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EDITORIAL NOTE

LEXKHOJ is delighted to announce its Second edition of the *Lexkhoj Research Journal of Law and Socio-Economic Issues* which is an international journal, publishing critical approaches to socio-legal study and multi-disciplinary analysis of issues related to law and socio-economic. The journal will strive to combine academic excellence with professional relevance and a practical focus by publishing wide varieties of research papers, insightful reviews, essays and articles by students, established scholars and professionals as well as by both domestic and international authors. Authors should confirm that the manuscript has not been, and will not be, submitted elsewhere at the same time.

The Journal provides a forum for in-depth analysis of problems of legal, social, economic, cultural and environmental transformation taking place in the country and world-wide. It welcomes articles with rigorous reasoning, supported by proper documentation. The Journal would particularly encourage inter-disciplinary articles that are accessible to a wider group of Social activist, economist, Researcher, policy makers, Professionals and students.

This quarterly issue of the journal would like to encourage and welcome more and more writers to get their work published. The papers will be selected by our editorial board that would rely upon the vibrant skills and knowledge immersed in the paper.

Needless to say, any papers that you wish to submit, either individually or collaboratively, are much appreciated and will make a substantial contribution to the early development and success of the journal. Best wishes and thank you in advance for your contribution to the Lexkhoj Research Journal of Law and Socio-Economic Issues.

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CHILDREN WHO BECOME ADULT TOO EARLY

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ABSTRACT

***“Show A
Child Love
& Care
Child Labor
Is Just Not
Fair”***

They are everywhere but invisible, toiling as domestic servants in homes, labouring behind the walls of workshops/factories, hidden from view in sugarcane plantations, unsafe in the production of pyrotechnics, collecting garbage from households, risking their lives in the streets selling newspapers and cigarettes, hopping from one jeepney to another to wipe our shoes and begging to fill their empty stomach, experiencing malnutrition, can be seen asleep in the coldness of the earth provided with carton papers as their beds, paying their ancestors’ debts in some big haciendas, working for their families in the rice farm, diving for pearls in the ocean/seas of the archipelago, involved in mining and quarrying in some places, demoralized and prostituted at young age...”

They are not worthy of these misfortunes.

INTRODUCTION

It refers to the illegal employment of children below 18 years of age in hazardous occupations. Underage children are being forced to manual labour to help their families mainly due to poverty. Labour has many ill effects in children who are supposed to be in the environment of a classroom rather than roaming the streets to earn money. Although most do get the privilege of education, most of them end up being dropouts and repeaters because they are not able to focus on their studies. Because of child labour, children suffer from malnutrition, hampered growth, and improper biological development. The use of child labor was not regarded a social problem until the introduction of the factory system.

The 1998 national census of India estimated the total number of child laborers, aged 4 to 15, to be at 12.6 million, out of a total child population of 253 million in the 5 to 14 age group.⁽¹⁾⁽²⁾ However, in 2009–10 a nationwide survey found the prevalence of child labour had reduced to 4.98 million children (or less than 2% of the children in the 5 to 14 age group).⁽³⁾ The 2011 national census of India found the total number of child laborers, aged 5–14, to be at 4.35 million,⁽⁴⁾ and the total child population to be 259.64 million in that age group.⁽⁵⁾ The child labour problem is not unique to India worldwide, about 217 million children work, many full-time.⁽⁶⁾ Indian law specifically defines 64 industries as hazardous and it is a criminal offence to employ children in such hazardous industries. In 2001, an estimated 1% of all child workers, or about 120,000 children in India were in a hazardous job. Notably, the Constitution of India prohibits child labour in hazardous industries (but not in non-hazardous industries) as a Fundamental Right under Article 24. UNICEF estimates that India with its larger population has the highest number of laborers in the world under 14 years of age, while sub-Saharan African countries have the highest percentage of children who are deployed as child laborers. The International Labour Organization estimates that agriculture, at 60 percent, is the largest employer of child labour in the world,⁽⁷⁾ while the United Nation's Food and Agriculture Organization estimates 70% of child labour is deployed in agriculture and related activities.⁽⁸⁾ Outside of agriculture, child labour is observed in almost all informal sectors of the Indian economy. In December 2014, the U.S. Department of Labor issued a *List of Goods Produced by Child Labor or Forced Labor* and India figured among 74 countries where a significant incidence of critical working conditions has been observed. Unlike any other country, 23 goods were attributed to India, the majority of which are

produced by child labour in the manufacturing sector. In addition to the constitutional prohibition of hazardous child labour, various laws in India, such as the Juvenile Justice (care and protection) of Children Act-2000 and the Child Labour (Prohibition and Abolition) Act-1986 provide a basis in law to identify, prosecute and stop child labour in India. ⁽⁹⁾

Constitutional Protections.

After its independence from colonial rule, India has passed a number of constitutional protections and laws on child labour. The Constitution of India in the Fundamental Rights and the Directive Principles of State Policy prohibits child labour below the age of 14 years in any factory, mine, castle or engaged in any other hazardous employment (Article 24). The constitution also envisioned that India should, by 1960, provide infrastructure and resources for free and compulsory education to all children of the age six to 14 years. (Article 21-A and Article 45).

India has a federal form of government, and labour being a subject in the Concurrent List, both the central and state governments can and have legislated on child labour. The major national legislative developments include the following: ⁽¹⁰⁾

The Factories Act of 1948: The Act prohibits the employment of children below the age of 14 years in any factory; whereas the law also placed rules on who, when and how long pre-adults can aged 15–18 years in any factory.

The Mines Act of 1952: The Act prohibits the employment of children below 18 years of age in a mine.

The Child and Adolescent Labour (Prohibition and Regulation) Act of 1986: The Act prohibits the employment of children below the age of 14 years in hazardous occupations identified in a list by the law. The list was expanded in 2006, and again in 2008. In 2016, the Act was amended (not in force as of 30 July 2016) to prohibit employment of child below 14 years in all occupation (except for helping in non-hazardous family business and of child artists in the entertainment industry and sports). Further, adolescents between 14–18 years will not be allowed to work in hazardous industries and processes.

The Juvenile Justice (Care and Protection) of Children Act of 2000: This law made it a crime, punishable with a prison term, for anyone to procure or employ a child in any hazardous employment or in bondage.

The Right of Children to Free and Compulsory Education Act of 2009: The law mandates free and compulsory education to all children aged 6 to 14 years. This legislation also mandated that 25 percent of seats in every private school must be allocated for children from disadvantaged groups and physically challenged children. (It is not applied through)

India formulated a National Policy on Child Labour in 1987. This Policy seeks to adopt a gradual & sequential approach with a focus on rehabilitation of children working in hazardous occupations. It envisioned strict enforcement of Indian laws on child labour combined with development programs to address the root causes of child labour such as poverty. In 1988, this led to the National Child Labour Project (NCLP) initiative. This legal and development initiative continues, with a current central government funding of Rs. 6 Billion, targeted solely to eliminate child labour in India.

Consequences of Child Labour: -

The presence of a large number of child laborers is regarded as a serious issue in terms of economic welfare. Children who work fail to get necessary education. They do not get the opportunity to develop physically, intellectually, emotionally and psychologically. In terms of the physical condition of children, children are not ready for long monotonous work because they become exhausted more quickly than adults do. This reduces their physical conditions and makes the children more vulnerable to disease.

Children in hazardous working conditions are even in worse condition. Children who work, instead of going to school, will remain illiterate which limits their ability to contribute to their own wellbeing as well as to community they live in. Child labour has long-term adverse effects for India. Child labour in India are employed with the majority (70%) in agriculture some in low-skilled labor-intensive sectors such as sari weaving or as domestic helpers, which require neither formal education nor training, but some in heavy industry such as coal mining. According to the International Labour Organization (ILO), there are tremendous economic benefits for developing nation by sending children to school instead of work. Without education, children do not gain the necessary skills such as English literacy and technical aptitude that will increase their productivity to enable them to secure higher-skilled jobs in future with higher wages that will lift them out of poverty.

Factors causing the problems of Child Labour: -

- **Poverty** is the primary cause of child labor in the developing countries like the

Philippines. Children work to ensure the survival of their family and themselves. Though children are not well paid, they still serve as major contributors to family income in the developing countries. Children are often prompted to work by their parents. According to one study, parents represent 62% of the source of induction into employment. Children make their own decisions to work only 8% of the time (Syed et. al. 1991). In fact, a possible reason parents in developing countries have children is because they can be profitable of their children. Children seem to be much less of an economic burden in developing versus developed countries. Children in developing countries also contribute more time to households than they deplete as compared to their counterparts in developed countries (Lindert 1976). Therefore, parents in developing countries make use of children's ability to work. Evidence suggests that parents have children based on a cost – benefit perspective. Children in developing countries tend to be of economic value and, as a result, become a desirable asset for struggling parents. This desire also leads to the increase of the population that is also one of the factors causing child labor.

- **Schooling** problems also contribute to child labor. Many times children seek employment because there is no access to schools possibly because of the distance or worse yet there are no schools at all. When there is access, the low quality of the education often makes attendance a waste of time for the students. Schools in many developing areas suffer from problems such as overcrowding, lack of resources, inadequate sanitation and pathetic teachers. As a result, parents may find no use of sending their children to school when they could be home learning a skill, farming for example and supplementing the family income. Because parents have so much control over their children, their perception of the value of school is a main determinant of child attendance. Parents who are educated understand for themselves the importance of schooling from personal experience. School attendance by a child is also highly correlated with family income. Therefore, when children drop out of school, it is not necessarily because of irresponsible parenting; it may be due to the family's financial situation. When these children leave school, they become potential workers.

- **Traditional factors** are also important. The established female role in certain countries dictates that women will not fit into traditional roles if they become educated. Such cultural practices restrict the education of females and promote child employment. The acceptance of social class participation perpetuates child labor as well. Often parents assign different roles into their children. This has been called child specialization, and may increase the number of working children. This phenomenon involves certain siblings going to school while the others work.
- **Rapid rural – to – urban** migration is the cause for the increasing rate of child labor in the urban areas of the developing countries. Families leave the severity of agricultural working conditions for cities in order to search for economic opportunities that often do not exist.
- **Unchecked growth of population** – rapid growth of population adds up to the enormous number of working children here in the Philippines. Parents keep on having children who would then be working for the family just to have some food on their table during meals and feed their empty stomachs. Another problem with the complete abolition of child labor is that education and employment for children are not mutually exclusive. Many children work and go to school. In fact, many children have to work to go to school, otherwise, they could not afford the tuition and other fees associated with attendance.
- **Family structure** research shows that 75% of the working children are products of broken families. There are no parents to take care of them, feed them, provide them with their first education and their needs so they will not need to roam around the streets and do pathetic works to earn money.

Communication Problems: -

- **Lack of Acceptance** – the advocates inform the parents about the issue on child labor, if they would not accept it because of their orientation that the younger their children work the better because their children are being trained at an early age, it would be considered as a communication problem regarding the lack of acceptance. This happens both in urban and rural areas.
- **Lack of Participation** – people may find it less interesting to attend seminars

with regards to the issue, the employers would probably be in denial when accused violating, some of the parents who are supposedly the ones to protect their children turned out to be the ones to push their kids into work, then, even the children involved in the issue are not participating because of they fear of losing their jobs.

- **Lack of Access** – refers to the lack of access to the information / campaign because of some factors like the distance, the distribution of IEC material, etc.
- **Lack of Knowledge** – people may then have access to the campaign in their community, but it is also possible that these people are illiterate or could not understand the materials,
- **Lack of Awareness** – the government has numerous projects on child labor, but the communities are not aware of these.

Initiatives against Child Labour in India: -

In 1979, the Indian government formed the Gurupadswamy Committee to find about child labour and means to tackle it. The Child Labour Prohibition and Regulation Act was enacted based on the recommendations of the committee in 1986. A National Policy on Child Labour was formulated in 1987 to focus on rehabilitating children working in hazardous occupations. The Ministry of Labour and Employment had implemented around 100 industry-specific National Child Labour Projects to rehabilitate the child workers since 1988.

Non-Governmental Organizations: -

Many NGOs like Bachpan Bachao Andolan, Child Fund, CARE India, Talaash Association, Child Rights and You, Global march against child labour, RIDE India, Child line etc. have been working to eradicate child labour in India.

Child labour has also been a subject of public interest litigations in Indian courts.⁽¹¹⁾

Demography of Child Labour: -⁽¹²⁾

There are five states, which are India's biggest child labour employers - Bihar, Uttar Pradesh, Rajasthan, Madhya Pradesh and Maharashtra. Over half of India's total child labour population works here. India's biggest hub of child labour is Uttar Pradesh and it accounts for almost 20% of India's child laborers. According to a Campaign against Child Labour (CAC)

study, India has 1, 26, 66,377 child laborers of which UP has 19, 27,997 child laborers.

Reduction in child labour over the course of time India has seen a dramatic fall in child labour in the last two decades: **2004-2005 to 2009-10**

For example, there was a marked 45% reduction in child labour between 2004-05 and 2009-10, due to schemes like Right to Education, MNREGA, Mid-Day Meal, which gave children an incentive to study. The role of NGOs was also important in bringing about this fall in child labour. For example, Save the Children, which is widely hailed as the best NGO for charity has been working in the cotton farms of Maharashtra to mainstream the child laborers into schools

The numbers from 2014 in 2014, there were even more optimistic signs - the number of child laborers decreased by 65% - from 1.26 crore to 82.2 lakh between Census 2001 to and Census 2011. This was part of an answer to a Rajya Sabha question about child labour, which also revealed that India's capital had seen over 1500 child labour rescues between 2013 and 2014.

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