IPEC-India has, during the period 1992-2002, supported over 165 Action Programs. International Labour Organization (ILO) has celebrated 100 years of advancing social justice and promoting decent work in 2019. Yet today, 152 million children (aged 5-17) are still in child labour. India is a founding member of the ILO and has been a permanent member of the ILO Governing Body since 1922. UN General Assembly has rightly declared 2021 as the Year for the Elimination of Child Labour.

Action Required

Much more is required to be done to eliminate the child labour in letter and spirit.

Free education: Free education holds the key to eliminating child labor. It has already proved to be a success in many places around the globe and with more effort, the cases of child labor will greatly reduce. Mid-day meals schemes: Mid-day meals schemes can also be used as a motivating factor for children whose parents can barely afford a meal to learn.

Moral Polishing: Child labor should not be entertained at all. It is legally and morally wrong. Children should not be allowed to provide labor at the expense of getting an education and enjoying their childhood. Create demand for skilled and trained workers: By creating the demand for skilled and trained workers, child labor cases will reduce since almost all child laborers fall under the unskilled worker category.

Awareness: Creating awareness about the illegality of child labor can also help in stemming from the practice. Empowerment of poor people: The poor living standards and financial constraints sometimes make them unwilling participants in this vice. Empowering poor people through knowledge and income-generating projects would go a long way in reducing cases of child labor.

To prevent child labor, the incidence of poverty needs to be reduced first, so that poor people do not have to send their children to earn their bread and butter. Table 2 gives the statistics on children's work and education.

Table 2: Statistics on Children's Work and Education

Children	Age	Percent (%)
Working (% and population)	5 to 14	1.4
Attending School (%)	5 to 14	90.7
Combining work and school (%)	7 to 14	0.3
Primary Completion Rate (%)		96.3

To prevent child labour, we need proper implementation of laws that prescribe strict punishment to vendors, shopkeepers, and mill owners in case they engage children on cheap wages. Parents should not make any difference between boys and girls. By this practice, the number of girl child labor can be reduced to a great extent. Spreading literacy and education is a potent

weapon against the practice of child labor because illiterate persons do not understand the implications of child labor. Identifying the root causes which force families and communities to allow children to be engaged in labour is very essential. Addressing these underlying issues by interacting with parents, community leaders is the need of the hour.

Elimination of Child Labour is a responsibility of the whole society. Other stakeholders such as District Administrations, local communities, civil society groups, NGO's, academicians and enforcement agencies have an important role. The various agencies working for elimination of child labour in India and their role in brief is indicated in Table 3

Table 3: Agencies for child labour law enforcement

Name of Organization/Agency and their role
State and local police to enforce laws
State Govt labour inspectorates to enforce state and national labour laws
Anti – human trafficking units to investigate cases
Vigilance committees for rehabilitation of bonded labour
State and Revenue department to issue certificates to free bonded labourers
Child welfare committees to provide care and protection
Central Bureau Investigation's Anti human trafficking unit to investigate and prosecute cases involving the kidnapping and trafficking of women and children.

Now, it is important for, as a society, to support the child, to facilitate access to a range of services including medical, legal, psychological and counseling support.

Conclusion

The constitution of India gives state Governments primary responsibility for the enforcement of laws and schemes pertaining to child labour. The penalties for violating the child labour (Prohibition and regulation) act are insufficient to deter employees from hiring children. Therefore, children in India are engaged in worst forms of child labour and the recruitment of children by non-state and armed groups is not criminally prohibited. The situation in India is very grim as inspite of many legislations the conviction rate of child labour offences is 6186 nos. (2009-2013). The goal that was set to eliminate it in its worst forms by 2016 was not achieved. UN General Assembly has rightly declared 2021 as the Year for the Elimination of Child Labour. A lot of policy plans have been worked out but there is an urgent need for a social movement for child labour issue to really get addressed and resolved by the Indian society.

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