

Role of ILO as legal safeguard of working children

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Introduction:

Child labour has been a Major concern in the world because it affects the children both mentally and physically and it also destroys the future of children. Child labour is one the serious issue not only in India but also in other developing and developed countries. It is widely prevalent in developing countries because of poverty. It is a great social problem because children are the hope and future of a nation. There were many laws enacted to prohibit child labour but they are ineffective. According to 2017 statics India in one of the leading countries in Asia has a hopping 33 million children employed in various forms of child labour.

Let me explain the major laws enacted to prohibit child labour by ILO as well as India and their impacts on Indian society under the following sub heads in this research paper.

❖ ILO and legal protection of child labour:

Alarming unrest emerging from the large growth of Child labour force in many developing countries throughout the world demands special protection to them so that the children are not deprived of their rights without which their knowledge and skill are of little avail. The ILO extends its arms to protect the child form such on slaught. One of the aims of the International Labour Organization since its inception is the abolition of Child labour. The ILO, in its conventions, has fixed the minimum age of admission to employment, nature of night work and medical examination, and it has adopted 9 recommendations on these topics. The prohibition of employment of children has been one of the basic concerns of the ILO since its coming into existence. In its preamble, it specifically noted the following goals.

“Achieving the total abolition of Child labour and requests member states to ‘raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons.’ Ten conventions have been held by the ILO on the issue of fixation of the minimum age for admission to various employments. The basic aim of the ILO to abolish child labour altogether is yet a distance goal in view of the present economic setup of the world. It has taken measures to protect the working children and to ameliorate their working and living condition and to impact job-based education. The United Nations declaration of the rights of the child says.

“The child shall enjoy special protection and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, spiritually and socially in a freedom and dignity. In the enactment of laws for this purpose the best interests of the child shall be the paramount consideration.” It further states that:

“The child shall be protected against all forms of neglect, cruelty and exploitation. He shall not be the subject of traffic, in any form. The child shall not be admitted to employment before an appropriate minimum age, he shall in no case be casue or permitted to be engaged in any occupation or employment which would pre judice his health or education, or interface with his physical, mental or moral development”

Since the very initiation of the ILO, India has retained her active membership to regulate her labour laws in the line of the international standard. Indian laws relating to child workers have been influenced by the standard laid down in International labour Code. But India has faced difficulties in ratifying all the ILO conventions. It has ratified six conventions concerning the employment of children and young persons in Industrial and Non industrial occupations. Though it is not impressive, yet India's attitude towards international labour standard of working facilities of labour cannot be measured by merely formal ratification of the internal conventions, since her economic needs and setup are quite different.

Following the peculiar socio-economic condition of India, the ILO has changed its earlier decision in 1983, which is as follows:

“Not all work is harmful for children. Some types of activities under regulated conditions can have positive effects for the child and for society. Work experience of the right sort can be means of acquiring skills, of learning responsibility of becoming a full member of the community, in short, a valuable part of growing up”

Indian laws have got their ingredients from the ILO conventions and recommendations and form the declarations of the right of the child, unanimously adopted by the General Assembly of the United Nations of November 20, 1959.

To protect the children from the abuses of employment and exploitations there are several Indian statutory provision, viz., the Children (pledging of labour) Act 1933, the Employment of children Act, 1938. Factories Act, 1948, the plantation labour act, 1951 Mines Act, 1952, the Merchant Shipping Act, 1958, and Motor Transport Workers Act, 1961, the Beedi and Cigar Workers (Condition), 1966, the Apprentices Act, the Contract Labour Regulation Act, 1970, the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, the Child Labour (Prohibition and Regulation) Act, 1986, Shops and Establishment Act. These acts have restricted the hours of work, stipulated the period of rest, leave, minimum

wages, protection against exploitation, fixed the minimum age of employment. Besides other legislation, framed for purpose were workmen's compensation, trade unionism, industrial relation, maternity benefits and workers housing acts.

❖ **Meaning and causes of child labour:**

“Child” as defined by the child labour (Prohibition and regulation) Act 1986 is a person who has not completed the age of 14 years as a layman we can understand that child labour is the practice of having children engage in economic activity, on a part or full time basis. Every child is considered as a gift of god, it must be nurtured with care and affection within the family and society. But unfortunately due to the socio economic problems children were forced to work in industries, leather factories, hotels and eatery. The child labour is not as isolated phenomenon It is coupled with socio economic problem of the society so in order to eliminate child labour first we should focus on socio economic issues of the society. It is in the hands of administrative. It should bring effective measures to eliminate child labour.

❖ **Causes of Child Labour:**

❖ **Poverty:**

Poverty is one of the main causes of child labour. In developing countries poverty is one of the major drawback and the children were considered as helping hand to feed their families, to support and support themselves. Due to poverty, illiteracy and unemployment parents are unable to send them to schools, instead the children were asked to help them in running a family so that the poor parents send their children for work in inhuman condition at lower wages.

❖ **Debts:**

The poor economic conditions of people in India force them to borrow money. The illiterate seek debts from money lenders during emergency situation. At later point of time they find themselves difficult in paying back the debts and interest.as a result the debtors were made to work for money lenders and then debtors drag their children too in assisting them so that the debts could be paid off.

❖ **Professional Needs:**

There are some industries such as the bangles making industry, where delicate hands and little fingers are needed to do very minute work with extreme excellence and precision. An adults

hands are usually not so delicate and small, so they require children to work for them and do such a dangerous work with glass. This often resulted in eye accidents of the children.

❖ **Working Children Under International Law:**

Universal declaration of human rights 1948- stipulates under article 25 Para 2 that childhood is entitled to special care and assistance. The above principles along with other principles of universal declaration concerning child were incorporated in the declaration of the rights of the child of 1959.

International covenant on civil and political rights under article 23 and 24 and International covenant on economic, socio and cultural rights-under article 10 made provision for the care of the child. International labour organization (ILO)- provides universal standards and guideline, a specialized agency of UN aims to provide convention on the rights of the child, 1989 It is another International instrument which protects the child.

❖ **Working Children Under National Laws:**

India has also taken effective measure under national level. In order to eliminate child labour, India has brought constitutional statutory development measures, The Indian constitution incorporated provision to secure compulsory elementary education as well as the labour protection for the children. Labour commission in India have gone into the problems of child labour and made extensive recommendation. The constitution of India, too provides certain rights to children and prohibit child labour such provision are as follows:

1. No child below the age of 14 years shall be employed in any factory or mine or engaged in any other hazardous work.
2. State in particular shall direct its policy towards securing that the health and strength of workers, men and women and the tender age of the children are not abused and that citizen are not forced by economics necessity to enter vocations unsuited to their age.
3. Children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and the dignity and that childhood and youth are protected against exploitations and against moral and material abandon.
4. The state shall endeavour to provide, within the period of 10 years from the commencement of constitution, free and compulsory education for all children until they complete the age of 14 years.
5. The state shall provide free and compulsory education to all children between the ages of 6 to 14 years as such a manner as the state may by law determine.
6. Who is parent or guardian to provide opportunities for education to his child or the case may be, ward between the age of six and fourteen years.

There are wide range of laws, which guarantee the substantial extant the right and entitlement as provided in the constitution and in the UN convention.

❖ **Some of them are given below:**

1. The apprentices Act 1861
2. The child labour Act 1986
3. The child marriage restraint act 1929
4. The children (pleading of labour) Act 1929
5. Children Act 1960
6. The guardian and wards Act 1890
7. The Hindu minority and guardianship Act 1956
8. The Hindu Adoption and maintenance Act 1956
9. The Immoral Traffic (prevention) Act 1956
10. Juvenile justice Act 1986
11. The Orphanages and other charitable Homes (supervision and control) Act 1960
12. Probation and offenders Act 1958
13. Reformatory schools Act 1857
14. The women's and children's institutions (licensing) Act 1956
15. The young person (harmful publications) Act 1956

❖ **Current Scenario of Child Labour:**

*India is one of the leading countries in Asia has a 33 million children employed in various form of child labor. It is shocking that world's largest democracy is yet to ratify the Minimum age convention 1973 (No 138) of the International labour organization (ILO) that lays down ground rules for employment of minors across the globe.

*World day against child labour on June 12 is an ILO sanctioned holiday first launched in 2002 with the objection to raise awareness and activism to prevent child labour under the above convention. An estimated 150 million children are involved in child labour worldwide as per UNICEF data.

*On the other hand Article 2 of the Minimum age (industry) convention of the ILO, 1919 which has been ratified by India does not allow children under 14 to be employed in any public or private industrial undertaking, does not even apply for India.

* According to a Livemint report, the government last year amended child labour laws to allow children below 14 to work in family business and the entertainment industry (excluding circuses) in order to create a balance between the need for education for a child and reality of the socio economic condition and fabric of the country.

*Not only that amendment also modified the definition of adolescents- to children between 14 and 18 years of age and barred them from working in any hazardous industries only.

Key Statistics of Child Labour:

*In every 11 children in India works to earn a living, according to statistics by action Aid India there are five states which are India's biggest child labour employers Bihar, Uttar Pradesh, Rajasthan, Madhya Pradesh and Maharashtra, as per data given out by save children NGO. National capital Delhi is responsible for a share of 1 million child labour alone.

*A recent analysis by CRY of census data in the country shows that the overall decrease in child labour is only 2.2 percent year on year over the last 10 years. Also it has revealed that child labour has grown by more than 50 percent in urban areas.

*There are 33 million child labourers between the ages of 5-18 years in INDIA as per census 2011 data and 10.13 million between the ages of 5-14 years.

*Considering that are 444 million children India under the age of 18, they form 37 percent of the total population in the country.

*Therefore the child labourer in the country in real figures boils down to 10,130,000 kids involved various occupations across the hazardous sectors and this is only data from six years ago.

❖ Drawback:

The main cause of child labour is higher poverty level. These children have no choice other than working as a labourer in the factories; child labour for these children is survival. If they don't work, they will die of poverty and hunger. They are the future of India. None of these children have the privilege of going to school and being able to go home at the end of the day. Child labour is prevalent at a large scale in the country. In Punjab, it is found in hotels, restaurants, tea stalls, for which the administrative authorities, parents, educationalists, police officials and employers of public authority are responsible. There is a lack of implementation of child laws. Laws remain merely on paper for which the lack of control of population and increasing unemployment are the major causes and politicians fear to tackle these problems in view of their vote banks.

❖ Remedies:

The remedy is only in the hands of the government. It should take necessary steps to eradicate poverty through employment to the parents of the child labourer. Necessary practical steps should be taken to educate the children. The government should allocate the necessary funds to educate

and nurture the poor children. The violators of child labour laws should be punished accordingly.

❖ Conclusion

There are many laws and regulatory departments for child labour, yet it is ineffective in controlling ongoing child labour. This is possible only when there is a cooperation of all sections of the society and the law enforcement agencies and by removing or minimizing the causes of child labour. The main thrust should be on controlling the population of the country, education of the children and providing sufficient funds for its removal from the gross domestic product of India.

Child is a soul with a being, a nature and capacities of its own must be helped to find them, to grow into their maturity, into a fullness of physical and vital energy and the utmost breadth, depth and height of its emotional, intellectual and spiritual being; otherwise there cannot be a healthy growth of the nation."---

In contrast to the preceding indicates India seems to have done enough for the protection of children from all untoward circumstances in keeping with international development in the area of child welfare. India as a democratic state has launched scores of program and policies devised on satutory footing. The ministry of women and child has been instrumental in this direction and it has particularly catered to children in crisis situations such as Street children. Children who has been abused abandoned children in conflict with law etc.

The United Nations convention of the rights of the child defines a child as every human being below the age of 18 years unless under the law applicable of the child measure it is attend earlier, child means a person who if a male, has not completed 21 years of the age and if a female has not completed 18 years of age.

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