



# A Study of Legal Implication of Child Labour: Prohibition and Regulation

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## 1. Introduction

Children are the greatest gift to humanity and Childhood is an important and impressionable stage of human development as it holds the potential to the future development of any society. Children who are brought up in an environment, which is conducive to their intellectual, physical and social health, grow up to be responsible and productive members of society. Every nation links its future with the present status of its children and women. By performing work when they are too young for the task, children unduly reduce their present welfare or their future income earning capabilities, either by shrinking their future external choice sets or by reducing their own future individual productive capabilities. Under extreme economic distress, children are forced to forego educational opportunities and take up jobs which are mostly exploitative as they are usually underpaid and engaged in hazardous conditions.

Engaging children in any sort of work inhibits affects their fullest growth. Legislative provisions are formulated to prevent the menace of child labor. But the children are the most deprived section of population forced to earn a pittance or to contribute to family work sacrificing personal development. Poverty coupled with rapidly growing population, ignorance and increasing dependency load are behind the grim incidence of children employment in the villages and towns of developing countries. Though India is signatory of various international Conventions and Agreements, there is growing number of child labour in India. They work under very hazardous conditions given the magnitude and complexity of the problem.

## 2. Definition

The term child labour a convenient expression for the “labour of children” has a well recognized though rather vague meaning. It refers both to an economic practice and to the attendant social evil. Whereas the extent of child labour as a social evil is determinable only by methods of qualitative analysis with consideration of the character of the actual jobs in which children are engaged, the dangers to which they are subjected in their work and the desirable opportunities of which they are deprived by reasons of their being gainfully occupied.”But in no where the definition of child labour is given. But the thing is that it is determined by the age of the children. Various Act s says about the minimum age limit to give permission to do work. Some where it is 12 years, 14 years, 15 years, 16 years, 18 years respectively. But it is said that if any children below the age given in respective law or regulations then if any children work below the given age should be denoted as child labour.

## 3. Historical background of Child Labour

The prevalence of child labour has been more or less in all periods of time though varied in its nature and dimension, depending on the existing socio-economic structure of society. In the past, child labour has been a part of the social organization in which all members pooled their labour to produce for the subsistence and survival. This was particularly true of rural subsistence framing where the work of the child formed part of the labour necessary for the reproduction of the system and value of labour taken as part of child’s specialization for reproduction of the labour power. It may be discussed under the following heads:

### ***3.1 Child labour in Ancient India***

Though there is a little evidence of the employment of children for wages, but if child slavery could be regard as that, the existence of child labour in ancient India, can not be denied. Slaves of tender ages, often less than eight years of age, were owned for doing low and ignoble work. Children of slaves were born as slaves, lived as slaves and died as slaves unless the master was pleased to monument them. It has been noticed that almost all the law-givers with the solitary exception of Kautilya, were silent on this point, and did little to abolish this inhuman practice of keeping child slaves.

As regards child labour in ancient India, it can be said that it existed in the form of child slaves. Child slave could be purchased or sold like commodities. While dealing with slavery Kautilya stated that the purchase or sale of children as slaves was not forbidden amongst the “Mlechachas” for they were backward and savage but an Aryan could in no case be allowed to remain a slave. In case of a child born out of an Arya (not of a slave) was sold or purchased or pledged with someone, both the parties to deal were punished even the witness to it were not spared punishment. They were awarded various degree of punishment. Kautilya also realized that slave children were not much different from Arya children and they were not physically fit, to carry out the ignoble duties of the slave and that allowing the sale of purchase of slave children of less than 8 years of age and would tantamount to inhumanity. Inspired by such feelings, he prohibited the purchase or sale of slave children of less than 8 years of age. This is how Kautilya sought to do away with the butchery of childhood which may have been rampant prior to his days. If any mental work were taken from them and it was against humanity and shameful. Though Kautilya had forbidden taking of ignoble and low work from slave children yet the treatment meted to them could not be described as exemplary, for freedom and equality of opportunity were often denied to them.<sup>2</sup>

According to Maine in the earliest period of history the patriarchal system was in existence in societies belonging to Indo-European stock, the Romans and the Hindus. As such the eldest male parent the eldest ascendant- was absolutely supreme in his household. He had completely sway-over all the persons; male, female, children, their property, cattle, slaves etc. The flocks, slaves and herds of the children were that of the father, law to them was parent word.

In the age of Mauryas, the State had a monopoly in a number of industries and most of them were nationalized industries. Since state was a major participant in the economic and industrial activities. Kautilya prescribed standard wages for all types of workers. The proper wages weaving cotton cloth was the equivalent money worth of cotton. Workers could be made to work on holidays by payment of special wages. Cowherds and agricultural laborers’ were paid fixed wages. Kautilya did not favour the employment of children. In spite of that there was employment of children in agriculture and domestic service. There the labour legislation of the Dharamshastras shows that public conscience was not alive to the fundamental inequality in distribution of wealth because these protective laws were themselves derived from ancient tradition. The economic status of the slaves, hired labourers and unskilled workers was worse. The same was the position of child when he was engaged in agricultural sector. It was revealed that child labour in ancient India was very common and could be witnessed in different occupations where they were engaged by the rich landlords to carry out activities directly or indirectly related to their agriculture sector.

### ***3.2 Child labour in Medieval Period***

India, through its medieval period, was no exception to the problem of child labour and haunted the minds of many social reformers. Perhaps the cause for this social evil can be attributed to the pressure on land which ultimately forced the poor parents to use their children to assist them in earning livelihood for the childhood. His condition was quite miserable. His condition was no better than a slave. Ain-Iakbari, Bernier Travel’s reveal that children were frequently purchased and sold like

chattels. They were victims of haves and were always exploited to their selfish cause. To our surprise, children could be sold by parent for their economic necessity.

The decree of Akbar of 1594 A.D. clearly ordains, "A father or a mother might, if forced by hunger and extreme misery, sell their child and afterwards when they had the means to pay, might buy it back again after servitude. The Mughal History is replete with glaring example where the kinds used to grant permission to hypothecate children in the cases of famines and unavoidable crisis. However, silver lining in this field was seen during the reign of King Jahangir. He condemned the practice of child labour and issued strict directions to discourage child labour even in cases of exceptional circumstances. But efforts made by Jahangir could not make much dent on this problem. The position remained dissatisfactory despite many efforts of the ruler. The condition of children worsened more and more in post-Jahangir era with the result that child labour was made a source of earning money even by the rulers themselves. The rules enjoyed the monopolistic position and used to make money by trafficking in child slaves. It may, thus, be surmised from the foregoing study that child labour in medieval India was quite rampant and rulers turned on deaf ear to this problem. They showed their selfish behaviour to the extent, that they turned money at the altar of the children work.

### **3.3 Child labour in Modern Period**

The problem of child labour underwent a dynamic change in British India. The new economic forces unleashed by capitalism destroyed the family-based economy. A large number of labourers were displaced due to mechanisms of agriculture- the farmers were alienated from their home-based work place. They became wage earning laborers. It is revealed that extreme poverty made possible a situation in which a child had to be introduced in the labour market. Moreover, the uneven development of industrialization gave a new turn to the history of mankind and brought change in the socio-economic order. The result of uneven development of industrialization was that family based economy was destroyed and a large number of people were converted into wage-earning laborers and, as a result the children were forced to earn wages not only for themselves but for their families as well. Their work place was separated from the family environment and the industrialization exposed them to unhealthy environment. This resulted ultimately to restrict their ability to grow and develop into a mentally and physically adult. Nearly the middle of 19th century, the Mechanised large-scale large scale production came into existence. That time, state regulations were lacking over the conditions of employees in any industry. The employers were free to bargain with labour. Therefore, the laborer union of this country was exploited by the employers for better benefits. Many children were employed in cotton and jute mills and coal mines, they were even employed for underground work. With the advent of Factory organization, some public attention was drawn towards the existing evils of child labour in spite of active opposition from the employers; first protective legislation of child labour was enacted in 1881.

### **4. Objectives of the study**

1. To study of legal implication of child labor: prohibition and regulation.
2. To study the perceptions of teachers towards Causes of Child labour.
3. To study the factors affecting Causes of Child labour.

### **5. Population and sample of the study**

In this present study 200 teachers from the secondary and higher secondary schools were selected from the Ahmedabad District during the year of 2013-14. From the total 25 schools were selected randomly and from each school 4 teachers were selected randomly for the present research purpose.

### **6. Instrumentation of the study**

In this present study of legal implication of child labor, prohibition and regulation, and perceptions of teachers towards Causes of Child labour as well as factors affecting Causes of Child labour Open ended questionnaire prepared for the secondary and higher secondary school teachers.

## 7. Data collection & data analysis

Data collection was carried out through interviewing the teachers and Open ended questionnaire were send to the selected schools of Ahmedabad District. All the teachers were informed about purpose of the study and data were collected. Content analysis and frequency were calculated and finally major perceptions of the teachers were consideration for the data analysis.

## 8. Major Findings of the study

### 8.1 Findings related to Causes of Child labour

Majority of the teachers were presented that it has its roots in the social conventions, traditions and morals of society and the children have been exploited due to these customs and traditions. It is looked upon as a social evil and the social scientists are now giving much importance to this study of problems and development of children. The problem of child labour, however, in India is not of any single isolated factor. It is a multidimensional problem that involves various reasons contributing to this problem in a variety of ways. Some of the foremost factors responsible for prevalence and perpetuation for child labour are (i) continued poverty (ii) inadequate income of parents (iii) unemployment (iv) self interest of employers (v) cheap labourers (vi) indebtedness (vii) suitability of specific jobs. Apart from economic reasons, the fast erosion of social, cultural and moral values scenario also change with the advent of industrialization and urbanization and child labour became inescapable fallout of increasing urbanization along with exploding population. Over and above this another important reason is the employer anxiety to lure child labour as they may do the same amount of work as that off an adult but cost less in terms of wages.

### 8.2 Findings related to Factors Causes of Child labour

#### 8.2.1 Economical Factors

**(1) Poverty as a Factor:** Poverty is both causative and consequential to many problems in society, particularly in a country like India. The most important cause of child labour under the concept of economic factor is chronic poverty. The unequal distribution of wealth resulting in chronic poverty where the child is forced to work. Half of the population of India lives below the poverty line, children of these families have the option of either to die of starvation to see employment

**(2) Inadequate Income of Parents:** Child labour is a much cause of consequence of inadequate wages of parents which compels them to send their children to do some work in return of some wage to supplement the essentials needs of the family. Parents are the main reason for rampant prevalent of this malady. These parents do not consider child labour as evil. The child's workers have to work for much more time than adult workers whether in the agricultural or non-agricultural sectors In variably all parents wish that their lovely children get best possible education. They desired to arrange recreational facilities, medical assistance, rich nutrition, fine clothes and ventilated house accommodation and what not suitable and necessary for their charming flowers of life.

**(3) Unemployment:** The reason for the cause of the child labour is the unemployment of adult workers. Unemployment cannot be treated as a mere economic problem. It is complicated psycho-social problems affecting every aspect of human life. The state of unemployment in more than of the poor and turns the weak into a crippled. Poverty deepens his spirit but unemployment kills mercilessly. Child labour is high due to the unemployment of adult members of the family. Unemployment forces the adult to send their children for work and partly employment of the adult also compels the children to go for labour.

**(4) Children as a cheap Labourer:** With the advent of industrializations the tendency among the employees is to have quick and more profits at low costs. Hence, in every developing country there was an enrolment of children in age number of factories and preferences of child labour by many employers is mainly due to the fact that there is a cheap and safe without any liability. The problem of child labour manifests itself in two different forms. In one, the child labour is used without any remuneration and in the other; it is paid more subsistence wages. The children who work without wages are mainly those engaged in family farms and other family enterprises besides those who have

been handed over to the unscrupulous exploiters in discharge of an obligation and those who had been separated from their parents owing to abject poverty and destitution. As the child workers are paid extremely low wages it results in malnutrition on the one hand and hard physical labour on the other which subjects the child work to constant deterioration in terms of health and medical care and shortens his life span in the long run.

**(5) Migration from Rural Areas to Urban Areas:** Migrant seems to encourage easily employment of children. As many as 80 percent of the children of migrant are workers. Large numbers of migrants in big cities and large proportion of their children being employed is another proof of economic helplessness and consequent apathy of the child laborers in urban centers are the uncared for children of migrants who have suddenly catapulted from the rural obscurity to the congested urban slums and the children have no option but to go with the parents in search of work.

**(6) Indebtedness:** Indebtedness of the poverty stricken family compels the children more to sell their labour in order to repay the family debt.

**(7) Suitability of specific jobs:** There are certain jobs which may be more suitable for children due to their childhood characteristics vis-à-vis nature of their work. There are various manufacturing units and bangle where children are preferred such as the glass bangle and industry, match and fireworks manufacture, carpet-weaving etc. The reason given by the entrepreneurs is that they have soft, nimble fingers and are hence able to do the job better than the adults.

### 8.2.2 Societal Factors

Along with the economic factor, the psychological, social and cultural factors are also interdependent with the economic system, with in which they operate e.g. at a broader level. The role of the children are associated with the values which parents attach top children with the images of the future which parents hold and with the objectives underlying particular levels of fertility. In, India parents see the birth of children as a means of adding to the household force. In their view the child comes into the world with one mouth to eat and two hands to work.

**(1) Enlarged families:** Enlarged families with low income cannot afford to nourish high ideals and notions but family ties. As a result they cannot provide a protected childhood to their children. If the composition of the family is small and well planned, there will hardly be any need of sending their children to work in order to earn. The children of small families can be carefully looked after and educated. But the illiterate parents think that when god has given the body, he will nourish it also. They also think that extra children mean extra income. If one family has just one or two children, that family will provide all such facilities to their children which are necessary for their mental, physical and social growth. Small families can eradicate the problem of child labour from the society.

**(2) Agrarian Social Attitude:** Indian society continues to be essentially agrarian in character and a recognized feature of rural employment is its seasonality. During the peak society and harvesting season, there is tremendous demand for labour. In order to earn the maximum possible income almost every rural labour household mobilizes the entire family labour force, including children to contribute, howsoever insignificantly, towards family income. Increasing landlessness among the rural households is also responsible for child labour.

**(3) Unsuitable for education:** Absence of any provision for compulsory education is another cause of child labour. School facilities are also inadequate. In most of the cases, children finding non availability of school-going facilities is initial stage seek some job as an alternative. The poor parents feel that educating the child will not help to feed whereas as working child brings money into the home to take care of certain basic needs. The choice is normally made by the parents of slightly better economic ground and this form of child labour is found in an unorganized sector like automobile workshops , fuelling stations, and small engineering workshop.

**(4) Parental Attitudes and perception:** In ancient India, tradition of educational learning outside home was confined to the upper caste only. Children of artisans and other producing classes leant the necessary skill in the family. Formal education had little relevance to them. Some parents still pursue this tradition and do not believe in the socio-economic value of formal education.

**(5) Absence of Schemes for Family Allowances:** In India, there is a conspicuous absence of schemes for family allowances, so that people may have an adequate standard of living and may not be forced to send their children to the labour market. These schemes come under the social security which are in practice in many developed countries, but not in our country. Therefore the unfavourable condition at home is another direct cause of child labour. These conditions may be tension, and uncertainly, provoked or increased by poverty. The father may have died or left home, and then the mother may be alone.

### References

1. Deshta, Sunil (2000). Law and Menace of Child Labour, pp.15.
2. Encyclopedia of the Social Science (1930) 3, 412-413
3. Government of India, Planning Commission(2012). Working Group for Social inclusion of Vulnerable Group like Child Labour and Bonded and Migrant Labour in the 12th Five Year Plan.
4. Kanbargi, (1998). 'Child Labour in India: The Carpet Industry of Varanasi', in Bequele and Boyden (eds.), Combating child Labour.
5. Mehta, P.L. (1996). Child labour and the Law: Myth and Reality of Welfare Measure, 22-23.