

## CHILD LABOUR AND TRFFICKING: KILLER OF DREAMS

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### ABSTRACT

*Children are future citizen of any country and their adequate development is utmost priority of any nation. Child labour is a global issue and the statistics of it are very alarming. India is not an exception in this issue. Child labour deprives the childhood of children by involving them into various forms of labour. It ranges from simple domestic help, employment in shops as helper, in fields, and to the hazardous factories. It kills their spirit, dreams and has negative impact on their mental as well as on physical health. Human trafficking is done by the utilisation of force, fraud, or coercion also by luring the victim's families to obtain some type of labour, commercial pornography or sex works and it also contributes to the forced child labour. Indian constitution gives protection to the child and has provision for free and compulsory education to every child of the country and legislations of India also prohibits the practice of any forms of child labour and also take multiple initiatives in collaboration with International Labour Organisation. Despite of having legislation against child labour, India is lagging behind the eradication of this evil practice because of slower implementation and lack of awareness towards it. This research paper aims on describing the issue, its causes and consequences in a very effective manner, about legislation and their implementation, and also on different initiatives are taken by the government in the form of schemes and programmes for upliftment and welfare of the children of the country.*

### INTRODUCTION

***“Children Should Not Work On Field, But On Dreams.”***

Childhood, the phase where everyone wants to dream and wants to fulfil the same for their own happiness, if we are not able to conserve the happiness of every child and push them for doing the work, then we are simply deprives their childhood and killing their dreams. Child labour is the utilisation of children through any form of work that deprives their childhood and they become an adult in their childhood. It is a system of employing a child to provide labour or service to any person, for any payment to the child, or any exercising control over

the child indulges in the economic activities, on a part-time or full time basis. These morally dangerous and harmful practices severely affected the mental, physical, social and educational growth of the child. It is one of the most urgent and immediate problem of some of the developing nations like Ukraine, Switzerland, India, several parts of South America, and also in many countries in the world, but besides all these analysis, the shameful fact is this, that India too, is a part of this list. Although such practices are strictly prohibited by the law under the first act developed in India, i.e., Child and Adolescent Labour (Prohibition and Regulation) Act of 1986.

The term 'CHILD' defined as a person who has not completed his fourteenth year of age or such age as may be specified in the Right of Children to Free and Compulsory Education Act, 2009<sup>698</sup> and also the term 'ADOLESCENT' defined as a person who has complete his fourteenth year of age but has not complete his eighteenth year.<sup>699</sup> Child Labour is prohibited under the section 3 (1) of Child and Adolescent Labour (Prohibition and Regulation) Act, 1986, No child shall be employed or permitted to work in any occupation or process. There are also some exceptions to the law relating to prohibition of employment of children in any occupation and process. Prohibition of employment of adolescents in certain hazardous occupations and processes<sup>700</sup> stated that-No adolescent shall be employed or permitted to work in any of the hazardous occupations or processes set forth in the schedule: Provided that the Central Government may, by notification, specify the nature of the non-hazardous work to which an adolescent may be permitted to work under this act. There are also some regulation for the work of children and adolescent in the act.

Article 3 of Worse Forms of Child Labour Convention, 1999 (No. 182) developed by the International Labour Organisation deal with the definition of the term WORST FORM OF CHILD LABOUR which comprises that:-

- A. All forms of slavery or practices similar to slavery , such as sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;

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<sup>698</sup> Child and Adolescent Labour (Prohibition and Regulation) Act, 1986, Section 2(II).

<sup>699</sup> *Id.* Section 2(I).

<sup>700</sup> *Id.* Section 3(A).

- B. The use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- C. The use, procuring or offering of a child for illicit activities, in particular for the production, and trafficking of drugs as defined in the relevant international treaties;
- D. Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.<sup>701</sup>

In 1979, government formed the first committee called Gurupadswamy Committee to study the issue of child labour and to suggest measure to tackle it. The committee examined the problem in detail and made some far-reaching recommendations.<sup>702</sup>

Human trafficking occurs when an offender, often referred as a trafficker, takes an **ACTION**, and then employs the **MEANS** of fraud, force, or coercion for the **INTENDED** to compel the victim to get involve in slavery, begging, forced organ removal, drug trafficking, commercial sex acts and other kind of exploitation against his or her will.<sup>703</sup>

Child labour and Trafficking are directly or indirectly interrelated with each other and created a lot of various issues like poverty, unemployment, illiteracy etc., which are detrimental and against the development of the country. It kills the dreams of the children and also hits on their freedom.

## CURRENT PERSPECTIVE: HARD-HITTING STATISTICS

Figures of the child labour and trafficking in India is increasing day by day which is dismal to the society. Due to this evil practice, development of our society will deprive in future gradually. Last year, India is at the 113<sup>th</sup> position out of the 176 countries on an index that evaluates countries on the well-being of children. Similarly, in the year of 2018, India ranked at 116<sup>th</sup>. According to Census 2011, around 259.6 million children in India are employed as labourers. Of these, 10.1 million are working as either 'main labourer' or as 'marginal worker'. Uttar Pradesh, Bihar, Rajasthan, Madhya Pradesh and Andhra Pradesh constitute

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<sup>701</sup> Worst Form of Child Labour Convention, 1999 (No.- 182) by International Labour Organisation, Retrieved from: [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0:NO::P12100\\_ILO\\_CODE\\_C182](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0:NO::P12100_ILO_CODE_C182) (Last visited on August 19, 2020).

<sup>702</sup> Ministry of Labour and Employment, Government of India

<sup>703</sup> Singh Hemant, *What is the meaning and reason of human trafficking?* Jagran Josh, March 6, 2019, Retrieved from: <https://www.jagranjosh.com/general-knowledge/meaning-and-reasons-of-human-trafficking-1551858072-1> (Last visited on August 19, 2020).

around 55 per cent of the total child labourers in India. The Lakshadweep archipelago has the least number of child labourers at 28, Followed by Daman Diu at 774.

According to the National Crime Records Bureau (NCRB), a total of 251 cases were reported under the Child Labour (Prohibition and Regulation) Act, 1986, in 2015. Maharashtra reported the most number of Child Labour at 96, followed by Delhi at 57 and Karnataka at 37. The NCRB reported a staggering 70.7 per cent increase in Child Labour cases from 147 in 2014 to 257 in 2015.<sup>704</sup>

Supreme Court had constituted a panel in 2011 for submitting a report on child and women trafficking and the panel submitted its report in 2019 had recommended NCRB to compile data on missing children and women trafficking. According to this report, Maharashtra registered a decline of over 41% in number of missing children in 2018 as compared to 2017 while Assam registered a growth of 41% as compared to the previous year. Orissa reported the maximum rise in missing women cases around 143% in 2018 as compared to the previous year. West Bengal was second both in the number of missing children and women from 2016-18. “Mumbai, Pune and Thane commission rates appear to be the most vulnerable. Mumbai Commissioner ate recorded the highest number of the missing women during 2017 and 2018 with 4718 and 5201 women missing respectively. The Pune commissionerate was second with 2576 cases in 2017 and 2504 in 2018. In West Bengal, Kolkata reported the highest number of missing women during 2018 with 2584 cases. Nadia District has climbed the ladder from being at fourth in 2017 (1708 missing women) to second in 2018 (2468 missing women) among the districts of West Bengal. In Madhya Pradesh, Indore Retained the top position in 2017 and 2018 with 1755 and 2458 cases of missing women respectively.<sup>705</sup> The UNDOC global Report, 2018, reported that the 35% of victims trafficked were for forced labour.

According to the report published by ILO in 2017, it indicates that globally 152 million children are involved in child labour-73 million children are employed in Hazardous form of labour which directly endangers their health, safety, and moral development. On gender

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<sup>704</sup> Manushukhani Harshit and Gulati Triya, *On World Day Against Child Labour, A Look At Hard-Hitting Statistics of India*, THE PRINT, (June 12, 2019), Retrieved from: <http://theprint.in/india/on-world-day-against-child-labour-a-look-at-the-hard-hitting-statistics-of-india/248817/> ( Last visited on August 23, 2020).

<sup>705</sup> Tripathi Rahul, *Mumbai, Kolkata see highest women, Child Trafficking Cases: NCRB Study*, The Economic Times (February 10, 2020), Retrieved from: <https://m.economictimes.com/news/politics-and-nation/mumbai-kolkata-see-highest-women-child-trafficking-cases-ncrb-study/articleshow/74053964.cms> (Last visited on September 4, 2020).

basis, there are 64 million girls and 88 million boys involved in child labour. 1 out of 10 children in the world is involved in child labour according to ILO report. There are 218 million children which are working in broader measures of Child labour and permitted form of employment involving children of legal working age in the globe. **AGRICULTURE** sector is having the most employment of child labour all over the world **WITH 70.9%**, **INDUSTRY** is having **11.9%** of child labour employment and the **SERVICES** sector is having **17.2%** of employment of children according to the ILO report.

90,138 children rescued<sup>706</sup> from child labour and trafficking by one of the India's largest movement namely, BACHPAN BACCHAO AANDOLAN started by NOBLE PEACE LAUREATE KAILASH SATYARTHI. His vision is to make every child free from labour and to make them educate in his life. We should honour our commitment of making the world free from child labour in all its forms by 2025 and have to do our bit towards it.

## CAUSES AND CONSEQUENCES

Poverty is often cited as the main reason for child labour. It is believed that families will not be able to cope with their financial conditions and if the children of the family start to work at very small age then it will help to their families, but this is a myth. The reality is different from this myth which shows that if a child work in any form then these worker are known to be cheap labourers as they are less paid than adults and many times they are not even paid a single penny by their employers and cannot be able to upgrade their skills which leads to maintain the same condition of poverty which is a curse for their families. So, we can also state that the child labour leads to poverty not poverty leads to child labour. The child labour also interrelated with unemployment as there are many adults who are searching for jobs but the employers employs the children as workers for providing the labour on a cheap expense or no expenses and this leads to the rise of unemployment in country as the children take place of the skilled or abled adult. There are many initiatives and schemes are running by the government for providing the better life to the underprivileged families but there is a knowledge gap between them and government which makes the children uneducated and illiterate which leads to the perception that if there are many hands to work then it will be easier to feed their own families, and the parents push them towards the darkness of child labour. This vicious cycle of child labour in underprivileged family continues after generation

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<sup>706</sup> BACHPAN BACHAO ANDOLAN, Retrieved from: <http://bba.org.in/> (Last visited on August 23, 2020).

to generation and then the poverty lies with them and they die with poverty. Child labour deteriorate the health of the children who are involving in many hazardous and non-hazardous work in many manner like mental trauma, depression, weak immunity, tuberculosis in many children who works in hazardous chemical factories, weaker eyesight in children who works in the bangle making industries, some of them are affected by severe diseases like HIV, and AIDs who are involved in sex slavery or commercial sex works, and loss of body parts in accidents occurs within the factories etc., in this way they lose their happiness and beautiful childhood experiences.

Human trafficking also leads to the employment of children for child labour. The traffickers or employers suborn the poor families for better livelihood and then they trafficked their children to another place for forced child labour. The UNDOC global Report, 2018, also reported that the 35% of victims trafficked were for forced labour and they were also females, both women and girls. At the same time, more than half of the victims of trafficking for forced labour were men.<sup>707</sup>

The above mentioned causes and consequences show that the children are exploited by the society. If we are not able to stop these practices then the future of our society will move towards darkness and we cannot prefer us as a civilised or developed society.

## IMPLEMENTATION OF LAWS AGAINST CHILD LABOUR

Everything in our surrounding is going normal, still there is a consistent rise in the number of Child Labour, it means that somewhere we are just developing our laws from last four decades in India but we are lagging behind in implementing these laws on the grass root level. The Various Acts and Legislations which provides legal protection to children employed in many occupations are mentioned here:

- The Children (Pledging of Labour) Act, 1933
- The Employment of Children Act, 1938
- The Minimum Wages Act, 1948
- The Factories Act, 1948

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<sup>707</sup> Tripathi Rahul, *Mumbai, Kolkata see highest women, Child Trafficking Cases: NCRB Study*, The Economic Times (February 10, 2020), Retrieved from: <https://m.economictimes.com/news/politics-and-nation/mumbai-kolkata-see-highest-women-child-trafficking-cases-ncrb-study/articleshow/74053964.cms> (Last visited on September 4, 2020).

- The Plantations Labour Act, 1951
- The Mines Act, 1952
- The Merchant Shipping Act, 1958
- The Motor Transport Workers Act, 1961
- The Apprentices Act, 1961
- The Atomic Energy Act, 1962
- The Beddi And Cigar Workers (Conditions of Employment) Act, 1966
- The Shops and Establishment Act
- Child and Adolescent Labour (Prohibition and Regulation) Act, 1986
- Juvenile Justice (Care and Protection Of Children) Act, 2015

Our laws have provision to prohibit the employment of child labour in any occupation and process, no child shall be employed or permitted to work in any occupation or process.<sup>708</sup>

This provision shall not apply where the child:

- a) helps his family or family enterprise, which is other than any hazardous occupations or processes set forth in the schedule, after his school hours or during vacations;<sup>709</sup>
- b) Works as an artist in an audio-visual entertainment industry, including advertisement, films, television serials or any such entertainment or sports activities except the CIRCUS, subject to such conditions and safety measures, as may be prescribed.<sup>710</sup>

In Indian laws, there are also provision provided for the prohibition of employment of adolescents-No adolescent shall be employed or permitted to work in any form of the hazardous occupations or processes set forth in the schedule<sup>711</sup> and the central government by notification will specify the nature of non-hazardous work to which an adolescent may be permitted to work.

There are many regulations provided with the employment of child and adolescent to the non-hazardous work which stated that the period of work on each day shall be so fixed that no period shall exceed three hours and that not more than three hours before he has had an interval for rest for at least one hour,<sup>712</sup> the period of work shall be so arranged with inclusive

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<sup>708</sup> Child and Adolescent Labour (Prohibition and Regulation) Act, 1986, Section 3 (1)

<sup>709</sup> *Id.* Section 3 (2) (a).

<sup>710</sup> *Id.* Section 3 (2) (b).

<sup>711</sup> *Id.* Section 3A (1).

<sup>712</sup> *Id.* Section 7 (2).

of his interval for rest, should not exceed more than six hours per day<sup>713</sup> also shall not permitted to work between 7 p.m. and 8 a.m.<sup>714</sup> and no shall be required or permitted to work overtime.<sup>715</sup> The child and adolescent shall not be permitted or required to work in any establishment on any day on which he has already been working in another establishment.<sup>716</sup>

The permission from District Magistrate is necessary in employment of child and adolescent and a register have to be maintained<sup>717</sup> and have to ensure the good health and safety.<sup>718</sup>

There are various other acts, and laws in India which deals with child labour and trafficking like Bounded Labour System (Abolition) Act, 1976 and Juvenile Justice (Care and Protection of Children) Act, 2015 Etc. Whoever, having the actual charge of, or control over, a child, assaults, abandons, abuses, exposes or wilfully neglects the child or causes or procures the child to be assaulted, abandoned, abused, exposed, or neglected in a manner likely to cause such child unnecessary mental or physical suffering then the punishment is granted from 1 year to 3 years and fine of Rs. 1 lakh or both. Offence committed by any person employed by or managing an organisation, which is entrusted with the care and protection of the child, then the punishment will be granted or may extended to 5 years of imprisonment and fine of Rs. 5 lakhs or both. On account of the aforesaid cruelty, if the child is physically incapacitated or develops a mental illness or is rendered mentally unfit to perform regular tasks or has risk to life or limb, then the punishment of rigorous imprisonment not less than 3 years or may extended up to 10 years and fine up to Rs.5 lakhs or both.<sup>719</sup> Exploitation of a child employee<sup>720</sup>, it is mentioned that whoever ostensibly engages a child and keeps him in bondage for the purpose of employment or withholds his earnings or uses such earning for his own purposes, and the punishment extended up to 5 years and fine up to Rs. 1 lakh.

These sections of JJ Act, 2015 are harsh on the exploiters of the child who exploit the childhood, kill the dreams and harm the spirit of the children. By implementing these sections and provision in an effective manner, the authorities may lead to the providing justice to the children who suffers a lot.

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<sup>713</sup> *Id.* Section 7 (3).

<sup>714</sup> *Id.* Section 7 (4).

<sup>715</sup> *Id.* Section 7 (5).

<sup>716</sup> *Id.* Section 7 (6).

<sup>717</sup> *Id.* Section 11.

<sup>718</sup> *Id.* Section 13.

<sup>719</sup> Juvenile Justice (Care and Protection of Children) Act, 2015, Section 75

<sup>720</sup> *Id.* Section 79.

Unawareness, illiteracy, lack of efficiency in administrative department and political ineffective roles are the reasons for not implementing the labour laws in our country and people don't pay attention towards this social evil. But if we will work for eradicating the child labour, then it may lead to abolishment of many problems like unemployment, poverty, illiteracy, etc., and push the nation towards better future and development.

## AUTHORITIES

The National Authority for the Elimination of Child Labour was established on October 1, 1994, headed by the union minister of labour in the government of India and it is responsible for monitoring the progress of implementation of the programmes, projects, and schemes of implementation of child labour, especially in hazardous industries and coordinate with other ministries of the Government of India.

The Central Child Labour Advisory Board initially constituted in March 1980 and reconstituted on regular intervals and this committee review the implementation of the existing legislation administered by the Central Government, suggest legislative measures as well as welfare measures for the welfare of working children, and recommend the industries and areas where there must be progressive elimination of child labour.

Provision related to establishment the Child Labour Technical Advisory Committee<sup>721</sup> who gave advice to the central government for the purpose of addition of occupations, processes to the schedule under section 3 of the Act.

The International Programme on the Elimination of child labour is a global programme launched by ILO in December 1991. India was the first country to join it in 1992 when it signed a Memorandum of Understanding with ILO.<sup>722</sup> The immediate objectives of the programme are: -

- enhancement of the capability of ILO constituents and NGOs to design, implement and evaluate programmes for child labour;
- to identify interventions at community and national levels which could serve as models for replication;
- Creation of awareness and social mobilization for securing elimination of child labour.

<sup>721</sup> Child and Adolescent (Prohibition and Regulation) Act, 1986, Section 5.

<sup>722</sup> Retrieved From:- <http://labour.gov.in/childlabour/ipcc> (Last visited on September 2, 2020).

The MoU signed between Government of India and ILO extended from time to time.

Government of India also provided various platforms where anyone can complain about this evil practice and with collaboration of various authorities the children are being rescued and rehabilitated. One can report TO POLICE by dial on Number 100, on CHILD HELP LINE number provided by GOI 1098, to DISTRICT TASK FORCE/LABOUR DEPARTMENT, on link of PENCIL PORTAL initiated by Ministry of Labour of Government of India and also on BACHPAN BACHAO ANDOLAN helpline number 1800 102 7222.

## REHABILITATION

After rescue of the children from child labour, we should ensure that the child will get the bright future and dream big according to their own will. Provide them with the rehabilitation in the forms of economic stability, educational and social rehabilitation.

### *Economic Rehabilitation*

By making aware themselves about the economic schemes and programmes running by the government and make access to these policies, schemes and programmes for the welfare for the children. It includes the back wages and fine to employer which would be imposed on them by the court and this fine may extended from Rs. 20,000 to 50,000<sup>723</sup>, Rs 15,000 provided by the state government, Rs. 20,000 provided by M C Mehta and central sector scheme bounded labour also provide economic support up to 3 lakh to the rescued children.

### *Social Rehabilitation*

For making them socially stable there are many rehabilitation centres are running by various NGOs and government for short term and long term also. Home verification are done for sending the children back to their home and fit facility, person and foster care are also provided to the children. Monitoring is done by CWC.

### *Educational Rehabilitation*

As education is the fundamental right of every child<sup>724</sup> provided by state for free and compulsory education to all the children of the age of six to fourteen years. The government of India had initiated the National Child Labour Project (NCLP) program in 1988. It support rescued children of any age group for getting admission into the schools for education and initiated **SARV SHIKSHA ABHIYAN** for the children who are of 5 to 8 years, **BRIDGE**

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<sup>723</sup> Child and Adolescent Labour (Prohibition and Regulation) Act, 1986, Section 14(1).

<sup>724</sup> Indian Constitution, Art. 21 (A).

**EDUCATION** for those children who are of 9 to 14 years and **SKILL DEVELOPMENT PROGRAM** for 14-18 years old children. Some other schools and educational support and upgrade them with new skills are started by various other NGOs like BAAL ASHRAM by Kailash Satyarthi Child Labour Foundation and also by many others. There are also some states who initiated the various other programmes and schemes for the welfare of the children in their own states.

As a society everyone should pay Attention towards the rehabilitation of children who all are rescued from Child Labour and provide them a better environment to live in and take care of their dreams.

## CONCLUSION

Child Labour ruins the childhood of the children who all are involved in it. It cannot be eradicated over a single night but by making consistent efforts towards its abolishment like by strengthening the legislation and implementing these laws to the grass root level, by spreading awareness, we can achieve our goals of child labour free world. Our Government and NGOs are taking their progressive steps at their own level to tackle this evil practice but being a responsible citizen of our nation, we people should also do our bit towards eradication of child labour. This simultaneous effort from both way Government and Citizen can lead the country towards making free and enjoyable environment for children. Government has been laying a lot of emphasis on the rehabilitation of rescued children but as a conscious and responsible citizen, we ourselves should not employ children at work and safeguards their human and legal rights. "THERE CAN BE NO KEENER REVELATION OF THE SOCIETY'S SOUL THAN THE WAY IN WHICH IT TREATS ITS CHILDREN."