

# **Impact of Globalisation on Unorganised Sector : An Analysis with Special Reference to Child Labour in Contemporary India**

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## **I. Introduction:**

Curiosity is a basic characteristic of human beings. Man is curious by nature. This basic tendency of human nature led Man to travel around the world during 16<sup>th</sup> and 17<sup>th</sup> centuries. Many great discoveries, like America, Africa and West Indies were made in consequent to this effort. Thereafter, conquest of countries by other countries had been started along with exchange of trade, commerce, education and culture. Interchange of thought, expression and culture is a process of becoming together by all human beings. Therefore, Globalization actually started since this period, when came into contact with each other all over the world.

According to various Jurists, Globalization is interaction and exchange of activities among human beings across the world. Though it was started in 16<sup>th</sup>-17<sup>th</sup> centuries, but it was continued till modern period and still it is continuing. Globalization denotes different kinds of interaction or exchange among human beings. It may be of business, education, culture or economic activities. Global business strategies, playing of World Cup Cricket and Football, International Film Festival, International Film Awards Ceremony, Miss Universe or Miss World Beauty Contest, Privatization of Higher Education and Entry of Foreign Universities in various countries etc. are examples of activities created in consequent to Globalization.

Global Business Strategies play an important role for improvement of Import and Export within various countries. Promotion of Free International Trade is the necessity of modern business world. For this, different trade barriers should be removed. Agreement on Technical Barriers to Trade (TBT) is a worldwide attempt in this respect. Foreign Direct Investment (FDI) is the product of Free International Trade. Globalization in the Economic Sector is responsible for this.

Globalization has brought a new economic order worldwide. Employment Sector in developing countries including India is largely affected by this. Hire and Fire as well as Contractual Labour System along with specialized labour is increased resulting into loss of job for the

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unskilled workers. Unorganized Labour Sector in India is suffering extremely due to this, which increases the number of another type of labour, called Child Labour. Joblessness of the parents' forces a child to work for earning and his/her education is hampered. Poverty and Illiteracy are other causes of Child Labour, all of which are acting like a vicious circle.

In this backdrop, to find out the impact of Globalization on Unorganized Sector in India including Child Labour, is the need of the hour. Therefore, the present study is conducted to find out causes and consequences of Child Labour in India in the globalized era. The study would also like to provide a set of Suggestions for eradication of the curse called Child Labour in India.

## **II. Globalization and Unorganized Labour Sector – Concept, Origin and History:**

### **II. I. Concept of Globalization**

'Globalization' or globalisation is the process of international integration arising from the interchange of world views, products, ideas, and other aspects of culture. Advances in transportation and telecommunications infrastructure, including the rise of the telegraph and its posterity – the Internet, are major factors in globalization, generating further interdependence of economic and cultural activities.<sup>2</sup>

The term 'Globalization' is derived from the word globalize, which refers to the emergence of an international network of social and economic systems. One of the earliest known usages of the term as a noun was in a 1930 publication entitled, "Towards New Education", where it denoted a holistic view of human experience in education.<sup>3</sup>

Roland Robertson, Professor of Sociology at University of Aberdeen, an early writer in the field, defined 'Globalization' in 1992 as:

"The compression of the world and the intensification of the consciousness of the world as a whole".<sup>4</sup>

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<sup>2</sup> Globalization - Wikipedia, the free encyclopedia, [www.en.wikipedia.org/wiki/Globalization](http://www.en.wikipedia.org/wiki/Globalization), visited on 30.11.2013.

<sup>3</sup> *Ibid.*

<sup>4</sup> *Ibid.*

Next important definition of 'Globalization' is given by Sociologists Martin Albrow and Elizabeth King. According to them, 'Globalization' means -- "All those processes by which the peoples of the world are incorporated into a single world society".<sup>5</sup>

## **II. II. Origin and History of Globalization**

Manfred Steger, Professor of Global Studies and Research Leader in the Global Cities Institute at RMIT University, identifies five dimensions of 'Globalization', which are -- economic, political, cultural, ecological, and ideological. The ideological dimension, according to Steger, is filled with a range of norms, claims, beliefs, and narratives about the phenomenon itself.<sup>6</sup>

Though several scholars place the origins of globalization in modern times, others trace its history long before the European age of discovery and voyages to the New World. In the late 19th century and early 20th century, the connectedness of the world's economies and cultures grew very quickly. The term 'Globalization' has been in increasing use since the mid-1980s and especially since the mid-1990s. In 2000, the International Monetary Fund (IMF) identified four basic aspects of 'Globalization', such as, trade and transactions, capital and investment movements, migration and movement of people and the dissemination of knowledge. Further, environmental challenges such as climate change, cross-boundary water, air pollution, and over-fishing of the ocean are linked with globalization. Globalizing processes affect and are affected by business and work organization, economics, socio-cultural resources, and the natural environment.<sup>7</sup>

## **II. III. Concept of Unorganized Labour Sector in India**

If we examine the structure of employment, Indian economy is characterised by the existence of high level of informal or unorganized labour employment. The workers in the organized sector constitute less than 20 per cent of the country's total work force and the rest comprises of subsistence farmers, agricultural workers, fisher folk, dairy workers and those working in traditional manufacturing processes, like handlooms, are grouped under unorganized sector. In fact, the term 'Unorganized Labour' has been defined as those workers who have not been able to organize themselves, pursuit of their common interests due to certain constraints, like

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<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

casual nature of employment, ignorance and illiteracy, small and scattered size of establishments, etc.<sup>8</sup>

## II. IV. Categories of Unorganized Labour in India

Ministry of Labour has categorised the unorganized labour force in India under four groups in terms of occupation, nature of employment, specially distressed categories and service categories. In terms of occupation, it included small and marginal farmers, landless agricultural labourers, share croppers, fishermen and those engaged in animal husbandry, beedi rolling, labelling and packing, building and construction workers, leather workers, weavers, artisans, salt workers, workers in brick kilns and stone quarries, workers in saw mills, oil mills etc. In terms of nature of employment, they are attached to agricultural labourers, bonded labourers, migrant workers, contract and casual labourers. Toddy tappers, scavengers, carriers of head loads, drivers of animal driven vehicles, loaders and unloaders, belong to the specially distressed category while midwives, domestic workers, fishermen and women, barbers, vegetable and fruit vendors, newspaper vendors etc. come under the service category. In addition to the above categories, there exists a large section of unorganized labour force such as cobblers, hamals, handicraft artisans, handloom weavers, lady tailors, physically handicapped self-employed persons, rickshaw pullers/ auto drivers, sericulture workers, carpenters, leather and tannery workers, power loom workers and urban poor.<sup>9</sup>

The extent of unorganized workers is significantly high among agricultural workers, building and other construction workers, and among home based workers. But, the availability of statistical information on its intensity and accuracy vary significantly. In general, unorganized workers are observed to be large in numbers, suffering from cycles of excessive seasonality of employment, scattered and fragmented work place, poor in working conditions, and lack of attention from the trade unions.<sup>10</sup>

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<sup>8</sup> R. Albert Christopher Dhas, Senior Lecturer, The American College, Madurai & M. Helen Mary Jacqueline, Lecturer, Lady Doak College, Madurai, "Impact of Globalisation and Economic Reforms on Employment in India", MPRA Paper No. 9597, posted 11 August, 2008, pp.1-15 at p.9, [www.mpra.ub.uni-muenchen.de/9597](http://www.mpra.ub.uni-muenchen.de/9597), visited on 30.11.2013.

<sup>9</sup> *Id* at pp.10-11.

<sup>10</sup> *Id* at p.11.

## II. V. Unorganized Sector in India – Present Status

The term Unorganized Sector used in the Indian context is defined by *National Commission on Enterprises in Unorganized Sector (NCEUS)*, Government of India, in their Report on 'Conditions of Work and Promotion of Livelihoods in the Unorganized Sector'. According to it, *The Unorganized Sector consists of all unincorporated private enterprises owned by individuals or households engaged in the sale or production of goods and services operated on a proprietary or partnership basis and with less than ten total workers.*<sup>11</sup>

Various characteristic features of this sector are – ease of entry, smaller scale of operation, local ownership, uncertain legal status, labour intensive and operating using lower technology based methods, flexible pricing, less sophisticated packing, absence of a brand name, unavailability of good storage facilities and an effective distribution network, inadequate access to government schemes, finance and government aid, lower entry barriers for employees, a higher proportion of migrants with a lower rate of compensation.<sup>12</sup> Employees of enterprises belonging to the Unorganized Sector have lower job security and poorer chances of growth and no leaves and paid holidays, they have lower protection against employers indulging in unfair or illegal practices.<sup>13</sup>

A NCEUS Report estimates that in 2005 out of the 485 million persons employed in India, 86 percent or 395 million worked in the Unorganized Sector<sup>14</sup>, generating 50.6 percent of the country's Gross Domestic Product<sup>15</sup>.

Therefore, Globalization is a process of international co-operation and co-ordination amongst all human beings in various fields which helps in progress and development of the world at large. Development of information technology has made this process easier and speedier, so that the world

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<sup>11</sup> Report on Conditions of Work and Promotion of Livelihoods in the Unorganised Sector, Academic Foundation, January 1, 2008, p. 1774.

<sup>12</sup> Rapaka Satya Raju, "Urban Unorganised Sector in India", Mittal Publications, 1989, pp. 11–17.

<sup>13</sup> Kulwant Rai Gupta, "Economics of Development and Planning", Atlantic Publishers & Distributors, 2009, p. 746.

<sup>14</sup> Ruddar Datt, "Growth, Poverty, and Equity: Story of India's Economic Development", Deep & Deep Publications, 2008, p. 134.

<sup>15</sup> Rehman Sobhan, "Challenging the Injustice of Poverty: Agendas for Inclusive Development in South Asia", SAGE Publications, 2010, p. 131.

ultimately turns into a global village. Apart from these positive effects of globalisation, there are certain negative effects which, in turn, can be found in the employment sector all over the world including India, especially in the Unorganized Labour Sector. Another important factor is the problem of Child Labour in India, which is a major

portion of Unorganized Labour and the globalisation has created serious impact on that. After discussing a brief idea and present status of Unorganized Labour in India, the study gradually moves towards the problem of Child Labour and its consequences.

### III. Child Labour – A Menace of Unorganized Sector in India:

The Hon'ble Supreme Court in *Sheela Barse and another v. Union of India*<sup>16</sup> has held that, "a child is a national asset and it is the utmost duty of the State to protect the childhood from any dehumanizing effect which is harmful to the growth and development of a child". Therefore, at the very beginning, it is necessary to define Child Labour.

#### III. I. Child Labour – Concept and Nature

The question of how to define Child Labour is subject to ongoing debate. There are two general approaches to defining Child Labour, the first guided by the International Labour Organization (ILO) Convention on Minimum Age for Admission to Employment (1973) and the second by the UN Convention on the Rights of the Child (1989). As the title of the ILO Convention on Minimum Age implies, its definition of Child Labour is driven exclusively by age, with 18 years set as the legal minimum age for performing hazardous work and 15 for "light work." The Convention on the Rights of the Child takes a more conditional approach, stating in Article 32 that children should be protected from "performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development." For the purposes of this study, the term "Child Labour" refers to paid or unpaid work performed by children under the age of 14 as well as hazardous work performed by children aged 15 to 18. The so-called "worst forms of Child Labour" described in the ILO Convention 1999, which

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<sup>16</sup> AIR 1986 SC 1873.

include armed conflict, prostitution, and drug trafficking, are unequivocally defined as Child Labour regardless of age.<sup>17</sup>

### **III. II. Present Status of Child Labour in India**

Child Labour at domestic level and industrial level is considered to be a menace prevailing in India. Though such problems have been taken care of by the Legislatures, like passing of the Child Labour (Prohibition and Regulation) Act, 1986 and Children (Pledging of Labour) Act, 1933, it is yet to yield the desired result, as intended. The Government is still making efforts on the direction of the Apex Court to make thorough and wide survey on Child Labour and identify the industrial activity hazardous to a child. Undoubtedly, to the extent of legislative satisfaction purpose of these enactments have been achieved because the malady of the Child Labour has been reduced to minimum, but it could not be eradicated from the root because poverty, lack of education and over population are proving to be real obstruction in the way of eradication of Child Labour problem. Unless these obstructions are not fully removed, the problem of Child Labour in India will remain a mirage.<sup>18</sup>

In India, according to 1991 census there were 11.29 million child workers. National sample survey figures for the year 1999-2000 indicated that there were 10.4 million child labourers. As per 2001 census, the total number of working children between the age group 5-14 years in the country was 1.26 crore. However, as per NSSO survey 2009-10, the working children are estimated at 49.84 lakh which shows declining trend. Though the recent statistics regarding Child Labour in India show somewhat declining ratio now-a-days, but the situation is still beyond control and even worsen for the present social structure.<sup>19</sup>

### **III. III. Kinds of Child Labour in India<sup>20</sup>**

In India different types of Child Labour are found in different sectors, like, household tasks, agricultural or pastoral work, handicraft or cottage industries, construction work and informal occupation, e.g. recycling of waste. While discussing the types of Child Labour in India, the

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<sup>17</sup> Amanda Sim, "Confronting Child Labour in Afghanistan", Afghanistan Research and Evaluation Unit, Briefing Paper Series, May 2009, pp.1-16 at p.2, [www.areu.org.af](http://www.areu.org.af), visited on 22.6.2013.

<sup>18</sup> Dr. S.C. Tripathi & Vibha Arora, "Law Relating to Women and Children", Central Law Publications, 4<sup>th</sup> Edn., 2010, p.344.

<sup>19</sup> [www.nird.org/resources-child-rights/child-labour/schemes-policy-document-child-labour/national-child-labour-project-nclp](http://www.nird.org/resources-child-rights/child-labour/schemes-policy-document-child-labour/national-child-labour-project-nclp), visited on 25.6.2013.

<sup>20</sup> [www.tnchildlabour.tn.gov.in](http://www.tnchildlabour.tn.gov.in), visited on 22.6.2013.

classification given by UNICEF can be taken into account. UNICEF has classified Child Labour into three categories:

***i) Within The Family :***

Children are engaged without pay in domestic household tasks, agricultural or pastoral work, handicraft or cottage industries etc.

***ii) Within The Family But Outside The Home :***

Children do agricultural or pastoral work which consists of seasonal or full-time migrant labour, local agricultural work, domestic service, construction work and informal occupation, e.g. recycling of waste. They are employed by others and self employed.

***iii) Outside The Family :***

Children are employed by others in bonded work, apprenticeship, skilled trades, e.g. Carpet, embroidery, and brass or copper work, industrial unskilled occupations or in mines, domestic work, commercial work in shops and restaurants, begging, prostitution and pornography.

Apart from the three categories mentioned above, there are also other types, which are chiefly as follows :-

***a) Migrant Child Labour :***

Among which migrant child labour is one important, due to its fluctuating nature it cannot be identified properly.

***b) Bonded Child Labour :***

Children are pledged by their parents or guardians to employers in lieu of debts or payment. The rates of interest on loans are so high that the amount to be repaid accumulates every year, making repayment almost impossible and the bonded child labour becomes almost permanent.

The phenomenon of urban Child Labour includes street children. These children belong to three broad categories:

***A) Children On The Street :***

Working children who have families, but spend most of their time in streets. They earn for themselves and may or may not contribute to the family income.

***B) Children Off The Streets :***

Working children who have left their families in villages or towns and have migrated to the city. They do not have a place to live and hence spend their nights at the railway platforms, bus stands etc. They live independently and usually spend all that they earn in the same day.

**C) Abandoned Or Orphaned Children :**

Working children without families or whose families have abandoned them. They spend their lives on the streets without any kind of support and are hence the most exploited and abused of the lot.

Finally, there is another kind of Child Labour, which forms the greater part of Child Labour in India and these children are intensely exploited. They are called Invisible Child Labour.

**Invisible Child Labour :**

Following children come under the purview of Invisible Child Labour :-

- Children work in the unorganized and/or informal sector.
- They do not come under the purview of law.
- They constitute a substantial proportion of the child labour in the country.

Most of them do not go to school.

**III. IV. Causes of Child Labour in India<sup>21</sup>**

Child Labour takes place in a particular society due to various causes. In India, following are the principal causes for occurrence of Child Labour :-

- Poverty.
- Parental illiteracy.
- Tradition of making children to learn the family skills.
- Absence of universal compulsory Primary Education.
- Social apathy and tolerance of child labour.
- Ignorance of the parents about the adverse consequences of Child Labour.
- Ineffective enforcement of the legal provisions pertaining to Child Labour.
- Non-availability of and non-accessibility to schools.
- Irrelevant and non-attractive school curriculum.

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<sup>21</sup> *Ibid.*

- Employers prefer children as they constitute cheap labour and they are not able to organize themselves against exploitation.

### III. V. Consequences of Child Labour in India<sup>22</sup>

Child Labour is a serious problem prevailing in India which severely jeopardises the growth and development of the country. It also creates adverse effects on Indian economy and certainly has an impact on the production rate of the nation. Specifically it has the following consequences

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- ◆ Stunted growth of future generation.
- ◆ Inability to harness human resources.
- ◆ Inability to contribute to development.
- ◆ Inability to benefit from development.
- ◆ Citizens with accumulated frustration.
- ◆ Adult unemployment.
- ◆ Depreciation in wages.
- ◆ Perpetuation of poverty.
- ◆ Persistence of Child Labour.
- ◆ Perpetuation of economic inequality.
- ◆ Increased abuse of children.
- ◆ Increased illiteracy.
- ◆ Ignorant populace.
- ◆ Citizens with inferiority complex.
- ◆ Malnourished citizens.
- ◆ Sick citizens.
- ◆ Political instability.
- ◆ Early morbidity of citizens.
- ◆ Mental deformity of citizens.
- ◆ Perpetuation of ill treatment.
- ◆ Inter generational phenomenon of Child Labour.
- ◆ Increased bottlenecks in the development process.
- ◆ Wasted human resources.
- ◆ Wasted human talents and skills.
- ◆ Scientists, artists and persons of eminence lost to Child Labour.

The study reveals the concept and nature of Child Labour, overview and magnitude of the problem of Child Labour in India, its kinds, causes and consequences. As such, seriousness of the problem can be easily assumed from its effects and consequences. Causes of this menace are deep rooted in the society, removal of which is a tough job. Therefore, extensive legislative

<sup>22</sup> *Ibid.*

set up and exclusive policy measures are required to be taken by the National and State Governments for the eradication of the problem.

#### **IV. Globalization, Unorganized Sector and Child Labour – an Impact Analysis:**

Industrialization has a got a new shape in India after Globalization of economy. Consequent to globalization, private sector investments have been increased in the industrial sector in addition to contract labour or “hire and fire” system. These repressive employment policies are contradictory to the objective of socio-economic justice enshrined in the Preamble and Directive Principles of State Policy of the Indian Constitution. Gradually, the economy is shifting from Welfare State to Consumer State. All these incidents have a great impact on Unorganized Labour Sector in India. At present, unorganized workers occupy major sections of the Indian society, which include male, female and child workers. Surprisingly, Child Workers are found to a considerable extent in India.

The Government of India started bringing various Economic Reforms in India since July 1991 in consequent to Globalization. Present Congress-led UPA Government is largely responsible for that. It has brought certain Reforms in the Industrial Sector to remove the barriers preventing entry of new firms and the limits to growth in the size of existing firms.<sup>23</sup>

#### **Industrial Sector Reforms :**<sup>24</sup>

The strategies are –

- (i) Abolition of industrial licensing as an instrument of control over private investment.
- (ii) Abolition of the restriction on investment by large industrial groups.
- (iii) Drastic reduction in the list of industries reserved for the public sector.
- (iv) Elimination of price control on several industrial items.
- (v) Reduction of the list of items reserved for production in the small-scale sector.
- (vi) Opening the economy to FDI.

The above-mentioned Industrial Sector Reforms have a great impact on the trends in Employment Scenario in India, especially on the Unorganized Labour Sector. As per the 2001 census, the total work force in

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<sup>23</sup> *Supra* Note 8 at p.5.

<sup>24</sup> *Id* at p.6.

our country is 402 million, of which 313 million are main workers and 89 million are marginal workers. Out of the 313 million main workers, about 285 million is in the Unorganized Sector, accounting 91 per cent (Government of India, Economic Survey: 2005-06).<sup>25</sup>

In India, heavy dependency is found on Unorganized Sector by the labour force for their employment, income and livelihood. In such a situation, the policies towards delinking budgetary support to the public sector enterprises and reducing labour absorption in public sector as part of the globalisation strategy leads to adverse effect on employment situation in India.<sup>26</sup> In addition to that, the efforts of downsizing of labour, strict controls on organised workers, removal of social security measures, privatisation, de unionisation, removal of bargaining strength of labourers, reduction of expenditure on public goods, low absorption of labour in the non-agricultural enterprises worsen the employment scenario in India.<sup>27</sup>

*Specifically, the impact of Globalization on Unorganized Sector employment in India can be summarised as follows :-*

- i) As the number of Organized Workers has decreased, the Unorganized Workers would expand further due to globalization.
- ii) Under the present deprived conditions of Unorganized Sector, this would lead to imbalance in the labour market leading to more supply of labours, low wages and low level of income.
- iii) This situation would affect the social and economic conditions of the unorganized working population.
- iv) The unorganised workers will be in the highly disadvantageous position as there would be a shift in the technology from labour to capital intensive and use of unskilled to skilled workers.<sup>28</sup>
- v) An increase in the number of Child Labour, a major portion of Unorganized Labour due to the joblessness and low earning capacity of family members.
- vi) An increase in exploitation of Child Labour, like quarrying, salvage, and farm work as well as trafficking, bondage, forced labour, prostitution and pornography.

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<sup>25</sup> *Id* at p.9.

<sup>26</sup> *Id* at p.11.

<sup>27</sup> *Id* at p.14.

<sup>28</sup> *Ibid.*

The foregoing analysis puts forward a number of negative impacts of Economic Globalization on the Employment Sector in India especially on the Unorganized Sector and Child Labour. Now, there is a need for extensive legislative intervention on the issue to prevent the malfunctioning of Indian Employment Sector in the globalized era.

#### **V. Legal Control of Child Labour – International Arena:**

The efforts to regulate and control Child Labour in the international field under the auspices of the United Nations are surely appreciable. A number of International Instruments, Declarations, Conventions and Covenants have been made under the guidance of the United Nations, some of which are mentioned hereunder.

- a) Universal Declaration of Human Rights, 1948 – Article 25(2).
- b) International Covenant on Civil and Political Rights, 1966 – Article 24.
- c) International Covenant on Economic, Social and Cultural Rights, 1966 – Article 10(1)&(3).
- d) Declaration of the Rights of the Child, 1959 – Principle 9.
- e) Convention on the Rights of the Child, 1989 – Article 32.
- f) International Labour Organisation (ILO) –

The International Labour Organization was established on 11 April, 1919 as an autonomous body associated with the League of Nations. Since 14 December, 1946, it has become affiliated with the United Nations through an agreement entered into between them.

The ILO has been instrumental in protecting the rights of children and laying down conditions and standards regarding wages and welfare of working children. Some of the points of focus of the ILO are :

- 1) Prescribing and pressing uniform minimum age for employment of children under all the Acts;
- 2) Identifying hazardous occupations and banning the employment of children in such occupations;
- 3) Recommending laws, rules, regulations, Acts and legislations for protecting children in employment and for progressive elimination of child labour; and
- 4) Suggesting labour welfare and social welfare measures to protect working children from exploitation and suitable machinery for enforcement and implementation of provisions adopted for welfare of working children.

United Nations has played an important role for legal control of Child Labour in the international arena and implemented numerous Declarations, Conventions, Covenants and Charters for the abolition of Child Labour. International Organizations affiliated to the United Nations, Like UNICEF, ILO, WHO, UNESCO and other Specialized Agencies are also engaged in the said activity of abolition of Child Labour. Various Commissions and Committees have also been set up in this respect. The guidelines specified under these international instruments should be followed while incorporating legal provisions in the Constitution and national legislations of various countries for the enforcement and implementation of the same. India has taken important initiatives in this purpose and has passed various legislations for the prohibition of Child Labour.

## VI. Legal Control of Child Labour – Indian Perspectives:

In India, practically all Labour Legislations deal with the problem of Child Labour and contain remedial measures for the prohibition of the problem. Provisions of Indian Constitution also state that, Child Labour should be banned in the society, otherwise progress and development of the country will be seriously jeopardized. Apart from the Constitutional provisions and National Legislations, Central Government has taken various Policy measures for eradication of Child Labour.

### VI. I. Provisions of Indian Constitution

Important Constitutional provisions are discussed in the following Table –

<u>Articles</u>	<u>Provisions</u>
<u>Article 23</u>	It is a Charter of Human Dignity and provides that, traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law
<u>Article 15(4)</u>	It provides that, the State shall not be prevented from making any special provision for women and children
<u>Article 24</u>	It provides that, no child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment
<u>Article 39(e)</u>	It enjoins that, the State shall direct its policy towards securing the health and strength of workers, men and women; and that children of tender age will not be abused; that citizens should not be forced by economic

	necessity to enter into avocations unsuited to their age or strength
<u>Article 39(f)</u>	It enjoins that, the State shall direct its policy towards securing that children are given opportunity and facilities to develop in a healthy manner and in conditions of freedom and dignity and that children and youth are protected against exploitation and moral and material abandonment
<u>Article 45</u>	It mandates that, the State shall endeavour to provide free and compulsory education for all children until they complete the age of 14

## VI. II. National Legislations

India adopted various Conventions and Recommendations of UN and ILO and has started passing various legislations following the standards set by such conventions, guidelines and recommendations. All these conventions and guidelines prescribe certain minimum age limit below which employment of children is prohibited. As such, legislations made in India following those international instruments also lay down a minimum age limit under which employment of children is not permitted.

### (a) Minimum Age Limit for Employment of Children under Indian Legislations :

I) The first Indian Law defining child prescribed prohibitory regulation for employment of children below 7 years of age.

II) Later the amended Factories Act, 1922 raised the minimum age of child to 12 years. Children below 12 years of age were only prohibited from being employed.

III) Subsequently the Factories Act, 1934 raised the minimum age from 12 years.

IV) The present Factories Act, 1948 prescribes prohibitory regulations for employment of children who have not reached 14 years of age. The Act defines a child as a person who has not completed 15 years of age, and an adolescent as one aged between 15 and 18 years.

V) The Indian Mines Act, 1951 defines a child as a person who has not completed age of 15.

VI) The Employment of Children Act, 1939 prohibits employment of children under 15 years in any occupation connected with transport of passengers or goods.

VII) The Children (Pledging of Labour) Act, 1933 aims to eradicate the evil of pledging the labour of a child below 15 years of age.

VIII) The Indian Ports Act, 1908 prescribes a minimum age limit of 14 years for the employment of children.

IX) The Plantation Labour Act, 1951 restricts employment of children up to 12 years of age.

X) The Merchant Shipping Act, 1958 prohibits employment of children below the age of 15 years in a ship.

XI) The Motor Transport Workers Act, 1961 prohibits employment of children below 15 years of age in motor transport undertakings.

XII) The Shops and Commercial Establishments Act prescribes different age limits in different States varying from 12-14 years.

XIII) The Beedi and Cigar Workers (Conditions of Employment) Act, 1966 prohibits employment of children below 14 years in any industrial premises.

XIV) The Child Labour (Prohibition and Regulation) Act, 1986 and the Apprentice Act, 1961 treat a person up to the age of 14 years as a child. The Child Labour (Prohibition and Regulation) Act has made necessary amendments in other Acts to bring uniformity in age.

**(b) The Child Labour (Prohibition and Regulation) Act, 1986 :**

The Child Labour (Prohibition and Regulation) Act, 1986 has repealed the Employment of Children Act, 1938. This Act aimed at identifying more hazardous processes and industries with a view to banning Child Labour in these industries and regulating conditions for children in non-hazardous occupations.

The main Objectives of the Act are :<sup>29</sup>

- (i) To bring uniformity in the definition of child in the related laws.
- (ii) To ban the employment of children in specific occupations and processes.
- (iii) To modify the scope of banned industries and processes by laying down a procedure.
- (iv) To regulate the conditions of work of children when they are not prohibited from working.
- (v) To lay deterrent punishment for violators.

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<sup>29</sup> Mamta Rao, "Law Relating to Women & Children", Eastern Book Company Publications, 2<sup>nd</sup> Edn., 2008, p.453.

**(c) The Child Labour (Prohibition and Regulation) Rules, 1988 :**

The Central Government has framed the Child Labour (Prohibition and Regulation) Rules, 1988 on 10<sup>th</sup> August, 1988 in exercise of the powers conferred by sub-section (1) of Sec. 18 of the Child Labour (Prohibition and Regulation) Act, 1986. These rules are related to the Child Labour Technical Advisory Committee constituted under subsection (1) of Section 5 of the Act.<sup>30</sup>

**(d) The Child Labour (Prohibition and Regulation) Amendment Act, 2006 :**

The Amendment to the Child Labour (Prohibition and Regulation) Act, 1986 was made in the year 2006 by the Ministry of Labour and Employment, Government of India on 10<sup>th</sup> July, 2006. The Amendment Act of 2006 amends Part A of the Schedule to add to the list of occupations in which employment of children is prohibited. This amendment prohibits the employment of children as domestic workers or servants and the employment of children in dhabas (road-side eateries), restaurants, hotels, motels, tea shops, resorts or other recreational centres.<sup>31</sup>

**(e) The Child Labour (Prohibition and Regulation) Amendment Bill, 2012 :**

In spite of the Amendment to the Child Labour (Prohibition and Regulation) Act, 1986 in the year 2006, the problem of Child Labour could not be eradicated in India and as such it is still continuing as a serious problem. Therefore, the Ministry of Labour and Employment, Government of India has suggested further amendment to the said Act to prevent the severe effect of the problem on the society. Consequently the Child Labour (Prohibition and Regulation) Amendment Bill, 2012 was drafted and prepared on 21<sup>st</sup> November, 2012. The *Principal Objectives* of the Bill are as follows :-

- (1) It is proposed to prohibit employment of children in all occupations and processes to facilitate their enrolment in schools in view of the Right of Children to Free and Compulsory Education Act, 2009.
- (2) It is also proposed to prohibit employment of adolescents (persons who have completed 14<sup>th</sup> year of age but have not completed 18<sup>th</sup> year) in hazardous occupations and processes and to regulate the

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<sup>30</sup> www.childlineindia.org.in, visited on 24.6.2013.

<sup>31</sup> *Supra* Note 29 at p.454.

conditions of service of adolescents in line with the ILO Convention 138 and Convention 182, respectively.<sup>32</sup>

### **VI. III. National Policies for Prohibition of Child Labour:**

National Legislations have been proved insufficient to abolish the problem of Child Labour, therefore, the Central Government has adopted various policy measures in this respect. National policies are made to aid and assist the Governmental attempts in eliminating the problem of Child Labour. Some important National Policies for prohibition of Child Labour are as follows :-

- (a) *The National Policy for Children, 1974.*
- (b) *The National Policy on Child Labour, 1987.*
- (c) *The National Child Labour Project (NCLP) Scheme, 1988.*
- (d) *The National Policy for Children, 2013.*

The National Policies are taking measures for prohibition of Child Labour below 14 years of age in any hazardous occupation. In pursuance of the National Child Labour Policy, the National Child Labour Project (NCLP) Scheme was started in 1988 to rehabilitate child labourers. Under the Scheme, after a survey of Child Labour engaged in hazardous occupations & processes has been conducted, children are to be withdrawn from these occupations and processes and then put into special schools in order to enable them to be mainstreamed into formal schooling system.

### **VII. Role of Indian Judiciary in Curbing Child Labour:**

Government of India has passed various legislations for the prohibition of Child Labour and also has taken different National Policies for the abolition of the Child Labour. In all the recent Five Year Plans, strategies have been taken for the eradication of the Child Labour problem. Also Indian Judiciary has played an important role in this respect. Some important Judgments are discussed hereunder.

#### **Bachpan Bachao Andolan Vs. Union of India and Ors., AIR 2011 SC 3361 :**

This is a very recent judgment granted by the Supreme Court of India on prohibition of Child Labour. This petition has been filed in public interest under Article 32 of the Constitution in the wake of serious violations and abuse of children who are forcefully detained in circuses, in many

<sup>32</sup> [www.prsindia.org](http://www.prsindia.org), visited on 24.6.2013.

instances, without any access to their families under extreme inhuman conditions.

In this case, the Supreme Court directed that, in order to implement the fundamental right of the children under Article 21A, it is imperative that the Central Government must issue suitable notifications prohibiting the employment of children in circuses and the respondents are directed to conduct simultaneous raids in all the circuses to liberate the children and check the violation of fundamental rights of the children.<sup>33</sup>

**Court on its own Motion Vs. Govt. of NCT of Delhi, (2009) ILR 6  
Delhi 663 :**

This case was filed before the Delhi High Court. It is related to Labour and Industrial Laws and Rescue of child labour workers under the Child Labour (Prohibition and Regulation) Act, 1986. In this case, the Present Action Plan was filed by the Labour Department of Delhi, which stated that child workers employed in non-hazardous jobs could not be rescued. The Action Plan suggested that, all children between ages of 14 to 18 years have to be liberated and handed over to Police, even though Act defines child as person who has not completed 14 years of age. It was held that, following the capacity and existing strength of NGOs and Government run institutions in Delhi, department would be able to accommodate only about 500 additional children every month, since restoration efforts take about 30 to 40 days time. Hence the Court directed the Labour Department to begin implementing Delhi Action Plan by accommodating for time being about 500 children every month.<sup>34</sup>

Therefore, it can be said that, Indian Judiciary has played an important role for prohibition of Child Labour in India. Also the Judiciary has criticised various provisions of the relevant statutes and has given directions for the rescue of the Child Labourers working in different industries. Orders are also given for the rehabilitation of the rescued Child Labourers and maintenance of the good living conditions in the Children Homes and Rehabilitation Centres. It is also suggested by the Indian Judiciary that, actions must be taken in line with the RTE Act, 2009 for providing free and compulsory education to all children below the age of 14 years, which is obvious for the prohibition of the Child Labour.

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<sup>33</sup> [www.indiankanoon.org](http://www.indiankanoon.org), visited on 26.6.2013.

<sup>34</sup> MANU/DE/1025/2009, [www.manupatrafast.com/ESP/ManuSearch/asp](http://www.manupatrafast.com/ESP/ManuSearch/asp), visited on 26.6.2013.

### VIII. Critical Analysis of Indian Laws in the Light of Globalisation:

Child Labour is a serious social evil, which is a matter of grave concern for everybody in the contemporary social scenario especially in the globalized era. This problem, if continues with its present stature, will ultimately lead to social stagnation and backwardness. Therefore, steps should be taken by every section of the society for eradication of Child Labour.

At the present juncture, a critical analysis of the Indian Laws on Prohibition of Child Labour Employment in Unorganized Sector in the globalized era, is required to be made. Consequent to the need of the society, the Child Labour (Prohibition and Regulation) Rules, 1988 and the Child Labour (Prohibition and Regulation) Amendment Act, 2006 have been made to create certain amendments in the Child Labour (Prohibition and Regulation) Act, 1986. Apart from that, the Child Labour (Prohibition and Regulation) Amendment Bill, 2012 has been prepared recently by the Government of India to suggest further amendments in that Act.

The present law has various advantages and disadvantages, a brief discussion of which is necessary for critical analysis and understanding of the existing law.

#### VIII. I. Advantages:

(a) It is a comprehensive legislation for prohibition and regulation of Child Labour in both organized and unorganized sector in India.

(b) It is applicable to all classes of establishments throughout the territory of India.

(c) It has brought uniformity in the definition of 'Child' in the related laws.

(d) It prescribes prohibition of employment of children in certain occupations and processes.

(e) It modifies the scope of banned industries and processes by laying down a procedure.

(f) It regulates the conditions of work of children when they are not prohibited from working.

(g) It prescribes for health and safety measures of the children employed or permitted to work in any establishment or class of establishments.

(h) It is applicable to all classes of establishments throughout the territory of India.

## **VIII. II. Disadvantages:**

(a) It is not an exhaustive legislation covering all areas relating to prohibition of Child Labour.

(b) It does not prescribe prohibition of employment of children in all occupations and processes.

(c) As it is an old Act, it does not comply with the provisions of the Right of Children to Free and Compulsory Education Act, 2009.

(d) It prohibits employment of Child Labour only, but does not prohibit employment of adolescent persons in hazardous processes.

(e) The Central Government is not empowered to add or omit any hazardous occupations and processes from the Schedule under the Act.

(f) The punishment prescribed under the Act is not sufficient for the violators of the law.

The above-mentioned advantages and disadvantages show that, the Child Labour (Prohibition and Regulation) Act, 1986 is not a perfect match for the present globalized society. As the menace called Child Labour is increasing due to globalization inspite of all Governmental and Non-Governmental initiatives to curb it, this old Act could not serve the required purposes any more. Therefore, advantages should be increased over the disadvantages to suit the changing needs of the society. The Government of India has taken into consideration the flaws and lacunas in the present Act and consequently, has prepared the Child Labour (Prohibition and Regulation) Amendment Bill, 2012, which should be made into an Act to fulfill the needs of the globalized social pattern.

## **IX. Conclusion and Suggestions:**

Children are the future of a nation and as such future prosperity of a country depends upon the growing of healthy children in a society. Properly nourished children grown in a healthy environment can only become the assets of a society. Therefore, progress and development of a society is largely dependent upon the progress and development of children. The main area of this study centers around the problem of Child Labour, which is a social evil in the present day context. It is a curse of Unorganized Labour Sector which covers major portion of Indian Employment Sector. Therefore, this curse should be abolished for the betterment of the Indian Employment Sector.

The present study is conducted to understand the impact of globalization on Unorganized Labour Sector and especially on the problem of Child Labour in contemporary India. The study reveals that, the problem of Child Labour occurs due to many other social evils, like poverty, inequality of income, unemployment, juvenile delinquency, homelessness,

illiteracy etc. Globalization is just an addition to it. Though globalization has various positive effects, but its negative effects are engulfing our society and especially the employment sector by increasing the menace called Child Labour, eradication of which is of utmost importance. In spite of the Governmental legislative and policy measures, the problem is still continuing. Hence, the present study is conducted.

In the foregoing paragraphs, we have discussed various aspects of Globalization, Unorganized Labour, Child Labour and their impact on each other. Now, the study would like to cite a set of Suggestions for the abolition of Child Labour in the unorganized sector in India, especially in the globalized era. The following suggestions may be cited accordingly :-

- (i) To improve quality of and access to education for all children in the society.
- (ii) To improve livelihood opportunities and outcome for poor households.
- (iii) To engage communities in changing norms and attitudes towards child labour.
- (iv) To strengthen the policy, legal and regulatory environment for reducing child labour.
- (v) To eradicate other social evils, like poverty, inequality of income, unemployment, illiteracy, joblessness etc.
- (vi) To generate awareness among the common masses for abolition of the problem.
- (vii) Government, NGOs and International Organisations should go hand in hand to prevent the problem.
- (viii) Child Labour prohibitory measures should be taken in line with the RTE Act, 2009 by providing free and compulsory education to all children below the age of 14 years.
- (ix) Necessary amendments should be made in the Child Labour (Prohibition and Regulation) Act, 1986 to suit the changing needs of the society.
- (x) The changes suggested in the Child Labour (Prohibition and Regulation) Amendment Bill, 2012 should be incorporated into a new Act to make a comprehensive legislation covering the area.