
An Analytical Study of Child Labour in India

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*It is essential for man to work and do labour for his survivor. Of one done not work, there comes the question of survivals. In such situation, unless man works there shall be peril in his survival. Moreover, the bounties of nature that God has provided shall a constant challenge to him. There is no moral right to use or consume them. In this way, labour and work are the essentials to shape the muscles, bones and other organs of the body. However, in the childhood days the process of development requires special care and attention. In case of any obstruction, the very process of child development is at stake. In man meaning thereby that, the overall interest and fare welfare of the society and the nation rests on a child. It is with such ideas in vies that **Hon'ble Justice P. N. Bhagwati**¹ held that the child is a soul with being, a mature and capacities of its own, who must be helped to find them to grow into their maturity, into fullness of physical and vital energy and the utmost breath, depth and height of its emotional, intellectual and spiritual being, otherwise there cannot be a healthy growth of nation.*

Despite so much awareness and ideals, it is a matter of great regret that child labour is a great stigma on our society. Exploitation, abuse and deprivation are common factors that are observed in the society. There are multifarious causes that have enhanced child labour at the global scenario. Even Nelson Mandela has expressed and focused on the position of the children. Nation, whether developed or developing, has its future in the status of a child. Children are the most sensitive gift to humankind. There is spirit of optimism and potential for the development of man and society. The secretary general of UNO **Kofi A. Annan**, has rightly asserted "To look into some aspects of the future, we do need projections by super computers. Much of the nest millennium can be seen in how we are for our children today. Tomorrow's would may be influenced by science and technology but more than anything, it is already taking shape in the bodies and minds of our children.

The growth and development of children necessitates a life of freedom and dignity coupled with opportunities of education and training to make them emerge worthy citizens of futurity. A child has a right to receive all that is the best in society. It is lamentable that large proportions of children is still deprived of their basic rights and are forced to work as labour in the various sectors of economy.²

¹ AIR 1984 SC(46)

² Helen R. Sekhar, Towards combating child Labour, 2nd edn, noida: v.v. Giri National Labour Institute, 2005,p.2.

As we have already discussed that child, labour is a global conundrum and even sophisticated and developed countries are groaning under the curses of child labour. Child labour is a constant challenge and threat to human existence. None can deny the fact that child labour is a slur on the society. It is a disgrace for any society or nation to boast of development and prosperity if its children are forced to child labour. The wise and the farsighted have rightly said that child labour is a great factor to stifle the economy of the society. In all the third world countries and in India this factor has considerably added to the misery and deprivation. However, it's universally acknowledged that child labour has been in existence, thought in various forms and nature, since ever.

The state has a duty to protect the rights of the children through legislative and other means. It is true that investment in the child is investment in the society or nation. One can easily come across any commodity or thing that has the contribution of children. Even small and petty things like carpet match-box, crackers and many other products that bear the stamp of hard labour of these children that have been gripped in the stronghold of poverty and exploitation. In our country child, labour is easily had and accessed.³

A recent survey reveals that 218 million children are a prey to child labour and nearly 126 million children are engaged in hazardous situations of mines factories or machineries. In is a fact that in Indian child labour has shot up to 20 million. However, NGOS estimate that child labour population is as high as 60 million and it can rise up to 100 million. In India among other factors poverty poor rate of literacy, economic factors and lack of awareness are the prim causes of child labour. That a part, lack of social security also plays a vital role in promoting child labour. However, there are a host of legislations to curb child labour and even raids are conducted so as to rescue the children from the grip of this stigma. The post proceedings of rescue and rehabilitation have never been focused upon a sad plight.

As NGO Bachpan Bachao Andolan has revealed that most of the children below 14 years are paid paltry sum of Rs. 100 or 130 per month. There is large scale contriving between the employers and labour inspectors. It is a great draw back. The issue of child labour is a major topic of conference, seminars and lectures wherein it has been observed that child labour has found deep in roots in the society owing to unemployment, poverty, illiteracy, and social deprivations. This evil thrives because of these factors and so it is wise to infer that the eradication of this menace is difficult rather impossible.⁴

In the historic case *M.C. Mehta v. State of Tamil Nadu and others*⁵ the following lines are enriched with pathos:

I am the child,
All the world waits for my coming.
Civilization hangs in the balance.
For what I am, world of tomorrow will be.
I am the child.
You hold in your hand my destiny.
You determine, largely, whether I shall succeed or fail,

³ Gurupada Swamy Committee Report, 1979

⁴ Encyclopedia of social work in India, vol.-1,1987,pp-78-79

⁵ AIR1997 SC 699

Give me, I pray you, these things that make for happiness.

Train me, I beg you that I may be a blessing to world”.

It is high time that tall talks and ling promises be given good bye. And we ought to ponder the ways and means to overcome this problem and restore the basic and constitutional rights to these exploited children. It is duty of the society to provide the children, healthy and proper atmosphere to grow and develop in normal way and without any hurdle. The problem of child labour is only a symptom, the actual disease. It is undisputed that if the children net proper opportunity to grow, they would certainly be an important asset of the nation.

Definition of child:-

It is a matter of wonder that child labour has not been defined anywhere. However, it can be called as the segment of child population that participates in work as being paid or unpaid. It is a matter of common observation that several factors constitute child labour and the variations of age of child have been acknowledged in varying legislative enactments. For instance, section 83 of Indian Penal Code adumbrates, “Nothing is an offence which is done by a child seven year and under 12 who has not attain sufficient maturity of understanding to Judge the nature and consequence of his conduct on the occasion.⁶ The constitution of Indian prescribes, “No one below the age of 14th allowed to work in any factory or mine or engaged in any other hazardous employment.⁷

In the Plantation Labour Act, 1951, no child, as defined under the Act and no adolescent will be needed to work in plantation, subjected to a few restrictions.⁸ According to the beedi and Cigar Workers (Conditions of Employment) Act, 1966, employment of a person who has completed fourteen years of age in the industrial remises is prohibited.”⁹

The Indian Mines Act 1952, prohibits employment of a person below the age of eighteen years.¹⁰

As per Section 2 (c) of the right of children to free and compulsory Education Act, 2009 defines ‘Child as a male or female child of the age of six to fourteen years.¹¹

The Child Labour (Prohibition and Regulation) Act, 1986, prohibits the employment of children in certain occupations and processes below the age of fourteen.¹²

In other words these legislation and are indicative of the prohibitory nature. The age of the child is the sole factor for determination as to who is a child. In India, there are several legislations relating to the age of child, which describe various age of the child, but its maximum age limit is 18 years.

A child as such tender age is expected to play study and be carefree about his life. But as a fact of nature, expectations hardly meet reality. Children, by will or by force are employed to work in the harsh conditions and atmosphere, which becomes a threat to their life. Child

⁶ Section 82 of the Indian Penal Code,1860.

⁷ Article 24 of the Indian Constitution.

⁸ Section 26 of the Plantation Labour Act, 1951.

⁹ Section 24 of the Bidi and Cigar Workers (Condition of Employment)Act, 1966.

¹⁰ Section 40 of the Indian Mines Act, 1952.

¹¹ Section 2(c) of Right of Children to Free and compulsory education Act, 2009

¹² Section 2 (ii) of the Child Labour (Prohibition and regulation) Act, 1986.

labour leads to underdevelopment, incomplete mental and physical development, which in turn results in retarded growth of children.¹³

Why child labour is bad?

It is estimated that as many as 250 million children have taken to child labour as a means of earning their livelihood and atleast 60 million children all over the world are exploited in the form of bondage and prostitution. It is violation on of human right in many aspects.¹⁴

It is observed that children of tender age work for a longer period and are easily available at less payment. They are exposed to hazardous and lethal machines and tools. And all these factors are contrary to their mental and physical development. Their progress is in jeopardy and the other parameters of their mental and psychological stand defeated.¹⁵

Hereunder are the some of the major factors that promote child labour. There is exploitation of the child labour engaged in child labour.

They are made to work harder for longer hours in dirty and fatal conditions such children are deprived of opportunities that are instrumental in their development and growth. On many occasions, these children of tender age and mine have to face crimes which become a deep rooted ground for making them hard core criminals. The children employed in such conditions have adverse effect of mal-nourishment and poor health and unhygienic conditions on their physical and mental status moreover, mental stress and torture, physical and mental abuse, and even psychological issues are the countless adverse effects on the mental and physical built of the children. Their age of development, innocence and learning is in peril. They are a helpless, hapless and despondent.

Causes of child labour:-

It is a well-established fact that the causes of child labour are diverse but we must analyse those causes in regard to the well-known definition of child labour. It is a matter of common observation that if children are engaged for the agricultural purpose along with their parents or in some business that revolves around socialisation without any hindrance in education and development, cannot be termed as child labour. In may be merely the exploitation or abuse of children but it is not a healthy practice. As comp are to this the bright future of a child fostered in an atmosphere of care, love, affection and favourable conditions of development is sufficient to observed the plight of these deprived children. We may enumerate the following factors responsible for child labour –

- 1- **Economic factors:** - poverty is an important and strong factor for child labour. Lack of opportunity in equitable distribution of amenities, land and property encourage migration of labour. The poor economic status of parents compels them to put their children under the risk of exploitation. In our Country 80% of the population thrives and depends on agriculture. Land holdings are small and insufficient to enable them earn their livelihood. Most of the people are land less, illiterate and hot aware of the development of the children. All these factors are very much responsible for migration to cities and towns.

¹³ <http://blog.ipleaders.in/laws-related-to-child-labour-in-India/>

¹⁴ http://www.unicef.org/publications/index_4302.html

¹⁵ Child labour-A textbook for university students-ILO

- 2- **Profit motive tendency and lack of social responsibility amongst the employers:-**
It is almost observed that the employers prefer child labour. In is a fact that children are profitable for they are less paid. A committee on child labour has reported that children are not aware of their low status; they do not have feeling of guilt or hesitation in doing any work that is demeaning.
- 3- **Feudalistic and caste system:-** Feudalism and racism have had an important role in the social setup. It is the result of this factor that people belonging to low caste remain uneducated and dependent on the affluent castes.
- 4- **Lack of awareness:-** slough and unawareness of parents and guardian play a vital role in adding to the child labour system. Lack of awareness and poverty has a great effect. The parents do not send their children to school. They are only conscious of their own comfort. It is also seen that parents consume liquor from the hard earned money of their children.
- 5- **Absence of provision for compulsory and free education and proper schooling facilities:-** Art 45 of the constitution speaks of free and compulsory primary education to the children but the children have tools and hammers rather than pens and books. The provision of Art 45 has not been implemented in letter and spirit. However, in **Unni Krishnan v. State of Andhra Pradesh**¹⁶ the apex court has accentuated on free and compulsory education as fundamental right of the child. In is a glory to march on the path of Sarve Siksha Abhiyan and School Chalo Abhiyan. Education should be a duty and in such a position it becomes essential on the part of citizen and state to send school to children and see that no child fails to attend schools. Education may prove salutary in getting the children away from labour market.

apart from these factors population explosion, lack of social security, dowry system, lack of consciousness and public apathy and last but not the least adopting parental occupation as social acceptance and even the ineffective implementation of legislation are the chief hurdles in abolishing child labour.

Role of Judiciary:-

Judicial have rendered yeoman's service in addressing the issue of child labour through the following authorities.

People's Union for Democratic Rights v. Union of India and other¹⁷

Accentuated his observation that every state Government should take the necessary step in ensuring that children under 14 years of age are not to be employed in any type of construction work. The court also observed that construction work is hazardous and so it is a constitutional prohibition that the said mandate is not violated in any part of the company. In this case, the apex court read the provision of labour laws into the fundamental right granted under part III of the Constitution and its violation amount to violation of fundamental right.

¹⁶ 1993(1) SCC645

¹⁷ AIR 1982 SC 1473

In is through this case that the portals of the court are open to poor children and downtrodden through PIL.

Sheela Barse v. Secretary, Children Aid Society¹⁸

Sheela Barse a free-lance journalist wrote a preferred and appeal with the grievances regarding the workings of the 'New observation Home' maintained and managed by "Children's aid society, Bombay. She alleged the violation of Article 21,24, and 39(e) of the constitution. The High court of Bombay wants into the allegation but observed that many of those allegations were without justification.

In this case the Supreme Court agreed with the contention put forward by the appellant. It observes that the children should be given remuneration. It further held that the children in observation Homes should not the made to stay long. They should be kept occupied in congenial surrounding. The Ape court directed that the workers at such places should be dedicated, properly trained as their contact which children has far-flung impact. There should be a juvenile court with the judicial officer to handle the problems of the children. The Supreme Court further said that we should not be negligent to the issues of the children. Any drawback or lacuna on the part of the state shall be a dent in the society. The society must devote full attention to ensure the children are properly cared for and brought up in healthy atmosphere so that they may hold any maintain a countries image and prestige.

Salal Hydro Project v. State of Jammu and Kashmir other¹⁹

The issue of child labour emerged before the Supreme Court by way of PIL. It was alleged that a large number of migrant worker from different states were engaged on the Salal Hydroelectric Project. They were working in difficult conditions and were denied the benefits of labour law. It was alleged that the workers were subjected to exploitation. The people's Union for Democratic Rights address a letter to Justice Desai and it was treated as writ petition. The court directed the labour commission to visit the project site where upon he found many violations of labour laws. It was also observed that the contractor had employed minors with this pretext that these minors accompany the male members of the family and insist on getting employment.

The court observes that it is a fact that the parents want to get their minors employed with the intention of augmenting their earnings. They do not send them to school. Quite often legislation is not sufficient to solve the problem of such incidence of child labour. It is obligation on the part of the state that it should attempt to reduce, if not eliminate, such a problem.

M.C. Mehta v. State of Tamil Nadu²⁰

In this case, the Apex court agreed with the philosophy of the Romantic poet William words worth and observes that child is the father of man. Childhood Stage is supposed to be the formative year of child. It is expedient that a child must receive education, be brought up in healthy and congenial atmosphere and made to inculcate all that is essential for grooming his career in life. It is with this end in view that the framers of the constitution were and

¹⁸ AIR 1987 SC 656

¹⁹ AIR 1984 SC 177

²⁰ AIR 1997 SC 699

scrupulous enough to realise the fathering and nurturing of children. Article 24 is a seminal manifestation on the fundamental right against exploitation.

Conclusion:-

It has well been said, “child is the father of man” means that the overall interest and welfare of the nation is rest on a child. But it is matter of great regret that child labour is a great stigma on our nation. The most common factors are observed in our society are exploitation, abuses and deprivation of the children. It is well known that children are the most sensitive gift of mankind. But our society does not care of it. In our country there are so many legislation exists from several decades but they are not able to check child labour and abolish it. It is necessary that for checking child labour, our constitutional provision which prohibits child labour and protect interest of the children should ought to by the citizens of the our country and a procedure should be laid down by the government to check the regulation of employment of the children whose are under the tender age. Only statutory provisions are not enough to address the problem of child labour, the role of judiciary is also equally important to address the child labour. But fortunately Indian judiciary has played an important role to control child labour and protection of the right of children. In short we can say that it is not enough that child labour cannot be eliminated by rigorous enforcement of child labour laws. Hence it is essential to uproot the child labour we provides compulsory primary education and facilities to develop he skill for their livelihood. It is also requires that to take a stern step to create awareness among the parents about child labour.