

for breach of contract in the Civil Court”.¹³ But when there are two proceedings before the DRT and NCLT, they cannot go on concurrently if the liability has not been adjudicated upon and u/s.14(1)(c) of the IBC, NCLT declares moratorium prohibiting the DRT proceedings until the NCLT approves a resolution plan or orders for liquidation. Therefore, the Code takes precedence over DRTs and as well as SARFAESI Act and the IBC has made DRTs and the SARFAESI Act redundant.

Conclusion

Once moratorium u/s.14 of the IBC 2016 commences banks cannot enforce their security interest against debtor under SARFAESI Act. “The interplay of rules of the Code, the SARFAESI Act and the DRT Act remains unresolved. Simultaneous

proceedings before the civil Court, the DRT and the NCLT for recovery of the same debt is contributing to an inefficient insolvency regime. There is craving among experts for a settled position of law. Since almost any case before the DRT can be resolved by the NCLT, the Legislature as well as the judiciary must decide on the chief question—has the Insolvency and Bankruptcy Code made Debt Recovery Tribunals redundant?”¹⁴ “Moreover, as NCLTs are not generally aware of the proceedings pending in DRTs when they accept application under Section 10 of IBC 2016 it unnecessarily deprives Banks from getting their dues back from corporate debtor for a considerable period of time. Thus, this incongruity in the functioning of the two tribunals must be weeded out for want of which whole purpose of bringing about IBC 2016 & SARFAESI Act 2002 would fail”.¹⁵

LABOUR LAW RELAXATIONS DURING COVID-19 AND CHILD RIGHTS CONCERNS WITH SPECIAL REFERENCE TO CHILD LABOUR IN INDIA

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Abstract :

Any country's present and future economic progress is directly proportional to adequate human resource development in the forms of proper education to children and young adults, safety measures, legislative safeguards against exploitation and crimes and a holistic environment for their growth. However, with the onslaught of difficulties that were beyond prediction due to the COVID-19

13. Ibid

14. Ashwini Nag, “Debt Recovery Tribunals In An IBC-Era: A Progressive Redundancy”, See <https://lexinsight.wordpress.com/2020/04/27/debt-recovery-tribunals-in-an-ibc-era-a-progressive-redundancy/>

15. Gazala Parveen, “Effect of Moratorium on the right to enforce Security Interest”, See <https://blog.ipleaders.in/moratorium-on-the-right/>

pandemic, adversities like financial deceleration, reverse migration, cash crunch etc. are at an all-time high, multiplying dilemmas for families with mouths to feed but no source of income. This combination of negative factors has caused the issue of child labour to take forefront again due to the massive rise in its numbers. Another major problem that worsened the employment apathy is the sudden change in labour laws, causing a return to the exploitative and unreasonable conditions of olden times where rights were all but theoretical. This article is an attempt to understand the parallelly-operating issues of child labour and labour law reforms' adverse effects, comprehending the interplay of colliding factors like Government impositions, operational stagnancy etc., highlighting reasons for the soaring issues, studying their impact on present and future conditions as well as providing possible suggestions to counter the troubles.

Keywords : Human Resource Development, Pandemic, Negative Factors, Child Labour, Labour Law Reforms, Adverse Effects, Impact, Suggestions, education.

INTRODUCTION

According to reports, estimated 152 million children are habitually engaged in child labour worldwide, out of which nearly half of them are confined to hazardous labour.¹ The 2011 Census approximated that India had 10.13 million children between the ages of 5-14 involved in child labour.² Considering the gravity of the issue, the United Nations General Assembly has approved a resolution declaring the year 2021 as the “International Year for the Elimination of Child Labour”, an immediate and efficacious attempt to eradicate such abominable forms of enslavement and ill-treatment and work towards achieving sustainable development goals.³ However, with the brunt of the ongoing pandemic, goal achievement has been put in jeopardy, reports unfortunately indicating a sharp surge in child labour numbers owing to the pandemic's prolongation.

CHILD LABOUR : A CURSE OF THE PANDEMIC'S ADVERSITY

The current pandemic would be casting a multi-factored impact on child labour. We have witnessed the forced reverse migration of migrant labourers due to loss of livelihood, residence or other problems, a factor that would affect children both ways and add to child labour numbers. For the migrants and their children who fled from their urban settlements, left behind unpaid debts, and in addition to that, vulnerability owing to poor economic background would push them to utilize all available options available for mere survival. Thus, there are strong chances that the children would be left with no other resort but to take up undignified practices involving child labour. On the other hand, the urban cities will face shortage of labour,⁴ already destitute families residing on the streets or in slums with their children will become more vulnerable and

1. *Rahul Suresh Sakpal*. Covid-19 & Child Labour : No Country For Children [Internet]. Noida (India) : Legal India; 2020 June 5 [cited 2020 August 31]. Available from : <https://www.indialegalive.com/special-story/covid-19-child-labour-no-country-for-children>
2. ILO. Fact Sheet : Child Labour in India [Internet]. New Delhi (India) : ILO; 2017 June 8 [cited 2020 August 31]. Available from : https://www.ilo.org/newdelhi/whatwedo/publications/WCMS_557089/lang=en/index.htm
3. The Alliance. Technical Note : Covid-19 and Child Labour [Internet]. New Delhi (India) : The Alliance; 2020 [cited 2020 August 31]. Available from https://www.alliancecpha.org/en/system/tdf/library/attachments/covid-19_and_child_labour_annex_final.pdf?file=1&type=node&id=38122
4. *Roli Srivastava, Anuradha Nagaraj*. I will never come back' : Many Indian migrant workers refuse to return to cities post lockdown [Internet]. New Delhi (India) : Scroll; 2020 May 30 [cited 2020 August 31]. Available from: <https://scroll.in/article/963251/i-will-never-come-back-many-indian-migrant-workers-refuse-to-return-to-cities-post-lockdown>

would be self-coaxed to secure or snatch any employment opportunities in sight, the risks associated with them taking a backseat for the families.

Another contributory factor, a rather predominant one towards increasing child labour numbers at that, can be poverty. As per the latest World Bank report, 12 million Indians are at the high risk of extreme poverty.⁵ An unpleasant outcome of such crippling poverty would be raised expectations that children will contribute financially in order to make ends meet, ultimately leading to the imprisonment of more children in exploitative and hazardous jobs.

COVID-19 has also caused the utter disruption of the functioning of schools, and many are sadly shut, while some, in order to regain some semblance of normal functioning, have gone virtual. If the former would lead to alienation of children from schools, the latter would forcibly detach students from marginalized groups, a plethora of cases already on record stating their inability to continue schooling due to unavailability of mobile phones or the internet. Approximately 1.6 million children residing in the national capital, belonging to underprivileged families and attending Government/municipal schools, lack access to basic wireless connectivity, consequently mobiles or internet or laptops, since only

90% of the population owns phones, the total percentage ownership of smartphones being a trivial 32%,⁶ thereby causing a hindrance in their study continuity. Contrastingly, privileged students from private schools are taking online classes seamlessly amidst the pandemic.⁷ The poor financial conditions and scarcity of resources will result in an alarmingly high dropout rate. As the report of World Bank has stated in March, 2020, “With the spread of the coronavirus, the education system is facing a new crisis, as more than 160 countries (as of March 24) mandate some form of school closures impacting at least 1.5 billion children and youth. Extended school closures may cause not only loss of learning in the short term, but also further loss in human capital and diminished economic opportunities over the long term”.⁸ This would coerce common households to search for new ways to engage the children and the above mentioned financial expectations will send them into child labour.

But the seething impact of school shutdown hasn't had a singular impact, the nutrition intake of the children has taken a downward dive. India provides for the largest school feeding program in the world, namely the Mid-Day Meal Program, which caters to about 144 million children, having an approximate 80% coverage across primary school students⁹ and thereby committing to procure and provide

5. *Upmanyu Trivedi, Vrishti Benival*. World's Biggest Lockdown to push 12 million into Extreme Poverty [Internet]. New Delhi (India) : Economic Times; 2020 May 29 [cited 2020 August 31]. Available from: <https://economictimes.indiatimes.com/news/economy/indicators/worlds-biggest-lockdown-to-push-12-million-into-extreme-poverty/articleshow/76056756.cms>
6. *Rahul De, Abhispa Pal*. Mobile Phones and Access During the Pandemic [Internet]. Bangalore (India) : Business World; 2020 April 17 [cited 2020 August 31]. Available from : <http://www.businessworld.in/article/Mobile-Phones-And-Access-During-The-Pandemic/17.4.2020-189486/>
7. *Aneesha Bedi*. No gadgets, no studies : What online classes mean for 16 lakh poor students in Delhi schools [Internet]. New Delhi (India) : The Print; 2020 April 22 [cited 2020 August 31]. Available from : <https://theprint.in/india/education/no-gadgets-no-studies-what-online-classes-mean-for-16-lakh-poor-students-in-delhi-schools/406837/>
8. World Bank. World Bank education and Covid-19 [Internet]. Washington DC (USA) : World Bank; 2020 March 21 [cited 2020 August 31]. Available from: <https://www.worldbank.org/en/data/interactive/2020/03/24/world-bank-education-and-covid-19>
9. *Muzna Ahvi, Manavi Gupta*. Learning in times of lockdown : how Covid-19 is affecting education and food security in India [Internet]. Geneva (Switzerland) : Springer; 2020 July, 7 [cited 2020 August, 31]. Available from : <https://link.springer.com/article/10.1007/s12571-020-01065-4> DOI: <https://doi.org/10.1007/s12571-020-01065-4>

sufficiently nutritious food for children. Mid-day Meal Scheme takes into purview underprivileged families and intends to cast a two-fold impact :

1. Mid-day meals serve as an incentive for the children from such families to attend school, facilitating education.
2. Also, it takes care of ensuring a nutritional diet, often becoming the only meal these children are able to have.

With the closure of schools, the mid-day meals have also come to a halt, adversely affecting the children in many ways and leaving them with only a few options, one being child labour to scrape together a square meal.

LABOUR LAW RELAXATIONS DURING COVID-19: AN UNWANTED REVAMP

With the prevailing conditions bringing no respite, the recent Labour Law relaxations worsened the matter. Under the Indian Constitution, labour law falls within the Concurrent List, so giving the power to both the central and the state Governments and as such can be legislated both by the central and the state Governments.¹⁰ To provide a lifeline to the sinking economy, nearly a dozen states have suspended or relaxed the labour laws prevailing there. The state Governments believe that suspending labour laws would bring labour flexibility and aid

in resuscitating the dying economy by attracting foreign investment through the proffering a positive industrial atmosphere.¹¹ Also, it would contribute in providing employment opportunities to the migrant labourers who'd migrated back to their home state since the Governments were under pressure to accommodate them while paucity of employment opportunities was rampant. These amendments are also seen as a measure to convert the challenges of the distressed economy into opportunities by the States, also adding up to state revenues.¹²

The Uttar Pradesh Government had recently passed an ordinance stating exemption of most of the labour laws that are applicable in India for the forthcoming three years.¹³ The Acts which were still applicable are given as follows :

1. *Building and Other Construction Workers Act, 1996*
2. *Workmen Compensation Act, 1923*
3. *Bonded Labour Act, 1976*
4. *Section 5 of the Payment of Wages Act, 1933*

This implies that the Central as well as the State laws will not be applicable in Uttar Pradesh. All the companies, whether pre-existing or in their nascent stage, in Uttar Pradesh will now be exempted from all the labour laws except the four laws mentioned above. However, exemptions are subject to fulfillment of certain conditions and therefore,

10. The Constitution of India, 1950.

11. *Ayush Rath, Sreyan Chatterjee*. Indian states' decision to suspend Labour Law amid COVID-19 crisis is delirious policy-making not backed by Empirical Analysis [Internet]. New Delhi (India) : Firstpost; 2020 May 21 [cited 2020 August 31]. Available from :

<https://www.firstpost.com/india/indian-states-decision-to-suspend-labour-law-amid-covid-19-crisis-is-delirious-policy-making-not-backed-by-empirical-analysis-8391901.html>

12. *Civils Daily*. Relaxation in Labour Laws due to Covid-19 Outbreak and Their Impacts [Internet]. New Delhi (India) : Civils Daily; 2020 May 11 [cited 2020 August 31]. Available from : <https://www.civildaily.com/news/relaxation-in-labour-laws-due-to-covid-19-outbreak-and-their-impacts/>

13. *Live Law*. The Uttar Pradesh Temporary Exemption from Certain Labour Laws Ordinance, 2020 [Internet]. New Delhi (India) : Live Law; 2020 November 27 [cited 2020 July 7]. Available from : https://www.livelaw.in/pdf_upload/pdf_upload-374550.pdf

the companies are required to fulfill such conditions prior to availing such exemptions:

1. The paramount condition needing fulfillment is that an employer is required to pay within the timeline prescribed by the *Payment of Wages Act, 1936*, the *minimum wages* to workers. In addition, it is also required that such payment must be made in the account of an employee.
2. Provisions pertaining to safety and health enshrined under the labour laws specifically the *Factories Act, 1948* and the *Building and Other Construction Workers Act, 1996* shall continue to comply.¹⁴
3. “*There has been an increase in the maximum weekly work hours from 48 hours to 72 hours and subsequently, maximum daily work hours have increased from 9 hours to 12 hours.*”¹⁵
4. Compensation for any disability or death arising out of and in the course of the employment will be paid to workers as per *Employees Compensation Act, 1923*.
5. Women and children forming the part of a vulnerable group have been provided with a relaxation and any law dealing with their employment shall continue to remain in force.
6. *Bonded labour or debt bondage* in any form is still not allowed to be practiced by any company. Furthermore, collaborative efforts to be made for prevention of such practices.

Additionally, other states (Rajasthan, Uttarakhand, Gujarat, Haryana, Assam, Madhya Pradesh, Himachal Pradesh, Goa, Karnataka) were encouraged to pass laws on congruent lines.¹⁶

ALTERATIONS IN WORKING HOURS : PREVENTION OF LIBERATION

Another consequence of the pandemic is an unprecedented alteration in working hours: several states have decided to extend them and some are deliberating upon doubling wages. Certain factories were exempted from the provisions related to the number of working hours or a period of three months if they happened to be dealing with exemption amount of work, under the *Factories Act, 1948*. Alongside, state Governments in case of public emergencies were empowered to exempt factories from all provisions of the Act.

The same provision has been used by the Governments of Rajasthan, Uttarakhand, Gujarat, Haryana, Assam, Himachal Pradesh, Uttar Pradesh and Goa to pass notifications to increase maximum weekly work hours. Thus, the working hours for certain factories have been extended to 72 hours from the previous of 48 hours and daily working hours now goes to 12 hours which is a 3 hours daily increase from the previous of 9 hours. Further, the Madhya Pradesh Government went a bit ahead and tweaked certain labour legislations, alongwith fusion of other rules observed by other states, and exempted the factories from the Act is

14. *Somesh Jha*, Covid-19 Crisis : Up Exempts Biz from All But 4 Labour Laws For 3 Years [Internet]. New Delhi (India) : Business Standard; 2020 May 9 [cited 2020 August 17]. Available from :

https://www.business-standard.com/article/economy-policy/up-govt-to-exempt-businesses-from-all-but-three-labour-laws-for-3-years-120050701531_1.html

15. *K.R. Shyam Sunder*, Factory Workers Can Now Legally be Asked to Work 12-Hour Shifts. How Will This Change Things? [Internet]. New Delhi (India): The Wire; 2020 April 27 [cited 2020 August 29]. Available from:

<https://thewire.in/labour/factory-workers-12-hour-shifts>

16. *Anya Bharat Ram*, Relaxation of Labour Laws across States [Internet]. New Delhi (India) : PRS India; 2020 May [cited 2020 July 27]. Available from :

<https://www.prsindia.org/theprsblog/relaxation-labour-laws-across-states>

discussion. Establishments having less than 100 workers are exempted from sticking to the *Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961*, which is concerned with the regulation of worker employment conditions. Furthermore, pre-existing and upcoming factories are exempt from certain provisions of the *Industrial Disputes Act, 1947* for the next 1000 days in the State.¹⁷ These state Governments argued that the factories need to operate following the SOP issued by the Governments which requires the social distancing to be followed and it can be made possible only by reducing the number of workers in the factories. The increase in time will cover the deficit caused by the shortage of the workers and also suffice the requirements of the factories. They believe it to be a pill need to be swallowed to tackle the repercussion of the lockdown.

CRITIQUE AND CRITICISM :

As a result of the seemingly unwelcome changes, sporadic protests unleashed countrywide, urging the Central Trade Unions to seek the President's intervention to provide relief to the workers.¹⁸ The conundrum can be aptly described through the example of Madhya Pradesh, where the working hour extension has been steep, straight from eight to twelve, which amounts to seventy-two hours a week. Moreover, the revisions are in such a fashion that factories and industries have been awarded a free hand to pay no

heed to any safety and health norms while operating. The countless workers will be entirely at the mercy of the industries. At a time when the lockdown measures have left the poor to no avail, workers are the most vulnerable and would be willing to work even if the conditions worsen. Regrettably, these relaxations will nurture an unethical, arrant environment for labourers. Going by the very nature of labour laws, they have been brought into existence to provide a voice to the workers and give them a deserving floor of rights.

LEGISLATIVE SAFEGUARDS : DILUTED IN REALITY

In the case of *State Bank of India v. N. Sundara Money*,¹⁹ it has been ordained that the aim and prerogative of labour laws is "to protect the weak against the strong" and the policy of comprehensive definition has also been effectuated to assist in doing the same.

How the various enactments were enacted with the sole moto of anti-exploitation has been categorically highlighted in the case of *Bijay Cotton Mills Ltd. v. State of Ajmer*, where the Supreme Court held that the "*employers cannot be heard to complain if they are compelled to pay minimum wages to their labourers, even though the labourers on account of their poverty and helplessness are willing to work on lesser wages.*"²⁰ It was also held that the minimum wage must not only ensure the livelihood of the employee and his family, but preserve his/her competency as a worker.²¹

17. *Raj D.S., Shrusthi J.M., Pathik C.* State-wise Relaxation of Labour Legislations amidst COVID-19 [Internet]. Mumbai (India) : Mondaq; 2020 June 4 [cited 2020 August 31]. Available from :

<https://www.mondaq.com/india/employment-and-workforce-wellbeing/946064/state-wise-relaxation-of-labour-legislations-amidst-covid-19>

18. ENS Economic Bureau. Central Trade Unions seek President intervention in providing relief to workers [Internet]. New Delhi (India): The Indian Express; 2020 July 26 [cited 2020 August 29]. Available from :

<https://indianexpress.com/article/business/economy/central-trade-unions-seek-president-intervention-in-providing-relief-to-workers-6523505/>

19. *State Bank of India v. N. Sundara Money*, (1976) 1 SCC 822 (India).

20. *Bijay Cotton Mills Ltd. v. State of Ajmer*, AIR 1955 SC 33 (India).

21. *KopyKitab. Case Laws Minimum Wages Act Unichoyi and others v. The State of Kerala* [Internet]. Mumbai (India): Kopy Kitab; 2013 June 25 [cited 2020 August 31]. Available from :

<https://www.kopykitab.com/blog/case-laws-minimum-wages-act-unichoyi-and-others-vs-the-state-of-kerala/>

In the case of *Chandra Bhavan Boarding & Lodging, Bangalore v. State of Mysore*, the Court observed :

*“Freedom of trade does not mean freedom to exploit. The provisions of the Constitution are not erected as the barriers to progress. They provide a plan for orderly progress towards the social order contemplated by the preamble to the Constitution. They do not permit any kind of slavery, social, economic or political.”*²²

It can be said that the Indian Constitution has a strong objection as to the workers becoming the prey to a lopsided power relationship. This vision is exemplified by various facets of the Indian Constitution, discussed as follows :

1. Primarily, Article 23,²³ which halts the human trafficking and forced labour. In *People's Union for Democratic Rights v. Union of India*,²⁴ it was held by the Supreme Court that, *“It is the constitutional obligation of the State to take the necessary steps for the purpose of interdicting such violation and ensuring observance of the fundamental right by the private individual who is transgressing the same....a person provides labour or service to another for remuneration which is less than the minimum wage, the labour or service provided by him clearly falls within the scope and ambit of the words ‘forced labour’ under Article 23”*
2. Secondly, Article 21,²⁵ which talks about *right to life and personal liberty*. An extremely open and unconservative interpretation has been given to the meaning of “life” under Article 21, as

meaning something *“meaningful and liveable with human dignity”*, and not only mere animal existence, which is superficial. It also encompasses and secures all freedoms and advantages that can work towards making a life acceptable. In *Consumer Education & Research Centre v. Union of India*,²⁶ while dealing with the matter of asbestos industries and the health hazards associated with it, the Court opined: *“Right to health, medical aid to protect the health and vigour of a worker while in service or post-retirement is a fundamental right under Article 21, read with Articles 39(e), 41, 43, 48-A and all related articles and fundamental human rights to make the life of the workman meaningful and purposeful with dignity of person.”*

3. Thirdly, Part IV of the Constitution (*Directive Principles of State Policy*), by virtue of Article 43²⁷ places on the State certain duties, namely *“assuring work to all the workers, a living wage, just and humane conditions of work, enjoyment of leisure and a decent standard of life”*.²⁸

On reality's forefront, all these relaxations are widening scopes for are stripping the labour force of its natural rights and initiating downward trends for wages. The impact can be gauged best by a simple fact that the wage growth in the organized sector was declining and was an issue even before the COVID-19 pandemic struck due to the continued deceleration of the economy.

Although the woeful COVID-19 outbreak has orchestrated the suspension of certain

22. *Chandra Bhavan Boarding & Lodging, Bangalore v. State of Mysore*, 1970 AIR 2042 (India).

23. The Constitution of India, 1950. Article 23.

24. *People's Union for Democratic Rights v. Union of India*, (1982) 3 SCC 235 (India).

25. The Constitution of India, 1950. Article 21.

26. *Consumer Education & Research Centre v. Union of India*, (1995) 3 SCC 42 (India).

27. The Constitution of India, 1950. Article 43.

28. The Constitution of India, 1950. Articles 38, 39, 39-A, 41, 42, 43, 43-A and 47.

labour related norms, the foundation was laid way back with the large scales projects requiring the weakening of the India's labour law framework so that economic growth in the country can be accelerated without any further delay. Going by the report of First post, the amendments so brought in the past didn't had much impact and the empirical result was reflecting otherwise.²⁹

LABOUR LAW REFORMS DURING COVID-19 : IMPACT ON CHILDREN

Post the imposition of the rigorous nationwide lockdown on 24th March, 2020, several economic activities got stalled, except for essential services which saw no suspension. Presently, for economic regeneration, there has been a relaxation in labour laws. This relaxation, met with great dissent, coupled with school closure and mass reverse migration to rural areas would catapult millions of children into child labour. Worker shortage created by the pandemic would now mean stricter, longer working hours for available workers for meager wages under perilous conditions. *"Alarming statistics indicate that there are over 10 million working children in the age group of 5-14 years and 22.87 million adolescents"*,³⁰ with nearly half of them in states like Bihar, Uttar Pradesh, Rajasthan, Madhya Pradesh and Maharashtra, with Uttar Pradesh bearing almost 20% of the total numbers.³¹ With such enormous numbers confined to these states, three of them have already relaxed the labour laws, a move that will severely

affect the already working children since it would now mean longer, tedious working hours.

A prevailing effect of this pandemic is that there has been mitigation of the labour law guidelines, which will further lead to an overall increase in insecurity and informalisation of labour, loss of bargaining power among labourers and deterioration in their working conditions, but keeping them aside, currently the worst affected groups are small children and adolescents.³² According to reports, India is home to nearly 15% of the total child labour in the world. There is an unnerving escalation in the involvement of children in hazardous work, for those coming from impoverished conditions have nothing to fall back on and there is deemed to be, as per noticed trends, a continual increased in hazardous work in the coming days.

Hypothetically, if one revisits the past scenario *i.e.*, times when these relaxations were not in place, children were unguarded, being victims of food and livelihood insecurity resulted in falling out of the safety net and in turn compelling the adolescents to willingly drop out of school to help their families improve their financial resources for a sound and better living. *The Child Labour Amendment Act, 2016*, brought into purview the concept of *"Adolescent Labour"* for the very first time and permitted adolescents to work in certain occupations, a majority of which are hazardous, but not identified as

29. *Ayush Rathi*, supra note 11.

30. Labour. FAQ on Child Labour, Government of India [Internet]. New Delhi (India) : Govt of India; [cited 2020 July 28]. Available from :

https://labour.gov.in/sites/default/files/FAQ_child_labour.pdf

31. Save The Children. Statistics of Child Labour in India State Wise [Internet]. Bangalore (India) : Save The Children; 2016 May 4 [cited 2020 August 31]. Available from :

<https://www.savethechildren.in/articles/statistics-of-child-labour-in-india-state-wise>

32. *Jagriti Chandra*. Dilution of Labour Laws put Children at Risk: Activists [Internet]. New Delhi (India) : The Hindu; 2020 June 15 [cited 2020 August 31]. Available from :

<https://www.thehindu.com/news/national/dilution-of-labour-laws-puts-children-at-risk-activists/article31836497.ece>.

such by the law because its list of hazardous occupations is derived from the *Factories Act, 1948* which was drafted from the point of view of adults.³³ The term “*certain occupations*” mentioned above includes “*to work only to aid their family by working in any family enterprise or as child artist only after school hours or during vacation time*”.

In the current predicament, stakes are unreasonably high since tireless efforts from the year 2000 to stabilize labour conditions are now under siege due to the pandemic's occurrence, and all gains are on the line. The ILO and UNICEF, in a joint brief, cautioned that globally millions of more children could be potential child labourers, keeping in consideration dropping, even negligible family incomes. The pandemic also looks to undo the successful endeavours made in the past 20 years to decrease child exploitation, where favourable data shows decrease in child labourer numbers by 94 million over the last 20 years. In UP, MP and Gujarat, the relaxation of labour laws has deregulated factories from the purview of these labour laws. These relaxations have intensified the informality and precarious nature of labour employment as those working in such an informal sector are in all likelihood the most vulnerable groups when economic depressions would strike. The relaxations have also diluted the existing enforcement mechanism that would otherwise curb the exploitation rate or assist in identifying and detecting the incidence of child labour increase.³⁴

Another aspect which nearly goes unnoticed in these testing times and relaxing the labour laws is the fact that how severely these relaxations will be impacting the *Parent-Child Care Relations*. With the industries situated

largely on the outskirts of the cities and lack of transportation during the ongoing health pandemic if added up with the extended working hours, how much time a parent will be able to give to the child. For an example, if a person is working in an industry which is say at a considerable distance from the main city. Let's assume that the required time from travelling to and from the workplace is two hours. These two hours added to the 12 hours of work along with the other household and personal needs make it nearly two-third of the day. The remaining one-third is the time ideally required for adequate sleep. The parent will not be in a position to give time to the child. The situation will be more worrisome if both the parents are involved in the labour.

This will not only be impacting the child care relation but will also be severely affecting the growth of the child in number of ways. The mental health already been affected by the lockdown will get even more worsened. Moreover, in the absence of the parents the responsibility of taking care of the child will fall on the older child and thus impacting them as well. And not to forget that the continuous movement of the parents in and out of the house to the industry and elsewhere will make the children more prone to the virus and they will under a severe threat all the time, something which will definitely affect their mental well-being.

At last the inspection of the factories being halted by the pandemic and the suggestive way not being that effective will give the industries and the factories a free hand in roping anyone they want to work for them. This will also add to the increase of the child labour as discussed above.

33. Child Labour Amendment Act, 2016 (India).

34. Priti Mahara, Rabul Suresh Sakpal. In Shattered Post-Lockdown Economy, Govt. must keep an eye on Child Labour [Internet]. New Delhi (India) : The Wire; 2020 June, 16 [cited 2020 August 31]. Available from : <https://thewire.in/rights/india-child-labour-lockdown-covid-19>.

REALITY CHECK : SUGGESTIONS TO COMBAT ONGOING ISSUES

It is a gut-wrenching reality that because of the drawbacks in prevailing tough times, there is a surge in demand for adolescent workers who would have to work in precarious and shady work conditions for longer hours and in return would be paid inadequate wages with the ever-looming threat of susceptibility to fall into such situations due to poorer bargaining power as compared to adults.

From the legal standpoint, in our country, children may lend a helping hand to their families whether at home or in family enterprises, as long as no compromises are made with their education.³⁵ In the present-day scenario, *“while schools remain closed, industries reopening with labour law relaxations and economic stimuli from the Government, agriculture-based work and small family enterprises are likely to be critical contributors in the supply chain, thereby expanding the scope for the employment of children which will be difficult to monitor.”*³⁶ Adolescents working in agriculture, which in a broader sense also includes “ranches, nurseries, commercial farms and family farms” are basically engaged in low-skilled, low-paid jobs without any question of access to protective equipment or safety gear, medical care, sick leave or social protection and as such are exempt from such legal protections.

When viewed from the standpoint of child rights, a glaring defect that can be made out from critical observation is that a vast majority of these legislations place no emphasis on children and their rights with respect to their working conditions, health and safety.

Another pressing concern is that while enumerating and enlarging a comprehensive list of hazardous occupations and processes from other legislations, it is of utmost important that the legislations dealing with the menace of child labour, defines ‘hazards’ or ‘hazardous child labour’ in the context of the developing capacities of children and in consonance with their basic rights. And a special emphasis shall be added to the mental health of the child alongwith the other health and developmental aspects.

Lastly, in the fight against the health pandemic the world is encountering currently, the Human Rights must be at the core of recovery measures. Definitely there is a need to stimulate the sinking economy but it must not come at the cost of the vulnerable groups. It is the duty of all the Governments to protect and promote the human rights and emphasize on it when formulating the recovery measures.

Ethical clearance–Not Applicable

Source of funding–Not Applicable

Conflict of Interest–NIL

35. *Chetan Chauhan*. Cabinet Clears changes to Labour Act, those under 14 can work in family businesses [Internet]. New Delhi (India) : Hindustan Times; 2015 May 13 [2020 August 31]. Available from :

<https://www.hindustantimes.com/india/cabinet-clears-changes-to-child-labour-act-those-under-14-can-work-in-family-businesses/story-mAq75Cld1opnUY0t8RAiOI.html>.

36. *Priti Mahara, Rabul Suresh*, supra note 36.