



CHILD LABOUR-A GROWING MENACE TO THE SOCIETY

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ABSTRACT

Purpose- The study examines about the exploitation done amongst children between the age of 6-14 years. The Purpose of this study is to examine the cause of child labor and its legal consequences. In addition to that this paper also explains the suggestive measures that may be taken in order to eradicate child labor from its roots.

Design/Methodology/Approach-Data

collected from Census 2011 revealed that the number of child labors in India is 10.1 million of which 5.6 million are boys and 4.5 million constitutes girls. A total of 152 million children -64 million girls and 88 million boys are estimated to be in child labor globally which accounts for one-tenth of all children globally.

Main Findings- Results of Census 2011 supports the conjecture that after the retrenchment of child labor in 1980's and 1990's, the practice of child labor had again started growing enormously since the inception of 2000(21st century). As per the surveys conducted and reports of various international organizations, it is a well established fact that child labor became a major cause of concern since the beginning of 2000 and have continued to increase since then.

Originality of the study/Novelty- In the view of author's knowledge, most of the

research paper regarding child labour are country specific. The study of this research paper addresses the issue of child labour at global level. This research paper also projects a comparative analysis about the position of child labour in India vis-à-vis, the other countries. The research paper depicts the scenario of child labour in India as well as in other countries. The study also explores the impact of pandemic that it had this year on child labour. In addition, the research paper also states the suggestive measures that may be taken to curb the unethical practice of child labour.

Keywords- Child Labor, Census 2011 Report, Retrenchment, Suggestive Measures, Legal Consequences, Globally, Pandemic.

Paper Type- Research Paper

INTRODUCTION

CHILD LABOUR-A GROWING MENACE TO THE SOCIETY

Child labor simply refers to a practice where children are forced to work in places that are very hazardous to their health like:-Factories, Glass Bangle Industries, Mining Areas, and Agricultural Lands etc. It is a very Brutal and Harsh Practice and is increasing at a very rapid rate. Such a practice is inhumane towards the children where they are deprived of all the enjoyment and comforts of the childhood. And their childhood is completely nurtured. Such a practice is constitutionally unethical and is also violative of one of the most pristine article of the Indian constitution that is Article 21(Right to Life) as well as Article 21-A¹ that states about duty of the State to provide compulsory education to children aged between 6-14 years. Under this practice children are forced to work at places

¹ Inserted by 86th Amendment,2002.



which is likely to have an adverse effect on their health. And Moreover the amount of work which these children are made to do is susceptible to their physical abilities. Compelling children to do these kind of work at a very less age can also have a very deep impact on them both mentally as well as psychologically. Such an exploitation is criticized worldwide and is prohibited by the legislature. However there are some exceptions to the same . There are following categories of work done by the children which is even permitted by the legislature. These work includes:-

1. Work done by a child as a child artist.
2. Family Duties:- There may be some circumstances where the income of the family is very low . And under the aforesaid circumstances if the child works in order to earn money for the survival of himself as well as his family members, then in such a case work done by the child is exempted from the purview of child labour irrespective of the fact that such a work done by the child may affect the health of the child.
3. Supervised Training.

LITERATURE REVIEW

The traces of child labor were first found during the time of industrialization. It was during the time of industrial revolution when laws were made for the first time to regulate child labor. The first Legislation in regard to child labor was passed in Britain in 1803. Many developed countries witnessed a spurt in child labor cases since the inception of 21st Century. Data in this research were primarily collected from Census 2011 Survey and Reports of I.L.O. Census 2011 data projects that around 1.01 crore children between the

age of 5-14 years are working as child labourers. This data also revealed that around 22.87 million children working as child labourers are adolescents i.e in the age group of 15-18 years. It was also founded that around 80 percent cases of child labor in India is concentrated in rural areas. I.L.O² 2016 data clearly indicates that there are total 152 million working children in the world between the age of 5-17 years, of which 23.8 million children itself are in India. Results collected from the above data successfully shows that majority of child labour cases in India is concentrated in rural areas. One of the major reason for this being illiteracy and Poverty which compels these children to work as child labourers in order to earn income for their family and to maintain their survival. I.L.O Reports 2016 clearly projects that india itself accounts for 15.65 percent cases of child labour globally.

Keywords: Traces, Industrial Revolution, Child Labour, Rural Areas.

Mathematical Formula for Calculating Global Percentage of Child Labour in India

Total No of cases of Child Labor in india- 23.8 Million

Total No of cases of Child Labor Globally- 152 Million

Statiscal Formula = Total No of Cases of Child Labor in India/Total No of cases of child labor globally *100

Statiscal Formula- 23.8 Million/152 Million*100

Statiscal Formula=15.65%.

² Global Estimation of Child Labour: Reports and Analysis(2016).



COMPARATIVE ANALYSIS REGARDING STUDIES OF DIFFERENT AUTHORS ON CHILD LABOUR(PART OF LITERATURE REVIEW)

S. No.	Author's Name	Period of Study	Sample Size	Main Findings of the Author
1.	K Devi and Gautam Roy	2017	743	a)Study showed that around 32.5% of children were working as child laborers in Pondicherry. b)Major Reason for Child Labour:- Low income, Increasing Financial Debt of the family.
2.	B. Grimsrud	2001	LSMS-Head of household+ Not always child:	2.8 percent of all working children were found to

			2500-5000. ILO-SIMPOC:- 10,000+ Special Group of Employed Children MICS:- 5,000-10,000.	be working for pay while 2.5 percent were found to be working outside the household without any pay. Hazardous work and abuse.
3.	Charles S. Tundui, Hawa P. Tundui	2018	429 women respondents	Child Labour played a very decisive role in increasing the profitability, raising standards and survival of women owned microcredit supported businesses.



<p>4.</p>	<p>Enayat ollah Homai e, Ebrahi m Jaafari pooyan</p>	<p>201 5</p>	<p>14859</p>	<p>a)Results showed that child labour participa tion rate for children between the age of 10-14 years amounte d to 1.7%. b). Child Labour rate in Boys was much higher than that of girls. Ratio of child labour of Boys and Girls is as followed; Boys:Gir ls=2.4:1.</p>					<p>engaged in child labour. Malnutri tion and poor growth were also reported in these children.</p>
<p>5.</p>	<p>Abdulla Ibrahi m, Moham mad Jafer</p>	<p>201 8</p>	<p>Sample age-18 years or less</p>	<p>Child Labour led to deteriora tion in quality of life of those found</p>					<p>Objectives of the Study</p> <ol style="list-style-type: none"> 1.) To study and examine the factors that led to child exploitation all across the globe. 2.) To ascertain suggestive measures that may be taken to eliminate child exploitation completely from its roots. <p>METHODOLOGY</p> <p>Data used in the study primarily consists of Books, Journals, Articles, Periodicals, Blogs, Conference Papers, Newspapers, Magazines, Previous research findings, online sources etc.</p> <p>HISTORY OF CHILD LABOUR(BEGINNING OF CHILD LABOUR FROM BRITAIN)</p> <p>Child Labor began in Britain in the 18th Century. Child Labor has been practiced since the inception of Industrial Revolution and is still continuing. During the ongoing Industrial Revolution in Britain there were a lot of cases regarding exploitation of children being witnessed especially in industries. Children primarily between the age of 6-14 years were forced to work in industries. Many of the children were even forced to work in Production Factories and Mining Department for long hours and the working</p>



conditions where such children were made to work were very dreadful. Apart from working in Factories and Mining Department they were even forced to work in Coal Mines where the children were made to go inside the tunnels. The tunnels were very short and many cases had been reported of children getting injured while working in coal mines. The working conditions where children were made to work were very fatal and inhumane.

In a survey conducted during 19th Century in Great Britain it was founded that one –third of poorer families were financially so weak that they could not even afford basic necessities like:- Food, Shelter, Clothes etc which is pre-requisite for an individual's survival. And thus for the purpose of survival these children had to leave their school and give up their education and thus they started working in industries, mining department, agricultural land from a very young age in order to contribute for their family. Many of the children even worked on night shift basis due to deteriorating financial condition of their family.

In a Report submitted by United Nations Children Fund (UNICEF) and International Labour Organization (I.L.O) in 2013 they have acknowledged the fact that around 168 million children have been trapped under this vicious practice of child labour. This is a clear indicative of the fact that laws related to child labour are not being strictly adhered.

One of the law enforced by U.N.O regarding child labor is that “ Every child between the age of 6-14years shall be provided compulsory elementary education and no child shall be deprived regarding the same”. But the harsh reality is that such a law enforced by U.N.O is not followed across the globe.

However it was only during the second half of 19th Century that for the first time major radical changes were witnessed with regard to child exploitation. During this time it was founded that child labor had decreased to a widespread level in Britain especially in industries and factories due to economic growth and emergence of trade unions. And since then this menacing practice of child labor kept on declining in Britain.

SERIES OF ACTS BROUGHT IN 19TH CENTURY TO DEAL WITH CHILD LABOUR

The first act to regulate child labour came in Britain in 1803 which primarily dealt with protection of children against any sort of exploitation it may be either mentally, physically, psychologically etc.

Factories Act, 1819- In 1819 Factories Act was also passed which limited the no of hours of children working in factories as well as cotton mills. This act provided that no children shall be made to work for more than 12 hours a day. And this act also stipulated about working conditions of these children.

But due to certain loopholes and improper implementation, both these act were largely ineffective and thus failed to curb child labour.

Act of 1847- Improper Implementation of the abovementioned acts and wide-spread agitation led to the emergence of this act. This act further limited the working hours of both children as well as adults from 12 hours to 10 hours/-day.

After the coming of this act and due to improvement in technology there was an imperative need felt for making children educated. And thus there was a dynamic shift towards compulsory schooling in Britain.



Government of Britain started paying greater emphasis towards education of children which ultimately lead to decline cases of Child Labour in Britain.

FACTORS WHICH LED TO THE EMERGENCE OF CHILD LABOUR

During 18th Century since there was growing expansion of industries in Britain mainly because of industrial revolution, an imperative need was felt for laborers in industries and since there was shortage of laborers, hence in order to fill their vacancy children were forced to work as laborers in industries and factories. Expansion of industries and commercialization was the main reason for the emergence of child labor in Britain. This practice started in Britain in the initial days of industrial revolution which increased tremendously in the first half of 19th century. And gradually child labor was started being practiced globally. Almost all the countries across the world were engaged in this menacing practice and thus it became a global concern.

PRACTICE OF CHILD LABOUR IN DIFFERENT COUNTRIES

In Africa-Child Labor has been a major problem in Africa since its formation. Many Reasons had been cited for the same such as like:- Family Debt, Financial Deterioration of the country, increasing poverty and many other reasons etc. As per the recent figures approximately 5 million children are found to be working in agricultural land in Africa due to peer family pressure. And due to increasing poverty, lack of education, ignorance, proper legislation regarding child labor has not been framed in Africa till date. Child Labor still remains a major challenge for their national government.

In Australia- Cases of Child Labor in Australia were very low in comparison to Britain and Africa. Due to low population, sound financial stability children were not forced to work as laborers and thus the cases of child labor was also very low in Australia. There were various laws made regarding child labor in Australia which differ from state to state. In Australia there is also a concept of compulsory schooling which is to be strictly followed. Under this system it is compulsory for the students to attend school upto the age of 15 years and after attaining the said age children were given full autonomy to choose what they want to do further. However Tasmania and Queen's Land are the only two states in Australia where the leaving age is 17 years. And thus due to proper and stern legislation being framed regarding child labor, it was very low in Australia in comparison(vis-à-vis) to other countries.

In Britain- The children who worked at any early age in Britain were often not forced to work as Child Labors. But due to the less earnings of their family and in order to help their family survive financially, they had to work as Child Laborers. Due to financial distress and very less employment opportunities many parents were sending their children to work in farms, factories and industries and mining sector in order to maintain their survival. The majority of Child workers in Britain were between the age of 10-14.

In Ireland- After the end of colonial period in Ireland the rate of child exploitation began to grow at a brisk rate. Children were generally used as farm laborers in Ireland. And they were never paid for the work they did as Farm Laborers. Irish parents considered that it was



an obligation on the part of the children³ to work as laborers.

In Netherlands:- Child Labour emerged in Netherlands at the beginning of Industrial Revolution and continued to be in existence throughout the industrial revolution. Laws governing child labour in factories were first passed in 1874 in Netherlands. But still child labour continued to be a major problem in farms, mining sector, cotton textiles, agricultural fields and industries until 20th century.

FACTORS THAT LED TO DECLINE IN CHILD LABOR IN BRITAIN IN 20TH CENTURY

Greater percentage of children working in Farm, Factories, Industries, Agriculture Fields and Mining Sector led to an increase in illiteracy and thus lack of proper education became a major concern for many children and their parents. Many parents then started contemplating on this problematic issue and developed a change of mindset and decided not to send their children to work anymore. Apart from illiteracy, there were several other factors which played a decisive role in declining child labour. These included constant changes in economy, dynamic upgradation in technology, increase in wages, and continuous regulation on factory legislation being made which restricted children below the age of 14 years from working in any Hazardous employment such as like:- Factories. One of the most remarkable step was taken by Britain in this regard in 1933 for curbing the growing

menace of child labour. Britain passed a legislation which strictly prohibited the use of children under the age of 14 years from any employment work. In General, no children under the age of 14 years was authorised to engage in any work including light work⁴.

JURISPRUDENTIAL THEORIES RELATED TO CHILD LABOUR

1. Theory of Ulpian-He is a roman jurist. According to him jurisprudence is the observation of things divine and human, the knowledge of just and unjust. It simply tells us that what is right and what is wrong. His theory is completely based on morality. Ulpian Theory thus relates to child labour in many aspects such as like: Child Labour is also immoral and unethical. Child Labour is also completely unjustified because it deprives the children from their right to compulsory elementary⁵ education guaranteed to them under the constitution.
2. Natural Law Theory-According to the Natural Law Theorist law is normative in nature and it is based on human reasoning. The natural law theorists are of the opinion that law in its real sense is wholly normative in nature. The word normative here simple means how law should be and what it ought to be. Natural Law Theory is therefore a fit theory in relation to child labour because laws made on child labour has certain essence of natural law theory in it. Law makers are also of the opinion that child labour is completely irrational, immoral, arbitrary and an unethical practice. And therefore certain legislations have been made in this regard

³ Curtin, Chris and Anthony Varley,1984: Children and Childhood in rural Ireland.

⁴ Children's Rights:United Kingdom(England and Wales).

⁵ Inserted by Article 21A of Constitution of India Act 1950.



which prohibits the practice of child labour. And just like natural law theory legislations related to child labour are also completely based on human reasoning.

3. Lex Humane Theory- This theory was propounded by St. Thomas Aquinas. He bifurcated law into 2 parts:-

A) Conclusion from Premises- It is a law based on principal and reasoning. And St. Thomas⁶ the founder of this theory is also of the firm opinion that morality shall also be taken into consideration while framing a law. Conclusion from premises simply tells us why there is a need for formulation of law and why there is a need for punishment for the law violators. This theory is therefore directly related to child labour and finds its certain elements in law related to child labour as earlier child labour was considered to be a common practice in almost all the countries and there was no law made regarding it. But later on the law makers felt that there is an imperative need to make a law regarding the same in order to protect the children from any sort of exploitation. And in light of the same series of legislation were passed which restricted the unethical practice of child labour.

B) Law from Determination- Law from determination is something which tells us the extent of punishment. Such an extent of punishment differs for each offence based on its nature.

Illustration- If a person outrages the modesty of a women then law from determination tells us that such a person shall be punished with life imprisonment.

In the similar manner any person who compels children to be engaged in any sort of employment shall be deemed to have acted in contrary to law and shall be punished for the same.

Hence it can be concluded that the theory of St. Thomas Aquinas in a way finds its place in regard to laws related to child labour.

4. Theory of Socrates- Socrates was an ancient Greek philosopher. He was of the view that law would be deemed to be valid only if it is supported by proper human reasoning or human insight. Theory of Socrates in a way have a direct relation with child labour because series of legislations which were passed prohibiting the practice of child labour were based on proper human reasoning and human insight that child labour is immoral, unethical and unconstitutional as it deprives children of their right to compulsory elementary education which is guaranteed to them under article 21A of the constitution. Right to education is also considered to be an integral part of right to life and depriving children of the same is a violation of their fundamental rights.

5. Theory of Immanuel Kant-Immanuel Kant⁷ was a German Philosopher. He formulated a theory called as categorical imperative . The term

Categorical imperative simply means that an action should be based on a maxim which should be applicable universally. He calls categorical imperative as a coercive law because according to him law shall be coercive in nature and it shall restrict and punish those persons who violates the rights of other persons. This theory of Immanuel Kant is thus in direct relation with regard to

⁶ Born in 1225: An Italian philosopher.

⁷ Born on 22nd April 1724: Kant's theory of Supreme Principle of Morality(C.I).



the laws relating to child labour as they are also coercive in nature and imposes certain sanctions on the law violators and upon those who are engaged in this hazardous and non-ethical practice of child labour thereby violating the rights of the children.

Hence by reading the theories of all the aforesaid jurists in detail it can be easily inferred that these jurisprudential theories finds its way in legislations made regarding child labour.

CONSTITUTIONAL PROVISIONS REGARDING CHILD LABOUR

Article 23- Prohibition of Trafficking in Human Beings and Forced Labour

- (1) Trafficking in human beings, beggar and other similar forms of child exploitation are unethical and immoral and are therefore prohibited by the constitution and any violation of this provision is a serious offence which shall be punishable in accordance with the law.
- (2) Nothing mentioned in this article shall restrain or obstruct from the state from imposing any directions, rules, regulations, or any order which are beneficial for public at large and in imposing these directions, the state shall not cause discrimination on any grounds.

Article 24-Prohibition of Employment of children in factories and other Hazardous Places-

This article explicitly states that any child below the age of 14 years shall not be authorised to work in any factory, mining sector, agricultural fields, industries, farms or in any other place which may hamper the health of children immensely.

Proviso Part :- Provided that nothing contained herein shall allow the detention of any person beyond the maximum period prescribed in the legislature(Parliament).

Article 39(e):- Article 39(e) clearly manifests the fact that it shall be the onus of the state to ensure that the tender age of children is not abused and that they are not compelled to engage in any sort of minor occupation which is hazardous to their health.

Article 39(f):-Article 39(f) unequivocally states that children shall be given opportunity to live in a healthy manner and the state shall strive efforts to ensure that the children are able to exercise complete autonomy and that they are protected against all the sorts of exploitation.

Article 45- State to provide free and compulsory education for children

This Provision clearly states that the state shall make efforts to provide free and compulsory education for all the children between the age of 6-14 years within a period of 10 years from the date when constitution came into operation.

Article 51A(k)- It shall be the duty of every parent or guardian to provide opportunities for education to their child and they shall not deprive their child or ward of the same because any such deprivation would amount to violation of their fundamental rights.

LANDMARK JUDGEMENTS ON CHILD LABOUR

1). People's Union for Democratic Rights v. Union of India

Facts of the case:-



This case specifically relates to Employment of children act, 1938. Under this case, the provisions of employment of children act, 1938 excluded “construction work” from the ambit of hazardous employment.

Ratio Decidendi/ Held Part:-

The Hon’ble Apex Court in this case held that working in construction sites amounts to hazardous employment and therefore prohibited working of children in these sites.

2). M.C Mehta v. State of Tamil Nadu

Ratio Part:-

In this case, the supreme court prohibited employment of children in factories for the purpose of manufacturing matchboxes and fireworks.

Reason of the Judgement:-

The Supreme Court rendered this judgement because it was of the view that the work carried out in these factories is of hazardous nature, and if the children below the age of 14 years are engaged in such kind of hazardous work, then it is likely to possess a serious threat to their life.

3). Gaurav Jain v. Union of India:-

Ratio of the case

In this case, supreme court held that the children of the prostitutes are also entitled to enjoy all the basic and fundamental rights as enjoyed by any other child such as like:- Right to equality, Right to equal opportunity, Right to live with dignity, Right to Proper care and assistance, Proper Rehabilitation, etc so that these children are also able to live their life in a dignified manner and to protect these children from any sort of oppression and discrimination.

IMPACT OF COVID-19 ON CHILD LABOUR

- 1.) According to I.L.O Projection millions more children are at the risk of being dragged into this vicious practice of child labour due to the COVID-19 crisis.
- 2.) In the past 20 years child labour cases had been reduced by 94 million, but due to this pandemic which came all across the globe in the initial phase of 2020 there is a high risk of increase in child labour cases.
- 3.) Due to Covid-19 crisis, many people working in informal sectors and those engaged as migrant workers have lost their jobs and therefore as a result of economic necessity children of these persons are forced to work as child labourers.
- 4.) As the pandemic will get more worse with the coming days, which in turn will effect the family income, many parents would want their children to work as labourers so as to support their family income.
- 5.) I.L.O in its report stated that children may be forced to work in worst forms of child labour. I.L.O further stated that children may be even forced to work in toxic environment which may cause significant harm to their health and safety.
- 6.) Evidences clearly shows that closure of schools during the pandemic has lead to increase in child labour cases.
- 7.) Temporary closure of schools has affected more than 1 Billion Children in over 130 Countries. Some countries like: South Korea though made efforts to open the school but due to increase in covid cases they were again forced to shut down the schools.
- 8.) Due to Rampant increase in Poverty, Closure of schools, Financial constraints , more children are pushed into workforce.



STRATEGIC MEASURES THAT MAY BE ADOPTED FOR REGULATING CHILD LABOUR

1). Availability of Jobs

Schools must lay emphasis on imparting vocational education to its students and assist them in choosing their profession, so that they are able to secure a proper living for themselves.

2). Social Awareness amongst Parents

Government should take certain initiatives to make parents socially aware about the growing importance of education for their child and they shall endeavour to restore faith amongst the parents. These awareness programmes will help in reducing drop out rates in schools which, in turn will improve literacy rate in our country.

3).Poverty Alleviation Programmes

Since poverty is one of the major cause of child labour, and therefore in order to curb poverty government should start certain poverty alleviation programmes and implement them in reality.

4). Establishment of Helpline Centres

Government should establish at least 1 Helpline Centre in each area. These Helpline centres must be specifically designated to deal with problems relating to child trafficking, child exploitation etc. Any person who is either aware of or has the knowledge of these illicit activities taking place in the society must inform these helpline centres, and these helpline centres shall then act accordingly to eliminate the problem of child exploitation in the society.

5). Performing Rescue Operations

For the purpose of rescuing children from these activities, a planned delhi model should be implemented all across the country and the rescue teams performing these operations shall also maintain a proper track record of children rescued so as to safeguard them from getting indulge in these activities again.

CONCLUSION

From the aforesaid discussions, it can be inferred that child labour continues to possess a serious threat to the society and impedes the growth of a nation. Considering its magnitude and the extent of the problem that child labour has become today and the fact that it is a socio legal subject inextricably linked to poverty and illiteracy, concerted efforts are required from all the sections of the society to cull its effect. It is evident from the study that apart from poverty and illiteracy degrading standard of education, improper infrastructure, unavailability of teachers, exorbitant fees charged by the schools also contributes to the problem of child labour. Data and Reports of various reputed international organisations such as like:- International Labour Organisation(I.L.O),UNICEF etc that have been collated for the purpose of this study clearly manifests the fact that there is an abundance of child labour in the field of Agricultural works, Factories, Mining industries, Construction Sites, Forestry, Fishing etc. Hence, it can be concluded that child labour has far reaching implications on the physical and mental health of children and endangers their life and thus, to scrap this hazardous practice appropriate action is required on the part of concerned authorities.

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