

BONDED CHILD LABOUR – A Curse to Indian Society

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Abstract

The most inhuman and onerous form of child exploitation is the age old practice of bonded labour in India. In this, the child is sold to the loaner like a commodity for a certain period of time. His labour is treated like security or collateral security and cunning rich men procure them for small sums at exorbitant interest rates. Millions of children are often sold to growing industries such as silk, carpets, beedis, jewelry, among other exports. Parents often find themselves in situations where they are obligated to sell their children in order to pay back their debtors. These enslaved children are often physically abused, forced to work beyond their physical and mental capacity, and locked in these factories under unsanitary and inhumane conditions. Despite existing local and international child labor laws, the number of children exploited and forced to work under inhumane conditions keeps increasing alarming rate in order to keep up with international demand for a variety of goods. The practice of child bonded labour persists like a scourge to humanity in spite of many laws against it. These laws although stringent and providing for imprisonment and imposition of huge fines on those who are found guilty are literally non- functional in terms of implementation. This paper discuss about causes for failure of implementation of enacted laws and steps to effective implementation.

1. Introduction:

The Global economy's insatiable need for larger quantities of cheaper and better products has adverse effects on the well-being of the poor and vulnerable that produces these items. The dynamics of consumerism indirectly contributes to the existing problem regarding debt bondage child labor in India. Millions of children are often sold to growing industries such as silk, carpets, beedis, jewelry, among other exports. Parents often find themselves in situations where they are obligated to sell their children in order to pay back their debtors. These enslaved children are often physically abused, forced to work beyond their physical and mental capacity, and locked in these factories under unsanitary and inhumane conditions. Despite existing local and international child labor laws, the number of children exploited and forced to work under inhumane conditions keeps increasing alarming rate in order to keep up with international demand for a variety of goods. The practice of child bonded labour persists like a scourge to humanity in spite of many laws against it. These laws although stringent and providing for imprisonment and imposition of huge fines on those who are found guilty are literally non- functional in terms of implementation. I am going to discuss the causes for failure of implementation of these laws and steps for effective implementation.

2. Child labour :

In general Child Labour means those children who are doing paid or unpaid work in factories, workshops, establishments, mines and in the service sector such as domestic labour. There is no statutory/ legal definition of child labour. International Labour Organization refers to work that leads to the deprivation of one's childhood and education opportunities. Effects include a loss of potential and dignity in self, which is harmful to a child's physical and mental development. Different statutes have made an attempt to regulate

Child Labour by creating a minimum age for entering the labour force and limiting the types of work child labourers can engage in. The nature of jobs in which children are engaged is needed to be taken into account. Definition of child labour varies depending upon the seriousness of the problem. How to determine child labour is problematic. The Indian Penal Code (IPC), Indian Majority Act, Vaccination Act, Child Marriage Act, Motor Vehicles Act, Plantation Labour Act, 1951, Suppression of Immoral Traffic in Women and Girls Act, Merchant Shipping Act, Supervision and Control Act, Motor Transport Workers Act, regulation protection rules (framed under atomic energy act), Beedi and Cigar Workers Act, JJ Act, Radiation Protection Act 1962, all define ‘child’ in different ways. The different legislations deal with different subject matters but in the end a child is a child! It is very difficult to have a uniform age for determining child labour.

Child Labour And Child work:

An interesting debate has been in progress over the definition of child labour and Child work and the contribution of children’s work in the informal economy. Those who have argued for a narrow definition have been motivated in part by the desire to reduce the size of the problem and thus make it more manageable. But this conceptual sleight-of-hand flies in the face of common sense and results in making the work of millions of children invisible to public policy and public action. The distinction at the conceptual level between child labour and child work is essentially flawed as children play a major role in the care economy. Child labour is conventionally defined to include all ‘economically active’ children in the age group 5-14 years. A person is treated as economically active or gainfully employed if she/he does work on a regular basis and receives remuneration for it. The ILO defines ‘child labour’ as “work that deprives children of their childhood and their dignity, which hampers their access to education and the acquisition of skills, and which is performed under deplorable conditions harmful to their health and their development”¹. Child work, on the other hand, includes all paid and unpaid work for the household or for the market, whether it is full-time or part-time. Participation in household activities on a regular basis and for several hours in a day to relieve adults for wage employment is also included in this definition. The ILO argues that it is not concerned with children helping in family farms or doing household chores.

The World Bank, in a similar vein, argues that child work that does not involve an exploitative relationship should be distinguished from child labour. It further argues that in some instances, work done by children within the family may even contribute to the development of the child. Not all child labour is harmful. Many working children who are living within a stable and nurturing environment with their parents or are under the protection of a guardian can benefit in terms of socialisation and from informal education and training.

4. Causes of child labour:

- a. Poverty
- b. Parental illiteracy
- c. Social apathy
- d. Ignorance
- e. Lack of education and exposure,
- f. Exploitation of cheap and unorganized labor.

The family practice to inculcate traditional skills in children also pulls little ones inexorably in the trap of child labor, as they never get the opportunity to learn anything else. Absence of compulsory education at the primary level, parental ignorance regarding the bad

effects of child labour, the ineffectivity of child labour laws in terms of implementation, non availability and non accessibility of schools, boring and unpractical school curriculum and cheap child labor are some other factors which encourages the phenomenon of child labor. It is also very difficult for immature minds and undeveloped bodies to understand and organize themselves against exploitation in the absence of adult guidance.

Poverty and over population have been identified as the two main causes of child labour. Parents are forced to send little children into hazardous jobs for reasons of survival, even when they know it is wrong. Monetary constraints and the need for food, shelter and clothing drives their children in the trap of premature labor. Over population in some regions creates paucity of resources. When there are limited means and more mouths to feed children are driven to commercial activities and not provided for their development needs. This is the case in most Asian and African countries. Illiterate and ignorant parents do not understand the need for wholesome proper physical, cognitive and emotional development of their child. They are themselves uneducated and unexposed, so they don't realize the importance of education for their children. Adult unemployment and urbanization also causes child labor. Adults often find it difficult to find jobs because factory owners find it more beneficial to employ children at cheap rates. This exploitation is particularly visible in garment factories of urban areas. Adult exploitation of children is also seen in many places. Elders relax at home and live on the labor of poor helpless children.

5. Bonded Child Labour:

This is also known as slave labour and is one of the worst types of labour for children and adults, alike. In fact, in 1976 the Indian Parliament enacted the Bonded Labour System (Abolition) Act; herein declaring bonded illegal. However, the fact remains is that this system of working still continues. According to certain experts approximately 10 million bonded children labourers are working as domestic servants in India. Beyond this there are almost 55 million bonded child labourers hired across various other industries.

5.1 Bonded Child Labour in India:

The most inhuman and onerous form of child exploitation is the age old practice of bonded labour in India. Child Labor is increasingly becoming an important issue of concern for the world community, with over 250 million children working around the world India is one of the worlds' leading countries in terms of employing children with an estimated number between 60 and 115 million children working. Most of these children work in the agricultural sector, leaving about 15 percent of these children in the service and small-scale industries. Bonded labor is also becoming a major problem in India. Families who cannot pay their debt sell or trade their children to their debtors in exchange for the money they owe. Money owed to rural banks, the government, or local creditors is usually managed by the local moneylender who takes labour in exchange. Human Rights Watch estimates that about 15 million children work under these conditions.

Children are forced to work to help pay for their family's debt, and have absolutely no say in voicing whether they agree to working under the presented circumstances. They are sold like objects, and are submitted to working under terrible conditions. Bonded labour is clearly an abuse of their basic rights as humans. The children who are sold as bonded labour only get a handful of coarse grain to keep them alive in return for their labour. Sometimes their period of thrall extends for a life time, and they have to simply toil hard and depend on the mercy of their owners, without any hope of release or redemption. The

impoverished parents of the bonded child is usually a poor, uneducated landless labourer and the mortgagee is traditionally some big landlord, money lender or a big business man who thrives on their vulnerability to such exploitation. The practice of bonded child labour is prevalent in many parts of rural India, but is very conspicuously in the Uttar Pradesh, Karnataka and Tamil Nadu (Vellore district).

In Northern India the exploitation of little children for labor is an accepted practice and perceived by the local population as a necessity to alleviate poverty. Carpet weaving industries pay very low wages to child laborers and make them work for long hours in unhygienic conditions. Children working in such units are mainly migrant workers from Northern India, who are shunted here by their families to earn some money and send it to them. Their families dependence on their income, forces them to endure the onerous work conditions in the carpet factories. The situation of child labourers in India is desperate. Children work for eight hours at a stretch with only a small break for meals. The meals are also frugal and the children are ill nourished. Most of the migrant children, who cannot go home, sleep at their work place, which is very bad for their health and development. Seventy five percent of Indian population still resides in rural areas and are very poor. Children in rural families who are ailing with poverty perceive their children as an income generating resource to supplement the family income. Parents sacrifice their children's education to the growing needs of their younger siblings in such families and view them as wage earners for the entire clan.

The problem of child labor exploitation is a major challenge to the progress of developing countries. Children work at the cost of their right to education which leaves them permanently trapped in the poverty cycle, without the education and literacy required for better-paying jobs.

6. Constitutional Provision:

The origin of statutory protection of child labour in India can be traced back to the Indian Factories Act, 1881. This law is mainly regulated working hours, rest intervals, minimum wages and nature of work of child labour but it does not prevented the employment of children. Later on the Children Act, 1933 was enacted to prohibit the pledging of labour of children below 14 years by parents. It prescribes Punishment for parents and employer of the child labour. It imposes minimum fine of Rs. 200 to the employer for employing child labour and also Rs.50 for the parents who pledged their children for the labour.

In the Year 1938 the Employment of Children Act was enacted to prohibit the employment of children below the age of 14 years in specified hazardous occupations. This Act specifically prohibits the employment of children below 14 years of age in the railway and other means of transport. Prior to 1976, all efforts to tackle the issue of bonded labour were made at the regional level only. Before the Independence, there were two legislations, namely:

The Bihar and Orissa Kamiauti Agreement Act, 1920; The Madhras Debt Bondage Abolition Regulation Act, 1940.

In the post independence period two legislation were enacted for abolition of bonded labour they are, The Orissa Debt Bondage Abolition Regulation, 1948; The Rajasthan Sagri System Abolition Act, 1961. And in 1975, yet another attempt was made to abolish the system through India under the twenty-point program. Initially, the Bonded Labour System

Ordinance was promulgated in 1975 and later this was enacted by the Parliament. Thus came into being the Bonded Labour System (Abolition) Act 1976. The Constitution of India places a primary responsibility on the State to ensure that all needs of Children are met and their human rights are fully protected. The specific provisions under the Constitution relating to protection of children from economic exploitation and their education are given below:

Article 21A: A Right to Education the State shall provide free and compulsory education to all children of the age of 6 to 14 years in such manner as the State, by law, may determineⁱⁱ.

Article 23: Prohibition of traffic in human beings and forced labour

(1) Traffic in human beings and beggar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

(2) Nothing in this article shall prevent the State from imposing compulsory service for public purpose, and in imposing such service the State shall not made any discrimination on grounds only of religion, race, caste or class or any of them.

Article 24: Prohibition of employment of children in factories, etc. No child below the age of fourteen years shall be employed in work in any factory or mine or engaged in any other hazardous employment.

Article 39: The State shall, in particular, direct its policy towards securing: That the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.

6.2 International Conventions:

The practice of bonded child labor violates the following international human rights conventions; India is a party to all of them, and as such is legally bound to comply with their terms.

Convention on the Suppression of Slave Trade and Slavery, 1926

This convention requires signatories to "prevent and suppress the slave trade" and "to bring about, progressively and as soon as possible, the complete abolition of slavery in all its forms." It also obligates parties to "take all necessary measures to prevent compulsory or forced labor from developing into conditions analogous to slavery."

Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956

The supplementary convention on slavery offers further clarification of prohibited practices and refers specifically to debt bondage and child servitude as institutions similar to slavery. It requires States Parties to "take all practicable and necessary legislative and other measures to bring about progressively and as soon as possible the complete abolition of... debt bondage... [and] any institution or practice whereby a child or young person under the age of 18 years, is delivered by either or both of his natural parents or by his guardian to another person, whether for reward or not, with a view to the exploitation of the child or young person or of his labour." The convention defines debt bondage as follows:

Debt bondage, that is to say, the status or condition arising from a pledge by a debtor of his personal services or those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined

Forced Labour Convention, 1930

The International Labour Organisation (ILO) Forced Labour Convention requires signatories to "suppress the use of forced or compulsory labour in all its forms in the shortest period possible. In 1957, the ILO explicitly incorporated debt bondage and serfdom within its definition of forced labor.⁴¹

International Covenant on Civil and Political Rights (ICCPR), 1966

Article 8 of the ICCPR prohibits slavery and the slave trade in all their forms, servitude, and forced or compulsory labor. Article 24 entitles all children to "the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State."

International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966

Article 7 of the ICESCR provides that States Parties shall "recognize the right of everyone to the enjoyment of just and favourable conditions of work." Article 10 requires Parties to protect "children and young persons... from economic and social exploitation."

Convention on the Rights of the Child, 1989

The following three provisions mandate protections that are particularly relevant for the bonded child laborer:

Article 32: "States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or... be harmful to the child's health or physical, mental, spiritual, moral or social development." States are directed to implement these protections through appropriate legislative, administrative, social and educational measures. In particular, they are to:

- (a) Provide for a minimum age or minimum age for admissions to employment;
- (b) Provide for appropriate regulation of the hours and conditions of employment; and
- (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of this article.

Article 35: "States Parties shall take all appropriate . . . measures to prevent the abduction, the sale of or traffic in children for any purpose or in any form. A significant portion of the bonded child laborers of India are trafficked from one state to another and some are sold outright.

Article 36: "States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare. The UN Convention on the Rights of the Child (CRC) has prescribed a set of standards to be adhered to by all State Parties in protecting the child and securing the best interest of the Child. It deals directly with protection of children especially girl children. Under this Convention, the States are to take all appropriate measures to prevent trafficking in children and also protect them from all forms of exploitation and abuse. The Government of India acceded to the UN Convention on the Rights of the Child in 1992 with a declaration that considering the existing socio-economic conditions, it was not possible to agree to the provisions of Article 32 of the Convention relating to the Minimum age for employment.

UN Protocol to Prevent, Suppress and Punish Trafficking in Persons (2000)

As per the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons especially women and children, 2000 supplementing the UN Convention against Transnational Organized Crimes, definition of trafficking includes situations of forced

labour, servitude and slavery. It defines “Trafficking in persons as the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”. In case of children, however the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered ‘trafficking in persons’ even if this does not involve any of the means mentioned above. The Government of India has signed the protocol, but not yet ratified it. This implies that India has expressed its intent to consider criminalizing trafficking in domestic legislation, but not yet given specific commitment through an instrument of ratification. The General principles of the UN Protocol, viz., Protection of rights of the child, Best interest of the child, Protection of the child, Equality and non discrimination, Avoidance of harm, Non criminalization of the child, Respect for views of the child, Right to confidentiality, Right to information shall be broadly followed in the rescue, repatriation and rehabilitation of migrant and trafficked child labour.

7. National Legal Framework:

Some of the provisions of the laws that can be invoked for most common situations of trafficking of children for labour as seen in the country are listed below:

Child Labour (Prohibition and Regulation) Act, 1986

Prohibits employment of children below 14 years in certain hazardous processes and regulates it in other non-hazardous processes (Section 3) At present, 15 occupations and 57 processes are prohibited under the Act for employment of children. Further, the Act regulates the condition of employment of children in other occupations and processes that are not prohibited.

8. Indian Penal Code, 1860

- Kidnapping or maiming a minor for purpose of beggingⁱⁱⁱ
- Kidnapping or abduction to subject a person to slavery^{iv}

The Bonded Labour System (Abolition) Act, 1976

- Enforcement of bonded labour^v
- Advancement of bonded debt^{vi}
- Extracting bonded labour under the bonded labour system^{vii}

The Schedule Castes and the Schedule Tribes (Prevention of Atrocities) Act, 1989

Compelling or enticing a member of SC or a ST to do ‘beggar’ or similar form of forced labour or bonded labour other than any compulsory service for public purposes imposed by Government^{viii}

Children (Pledging of Labour) Act, 1933

- Declares any agreement by a parent or guardian to pledge the labour of a child below 15 years of age for payment or benefit other than reasonable wages, to be illegal and void. It also provides punishment for such parent or guardian as well as those who employ a child whose labour is pledged.

9. Other Labour legislations:

Some of the other labour laws such as, the Shops and Establishment Acts, of various States, the Factories Act, 1948, the Plantation Labour Act, 1951, the Mines Act, 1952; the Merchant Shipping Act, 1958; the Apprentices Act, 1961; and the Motor Transport Workers Act, 1961 can also be used to take action against the offenders.

10. Government Policy & Programmes

The National Policy on Child Labour enunciated in 1987 lays down following action plan for tackling the problem of child labour.

- A legislative action plan
- Focusing and convergence of general development programs for benefiting children wherever possible, and
- Project-based action plan of action for launching of projects for the welfare of working children in areas of high concentration of child labour.

Based on the above, Government had initiated the National Child Labour Project (NCLP) Scheme in 1988 to rehabilitate working children in child labour endemic districts of the country. Its coverage has been increased progressively since then to 250 districts in the country in the 10th plan. The Government plans to cover all the districts of the country in which there is an incidence of child labour during the 11th Plan. Giving due consideration to the specific needs of the migrant child labour, one of the proposals given for the 11th Plan includes a provision of residential schools in the metropolises and other big cities.

Under the NCLP Scheme, children are withdrawn from work and put into special schools, where they are provided with bridging education, vocational training, mid-day meals, a stipend of Rs. 100 per month, health-care facilities etc. Under the Scheme, funds are given to the District Collectors for running special schools for child labour. Most of these schools are run by NGOs in the district. Since poverty and illiteracy are the root causes for child labour, Government is taking steps to supplement Educational Rehabilitation of these children with economic rehabilitation of their families so that they are not compelled by their economic circumstances to send their children to work. Efforts are being made for convergence between the schemes of different Ministries like Ministries of Human Resource Development, Women & Child Development, Urban Housing & Rural Poverty Alleviation, Rural Development, Panchayati Raj etc., so that child labour and their families get covered under the diverse schemes of these Ministries also.

A Core Group under the Chairpersonship of Union Labour Secretary comprising all these Ministries was formed for this purpose in September, 2006 to take measures for effective convergence of various developmental Schemes of the Government for education rehabilitation of child labour & economic empowerment of their families. In addition, the Government is also implementing some other international projects for child labour elimination in association with ILO. An important project among these is the INDUS Project launched in 2003 and jointly funded by the Government of India and the US. It is being implemented in 21 districts of 5 States of Delhi, M.P., Maharashtra, T.N. and U.P. The project aims to rehabilitate 80,000 child workers in these identified districts. This Project has some additional features, such as vocational training program for adolescents, convergence with Education Department etc. This project has been extended till March, 2008. In addition, the Ministry is also implementing some other smaller international child labour projects, one in Karnataka State, funded by Government of Italy and another in Andhra Pradesh State,

funded by DFID. The Government is also laying lot of stress on the enforcement of the Child Labour (Prohibition & Regulation) Act.

State Governments are the appropriate authority for implementation of the Act for areas under their jurisdiction and the Chief Labour Commissioner (Central) for areas under the Central sphere. Strong enforcement measures act as deterrents and also lead to voluntary action on the part of the employers not to employ child labour in their respective units. The Government took a major step last year in the direction of elimination of child labour by banning the employment of children below the age of 14 years in two occupations viz., children working as domestic workers (CDL) and in teashops, hotels, road side eateries, etc. For the effective enforcement of the ban and the rehabilitation of the affected children, The Government has been coordinating with the State Governments for taking appropriate measures in this direction. Extensive awareness generation campaign against child labour is being launched from time to time in the print and electronic media. Recently, beginning from 14th November, 2007 the Government had launched a fortnight long nationwide special enforcement drive against child labour.

11. Role of Indian Judiciary :

Many industries in India have a long history of using child labourers. Over the years, Indian courts have expanded on child labor laws, acts and constitutional rulings that have aimed to better protect children from hazards and unfair practices.

In 1982 the Supreme Court ruled in Peoples Union for Democratic Rights v. Union of India^{ix} that construction was not allowed under the Employment of Children Act of 1938. The act did not specifically name construction as one of the "hazardous" employments outlawed. The case was brought by an activist organization upset that migrant children under 14 were being employed to do construction work for the Asian Games. The year following this decision, it was reiterated in Hydro Project v. State of Jammu and Kashmir after children were found to have been among those working on the hydroelectric project. The building and construction industry prohibition was included in the Child Labor Prohibition and Regulation Act of 1986.

In Salal Hydro Project vs. Jammu and Kashmir^x the Court has reiterated the principle that the Construction work is hazardous employment and children below 14 cannot be employed in this work.

Sheela Barse and others vs Union of India and others^{xi} A Child is a national asset; it is the duty of the State to look after the child with a view to ensuring full development of his personality.

M.C. Mehta v. State of Tamil Nadu:^{xii} An accident in the matches, explosives and fireworks industry where children were employed led to a court held that liability insurance and compensation would be required. The same principle was applied in the tobacco industry a year later in

Rajangam, Secretary, and District Beedi Workers Union v. State of Tamil Nadu.^{xiii} The Employment of Children Act of 1938 was not invoked because the children were employed packing, which was considered nonhazardous. This case was looked at again in 1996 and it was decided that the employers would pay into a Child Labor Rehabilitation Fund for each child they employed. The court also required that children be withdrawn from work and the job go to an adult in the child's family. If that was not possible, a contribution/grant was to be given for each child.

Although it was not permitted under the Bonded Labour System Act of 1976, debtors along with their children were sometimes forced to work off a debt. This often occurs in the agriculture industry, according to the National Human Rights Commission. In the 1984 ruling in *Bandhua Mukti Morcha v. Union of India*:^{xiv}, the Supreme Court strengthened the act by identifying what made labor "bonded," (namely, being paid less than a minimum wage) and hastened the defeat of the practice. It was a custom in India for bonded laborers to be paid little for their work; sometimes they were paid nothing. The practice is considered usurious; the debtors and their descendant would put in far more work toward the original debt than was reasonable. The Bonded Labour System Act abolished the system and the liability of the debtor to repay the debt.

India has ratified a number of labour laws to prevent bonded child labour. However, statistics of increasing violations of child labour laws indicate that these laws have no effect if there are not properly enforced. The Indian Constitution ensures "the right to life and liberty," making slavery and bonded labor illegal. The Bonded Labour System (Abolition) Act, 1976 aimed at abolishing all types of labor in exchange for settling debts. The Child Labour (Prohibition and Regulation) Act, 1986 prevents children under the age of 14 to work, and regulates the working conditions for older children by prohibiting certain industries, and setting a maximum amount of labor hours they can work. Despite the large fines and years of imprisonment for violation of some of these acts, children as young as five years of age are still forced to work under hazardous conditions for long hours at a time with most likely no pay whatsoever.

12. Reasons for failure of Effective Implementation:

Apathy:

The endemic apathy among government officials charged with enforcing India's labor laws is apparent at all levels: national, state, and district. While undoubtedly there are many committed men and women among their ranks-including, for example, the district collector of North Arcot in Tamil Nadu, whom Human Rights Watch interviewed-such commitment is not the norm. From India's top labour officials all the way down to the local level, where Thasildars (community leaders) use their influence to support the status quo, Human Rights Watch and other researchers have found a profound lack of concern for the plight of bonded and child labourers. There are many concrete examples of government neglect. The Child Labour (Prohibition and Regulation) Act, signed into law in 1986, requires each state to formulate rules for its implementation. Until this is done, the law cannot be applied in those states. As of July 1996, a full ten years after the act's birth, the majority of states have failed to formulate and implement these necessary rules. Apathy, or at least a low prioritization of child and bonded labor issues, is also evident in the slow pace at which complaints are adjudicated in the courts is very slow. A fact finding committee was not appointed until 1991 and, although arguments and submissions before the court concluded in 1994, as of 1996 no decision had yet been issued. The bonded labour case before the Supreme Court, *People's Union for Civil Liberties v. State of Tamil Nadu*^{xv}, which was filed in 1985 and as of 1996 was under consideration by the court.

12.1 Caste and Class Bias:

We can say proudly that India is a Secular country there are some evil condition which paved the way for bonded child labour. The high-caste and local landowning officials to attack bonded labor, outreach by the government to affected populations and collaboration

with grass-roots social actions groups have not yet been implemented to any significant the degree. And many of the bond masters are themselves government employees, including teachers, railway workers, and civil administrators. Because of their steady income, these people are more likely to own land-which they need someone to cultivate-and are more likely to have money available for lending purposes. They are also more likely to be local leaders and to have ties to the local and district administration, both factors which tend to inhibit prosecution.

12.2 Failure in incorporating the International conventions:

The Worst Forms of Child Labour Convention, the ILO adopted The Minimum Age Convention 1973, which enforced ratifying countries to eliminate child work by rising the working age "to a level consistent with the fullest physical and mental development of young persons." This age was dictated as the age was 15 or the age reached by students after completing the country's mandatory educational requirements. As of February 2001, India has not yet ratified this convention. The existing law and codes of conduct regarding child labor are blatantly violated by the beneficiaries and the victims of this terrible practice all over the developing world. There are ambiguities in the export and manufacturing sector, which means multiple layers of outsourcing and production- making the monitoring of labor performers not only difficult but impossible. Extensive subcontracting also makes it impossible to identify the use of child labor whether intentional or unintentional. Even when laws or codes of conduct exist, they are often violated.

There are many loop holes in this law in terms of affectivity. First is that it does not make child labor completely illegal and does not meet the guidelines set by ILO concerning the minimum age for employment, which is fifteen years. Moreover the policies which are set to reduce incidences of child labor are difficult to implement and enforce. The government and other agencies responsible for the enforcement of these laws are not doing their job. Without proper enforcement all policies and laws concerning child labor prove useless.

12.3 Enforcement Statistics:

A glaring sign of neglect of their duties by officials charged with enforcing child labor laws is the failure to collect, maintain, and disseminate accurate statistics regarding enforcement efforts. Human Rights Watch met with a top official of the Ministry of Labour, was unable to provide any statistics regarding enforcement of the Child Labour (Prohibition and Regulation) Act or other legislation protecting the rights of child workers.

Obstruction:

It is not uncommon for those accused of violating labor laws to engage in overt obstruction of the legal process. This ranges from intimidation of the complaining workers, to bribery of government officials, to physical threats and violence against the bonded laborers and their advocates. Government officials may do more than just turn a "callous eye" toward violence against the bonded labourers and their advocates. Several activists told Human Rights Watch of police collusion with local employers, including returning escaped workers to the employers and intimidating, through force or threat of force, workers who are attempting to organise for improved conditions.

12.4 Corruption:

Corruption no doubt plays a prominent role in promoting the child labour. Among government officials charged with enforcement of labor laws is notorious and widespread.

Labor inspectors, medical officers, local Thasildars (representatives of the district magistrates at the local level), and judges and judicial magistrates are all known to be susceptible to bribery.

12.5 .Lack of Accountability:

Under the Bonded Labour System (Abolition) Act, district magistrates are supposed to report to the state government periodically regarding the number of cases of bonded laborers identified, released, and rehabilitated. Most district Magistrates either do not make these reports at all, or make them sporadically. Furthermore, no mechanism is in place whereby the accuracy of the district-level reports can be ascertained, including such important issues as how many of the identified workers have actually been released, and whether any released workers have relapsed into bondage. Often, the district magistrates will simply report that identified bonded laborers, or formerly released bonded laborers, are "unavailable for rehabilitation." That is to say, that their whereabouts are unknown. Hence we cannot blame them because of over burden they are unable to executive it effectively.

12.5. Lack of Adequate Enforcement Staff:

Yet another obstacle to enforcement is the failure to devote sufficient resources to the issue of bonded child labor. This failure includes inadequate training of labor inspectors, an insufficient number of inspectors, and overburdening of the district magistrates. Both at the state and the district level, the number of personnel devoted to enforcement of child and bonded labor laws is blatantly inadequate. In Tamil Nadu, for example, "there is only one Assistant Section Officer dealing with the bonded labour issue for the whole State together with other responsibilities.

13. Conclusion:

Children were considered as the assets of a nation as far as India is concerned a developing country should concentrate more on this social evil it should be eradicated from the root. Child labor must be attacked from many fronts. Enforcement of the law is essential, but it is not enough. The Child labourer must have someplace else to go. The child's parents must have other options available. The fight against child labour must be carried out on two fronts: enforcement and prevention.

The availability of free, compulsory, and quality education is widely regarded as the single most important factor in the fight against non- bonded and bonded child labour. The correlation between illiteracy and child labour is strong. In addition to that District Collectors should initiate serving and credit program at the community level. In addition to genuine government action, it is essential that non-governmental organization be encouraged by the Governance to collaborate in this effort. A nation-wide public awareness campaign should be launched regarding the legal prohibition of Child labour and there should be clarification between the term Child Labour and Child work. So that, instead of child labour child work could be encouraged which develops the carrier of the children. The Court should also abandon the conventional approach and come to the rescue of the child labourers by properly implementing various social welfare legislations. The punishment should be made stringent and the rights of the children should be protected.

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ⁱⁱ Eighty Sixth Amendment of Indian Constitution.

ⁱⁱⁱ (Section 363A) Indian Penal Code,1860

^{iv} (Section 367) Indian Penal Code,1860

^v (Section 16) The Bonded Labour System (Abolition) Act, 1976

^{vi} (Section 17) The Bonded Labour System (Abolition) Act, 1976

^{vii} (Section 18) The Bonded Labour System (Abolition) Act, 1976

^{viii} (Section 3(1) (vi) The Schedule Castes and the Schedule Tribes (Prevention of Atrocities) Act, 1989

^{ix} AIR 1983, Sc 1473

^x AIR 1984 SC 177

^{xi} (1986) 3 SCJ 423

^{xii} AIR 1991 SC 417

^{xiii} AIR 1991 SC 216,

^{xiv} Supreme Court Cases, 4 (1991)174

^{xv}(2004) 12 Supreme Court Cases (381)