

CHILD LABOUR IN INDIA: DECONSTRUCTING THE CHALLENGES

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ABSTRACT

Child labour is one of the serious social issues in India that is affecting millions of its underprivileged children. These children are caught up in a cruel cycle of structural violence with the burden of earning for themselves and their families falling entirely or partially on them. There are around 100 million child labourers globally and India contributes some 260 million to this pool. Their employment ranges from agricultural activities to manufacturing and service sectors. This paper discusses the nature and causes of child labour in India and attempts to deconstruct the challenges to solving this acute social problem. The paper argues that a ban on child labour will only worsen the situation of these children as their socio-economic realities force them into this practice. Regulation of their activities simultaneously with quality schooling can give them some control over their lives.

Keywords: Child labour, India, Exploitation, Challenges, Prohibition, Regulation, Education

1. INTRODUCTION

India claims to be on a path to become a superpower in development and technological advancement. Still, it continues to fail large sections of its population in several ways, children being one such section. Millions of children of school-going age are engaged in economic activities, posing a threat to their physical, mental, and social wellbeing. Child labour precludes any opportunities for education and gainful employment in the future and deprives children of love, care, and protection. Child labour is characterized as work depriving children between five and fourteen years of a better life and future. Child labour is “any work by children that interferes with their full physical and mental developments, their opportunities for a desirable minimum of education or their needed recreation writes Homer Folk. International Labour Organization, ILO, defines child labour as "work that deprives children of their childhood, their potential, and their dignity, which is harmful to physical and mental development”. It refers to work that is ‘mentally, physically, socially or morally dangerous and harmful to children; and

interferes with a child's ability to attend and participate in school fully by obliging them to leave school prematurely or requiring them to attempt to combine school attendance with excessively long and heavy work'.

2. FACTS AND FIGURES

Globally some 100 million children below the age of 14 years are involved in substantial economic activities. The global figure of child labourers stands at 168 million (2012). - Asia and the Pacific still have the most significant numbers of child labourers (almost 78 million or 9.3% of the child population). Still, Sub-Saharan Africa continues to be the region with the highest incidence of child labour (59 million, over 21%). - Globally, agriculture remains by far the most prominent sector where child labourers can be found (98 million), but the problem is not negligible in services (54 million) and industry (12 million). This is found to be the case mainly in the informal economy¹.

According to the census 2011, India has a total child population of 259.6 million, of which 10.1 million, i.e., 3.9%, are either working as primary workers or as marginal workers. Of them, 5.6 million are boys, and 4.5 million are girls. Eight million of them were found to be working in rural areas. The number has come down from 11 million (2001 census). Urban areas have employed 2 million children, which have risen from 1.3 million (2001 census). Though a decline of 2.6 million child labourers has been registered between 2001 and 2011, a considerable chunk of them is still compelled by their circumstances or by the requirement of employers to continue working².

Children as young as five-year-olds have been reported working in dangerous circumstances. They are employed in different sectors, including manual work, domestic work in family homes, rural labour in the agricultural industry including cotton growing, glass, matchbox, brass and lock-making factories, embroidery, rag-picking, beedi-rolling, carpet-making sector, mining and stone quarrying, brick kilns and tea gardens among others. The work is often gender-specific, with boys employed in the wage labour market and girls carrying out domestic and home-based work (ILO estimates). Many children are sexually exploited while living on the streets, rag picking and forced begging. Child trafficking for commercial and sexual exploitation is another form of child abuse.

A child is considered a 'labourer' only when engaged in economic activity (Ashagrie,1993). The standard definitions of child labour emphasize the financial involvement of children and their involvement in hazardous work, leaving out many children who participate in domestic work and agriculture, especially the girls whose involvement in household chores does not count as an

economic activity. The figures thus, do not provide a comprehensive depiction of child labour estimates.

3. NATURE OF CHILD LABOUR

The term 'child labour' is often used interchangeably with the term 'child work'. International Labour Organization, ILO, however, categorizes working children as 'children in employment', 'child labourers' and 'children in hazardous work'. Children in employment include all the children involved with all the paid productive activities and some categories of unpaid work, e.g. children employed as domestic workers outside homes or using children's services to produce goods for homes. Domestic work performed in homes is, however, not considered an economic activity. All the activities using child services are also not always legal. 'Child labour' is a restrictive definition excluding certain types of children in employment. Children above eleven years of age involved with part-time light work, provided that work does not interfere with their schooling, are excluded from this category. Those children above fourteen years of age who are employed in non-hazardous activities are also excluded from this category. Non-hazardous work includes activities that do not pose any risks to the safety, moral development, physical and mental health of employed children.

Child labour is exploitative and hinders children's right to grow into capacitated individuals. They are deprived of education or skill development, divesting them of any future opportunities of earning livelihood decently. Child labour is a violation of fundamental human rights of life with dignity, liberty, and freedom. "Child labour is economically unsound, psychologically disastrous and physically as well as morally dangerous and harmful. It involves the use of labour at its point of lowest productivity and is, therefore, inefficient utilization of labour-power. Child labour precludes the full unfolding of a child's potentialities," writes S.K Singh (1994). These children can hardly afford a wholesome diet and clean surroundings. They work for long hours for a pittance and barely rest between the working hours, making them more vulnerable to diseases and accidents. They endure disciplinary measures of a reprehensible kind. They are beaten up and abused. Child labour is employed in informal and agricultural sectors, leaving them outside the ambit of formal sector laws and legislations, leaving them even more vulnerable to exploitation and mistreatment by their employers and others. While employers of child labour claim that they employ children because they need and want to be employed because of their socio-economic conditions, they make more profit as the wages provided to these children are lesser than paid to adults for the same work. Though the law of the land forbids the employment of children in hazardous jobs, compelling evidence suggests that child employers don't hesitate to employ children in such occupations.

4. NATIONAL AND INTERNATIONAL INITIATIVES

The fundamental international laws dealing with child labour include:

- a) International Labour Organization, ILO's following two core Conventions
 - i) Convention No 138 stipulates that the minimum age at which children can start work should not be below the age of compulsory schooling and in any case not less than 15 years; with a possible exception for developing countries.
 - ii) Convention No. 182 proscribes hazardous work which is likely to jeopardize children's physical, mental, or moral health. It aims at immediate elimination of the worst forms of child labour for children below 18 years.
- b) The United Nations Convention on the Rights of the Child, 1989 (CRC), while recognizing the rights of a child, calls for their protection and harmonious development. It also recognizes the importance of international co-operation for improving the living conditions of children in every country, particularly in developing countries.

The enactment of the Child Labour Amendment (Prohibition and Regulation) Act 2016 and the Right to Education Act, 2009 paved the way for the ratification of ILO Conventions.

Child Labour Amendment (Prohibition and Regulation) Act, 2016 completely bans the employment of children below 14 years in all occupations and enterprises except those run by the child's own family, provided that the education of the child is not affected. The Act also prohibits adolescents' engagement, i.e., children between the ages of 14 and 18, in three hazardous occupations, including mining, combustible substances, and dangerous processes under the Factories Act. Children engaged in agricultural work are, however, excluded from this Act.

National Policy on Child Labour, 1987, was introduced to rehabilitate child labourers in a high concentration of child labour on a project basis.

Juvenile Justice Amendment (Care and Protection of Children) Act 2016 includes sections on working children and calls for their care and protection without any limitation of age or type of occupation. Sections 23 and 26 deal specifically with child labour (cruelty to juvenile) and (exploitation of a minor by the employee), respectively.

The Right to Education Act, 2009 makes it mandatory for the state to ensure that all children between the ages of six and fourteen are enrolled in schools. Article 21 A also recognizes education as a fundamental right of children and provides an opportunity to withdraw all children from labour and place them in schools.

Despite the efforts by the Government of India so far the child labour continues to haunt the strategists, planners, and people equally. It poses a severe challenge to the social fabric and economic system of the country.

5. CAUSES OF CHILD LABOUR

Different scholars attribute higher incidences of child labour in India to the factors like poverty, unemployment, low wages, overpopulation, illiteracy, migration and urbanization, and the loopholes in labour laws that permit employment of children in agriculture and home-based industries effectively leaving millions of children outside the ambit of legal scrutiny.

Among many factors responsible for child labour, poverty is the most dominant one. The two types of poverty, subsistence and opportunity, are essential to the study of child labour. The poverty of subsistence alludes to those households which cannot afford survival without resorting to child employment. The poverty of opportunity refers to the financial circumstances of those households which earn a threshold income but are destitute in terms of poor returns on investments in education which translates into meagre adult income (Fors, 2008). Surveys in India indicate that poor households with no savings and assets and the inability to borrow have no choice but to send their children out to work. Many families do not have adult earning members, especially males. The burden of eking out livelihood falls on the elder children of the families who may be as young as five years old. In many cases, male family members spend all their incomes on the consumption of alcohol, leaving their families starving, forcing their children to work.

Lesser family incomes are also a reason that children are sent to work to augment the family income. Unemployment of adults also creates adverse situations for children. Many families engage their children from the very beginning into the family trade to learn these traditional occupations and prepare for their future precluding their possibilities of attending school. Children are also forced into bonded labour by their families to clear debts. The debts are never cleared as the rates of interest keep going high, and children end up being slaves for the rest of their lives.

The structural violence in developing countries continuously puts the present and future of marginalized communities at stake. While there are hardly any government schools in these areas, the ones that exist are so inadequate that they fail to generate any interest in children resulting in their failing the exams or dropping out of school. The private schools in these areas also do not offer better opportunities. They are unaffordable to most of them—those children who go to school lack proper training and guidance because of the poor quality of teaching. Many parents refrain from sending their children to school as they consider it only a waste of time. These children are ill-equipped to face the challenges of the market and consequently end up being unemployed. There is ample evidence of educational unemployment around. They grow on the margins of society and continue to live as destitute. Their generations suffer because of lack of education, poor nutrition, diseases, unemployment, and poverty. This vicious cycle only encourages child labour.

Parental attitudes and preferences play an important role in determining whether children work or not. Forr (2008) argues that if parents display low levels of altruism towards their children, they are more likely to send their children to work.

Fallon and Tzannatos (1998) provide empirical evidence into the relationship between increased national income and a decline in the incidence of child labour. However, these linkages begin to wane significantly when a certain level of a country's national income is reached. This may be due to the unequal distribution of resources and revenues associated with high economic growth. Swinnerton and Rogers (1999) underscore the importance of equitable distribution of income in discourses about child labour.

Globalization and increased liberalization of Indian markets helped achieve a higher GDP, but this did not translate into a better life for those at the lowest echelon of the income ladder. Child labour was found to be directly proportional to economic growth in India. Surveys conducted by Swaminathan in 1998 and Ranjan in 2006 found that economic growth was associated with a high incidence of labour. Both the studies concluded that with economic growth, the demand for and supply of child labour amplifies. The supply of child labour begins to decline and hence a decline in child labour as the growth stabilizes and sustains.

6. DECONSTRUCTING THE CHALLENGES

Child labourers are victims of complex socio-economic realities. The global and state development agendas give enough space to children on paper. Still, the lack of political will and socio-economic forces disallow the rendition of these objectives into realities. Regional and sectoral disparities in development parameters have deepened these forces furthering the

marginalization of child labourers. From the onset of their employment, they are deprived of their childhood and prospects to grow into productive individuals. Their present and future wellbeing are put at stake for short term gains because of their unfortunate circumstances. They do not have access to resources and equal opportunities to develop what Amartya Sen (1999) refers to as 'capabilities' and thus, lack the freedom to choose a better life for themselves.

Child labour is not limited to a few regions of the world but exists throughout. Heather Fors (2008) argues that consumer boycott or trade sanctions on industries employing child labour have only some impact on stopping the practice as many children are employed in the agriculture and family-based industries.

The debate among scholars about how to save children from exploitation oscillates between a West influenced absolute ban on child labour and regulation of the activities considered as child work. Organizations like ILO, Save the Children, and others working in this field distinguish between 'harmful' and 'suitable' occupations for children to work in (Viruru, 2008). The official position in India has been fluctuating from prohibition and regulation of child labour in hazardous and non-hazardous occupations, respectively, to an absolute ban on it. The Child Labour (Regulation and Prohibition) Act, 1986 forbade the employment of children in hazardous occupations while regulated their work in non-hazardous ones. The position changed again in 2016 with the Child Labour Amendment (Prohibition and Regulation) Act. However, this Act allows child labour in home-based industries and provides for regulating the practice, but without giving any feasible security for the children employed in such businesses. This law puts at stake the education of thousands of children engaged in their family businesses and their health. It gives immense power to the owners of the family-based industries to use children's services after school hours, leaving no space for studies and recreation for them. In addition to this, it isn't easy to ascertain the ownership of these industries.

The discourses on child labour in the West, which call for an absolute ban on all kinds of child labour, do not consider the multi-dimensionality of child work in the developing world. The socio-economic realities here are more complex and need to be understood regarding the lack of alternatives and opportunities for children coming from disadvantaged backgrounds. Nieuwenhuys (1996) argues that these organisations' standard definitions and official positions and sometimes states do not recognize the multi-dimensional issues of child labour. There is a certain reluctance to the idea of regulation of the practice.

This position is explained by Postcolonial theory, which says that the neo-liberalized world looks at the work done by children from a 'value' point of view. This seems to have attained a complex

space in the discourses on children in employment. Radhika Viruru (2008) states that economic arguments against child labour use this view to assert that children bear poor value as they do not generate the value of adult standards. They argue that protecting children for future use as workers and banning their employment as children will allow them to grow into fully developed and capacitated individuals who would create better yield in future. This argument thus has no humanistic value and forces children to be passive and dependent. Another argument against child labour is the definition of 'childhood' as a 'valuable commodity which needs to be safeguarded. This protection is sought within the education system, which is the only 'socially acceptable' space and available safe zone for children where they spend their childhood till they are prepared to come into the real world as fully productive humans equipped to serve the big corporations and their interests writes Viruru (2008). This argument, however, fails to acknowledge the complex socio-economic realities of the developing world which force these children to work.

The neo-liberal order grounded in profit-making tends to look at humans as a resource ignoring their humanistic value. They need to be protected for future use but simultaneously exposed to other forms of exploitation which are usually 'socially sanctioned'. Protecting children from working on the one hand and promoting consumerism reflects the hollowness of the argument.

This paper argues that regulating child labour through legislation and policies instead of an absolute prohibition will address the multifaceted problem of child labour in India. There is no denying the fact that working at tender ages is their need. The discourses around bans on their work and schools as the only adequate spaces for children needs to shift to more practical solutions. Children can continue with the limited light work in non-hazardous occupations that earns them livelihood and also attain education. Schools in India need to be reoriented to suit millions of underprivileged children's work schedules and needs. They don't need to cut down on their work schedules if they have access to good schools, argues Bhatta et al. (1997). What lies at the root of this argument is that children should have limited employment to ensure their subsistence while attending schools. Many scholars point out that working is not always the worst thing that can happen to a child, but it needs to be ascertained that their lives will not be worse off when they stop working (Basu,1999).

The education system in India, especially in underprivileged areas, does not guarantee higher returns on investment. V. Kalyan and Rohini Sahini (2019) in a study conducted on post graduate students of a certain top ranked university in India reveal that the education system in India does not produce employable youth. The degrees as high as post-graduate and Ph.d does not ensure them jobs and more money than a skilled computer diploma holder. Another study

conducted by Devinder Singh (2016) titled 'Education and Employment-Issues and Challenges in India' point out that people's livelihood in India is not necessarily connected with their level of education. People often with little or no education are much more skilled and successful as businessmen. A study conducted by Mona Khare in 2014 'Employability and Higher Education in India: The Missing Links' argues that there exists a huge gap between the educated employable human resource and the demand for them in the labour market in India. The employability of Indian educated professional and non-professional graduates is low especially in rural and semi-urban regions. These studies are a clear indication to the fact that education and employability are not directly proportionate to each other. Substituting schools for work does not guarantee a better life for children engaged in labour. Quality education aimed at developing them into capable individuals not to serve the industry but to have freedom and potential to choose and make decisions for themselves should be necessitated.

Many scholars argue that child labour is not always harmful (Fors, 2008). It is an outcome of utility maximization by households, and a ban would only deprive them of the wellbeing that the returns from child labour carry. On the other hand, working children may suffer in terms of better opportunities and equitable access to resources. However, work and schools are not a substitute for each other. Both have to exist in parallel in a way that sufferings are minimized. Their work ensures them freedom from starvation, and quality education can ensure better prospects for them by providing alternatives to child labour.

7. CONCLUSION

Child labour is one of the massive social problems in India and worldwide. The figures in India alone show a whopping number of children employed in informal sectors in India. Most of these children are exploited by their employers and paid lesser wages. Causes of child labour include poverty, unequal distribution of income, linkages between economic growth and child labour, lack of quality education, parental attitudes, lesser income of families, and induction of children into home based trade etc. Many people especially in the West call for an absolute ban on the practice without realizing its immediate impact on them. The socio-economic reality of India does not support a ban on child labour as that would mean starvation and diminished well-being of children and their families. The way out is to regulate child labour in non-hazardous occupations while adjusting school requirements to their timings and providing for quality education to help them develop into capable citizens with voices and choices.

Notes:

¹<https://www.ilo.org/wcmsp5/groups/public> retrieved on 17.5.2021

²<https://labour.gov.in/sites/default/files/Census-2001&2011.pdf> retrieved on 18.5.2021

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