Employment and Working Conditions of Child Labour

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Abstract
Incidence of child labour continues despite a glut of legislative provisions and awareness campaigns run by a large number of well-intentioned non-governmental organizations. This is mainly because of mass poverty and tradition of servitude among the child labour supplying families. Supplementing family income and death or sickness of parents are major factors that force children to take up wage-paid employment. Once the children join wage-paid employment, they are exposed to multiple risks such as physical torture, abusive language, long working hours with lesser remuneration etc. They do not have any kind of security at the workplace as they are invariably employed in unorganized sector. This paper examines employment and working conditions of child labour based on secondary sources mainly to build a case for total eradication of the hazardous as well as worst forms of child labour in India.

Keywords: Child Labour, Working Conditions, Employment Opportunities, India

INTRODUCTION
International Labour Organization (ILO) defines child labour as ‘work that deprives children (any person under 18) of their childhood, their potential and their dignity, and that is harmful to their physical and/or mental development. It refers to work that is mentally, or morally dangerous and harmful to children; and/or interferes with their schooling by depriving them of the opportunity to attend school; obliging them to leave school prematurely; and requiring them to attempt to combine school attendance with excessively long and heavy work.’ However, not all work in which children are involved can be termed as child labour. Children’s participation in work that does not affect their health and personal development or interfere with their schooling, is generally regarded as being something positive and such activities include helping their parents around the home, assisting in a family business or earning pocket money outside school hours and during school holidays because they contribute towards skill development and preparation for being productive members of the society during their adult life.

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ILO has classified child labour as worst forms of child labour and hazardous child labour. Irrespective of the form, child labour becomes detrimental to the holistic development of all the youngsters who are subjected to such activity voluntarily (with consent of self and the parents) or involuntarily (forced to child labour due to exigencies like sickness or death of parents, indebtedness of the family, etc.). Table 1 provides an incisive view of both forms of child labour which result in lost opportunities for the victims of the circumstances to grow up in a natural process as conscientious citizens.

**Table 1: Forms of Child Labour**

<table>
<thead>
<tr>
<th>Worst forms of child labour (Article 3 of ILO Convention No. 182)</th>
<th>Hazardous child labour (Article 3 of ILO Recommendation No. 190)</th>
</tr>
</thead>
<tbody>
<tr>
<td>All forms of slavery or practices similar to slavery, such as the 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</td>
<td>Work which exposes children to physical, psychological or sexual abuse</td>
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<tr>
<td>The use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances</td>
<td>Work underground, under water, at dangerous heights or in confined spaces</td>
</tr>
<tr>
<td>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</td>
<td>Work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads</td>
</tr>
<tr>
<td>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</td>
<td>Work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health</td>
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<td></td>
<td>Work under particularly difficult conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer.</td>
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</table>

(Source: https://www.ilo.org/ipec/facts/lang--en/index.htm)

Census conducted in 2011 in India reported 10.2 million working children in the age group of 5-14 years out of which 5.6 million were boys and 4.5 million were girls while 8.1 million of them were in villages while 2 million worked in towns and cities. The data related to working children in the country is quite disheartening as the incidence of child labour is significantly high in spite of preventing legislation and awareness campaigns run by non-governmental organizations and comprehensive intervention programs to rehabilitate the working children in place under the state patronage. The types of child labour have changed in recent years due to enforcement of legislation, awareness amongst buyers about child exploitation, and international pressure. Child labour is now more invisible because the location of the work has changed from the more formal setting of factories, to business owners’ homes. Children are engaged in manual work, in domestic work in
family homes, in rural labour in the agricultural sector including cotton growing, at glass, match box and brass and lock-making factories, in embroidery, rag-picking, beedi-rolling, in the carpet-making industry, in mining and stone quarrying, brick kilns and tea gardens amongst others and work is often gender-specific, with girls performing more domestic and home-based work, while boys are more often employed in wage labour.4

LEGAL FRAMEWORK FOR PREVENTION OF CHILD LABOUR

Law makers have always tried to protect the interests of children at the places of work. The Factories Act of 1881 and 1891, the Mines Act of 1901, the Factories Act of 1911, the Factories (Amendment) Act of 1926, the Indian Ports (Amendment) Act of 1931, the Children Pledging of Labour Act of 1933, the Factories (Amendment) Act of 1934, the Mines (Amendment) Act of 1935, the Employment of Children Act 1938 etc. were some of the legislative provisions regulating the age, hours of work, mandatory holidays, rest and leisure, safety and welfare of the child labour. In the post-independence era, the interests of children were protected by the Factories Act 1948, the Employment of Children (Amendment) Act 1949, the Plantation Labour Act 1951, the Indian Mines Act 1952, the Factories (Amendment) Act 1954, the Merchant Shipping Act 1958, the Motor Transport Workers Act 1961, Apprenticeship Act 1961, the Beedi and Cigar Workers (Condition of Employment) Act 1966 and the Employment of Children (Amendment) Act 1978.

The Constitution of India provides for free and compulsory education to all children in the age group of 6-14 years. Besides, the Constitution also provides for prohibition of forced labour and employment of children below 14 years in hazardous occupations. The government is committed to promoting policies for protecting children from exploitation. Mid-day meal program of the government is a good example of state intervention aimed at attracting the young children to school and retaining them in the classrooms for learning. If they are coming to the schools, they are not working for sure. However, even the mid-day meals have failed to

A lot of social action initiatives undertaken by the non-governmental organizations resulted in the enactment of the Child Labour (Prohibition and Regulation) Act 1986. This Act bans the employment of children who are below 14 years of age in specific occupations and processes, lays down procedure to decide modifications to the schedule of banned occupations or processes, regulates the conditions of work of children in employment where they are not prohibited and lays down enhanced penalties for employment of children in violation of the provisions of this Act and other Acts which prohibit employment of children (Varandani, 1994).

Besides these enactments to protect, prevent and regulate child labour, a major policy guideline exists in the Directive Principles of State Policy of the Constitution of India. According to Article 39 of the Constitution, tender age of children should not be abused and that the citizens should not be forced by economic necessity to avocations unsuitable to their age or strength. Article 24 and Article 15 (3) of the Constitution are also relevant to welfare of child labour (Basu, 1992).

INTERNATIONAL LABOUR ORGANIZATION INTERVENTIONS FOR PREVENTION OF CHILD LABOUR

The practice of child labour has generated tremendous heat across the globe. International Labour Organization (ILO) has been instrumental in protecting the rights of child labour since 1919. Some of the Conventions of ILO vis-à-vis child labour includes convention on minimum age for employment for industry (1919), for agriculture (1921), for trimmers and stockers (1921), for non-industrial employment (1932), for industry (revised) (1937), for fishing (1959), and for underground work.
Conventions to regulate medical examination of young persons for sea and industry were adopted in 1921 and 1946 respectively. Convention for prevention of night duty of children (1919) was revised in 1948.

ILO strongly advanced the view that opportunity for growth and development is a natural right of children. As a result, an action programme designated as International Programme on Elimination of Child Labour (IPECL) was formulated in 1992. The IPECL is aimed at developing and implementing strategies for a world-wide movement against child labour. IPECL mandate is to ensure enhanced capabilities of ILO constituents as well as NGOs for the purpose of designing and implementing policies for elimination of child labour and protection of working children (ILO, 1992).

CRITIQUE OF REGULATORY FRAMEWORK
Critics believe that legislations such as the Factories Act, Plantation Act, Mines Act, etc. prohibited the employment of children in what is basically the organized sector. Yet the Child Labour (Prohibition and Regulation) Act 1986 has less to do with prohibition and more with regulation. It endorses against recruitment of children in certain hazardous occupations but permits the young persons to work in home-based production activity. Children are thus denied entry into the better protected sectors while being thrown to the wolves in the unorganized sector (Roy, 1998).

Self-interest of the individuals or groups or undue influence of other associations prevails upon the value of following rules and compliance with statutory provisions (Baxi, 1982). Employers use child labour with a singular objective of earning maximum profits and having least concern for the adverse impact it will have on the health as well as growth and development of the children engaged by them. Attitude, perception and lower social consciousness work sharply towards continuation of both supply and use of child labour. Best course, therefore would be persuasion and not legislation in order to eliminate a necessary evil such as child labour.

ROOT CAUSE ANALYSIS
Poverty is the main reason behind high incidence of child labour in India. Poverty in turn is caused by multiple factors such as lack of access to community resources in an equitable manner, joblessness, absence of land holdings for residences or farming, lack of education and general socio-economic backwardness induced by age-old prejudices inflicted on them due to caste-based discrimination in the society. Poverty creates a vicious circle of indebtedness which limits the chance of the poor families to liberate themselves despite a number of governmental initiatives aimed at eradication of poverty. Most of the poor families in the rural areas in India are landless peasants and depend on the mercy of their respective landlords for subsistence. As the wage rates in rural areas are very low, they easily get into the trap of loans from informal sources i.e. private moneylenders including their landlords/employers. With meagre family income, they have little choice but to include their children in all sorts of wage employment. There has been a number of poverty eradication programmes in place since 1970, however, the incidence of poverty remains quite alarming in the country.

Scenario in urban slums which host the poor migrants is no better. When the entire family migrates from village to towns and cities for a better future, all of them are subjected to exploitation of all sorts. As the jobs at the lower levels with minimal skills are quite low-paying, running the family with income of just one person becomes difficult. Gradually other members of the family also find suitable low-paying jobs and strangle their own dreams of good life. Even the government schemes
for the welfare of the poor in the towns are cities are less likely to reach them. Besides, the cost of healthcare services is also very high. Thus, in case of morbidity, the urban poor families invariably get entrapped in the indebtedness and remain under the grip of informal money lenders. There are hardly any social security as most of the urban poor work in informal sector. In case of sickness, not only they lose their income but also incur heavy expenses on medical bills even if the illness or injury is induced by poor and unhygienic working conditions, long working hours or hazardous nature of job.

CONCLUSION AND SUGGESTIONS
Incidence of child labour continues despite a glut legislative provisions and awareness campaigns. This is mainly because of mass poverty and tradition of servitude among the child labour supplying families. Supplementing family income and death or sickness of parents emerged as major factors that force children to take up wage-paid employment. Once the children join wage-paid employment, they are exposed to multiple risks such as physical torture, abusive language, long working hours with lesser remuneration etc. They do not have any kind of security at the workplace as they are invariably employed in unorganized sector.

The best strategy to safeguard the interest of the wage-paid working children is to put them back to special schools with facility of sheltered workshop where they can learn livelihood skills. Secondly, the child labour supplying families need to be empowered so that their earning potentials increase to such a level that they do not send their children to works for supplementing family income. And above all, the child labour supplying families need to be sensitized so as to attain an attitudinal shift among them.

Putting the working children back to school very much depends on reducing the misery in the farm sector, promoting job creation and increasing consumption by improving the banking ecosystem. Farm distress is caused because the peasants are not able to recover return on investments that they have made by borrowing money from the banks. Due to poor yields, the farmers fail to pay back their bank dues and get into a serious debt trap with no escape. Hence the government should come forward to their rescue from time to time by waiving their farm loans as there is indeed no way out (Jha, Mohapatra and Lodha, 2019).

As the farm sector is not capable of providing jobs to every adult in the village, it is important that the government contributes its mite by way of reinforcing ‘Make in India’ initiative (Jha, 2015). However, growth in manufacturing sector must be complemented with increased consumption. Now impetus to consumption can be augmented by a far more liberal lending regime. In order to enable the banks to attract the borrowers with attractive rates, they need fresh capital infusion. It is important that the government takes periodic interventions in terms of recapitalizing the banks from time to time (Mohapatra and Jha, 2018).

Although the government aims at ensuring freedom from poverty as an entitlement under the Mahatma Gandhi National Rural Employment Guarantee Act 2005, it has failed to achieve its noble goal. It is true that the employment guarantee law has triggered a reverse internal migration of the stressed urban families (Mohapatra and Jha, 2019), it is far from enabling the poor families at the bottom of the pyramid to come out of the vicious circle of poverty. It is indeed quite strange that in spite of the concerted efforts by all the governments at the centre and the states since independence, poverty has deep pockets of influence all across the country. Poverty in turn has
concomitant consequences such as morbidity, indebtedness, disarticulation, joblessness, landlessness among others. Eradication of child labour may be a great contextual factor to have a fresh look at the root cause and change the fortunes of the most vulnerable sections of the society in a different way by thinking out of the box, instead of trying the same old and failed strategies with a lot more vigour as it is being carried forward by the incumbent governments at the centre and various states.

ENDNOTES
3 https://unicef.in/Whatwedo/21/Child-Labour
4 ibid

REFERENCE