

## Practicability of Legal Provisions of Child Labour

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**ABSTRACT:** Child labour accounts for 22% of the workforce in Asia, 32% in Africa, 17% in Latin America, 1% in the US, Canada, Europe and other wealthy nations. The proportion of child labourers varies greatly among countries and even regions inside those countries. Africa has the highest percentage of children aged 5–17 employed as child labour, and a total of over 65 million. Asia, with its larger population, has the largest number of children employed as child labour at about 114 million. Latin America and Caribbean region have lower overall population density, but at 14 million child labourers has high incidence rates too. Due to the increase of regulations and legal restrictions on child labour, there has been a 64 percent decline in child labour from 1993-2005 although this is a great decrease in the country of India, there is still high numbers of children working in the rural areas of India. With 85 percent of the child labour occurring in rural areas, and 15 percent occurring in urban areas, there are still substantial areas of concern in the country of India.

### RESEARCH PAPER ON PRACTICABILITY OF LEGAL PROVISIONS OF CHILD LABOUR

The constitution of India has made legal provisions for abolishing the menace of child labour. **Child labour** refers to the employment of children in any work that deprives children of their childhood, interferes with their ability to attend regular school, and that is mentally, physically, socially or morally dangerous and harmful.<sup>1</sup> Many international organizations considered child labour as exploitative. Legislation across the world prohibits child labour.<sup>2</sup> These laws do not consider all work by children as child labour; exceptions include work by child artists, family duties, supervised training, certain categories of work such as those by child in house cores. There are many examples of child labour in history. Before 1940, numerous children aged 5–14 worked in Europe, the United States and various colonies of European powers were doing child labour.<sup>3</sup> These children mainly worked in agriculture, home-based assembly operations, factories, and mining and in services such as newsies. Some worked night shifts lasting 12 hours. With the rise of household income, availability of schools and passage of child labour laws, the incidence rates of child labour fell down in some developed countries.<sup>4</sup> In developing countries, with high poverty and poor schooling opportunities, child labour is still prevalent. In 2010, sub-saharan Africa had the highest incidence rates of child labour, with several African nations witnessing over 50 percent of children aged 5–14 working.<sup>5</sup> Worldwide agriculture is the largest employer of child labour.<sup>6</sup> Vast majority of child labour is found in rural settings and informal <sup>7</sup> Poverty and lack of schools are considered as the primary cause of child labour <sup>8</sup>

Globally the incidence of child labour decreased from 25% to 10% between 1960 and 2003, according to the World Bank.<sup>9</sup> Nevertheless, the total number of child labourers remains high, with UNICEF and ILO acknowledging an estimated 168 million children aged 5–17 worldwide, were involved in child labour in 2013. According to nongovernmental survey that there are six crore child labour in India. <sup>10</sup> The following table depicts;

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Serial no.	Year	number of child labour
1.	2011-12	1, 25,716
2.	2012-13	72,976
3.	2013-14	64,050
4.	2014-15	97,833

They have to do seven days work. They are physically and mentally tortured. Child labour is still common in many parts of the world. Estimates for child labour vary. It ranges between 250 and 304 million, if children aged 5–17 involved in any economic activity are counted. If light occasional work is excluded, ILO estimates there were 153 million child labourers aged 5–14 worldwide in 2008. This is about 20 million less than ILO estimate for child labourers in 2004. Some 60 percent of the child labour was involved in agricultural activities such as farming, dairy, fisheries and forestry. Another 25 percent of child labourers were in service activities such as retail, hawking goods, restaurants, load and transfer of goods, storage, picking and recycling trash, polishing shoes, domestic help, and other services. The remaining 15 percent laboured in assembly and manufacturing in informal economy, home-based enterprises, factories, mines, packaging salt, operating

machinery, and such operations` Two out of three child workers work alongside their parents, in unpaid family work situations. Some children work as guides for tourists, sometimes combined with bringing in business for shops and restaurants. Child labour predominantly occurs in the rural areas (70%) and informal urban sector (26%).an attempt has been made by the author to find out the reasons why there are so many child labourers in india especially in punjab. Near Mullanpur(Ludhiana) it has been observed through interviews that sample of 50 child labourers was taken and found that they are forced to do child labour by their families for financial support and owners of their work punished them by immoral acts.

Contrary to popular beliefs, most child labourers are employed by their parents rather than in manufacturing or formal economy. Children who work for pay or in-kind compensation are usually found in rural settings, then urban centres. Less than 3 percent of child labour aged 5–14 across the world work outside their household, or away from their parents.<sup>11</sup>

Above all, many children had to provide financial support to their families. Another factor that influenced child labour was the demographic changes that occurred in the eighteenth century. By the end of the eighteenth century, 20 percent of the population was made up of children between the ages of 5 and 14. Due to this substantial shift in available workers, and the development of the industrial revolution, children began to work earlier in life in companies outside of the home. There emerges an issue that is the rising of illiteracy and the lack of formal education for many children who worked to provide for their families. Due to this problematic trend, many parents developed a change of opinion when deciding whether or not to send their children to work. Other factors which lead to the decline of child labour included financial changes in the economy, changes in the development of technology, raised wages, and continuous regulations on factory legislation.

### **I. PRIMARY CAUSES**

International Labour Organisation (ILO) suggests poverty is the only single cause of child labour. For impoverished households, income from a child's work is usually crucial for his or her own survival or for that of the household. Income from working children, even if small, may be between 25 and 40% of the household income. It has been found after survey.Lack of meaningful alternatives, such as affordable schools and quality education, according to ILO,<sup>12</sup> is another major factor driving children to harmful labour. Children work because they have nothing better to do. Many communities, particularly rural areas where between 60–70% of child labour is prevalent, do not possess adequate school facilities. Even when schools are sometimes available, they are too far away, difficult to reach, unaffordable or the quality of education is so poor that parents wonder if going to school is really worth it.<sup>13</sup>

### **II. CULTURAL CAUSES**

Some view that work is good for the character-building and skill development of children. In many cultures, particular where the informal economy and small household businesses thrive, the cultural tradition is that children follow in their parents' footsteps; child labour then is a means to learn and practice that trade from a very early age. Similarly, in many cultures the education of girls is less valued or girls are simply not expected to need formal schooling, and these girls pushed into child labour such as providing domestic services.<sup>14</sup>

### **III. MACROECONOMIC CAUSES**

The causes for child labour include both the demand and the supply side. While poverty and unavailability of good schools explain the child labour supply side, they suggest that the growth of low-paying informal economy rather than higher paying formal economy is amongst the causes of the demand side. Other scholars too suggest that inflexible labour market, size of informal economy, inability of industries to scale up and lack of modern manufacturing technologies are major macroeconomic factors affecting demand and acceptability of child labour.<sup>15</sup>

### **IV. COLONIAL EMPIRES**

Other schemes included 'earn-and-learn' programs where children would work and thereby learn. Britain for example passed a law, the so-called Masters and Servants Act of 1899, followed by Tax and Pass Law, to encourage child labour in colonies particularly in Africa. These laws offered the native people the legal ownership to some of the native land in exchange for making labour of wife and children available to colonial government's needs such as in farms. Proposals to regulate child labour began as early as 1786.<sup>16</sup>

#### **Africa**

14 million child labourers have high incidence rates too.<sup>17</sup> In 2015, India is a country where the largest number of children who are working illegally in various industrial industries. Agriculture in India is the largest sector where many children work at early ages to help support their family. Many of these children are forced to

work at young ages due to many family factors such as unemployment, a large number of family members, poverty, and lack of parental education. This is often the major cause of the high rate of child labour in India.

Child labour accounts for 22% of the workforce in Asia, 32% in Africa, 17% in Latin America, 1% in the US, Canada, Europe and other wealthy nations<sup>18</sup> The proportion of child labourers varies greatly among countries and even regions inside those countries. Africa has the highest percentage of children aged 5–17 employed as child labour, and a total of over 65 million. Asia, with its larger population, has the largest number of children employed as child labour at about 114 million. Latin America and Caribbean region have lower overall population density, but at 14 million child labourers has high incidence rates too.<sup>19</sup>

International influences help to encourage legal actions to be taken in India, such as the Geneva Declaration of the Right of Children Act was passed in 1924. This act was followed by The Universal Declaration of Human Rights in 1948 to which incorporated the basic human rights and needs of children for proper progression and growth in their younger years. these international acts encouraged major changes to the workforce in India which occurred in 1986 when the Child Labour (Prohibition and Regulation) Act was put into place. This act prohibited hiring children younger than the age of 14, and from working in hazardous conditions.

Due to the increase of regulations and legal restrictions on child labour, there has been a 64 percent decline in child labour from 1993-2005 although this is a great decrease in the country of India, there is still high numbers of children working in the rural areas of India. With 85 percent of the child labour occurring in rural areas, and 15 percent occurring in urban areas, there are still substantial areas of concern in the country of India.<sup>20</sup>

Children were used to carry out hazardous jobs. Children were ordered to move between machinery where adults could not fit, to fix broken machines. In match factories, children dipped matches into phosphorous. This chemical caused the children's teeth to rot later in life. Some died from the long-term effects of breathing phosphorous.

#### LAWS FOR ELIMINATING THE PROBLEM OF CHILD LABOUR

Social tensions, riots and upheavals' are there due to child labour. Many laws are passed to curb the evil of child labour. Bonded labour, child labour, forced labour are some of the evils prevailed in our society. Mere laws are not enough to curb the problem of child labour. Mentally we have to do something seriously to remove this evil. In 1979, child labour committee was organized to remove poverty which is considered as the root cause of child labour. It is practically impossible to remove poverty. Child labour is a dangerous profession. Childs prohibited doing any hard work like in mines. Working conditions should be improved. In 1986, CHILD LABOUR PREVENTION LAW was passed due to two reasons;

Firstly .Only 10-15 % professions prohibited child labour and secondly Impracticability of child labour law 1979 A variety of Indian social scientists as well as the Non-Governmental Organization (NGOs) have done extensive research on the numeric figures of child labour found in India and determined that India contributes to one-third of Asia's child labour and one-fourth of the world's child labour. <sup>21</sup>Due to a large number of children being illegally employed, the Indian government began to take extensive actions to reduce the number of children working, and to focus on the importance of facilitating the proper growth and development of children. In 2009 education law was passed. The provision was made that below 14 years of age, education is compulsory. In 2000, youth rights law was passed. In 1986, child labour prevention law was passed and in spite of that 60% Childs are engaged in domestic profession. Major charges are on entertainment, sports and hotels where a large no of child are culprit of child labour. According to law, three years arrest and 50,000 fine is fixed as punishment.

Child labour is still common in many parts of the world. Estimates for child labour vary from country to country. It ranges between 250 and 304 million, if children aged 5–17 involved in any economic activity are counted. If light occasional work is excluded, ILO estimates there were 153 million child labourers aged 5–14 worldwide in 2008. This is about Other scholar suggest that these arguments are flawed, ignores history and more laws will do more harm than good. According to them, child labour is merely the symptom of a greater disease named poverty. If laws ban all lawful work that enables the poor to survive, informal economy, illicit operations and underground businesses will thrive. These will increase abuse of the children. In poor countries with very high incidence rates of child labour - such as Ethiopia, Chad, Niger and Nepal - schools are not available, and the few schools that exist offer poor quality education or are unaffordable. The alternatives for children who currently work, claim these studies, are worse: grinding subsistence farming, militia or prostitution. Child labour is not a choice; it is a necessity, the only option for survival. It is currently the least undesirable of a set of very bad choices.

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