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Around the World:
Child Labor Laws in India and the Need for Change

By: Alexandra Spognardi

I. INTRODUCTION

The United States has completely outlawed child labor and it poses a small problem in this country. However, there are many countries around the world where child labor is pervasive. One of those countries is India. In India, 10.1 million children are still reported as victims of child labor. Shockingly, about half of these children are working jobs that are considered hazardous. The International Labour Organization defines child labor as any work that is “mentally, physically, socially, or morally dangerous and harmful to children and/or interferes with their schooling.” Hazardous child labor is defined as work that exposes children to abuse, dangerous places, or dangerous machinery and equipment, or work that takes place in an unhealthy environment.

According to the International Labour Report, India has the highest number of child laborers in the world. Even so, the reported number of child laborers is probably much lower than the real number, because the census only accounts for children living within a family household. With poverty rates so high in India, homeless or orphaned children are not taken into account. Additionally, children in India engage in some of the worst forms of child labor in the world. Many of these children are trafficked to specific parts of India to work in different industries such as spinning mills, garment and cottonseed production. The majority of the child victims are out of school and not receiving an education during the time of their labor. This leaves children with very harsh physical, emotional, and psychological consequences. This article will discuss past and present legislation regarding child labor in India and how it can be further improved.

II. PAST CHILD LABOR LEGISLATION

In 1986, India adopted the Child Labor Act, which allowed children below the age of fourteen to work if the occupation they were engaging in was considered “non-hazardous.” In 2016, this Act was amended, and the Child and Adolescent Labor Bill was introduced to prohibit children below the age of fourteen from working within the country. At the time, it was common knowledge around the world that India allowed child labor so the legislators in India hoped that the Bill would open up the global economy and drive more international investments.

While this Bill appeared to be monumental for India, it provided an exemption for children who are working in any family-based business. Family-based businesses are those in which the child is working for his or her family in any type of industry. Deep inequality, poverty, and poor social welfare programs in India have led to about 30% of families

relying on their children's labor to survive. Therefore, an abundance of children are considered exempt from the Bill and continue to provide labor. Furthermore, the wording of the Bill provided a flawed definition of family business by blurring the line between working in a family business and learning from a family business. By using Indian family values, the Bill helped justify the exploitation of children. Some child rights experts believe that this Bill actually impeded the progress that had been made toward reducing child labor and encouraged children to enter the workforce.

In addition, the law only truly protected children who were under the age of fourteen. The actual language in the law prohibited the employment of children under fourteen except for family based business, but in reality, it served to reduce the restrictions on the type of work that children older than fourteen can participate in. The law categorized three hazardous jobs that adolescents could not participate in: mining, the production of inflammable substances and explosives, and "hazardous processes." This provision had a limited focus and because "hazardous processes" is so loosely defined, many children are still being employed in jobs that would likely be regarded by the world as dangerous or hazardous.

The Bill did provide higher penalties for violations of child labor laws, but India did not have the resources or the legal framework needed to protect the victims of child labor. By exempting family businesses from the Bill, international and Indian politicians believe it will be especially difficult to penalize family businesses for the use of child labor because the lines have become increasingly blurred.

III. NEW PROPOSED LEGISLATION

Many international leaders and Indian politicians have pushed for a stronger bill that would protect all Indian children and be enforced. Recently, the United Nations Sustainable Development Goals team obliged its member nations to take immediate measures to "secure the prohibition and elimination of the worst forms of child labor, including recruitment and use of child soldiers, and by 2025 end child labor in all forms." In addition, the United Nations International Child's Emergency Fund (UNICEF) is offering supportive strategies and programming to help families who rely on child labor as their source of income so that they will not be financially impacted. However, this has not been sufficient and child labor continues to be practiced in India.

India has ratified all of the international conventions concerning child labor presented by the International Labor Organization and the United Nations in addition to their own established laws and regulations. Specifically, as of 2018, India's government drafted the Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill. This Bill was approved by the Indian Cabinet and is now waiting on approval from parliament. The Bill creates laws that focus on investigating and criminalizing trafficking, and enhancing all of the punishments for trafficking. Trafficking can include children as well. More importantly to the issue at hand, the Bill establishes a new task force whose goal is

to implement India's child labor laws and collect new data on the number and class of the victims involved. This has also led state governments to issue more expansive laws about financial aid to children and adults who were rescued from child labor. However, many state governments are unable to follow through with the administration of these funds because they do not have proper procedures or infrastructure.

IV. SUGGESTIONS FOR CHANGE

While this new bill looks promising for victims of trafficking, it barely scratches the surface of the amount of change that needs to be implemented in regard to child labor in India. In order to make effective change, India should look to other countries for support and guidance through this process. Within the United States, many organizations such as the Fair Labor Association and the U.S. Department of Labor have set out guidelines to help advance the elimination of child labor. First, it is important that hazardous work is defined to include all work that would be dangerous to children. In addition, raising the minimum age for work would be consistent with other countries and provide more protection. Most importantly, the government should take out the family business exception as it has failed to protect a large number of children and blurred lines of what is deemed a violation of the law. In order to make such changes, the Indian government should begin working with other governments who have addressed the problem of child labor in order to establish efficient and effective plans.

In terms of enforcement, India should collect and publish national data on the number of child laborers, the number of labor inspectors, the inspections at each workplace, and the number of penalties that have been issued and enforced. By doing this, it will create a better understanding of the next steps to be taken. It is also important that the government create meaningful penalties for the employment of children to deter violations. After doing this, it will be easier to fully implement the laws and begin to provide financial assistance to victims, including the children who were involved with child labor.

V. CONCLUSION

India has had a very high number of child laborers because of the poverty and strife within its country. It is now time for the laws to change and be enforced in order to protect children who are continuously being exploited to make a profit for many different industries throughout the country. In order to do so, India should look to countries like the United States and follow the suggested measures presented by their government agencies in order to efficiently and effectively create change for the child labor victims within India.

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