

Combating Child Labor through Educational Initiatives

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ABSTRACT

Child labour means children under the age of 18 years who has been deprived of their childhood and anything that is harmful to their physical or mental well-being and especially interfering with the education of the child. Age of the child may vary according to the domestic of those respective countries. Child labour is seen as an obstacle not only for that child but also for the country as it makes a huge impact in their social and economic development as they are seen as future generations. Amendment made in the child labour act in 2016 is a boon or bane and has been discussed briefly in this article. Education has been a major tool in combating child labour and it has been a proven factor in Kerala and countries like Sri Lanka. The position of India on educating children and the importance given by the government has been explained. UNICEF stand on child labour and various statistics regarding children in India and across the globe done by UNICEF has been published and it has been elaborated. Opinion of various scholars on child labour has been taken into consideration and a newspaper article on the amendment of the 2016 child labour act has been discussed in this article.

Research Question

Does the recently made amendment (2016) in child labour law in India really aim to abolish child labour or not?

1. Introduction:

The concept of child labour, there never existed a uniform definition for the word "Child labour". It always depends on the countries what child labour means to them. Several international organisations, scholars and jurists have tried to define child labour.

According to ILO 'child labour' means children under the age of 18 years who has been deprived of his childhood and anything that is harmful to his physical or mental well being and especially interfering with the education of the child.

According to UNICEF "child labour" means a:

- Child involved in labour aged between 5 to 11 years working at least one hour for economic need or 28 hours of domestic work and economic work combined and
- Children aged between 12 to 14 years doing 14 hours of economic work or 42 hours of domestic work and economic work combined.

Child labour is a problem that has been existing for a very long period of time. Only during the 18th and 19th century the concept of child labour has been seen as a major issue on a global scale. There has been various

initiatives taken by various international instruments which has been binding on all the member states especially ILO for the abolition of child labour. There has not been significant importance given to the rights and education of the children which maybe seen as the improbable solution for them.

2. Eradication of Child Labour through education

Although child labour has been banned in India for a very longtime the concept of child labour never ceases to exist. Still there exists 60 to 115 million working children in India which is one of the highest numbers compared to the whole world.

There may exist various reasons for child labour but the important reason is considered to be poverty which pushes children into the labour market. There exist several governmental policies like compulsory education which have proved to be successful, especially in the state of Kerala. The main success behind the policy of compulsory education has been assessed.

Compared to India which spends 7.8 rupees per capita expenditure on education, Kerala spends 11 rupees per capita expenditure on education and more precisely on primary education rather than higher education and making the foundation a strong one. Kerala has strong enforcement of the school system rather than having legislation on labour laws. There always existed access to free, compulsory, quality and basic education for the students.³

Education will always be the key to the future of eliminating child labour. There cannot be a single reason pinpointed for the reason of growth of child labour. There exist a combination of economic growth of an individual, respect for labour standards provided, universal education on social protection along with better understandings of the rights of children that will reduce child labour. There never exists a simple quick fix or a universal blueprint for the problem of child labour.⁴

According to the census of 2011, UNICEF reported that there exist 10.1 million child laborers in India where there are 5.6 million boys and 4.5 million girls in India alone and in a global perspective the estimation is 152 million where there are 88 million boys and 64 million girls employed as child labour all around the world.

Despite the decreasing trend of child labour, there was always child labour found in bonded labours, brick industry, carpet weaving industry, garment industry, agriculture, mining, fishing and tea shops. There also exists sexual exploitation including child pornography. Children belong to schools and not workplaces, this causes an intergenerational cycle of poverty and acts as a major barrier to education. Listening to the children is the first step in fighting against child labour.⁵

In India, in 2002 there came the 86th constitutional amendment, which inserted article 21A which talks about free and compulsory education for children aged between 6 to 14 years and it was considered a fundamental right.

The aftermath of this amendment in 2009 there came the Right to Education (RTE) Act and there exists a few key features to this act that comes in line with article 21A:

- Till elementary school, education must be free and compulsory,
- Appropriate state government must take make laws from this central government act,
- Duties and responsibilities of the government, local authorities and parents were mentioned in this act as well which talks about the financial share that will be taken care of between central and state governments.
- It explicitly prohibits the following
 - Screening the children for admission,
 - Capitation fees,
 - Taking private tuition by the teachers,
 - Running a school without the government's proper recognition.⁶

3. Amendments made in the Child Labour Act, 2016 progressive or not?

Employment of children act, 1938 was the first act that governed child labour which was recommended by the report of the royal commission of labour in 1931 which says child labour is prohibited in certain hazardous places.

In 1986 there came the Child Labour (prohibition and regulation) Act, 1986 on the recommendations made by the Gurupadaswamy Committee report in 1979 and the committee gave an insight that child labour never ceases to exist unless poverty is eliminated. Dangerous occupations places were mentioned and it made regulate the work in remaining for the child labour.

After the 86th amendment in 2002 and the consequences of it came the RTE act, 2009 there was more pressure on the government to amend the child labour laws in line with this. The national commission for protection of child rights recommended for suggested a major change to delete the term 'regulation' mentioned in the act as child labour must be abolished completely and not regulated.

Amendments made in 2016 are as follows:-

- Children aged below 14 years were completely prohibited to do any work,
- The term 'adolescents' was recognized and refined as the child aged between 14 to 18 years,
- According to section 3(1) of the act, there is a complete prohibition of children below 14 years to work in any place or process.
- There is an exception to that clause saying that the child may work for the family and for family enterprises and as an artist, audio and entertainment arena which included films, tv serials and advertisements as well as sports provided it does not affect the child's education.
- Hazardous places were mines, explosives and the industries which are mentioned in the factories act.⁷
Loopholes in the amendment:-
 - The hazardous occupation was reduced from 83 places to 3 consisting of mining, and explosives and those mentioned in the factories act and the industries which have not been mentioned are chemical mixing factory, cotton farms industry, battery recycling industry, and brick kilns were exempted.
 - By using section 4 of the act appropriate government authority was given the power to remove the hazardous occupation rather than going through parliament procedure.
 - Section 3(5) gives the exception of family based enterprises where child labour exists mostly on caste-based which would result in intergenerational debt bondage and

poverty.

Article 24 of the Indian Constitution prohibits no child must be employed in factories, mines or any hazardous occupations and Article 45 talks about free and compulsory education in line with the RTE act, 2009. In 1987, national policy for child labour was made laws to be implemented strictly and there were several developments based on caste and poverty. There existed several social protections from the government where the budget was slashed in future which resulted in various closures of government programs as the government cannot allot funds for it.

According to India's 2011 census, UNICEF gave a report that in 33 million child labour that exist in India, 80 percent are Dalits and other 20 percent are backward classes so it clearly suggests that child labour in India is a caste-based problem as well.

4. Conclusion

Child labour, especially in India, is seen as the greatest hurdle in the progression of our country as the

progression of any country not only India always depends upon the future generations and this concept will gravely damage one's own economy as well. Despite all the laws that have been enacted, child labour is still growing at an alarming rate. Child labour has been existing for various reasons and not only poverty. If child labour can be abolished there exist only one solution which is through education.

The current amendment tries to resolve many problems but rather it has caused various problems and it is not progressive in nature because it pushes the child into caste-based intergenerational occupation and the time of the work is not specified which is even more dangerous where it can be misused easily. So, the exception clause mentioned can be easily misused and it is a loophole when the main aim of the act is to abolish child labour rather than regulate it.

References:

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