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BALANCING TRADITION AND ETHICS: CHILD LABOUR IN FAMILY ENTERPRISES IN CONTEMPORARY INDIA

AUTHORED BY - RIYA MESHAK & THANYA MESHAK

INTRODUCTION

The issue of child labour in India has a long history, dating back to ancient times, as described in Kautilya's Arthashastra.¹ The practice of employing children for various tasks was prevalent in different forms and sectors of society. In medieval times, children were trained as apprentices under artisans and craftsmen. Some crafts, such as carpet weaving, cotton, or silk weaving, still depend heavily on child labour today. In the agrarian society, children were expected to work according to their abilities and play an integral role in the family and community's economy. They received training for various work roles and gradually developed skills and abilities to perform different tasks. However, in many cases, children's work was necessitated by their families' economic needs, and they were expected to contribute to the household income. In some cases, children were employed in the quasi- feudal relationship of production, where their parents were obligated to work for landowners. Often, adults were hired as labourers for low wages, and the entire family, including children, had to work extra hours to meet their subsistence needs. This practice, known as bonded labour, is still prevalent in some parts of India today.

FACTORS RESPONSIBLE FOR CHILD LABOUR IN FAMILY ENTERPRISES

The practice of child labour in any form is a violation of human rights, and it deprives children of their childhood, education, and opportunities for a better future. The Indian government has enacted various laws and policies to eliminate child labour and protect children's rights. However, implementation and enforcement of these laws remain a challenge, and child labour continues to exist in various sectors of the economy, including agriculture, mining, and domestic work. To

¹ Banerjee S., child labour in India: A general review with case studies of the bricking and Zari embroiding industries, London, Anti-slavery society (1981)

combat this problem, it is essential to address the root causes of child labour, such as poverty, lack of education, and social inequality. Creating awareness and promoting education and skill development programs for children and their families can provide them with better opportunities for sustainable livelihoods and a brighter future. Additionally, strict enforcement of laws and regulations against child labour is necessary to hold employers accountable and protect children's rights.

In India, children are employed in small businesses such as retail shops, restaurants, and small manufacturing units, among others. Children employed in small businesses often work long hours and perform hazardous tasks, such as carrying heavy loads, working with dangerous machinery, and working in hazardous environments. They are also deprived of their childhood, education, and opportunities for a better future. This not only affects their physical and mental well-being but also perpetuates the cycle of poverty and social inequality. The Indian government has enacted various laws and policies to protect children's rights and eliminate child labour.

The Child Labour (Prohibition and Regulation) Act, 1986, prohibits the employment of children under the age of 14 in hazardous occupations and processes. Additionally, the Right of Children to Free and Compulsory Education Act, 2009, guarantees free and compulsory education for all children aged 6-14. However, the implementation of these laws remains a challenge, particularly in the informal sector, where small businesses operate. The lack of awareness, low levels of education, and poor enforcement mechanisms make it difficult to monitor and regulate small businesses' employment practices. To address this issue, it is essential to raise awareness among small business owners and communities about the negative impacts of child labour and the benefits of education. Providing support and incentives to small businesses that comply with child labour laws can also encourage compliance. Additionally, strengthening the enforcement mechanisms and improving the monitoring and reporting systems can help identify and prevent child labour in small businesses. Overall, a multi-stakeholder approach involving the government, civil society, and the private sector is necessary to eliminate child labour in small businesses and promote children's rights and well-being.

CONCEPT OF CHILD LABOUR

The definition of "child" is a complex and multi-faceted issue, influenced by biological, legal, and cultural factors. While age is often used to define childhood, different communities may have

varying thresholds or social rites that distinguish childhood from adulthood. The term "child" is also defined differently by different literatures, international organizations, conventions, national laws, and non-governmental organizations. The UN Convention on the Rights of the Child (UNCRC) defines a child as every human being below the age of eighteen years, while the International Labour Organization (ILO) defines child labour as "some types of work" done by children under the age of 18 years, including full-time work that prevents them from going to school or that is dangerous to their health.

The Child Labour (Prohibition and Regulation) Act of 1986 defines child labour as employment of children up to the age of 14 years and in hazardous employments up to 18 years. The ILO Convention No. 138 sets the minimum age for admission to employment at 15 years or 14 years in special circumstances, with a minimum age of 18 years for hazardous work. The latest ILO Convention No. 182 on the Worst Forms of Child Labour defines a child as a person who is below 18 years. Overall, the definition of "child" is not universally accepted and varies depending on the context and perspective of the source or organization.²

In Indian society, a "Child" is someone who is reliant on an adult to provide their basic requirements. Therefore, a child is "someone who requires adult care and protection for physical, psychological, and intellectual development until he or she is able to become independently integrated into the adult world." But varied contexts, goals, and situations led to various definitions or interpretations of the term "child." Generally speaking, everybody in India under the age of 14 is regarded as a kid. Indian census officials also classify everyone under the age of 14 as a kid. The same definitions of children can be found in legal laws, however they greatly vary on the legislation in question. According to the Factory Act of 1948, a kid is anyone under the age of 15. The Child Labour (Prohibition and Regulation) Act of 1986 defines a child as "a person who has not reached the age of fourteen."

While child labourers can include children working at risky tasks, it is by no means limited to this form of activity. In many situations, child labour involves children working in appalling circumstances, missing school, and squandering away their youth. There are several more situations when minors (those under the age of 18) work occupations that are not dangerous and do not obstruct their schooling. Child employment is considered exploitative, according to Anti-

² P.L. Mchata, S.S. Jaswal, Child Labour and the Law, p-26, New Delhi: Deep and Deep Publications, 1990

slavery International and UNICEF (1999: 24), if it involves any of the following: -Too many hours spent working; full-time employment at a young age; job that places an excessive amount of physical, social, and psychological stress on employees; and poor working and living conditions on the streets; inadequate pay; too much responsibility; and employment that restricts access to education.³

CATEGORIES OF CHILD LABOUR

- a. **Domestic work:** Children engaged in domestic work are those who work in households as domestic servants. They may be hired by households to do tasks such as cooking, cleaning, washing clothes, caring for children and the elderly, etc. Children engaged in domestic work are often from poor families or are orphans who are sent away to work as domestic servants. They work for long hours without rest or adequate food and are often subjected to physical and emotional abuse.
- b. **Non-domestic work and non-monetary work:** Children engaged in non-domestic work are those who work in industries such as agriculture, mining, construction, etc. Children may also be engaged in non-monetary work, such as begging or performing on the streets. These children are often employed in hazardous work conditions and are exposed to various forms of abuse, including physical, emotional, and sexual abuse.
- c. **Bonded labour:** Bonded child labour refers to the practice of using children as collateral for a loan. Children are forced to work for their employers until they pay off the loan taken by their parents or guardians. Bonded child labour is a form of modern-day slavery, where children are forced to work in deplorable conditions with little or no pay.
- d. **Wage labour:** Children engaged in wage labour work for pay in various industries such as manufacturing, textiles, construction, etc. They work long hours and are often exposed to hazardous work conditions. They are paid less wages and are often subjected to exploitation by their employers.
- e. **Marginal economic activities:** Children engaged in marginal economic activities are those who work in activities that are not well-established or recognized by the government. They may work in activities such as street vending, rag-picking, or shoe-shining. These children work in precarious conditions, without access to basic facilities such as clean water and sanitation, and are often subjected to exploitation by their employers. Child

³ Dr. Panth, Economic History of India under the Moghals, 1990

labour is a violation of the basic human rights of children. It deprives them of their childhood, education, and opportunities for growth and development. It is the responsibility of governments, civil society, and individuals to work towards eliminating child labour and providing children with a safe and nurturing environment to grow and develop.

POVERTY

Poverty is one of the main drivers of child labour in India. When households are living in poverty, children may have to work to supplement their family's income. This can occur in both rural and urban areas, as poverty affects families across different socioeconomic backgrounds. However, when children are working instead of attending school, they miss out on crucial opportunities to gain an education and develop skills necessary for future employment. This can perpetuate household poverty across generations, as the lack of education and skills limits their opportunities for decent work as adults. In addition to poverty, there are several other factors that contribute to the persistence of child labour in India. One of these is inequality, which affects the distribution of resources and opportunities among different groups in society. Children from marginalized communities, such as those from lower castes or ethnic minorities, are more likely to be engaged in child labour than those from privileged backgrounds.⁴

Lack of access to education and slow demographic transition are also factors that contribute to the prevalence of child labour in India. Without access to education, children are more likely to end up in low-skilled jobs or informal sector employment, which are sectors where child labour is prevalent. Slow demographic transition, which refers to a high birth rate and slow decrease in the death rate, can contribute to a larger number of children in the labour force as families have more children to support.⁵ Finally, traditions and cultural expectations can also contribute to the persistence of child labour in India. In some communities, it may be expected that children contribute to household income through work, or that certain types of work are only appropriate for certain genders or castes. Overall, child labour is a complex issue in India that is driven by a variety of interlinked factors. Addressing these factors requires a comprehensive approach that involves investing in education and skills development, promoting social and economic equality, and addressing systemic issues such as poverty, inequality, and discrimination.

⁴ P.L. Mehta, S.S. Jaswal, *Child Labour and The Law*, p-13, New Delhi: Deep and Deep Publications, 1996.

⁵ C.K. Shukla, S. Ali, *Child Labour: Socio-Economic Dimensions*, p-178, New Delhi: Swaroop and Sons, 2006.

Child labour is now a source of income for very poor families. In a study conducted by the ILO Bureau of Statistics found that “Children’s work was considered essential to maintain the economic levels of household, either in the form of work for wages, of help in household enterprises or of household chores in order to free adult household members for economic activity elsewhere”.⁶The apparent fact is that child labourers are exploited by earning less wages for the same type of work engaged by adult counterparts.

LACK OF SOCIAL AND ECONOMIC DEVELOPMENT

Difference in social and economic development refers to the uneven distribution of resources, opportunities, and benefits among different groups in society. This inequality can manifest in various forms, including income and wealth disparities, limited access to education and healthcare, discrimination based on gender, race, and ethnicity, and unequal distribution of power and influence. In many parts of the world, social and economic inequality is a significant challenge, leading to poverty, social exclusion, and marginalization of certain groups. It creates a vicious cycle of inequality, where those who are already disadvantaged are further marginalized, making it difficult for them to break out of poverty. Addressing social and economic inequality requires a comprehensive approach that involves addressing the root causes of inequality, such as discrimination, lack of access to education and healthcare, and limited economic opportunities.

This involves implementing policies that promote inclusive growth, such as investing in education and skill development, promoting gender and social equality, and improving access to essential services. Additionally, creating a more equitable distribution of resources and opportunities requires addressing systemic issues such as corruption, weak governance, and inadequate infrastructure. It also requires engaging marginalized communities and empowering them to participate in decision-making processes and hold those in power accountable. Overall, addressing social and economic inequality is essential for creating a more just and sustainable society, where all individuals have access to the resources and opportunities necessary to live fulfilling and productive lives.⁷

⁶ Mehra-Kerpelman, K.1996. Children at work: How many and where? International Journal of Statistics & Economics, <http://www.karmyug.org/childlabour/research>

⁷ Nanjuda, D.C., Child Labour and Human Rights-A Perspective, Delhi: Kalpaz Publications, 2008, p. 52.

CHILDREN WORKING WITH FAMILY

In an article titled “Employment of children in hazardous and family run business”, The information for 5254 children who were saved between January 1, 2010, and December 31, 2014 was gathered by BBA and used in this study. Legal action was taken against the employers of these rescued youngsters, and criminal proceedings are still ongoing. In parallel, the administration's independent investigations have led to the identification of youngsters as bonded labour.⁸

CHILDREN IN EMPLOYMENT

Out of 5254 child labourers recovered, 3022 were below 14 years while 2232 were in 14-17 years age-group. It is shown that rescued child victims of labour trafficking who were below 14 years of age, constitutes more than half of the total rescues. Despite existing legal instruments, trafficking of children below 14 years continues to persist.⁹

CHILDREN WORKING WITH FAMILY

Almost 1/5th of the total children rescued were working with their families, and about 83% of the children were rescued from establishments which were located in residential areas. This clearly indicates that when a law permits employment of children in family enterprises may continue to assist in trafficking of children for forced labour because many of the manufacturing units functioning in residential areas could claim to be family enterprise.¹⁰

There are significant concerns from the recent amendment 2016 under Section 3, which permit child to help 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. The provision to allow work of children helping in family and family enterprise, even after school hours, raises significant concerns on regulating such situations when a large part of sub-contracting involves working at/from home.¹¹

⁸ “Employment of children in hazardous and family run business”, Bachpan Bachao Andolan(BBA),March31,p3

⁹ Employment of children in hazardous and family run business”, Bachpan Bachao Andolan(BBA),March31,p-3

¹⁰ Employment of children in hazardous and family run business”, Bachpan Bachao Andolan(BBA),March31,p4

¹¹ Employment of children in hazardous and family run business”, Bachpan Bachao Andolan (BBA),March31,p-9

CONTEMPORARY CHALLENGES

Despite increased awareness and efforts to combat child labour, family enterprises continue to grapple with numerous challenges. Issues such as limited access to education, lack of awareness about child rights, and economic pressures make it difficult for families to break free from the cycle of child labour. Additionally, the blurred lines between familial obligations and exploitative practices further complicate the efforts to eradicate this pervasive issue.

LEGAL FRAMEWORKS AND ENFORCEMENT

Exploring the existing legal frameworks addressing child labour in family enterprises reveals a complex landscape. While regulations exist to protect children from exploitation, the enforcement mechanisms often fall short, leaving gaps that contribute to the perpetuation of this problem. Strengthening legal frameworks and ensuring their effective implementation are crucial steps in addressing child labour within family enterprises.

PATHWAYS TO CHANGE

Creating meaningful change requires a holistic approach that addresses the root causes of child labour within family enterprises. This includes targeted efforts to improve access to education, raise awareness about child rights, and provide viable economic alternatives for families. Collaboration between government bodies, non-governmental organizations, and local communities is essential to fostering an environment where children are protected from exploitation and can thrive.

CONCLUSION

In conclusion, this article underscores the intricate nature of child labour within family enterprises, recognizing its historical roots and contemporary challenges. By understanding the economic realities, legal frameworks, and the need for comprehensive solutions, stakeholders can work towards breaking the cycle of child labour, ensuring a brighter and more equitable future for the younger generation recognizing children as a nation's most valuable assets, it is imperative to address the prevalent forms of abuse they face in India, as highlighted by the National Study on Child Abuse. The inadequacies in the Child Labour Act and flawed developmental programs, especially in education, contribute to the failure in achieving desired outcomes. To effectively combat child labor, there is a need for comprehensive strategies, including the provision of

alternative income-generating activities for families dependent on child labor. The engagement of the private sector is crucial, with businesses enforcing labor standards and supporting initiatives that eliminate child labor in family enterprises. International collaboration among governments, NGOs, and organizations is essential to share best practices, coordinate efforts, and allocate resources for education, training, and research, ultimately ensuring the holistic development and well-being of every child.

