

# Laws to Safeguard the Human Rights of Child Labour in India

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**Abstract – According to Justice P.N. Bhagwati,[1] the child is a soul with being, a nature 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. Now obviously children need special protection because of their tender age and physique, mental immaturity and incapacity to look after themselves. That is why there is growing realization in every part of the globe, that children must be brought up in an atmosphere of love and affection and under the tender care and attention of parents so that they may be able to attain full emotional, intellectual and spiritual stability and maturity and acquire self-confidence and self-respect and a balanced view of life with full appreciation and realization of the role which they have to play in the nation building process, without which the nation cannot develop and attain full prosperity, because a large segment of the society would then be left out of the development process. And for the protection of such valuable assets we need strong laws with universal applicability.**

**Key Words – Child Rights, Human Rights, Child Labour, Child Welfare, Protection, Safeguard, Exploitation, Constitutional Provisions, Fundamental Rights and Community**

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## INTRODUCTION

It is essential for every creature on the earth to work and to do labour. If a creature does not work, he has no moral right to use and consume the facilities provided by the nature. But such labour and work should be according to physical and mental development especially in the case of child, because according to a medical science, anatomy and biology, their muscles, bones, brain, skull and various other body organs are in the process of development during child-hood which requires special attention, care and nature. Any type of obstruction during such development would be dangerous for normal development of child resulting in various deformities. In a civilized society child welfare needs to be given prominence, as the "Child is the father of man". The welfare of the entire society, as well as nation, depends on the health and well-being of the children, because child is national asset. Further of the nation depends on the fact, that how its children grow and develop. Great poet Milton has said that "Child shows the man, as morning shows the day." Just like a large tree, hidden in a small seed, which provides us shadow and protection to the environment, in similar way a great and developed personality is hidden in the child who would be useful and important person for our nation building. Child rights in India are an issue which is

rarely talked about even though we signed the United Nations Convention on the Rights of the Child (CRC) in 1992. The CRC defined four human rights for children specifically i.e. survival, development, participation and protection, However, children are not seen as separate group with distinct rights in India till date. Children are the blooming flower in the garden of society. They are the most valuable assets of the nations as "children of today are the Potential citizens of tomorrow." The quality of life, they relish today would categorically determine the quality of life of future population of the nation. The children have rights like other human beings, to be respected with regard to their integrity, dignity, interests and opinion. But significantly enough, children in India are deprived of even the basic human rights due to then, as they ought to be in any civilized society.[2]

There is no denying the fact that children being defenseless and voiceless have suffered throughout the ages at the hand of society, community and Parents, Millions of children, for example, are physically or sexually abused or economically exploited by those who are presumed to bestow them security and love. Despite hectic planning welfare programmes, legislation and administrative actions in Post five decades; especially after 1979 International year of the child;

the majority of Indian children continue to remain in distress and turmoil. We still score first rank in world when highest number of child laborer's is talked about.

It is difficult to define child labor since the terms "Child" and "Labour" both resist Universal definition because of cultural and social differences from one country to another. International labour office has specified the concept through its Minimum age convention 1973 where it encourages member states to set a minimum age that is not less than the completion age for compulsory schooling, or in any case not less than 15 years. So in India a child labor is one who is below 18 years of age, out of school and has no avocation other than work. Although child work is not synonymous to child labour, most children, in whatever society they live, work in one way or another. For example in rural areas of India most of the children are involved in agriculture, cultivation forestry etc. work of this kind is not considered child labour. It is unfortunate for us that we do not find the required consciousness towards children and their well-being. It is undisputed that the child learns many things from the surroundings in which he lives and develops during socialization process. Prior to industrial revolution and urbanization the children used to work with their parents and family members as companion only, not as a wage-earner and such work was not arduous and hazardous for health and usual development of children. In family circle work was practically free from harmful effects and children grew without ill-treatment and without being exploited. Children received "on the job" training in the traditional occupation of their family. But in the wake of industrialization and urbanization, the children of tender age are forced to jump in the labour market to earn the livelihood for themselves and for their family members, which is unfortunate part of the scene. On the basis of this process, a distinction is made between "Child work" and "Child-labour". The first part, i.e. the child-work is a part of socialization process of the child in helping their parents, where they learn certain skill for their future. In this process of socialization the parents and family members respect the child's right regarding their health, education and usual development. But contrary to this "child labour" implies something different in which the children are being exploited in different ways, and deprived of the human rights specially right to health, education and overall physical, mental and social growth.

Though in general, philanthropists, social reformers, jurists and thinkers, even the reasonable members of society always condemn the plight of children who are deprived of their human rights but in spite of such feeling the children are being neglected and exploited by various reasons and in various ways. To extract labour from the children has been considered as the worst form of exploitation. According to Sir Albert Thomas, the first Director of International Labour Office, the exploitation of the children

constitutes "the evil most hide out, the most unbearable to the human heart, serious work in social legislation beings with the protection of children". Similarly the great thinker Mr. Nobel Laureate Gabriela Mistral has given much sentimental touch to the prevailing practice of exploitation of children by expressing his feeling that "we are guilty of many errors and faults but our worst crime is abandoning the children neglecting them the fountain of life". It was further expressed that:

Many of the things, we need, can wait, the child cannot. Right now is the time, his bones are being formed, and his blood is being made.

*And his senses are being developed,*

*To him, we cannot answer "Tomorrow"*

*His name is "Today"*

Above expression gives the clear message to the society as well as to the nation, that proper care of the child in all respect as desired by nature cannot be postponed for tomorrow and postponement may be dangerous for nation building. Parallel to this Mr. Tennyson has expressed the feelings of a child, by which we should feel sensitiveness and responsibility towards protection of childhood:

*"What am I, an infant crying in the night,*

*An infant crying for light,*

*And with no language, but a cry."*

Under such circumstance, the society and nation as whole is duty-bound to protect the interest of child and to provide wholesome and suitable atmosphere, in which they can breathe freely and develop in a dignified manner.

In spite of such sentiments and preaching, the children are being exploited and childhood is being abused throughout the world, which may be called as a by-product of industrial revolution and urbanization. But contrary to this gloomy scene, due to expansion of literacy and mass education scheme, electronic and print media, awareness and social awakening, even the children are now able to distinguish in "fate" and "device" that why few children are being nurtured with silver spoons and most of the children are forced to jump in the labour market with hammer and tools in their tender hands, instead of pen. Now they feel that it is not the fate but only morbid mentality of few selfish members of the society who want to swallow equitable share of others. Such children are bemoaning to get their human and constitutional rights. This feeling of the children has been very effectively and sensitively expressed by Mr. Manic Gene Cole in following words:

*"I am a child,*

*All the world waits for my coming,*

*All the earth watches with interest to see, what I shall become,*

*Civilization hangs in the balance,*

*For what I am, the world of tomorrow will be,*

*I am child,*

*You hold in your hand my destiny.*

*You determine largely whether I shall succeed or fail,*

*Give me, I pray you, those things that make for happiness*

*Train me, I beg you that I may be blessing to the world."*

The above marvelous and heart touching lines have been quoted in the beginning of the landmark historical judgment of the Apex Court delivered on 10.12.1996 in "M.C. Mehta v. State of Tamil Nadu and others"[3] emphasizing sensitivity on the issue of the employment and plight of child labour in the country. In the light of the above delineation regarding "child" and "child labour" in India, now there is no time to criticize only, but to sit together and think seriously, that how to overcome the problem of child labour which is directly related with or social and economic system. It is matter of great concern, that in spite of utmost attachment and respect for children as well as various preaching on the subject, why the tender childhood is being exploited and why children are not able to snatch their human and constitutional rights. More or less, we all are concerned and responsible for the plight of child in the present scenario and thus, let us take vow, to fight against this social evil, and let children, irrespective of caste, creed, sex, race religion and region, to develop in all respect, in order to get respective place in the society according to their legitimate expectation, which is possible by elimination of poverty and providing them free and compulsory education according to our constitutional commitment in the interest of nation building process.

If children grow in a healthy social atmosphere, they would be an asset to our society. As per Dorothy Law Nolte, Children learn from the atmosphere in which they are being nurtured.

*"If children live with criticism, they learn to condemn,*

*If children live with hostility, they learn to fight,*

*If children live with fear, they learn to be apprehensive,*

*If children live with encouragement, they learn to be confident,*

*If children live with fairness, they learn justice,*

*If children live with tolerance, they learn to be patient,*

*If children live with security, they learn to have faith in themselves and those around them.*

In the light of above theory, 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 is somewhere else. It is undisputed that if the children get proper opportunity to grow, they would certainly be an important asset of the nation.

Child labour is a burning problem all over the world, both in developed and developing countries. Though several attempts were made and are being made to eradicate/mitigate child labour at National and International levels, yet, the magnitude has been increasing at an alarming rate, particularly in the third world countries. As much as 90 percent of the child labour is concentrated in the undeveloped countries of the world.[4] The proportion of child workers to total child population in different regions demonstrates a relatively high percent in South Asia (5.4 percent), Africa (4.0 percent) and Latin America (2.6 percent).[5] When the global picture is seen, ILO estimated it at 248 million, which shows the gravity of problem. Among the countries, India possesses the highest child labour force in the world.

Participation of children in work is not a new concept particular to this age. It has existed in different forms in every society throughout the human history. Mendelievich has rightly observed:

"To a greater or lesser extent, children in every type of human society have always taken part, and still do take part, in those economic activities which are necessary, if the group to which they belong is to survive".[6] It has been pointed out in the Report of the Committee on Child Labour also that child labour is not a new phenomenon related to our age. It has existed in one form or another in all historical times. As we see in the later parts of this thesis, employment of children cuts across the geographic, social, national and religious frontiers and has become an established practice in all countries. But, it is also equally important to note that every working child does not constitute to be a part of child labour, as child labour is associated

with the presence of certain elements such as deprivation from school, cruelty, etc.

### Exploitation and Problems of Child Labour in India

The problem of child labour in India is very grave and it now becomes the focus of International community. Mr. Burton of Indiana[7] has observed in the debate of Provincial Legislative Assembly and said that Mr. Speaker, much attention was appropriately focused on human rights abuses by the Indian Government against minorities in Kashmir and Punjab during recent consideration of Human Rights 1968, the foreign aid appropriations bill for 1996. However, there exists another little known human rights problem in India, which is a bit more acute. This problem, which received little discussion, is the exploitation of child labour. The United States Government and the international community have paid little attention to the prolific employment of young children. It is time to attend to this neglect.

Exploitation of child labour in India is a grave and extensive problem. Children under the age of 14 are forced to working glass-blowing, fireworks, and most commonly, carpet-making factories. While the Government of India reports about 20 million children labours, other management organization estimate the number to be closer to 50 million. Most prevalent in the northern part of India, the exploitation of child labour has become an accepted practice, and is viewed by the local population as necessary to overcome the extreme poverty in the region. Child labour is one of the main components of the carpet industry. Factories pay children extremely low wages, for which adults refuse to work, while forcing the youngsters to slave under perilous and unhygienic labour conditions. Many of these children are migrant workers, the majority coming from northern India, who is sent away by their families to earn an income, sent directly home. Thus, children are forced to endure the despicable conditions of the carpet factories, as their families depend on their wages. The situation of the children at the factories is desperate. Most work around 12 hours a day, with only small breaks for meals to nourish. The children are very often fed only minimal staples. The maximum number of migrant child workers who cannot return back to their home at night sleep alongside of their loom, further inviting sickness and poor health. Taking aggressive action to eliminate this problem is difficult in a nation where 75% of the population lives in rural areas, most often stricken by poverty children are viewed as a form of economic security in this desolate setting, necessary to help supplement their family's income.

Parents often sacrifice their children's education as offspring are often expected to uphold their roles as wage-earning members of their clan. The Indian Government has taken some steps to alleviate this monumental problem. In 1989, Indian invoked a law that made the employment of children under age 14

illegal, except in family owned factories. However, this law is rarely followed, and does not apply to the employment of family members. Thus factories often circumvent the law through claims of hiring distant family. Also, in rural areas, there are few enforcement mechanisms, and punishment for factories violating the mandate is minimal, if not nonexistent.

### Various Measures to safeguard Child Labor in India

The Constitution of India recognized the need for granting special protection to children. The framers of Indian Constitution incorporated various important provisions for protection and betterment for children in view of the dictum "Children are the Wealth of Nation". Such provisions of the Constitution are expressly or impliedly, directly or indirectly, related with the protection of childhood, child education and elimination of child labour system in India. The spirit is perceptible in its preamble itself being reproduced below:-

"We THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN, SOCIALIST, SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens:-

JUSTICE, social, economic and political,

Liberty of thought, expression, belief, faith and worship,

Equality of status and of opportunity;

And to promote among them all

Fraternity assuring the dignity of the individual and the unity and integrity of the Nation"

The word "socialist" in the preamble is substituted by the Constitution (Forty Second Amendment) Act, 1976. It has been interpreted by the Apex Court in "D.S. Nakara v. Union of India"[8] that the principal aim of a Socialist State is to eliminate inequality in income and decent standard of life to working people. The constituent assembly has fully considered the importance of children and embodied suitable provisions for education to children and for elimination of child labour problem form the Indian society. To provide social and economic justice to all, including children, suitable provision embodied in the Constitution of India, may be enumerated below:-

Article 15 (3) – Nothing in this Article shall prevent the State from making any special provision for women and children.

Article 21 – Protection of life and personal liberty. – "No person shall be deprived of his life or personal



liberty except according to procedure established by law.”

This provision of the Constitution is very important for human race and humanity. In *“Fancis Cralie Mullin v. Administrator Union Territory of Delhi”*[9] Apex Court has interpreted, that right to live includes the right to live with human dignity and all that goes along with it, namely the bare necessities of life such as adequate nutrition, clothing and shelter and facilities for reading, writing and expressing oneself in diverse forms freely moving about and mixing and comingling with fellow human being. In view of earlier judicial verdicts, constitutional mandate and the plight of working class of the country, the Apex Court in *“Bandhua Mukti Morcha v. Union of India,”*[10] and again *“Bhandhua Mukti Morcha case”*[11] has declared that the abuse of tender age of child is bad and illegal, and observed that right to live with human dignity enshrined in Article 21 derives its life and breath from the Directive Principles of State Policy and particularly clauses (e) and (f) of the Articles 39, 41 and 42 and at least, therefore, it must include protection of health and strength of workers, men and women and of the tender age of children against abuse, opportunities and facilities for children to develop in a healthy manner and in conditions of freedom and dignity, educational facilities, just and human conditions of work and maternity relief. Virtually right to livelihood received protective umbrella under the canopy of Articles 14 and 21 of the Constitution of India. The basic facilities enumerated in the preceding lines are the minimum requirements which must exist in order to enable a person to live with human dignity and no Government has right to take any such action which will deprive a person of the enjoyment of these basic essentials. Child labour system is the enemy of child education and the saga of neglected child is somber, because they are voiceless, voteless, weak and can be sacrificial goats, when foreign exchange earnings are the new culture of the society. Some critics have rightly called the child labour as “Dollar child”.

The scope of social justice is further widened by the Apex Court in *“Chameli Singh v. State of U.P.”*[12] in which it is observed that the components of right to live includes, right to food, water, decent environment, education, medical care and shelter. By and large the provision of Article 21 of the Constitution is also related with education to all. Dealing with the expression “life” used in Article 21 of the Constitution the Apex Court in *“Consumer Education and Research Centre v. Union of India”*[13] it is held that the expression “life” assured under Article 21, does not connote mere animal existence or continued drudgery throughout life. It has much wider meaning which includes right to livelihood, better standard of life, hygienic condition at work place and leisure.

Article 23.-Prohibition of Traffic in human beings and forced labour -(1)Traffic in human being and beggar

and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

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

The provisions of this Article protect the individual not only against “State” but also against private citizen. The word “Begar” has been explained by the Apex Court in *“People’s Union for Democratic Rights v. Union of India”*[14] and held that labour or service for remuneration which is less than minimum wage, amounts to violation of Article 23. In another case Apex Court in *“Bandhua Mukti Morcha v. Union of India”*[15] laid down that when a labourer is made to provide forced labour, there is presumption that such a labour is a bonded labour. Such provision and judicial verdicts clearly indicates that if the working class is getting proper wage, he may certainly look after and maintain his children in a proper way.

Article 24.-Prohibition of employment of children in Factories etc.-No child below the age of fourteen years shall be employed to work in any Factory or mine or engaged in any other hazardous employment.

The provision directly prohibits the employment over and above the labour laws on the subject. While interpreting the nature and extent of hazardous employment, the Apex Court in *“Labour Working on Salal Project v. State of J.K.”*[16] has held that child below the age of fourteen years cannot be employed and allowed to work in construction process.

Apart from above fundamental rights, the Constitution of India provides Part-IV in which Directive Principles of State Policy embraces principles and policies pertaining to social security to all including children which are being discussed as under:-

Article 39 (e).-That the health and strength of workers, men and women and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.

Article 39 (f).-That children are given opportunity and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

While deciding a Public Interest Litigation in “Bandhua Mukti Morcha v. Union of India”[17] the Apex Court held that children are to be provided basic diet during working period. Court has categorically held that quarries are located in a particular area away from habitation. On account of necessity for workmen in the area people from different parts of the country are made to live therein along with their families under very insanitary and inconvenient conditions. Healthy care of workmen and members of their families and education of children as also the adults in such exclusive locality should be the responsibility of the employer. It is also the obligation of the employer to provide a definite source of water. To require a school to be built in such an area where there may not be adequate number of children for the purpose of schooling at the expense of the State exchequer may not be appropriate. Apart from that, these institutions should be a part of the trade.

Article 45 provides Provisions for free and compulsory education for children. The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.

The above provisions of the Article 45 is directly related to the provisions of Article 21 of the Constitution of India and it should be read in view of the spirit of the provisions contained in Article 15 (3), Article 39 (e) and Article 39 (f) to the Constitution of India. Virtually Article 45 recognizes the importance of dignity and personality of the child and directs the State to provide free and compulsory education for the children up to the age of fourteen years. Apex Court in *Mohini Jain case*,[18] has observed that the significance of child education and other related provisions of the Constitution, along with the preamble promises to secure to all citizens of the country “Justice Social, Economic and Political”, liberty of thoughts, expression, belief, faith and worship. It further provides “equality of status and of opportunity” and assures the dignity of the individual. Article 38, Article 41, Articles 46 and 47 of the Constitution, also provide for securing social, economic and political justice, but it cannot be achieved without education, in the society, which is directly related with proper education and well-being of the children. If common man would be educated and economically sound, the health, welfare and development of children would be looked after properly in furtherance of preamble and object of the Constitution of India. On the issue of this provision the Apex Court in historical land mark judgment in *M.C. Mehta case* delivered on 10.12.1996,[19] has categorically opined in Para 2, that Article 45 was, therefore, inserted in our paramount parchment casting a duty on the State to endeavour to provide free and compulsory education to children. It is known that this provision in Part-IV of our Constitution is, after the decision by a Constitution Bench of this Court in “*Unni Krishnan v. State of*

*Andhra Pradesh*”[20] decided on February 4, 1993 has acquired the status of Fundamental Right.

Article 47 states about the Duty of the State to raise the level of nutrition and the standard of living and to improve public health.-The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for the medical purposes of intoxicating drinks and of drugs which are injurious to health.

Though the provision seems to be not directly related with child labour system, yet it cannot be neglected, that if it is honestly and fully implemented, the overall development of the children may be ensured.

Keeping together the Conventions and Recommendation of United Nations Organizations, International Labour Organizations and other related agencies, active participation of National Human Rights Commission specially on the elimination of Child Labour System, constitutional commitments and provisions of various enactments on the issue of children and employment of child labour system, Apex Court of India has given catena of decisions and direction to eliminate the causes of employment of child labour in the country, which are of binding nature. Thus, we should be hopeful for brighter future of the children as well as of the Nation. Obviously our Governments are also aware of the gravity and magnitude of the problem of the children, especially of the working children and accordingly various preventive as well as curative measures are being taken to combat with the problem. Now the Government seems to be committed to implement the constitutional mandate regarding basic and primary education and to eliminate the child labour system, with a hope to convert a dream of child labour free society into reality. Let all of us to put our efforts to assist the children to grow in natural and normal way to find themselves into the “heaven of freedom” as dreamed by great poet Laureate Ravindra Nath Tagore. In view of the entire gamut on the issue of child right, child education and child labour system, nothing would be better than to give the child its “childhood”. It is to be cautiously watched that nay child is not deprived of access to basic requirement essential for proper and balanced development.

Apart from legislative measures, conducive environment is required to be created in the society. It needs a social revolution to establish human values, because social evils can be eliminated through social revolution only. No doubt, during the last decade of 20<sup>th</sup> Century some tangible work for elimination of child labour system has been started actively from all corners, but there is neither social revolution nor social pressure to the required extent. Various statutory provisions

and constitutional mandate would be futile without social acceptance, awakening and social revolution regarding this social evil. Force of law depends on social acceptance and force. To achieve the constitutional goal, it is necessary that proper implementation of laws should be ensured. Apex Court has observed that “various welfare enactments made by Parliament and State legislature are only teasing illusions and promise of unreality, unless they are effectively implemented and make the right to life to the child driven to labour a reality, meaningful and happy”. It is possible through combined effort of governments, employers, trade unions, social activists, social reformers and committed non-governmental organizations.

To cope up with the problem of child labour, it is not correct to say that Government of India and State Governments are silent on the issue. From time to time various Committees and Commission have been constituted to survey and to assess the gravity of child labour problem in the country and to suggest the Government to combat with the problem effectively. Whitley commission, Labour Investigation Committee, Labour Bureau and ultimately National Commission on Labour have conducted their studies on child labour and suggested the measures on the issue:-

**1. Whitley Commission:** The Commission stated in the report that “in many cities large number of young boys are employed for long hours and discipline is strict. Indeed there is reason to believe that corporeal punishment and the disciplinary measures of a reprehensible kind are sometimes restored to in the case of smaller children, workers as young as five years of age may be found in some of these places, working without meals, intervals or weekly rest days for meager wage.” Accordingly, recommended for legislation to fix minimum age for employment.

**2. Labour Investigation Committee, 1946:** The Committee observed that “the important fact that has emerged from the investigations, is that in various industries, mainly smaller industries the prohibition of employment of children is disregarded quite openly and owing to the inadequacy of the inspection staff, it has become difficult to enforce the relevant provisions of the law.”

**3. Labour Bureau Study:** In early fifties a study conducted by labour bureau disclosed that – “At present, therefore, in the factory industries, child labour is not a serious problem, but in small industries and cottage industries such as match industry, cashew nut processing, bidi making, carpet weaving employment of underage children, either uncertified or having false age certificate are increasing. The actual hours of work were found to be in excess of the prescribed working hours of work were found to be in excess of the prescribed working hours under different enactments. The working

conditions for children in Bidi and Glass industries continued to remain deplorable. The report further said that a redeeming feature reported by the study was that children were assigned comparatively light work wherever employed in plantation, factories and cottage and small scale industries.

**4. National Commission on Labour:** The Commission was appointed on 24<sup>th</sup> December, 1966 in the chairmanship of Dr. Gajendragadkar P.B. which submitted its report in the month of August, 1969. On the issue of child labour few alarming facts are disclosed as under:-

- (i) Quite often it is the feeling of sympathy rather than desire to exploit by employing the children.
- (ii) Inspecting staff is having the same feeling of sympathy to take lenient view of breaches of the legal provision.
- (iii) Small children are being employed to train their finger for better skill in future.
- (iv) Children are being employed to substantiate the earning of the adult family member, at the cost of education. Such parents feel that to send the child in school causes loss of earning if the child did not work and they will have to bear extra expenditure on education of such child.
- (v) The report also disclosed that the employment of children is indeed more of an economic problem than anything else.

The Commission recommended that in view of economic difficulties and constraints a way has to be found to give the child the necessary education in his more receptive years. It is also recommended that working hours should be lesser to enable them to attend schooling. Where the number of children is adequate, the employer, with the assistance of the State Government should make arrangements to combine work with education on the principle of “learning while earning”.

**5. Gurupad Swami Committee:** The Government of India has further constituted a Committee to study on the problem and to report. The Committee submitted its report in the month of December, 1979 and suggested that due to poverty amongst masses and economic constraints, it would not be practically possible to eliminate the complete child labour force of the country, thus, it would be better to eliminate the employment of children firstly from hazardous occupations and processes. The Committee further suggested that in other non-hazardous occupations, processes and industries the working conditions of children should be improved to avoid the peril of normal

development of child. Considering the entire gamut, reports and recommendations the Government of India has formulated “National Policy” for the welfare of the children, by recognizing that the children of the nation are supremely important asset. The main object of the policy consists:-

- (i) To provide informal education, technical training, balance diet, health care and recreation to the children who are away from school and engaged in any occupation and process, through special schools organized by non-governmental organizations.
- (ii) To cover the parents and guardians of such child labour under component programmes, poverty eradication programmes and rural as well as urban development programmes.
- (iii) To enforce strictly the prohibitory and regulatory provisions of different laws enacted to combat the child labour problem.

**Legislative Enactment**

India passed a comprehensive legislation on Child labour like The Labour (Prohibition and Regulation) Act, 1986. The expression “child” has been defined to mean a person who has not completed the age of fourteen years. This seems to now the uniform meaning of the term “child” under other labour Statutes.

**The Child Labour (prohibition & Regulation) Act, 1986**

This Act was brought on the Statute book to prohibit the engagement of children in certain other employment.[21] Some of the relevant sections of the Act are reproduced below:

**Prohibition of employment of children in certain occupation and process:**

No child shall be employed or permitted to work in any of the occupations set forth in part A of schedule or in any workshop where in any of the processes set forth in part B of the schedule is carried on :

Provided that nothing in this section shall apply to any workshop where in any process is carried on by the occupier with the aid of his family or to any school established by, or receiving assistance or recognition from government.

**Guidelines related to House and Period of work**

- 1. No child shall be required or permitted to work in any establishment in excess of such number of house as may be prescribed for such establishment or class of establishment.

- 2. The period of work on each day shall be so fixed that no period shall exceed three hours before he had an interval for rest for at least one hour.
- 3. The period of work of a child shall be so arranged that inclusive of his interval for rest, under sub-section (2), It shall not be spread over more than six hours, including the time spent in waiting for work on any day.
- 4. No child shall be permitted or required to work between 7 p.m. and 8 p.m.
- 5. No child shall be required or permitted to work overtime.
- 6. No child shall be required or permitted to work in any establishment on any day which he has already been in another establishment.[22]

Every child employed in an establishment shall be allowed in each week, a holiday of one whole day, for which day shall be specified. By the occupier in a notice permanently exhibited in a conspicuous place in the establishment and the day so specified shall not be attend by the occupier more than once in three month.

**Health and Safety**

- (1) The appropriate Government may by notification in the official Gazette, make rules for the health and safety of the children employed or permitted to work in any establishment or class of establishment.
- (3) Without prejudice to the generality of the foregoing provisions, the said rules may provide for all or any of the following matters, namely:
  - (a) Cleanliness in the place of work and its freedom from nuisance.
  - (b) Disposal of wastes and effluents.
  - (c) Ventilation and temperature.
  - (d) Dust and fume.
  - (e) Artificial humiliation.
  - (f) Lighting
  - (g) Drinking water
  - (h) Latrine and urinals
  - (i) Spittoons



- (j) Fencing of machinery
- (k) Work at or near machinery in motion.
- (l) Employment of children on dangerous machines.
- (m) Instructions, training and supervision in relation to employment of children on dangerous machines.
- (n) Device for cutting of power.
- (o) Self-acting machines.
- (p) Easing of new machinery.
- (q) Floor, Stairs and means of access.
- (r) Pits, Sumps, Openings in floor, etc.
- (s) Excessive weights.
- (t) Protection of eye.
- (u) Explosive or inflammable dust, gas, etc.
- (v) Precautions in case of fire.
- (w) Maintenance of buildings and
- (x) Safety of buildings and machinery.

Juvenile Justice (Care and Protection of Children) Act, 2000 designed to make the Juvenile Justice Act, 1986 more friendly. It consolidates and amends the law relating to Juveniles in conflict with law and children, in need of care and protection and treatment by catering to their developmental needs. It is further to rehabilitate them through the various institutions and creates a system to facilitate the adoption of children, besides the Hindu Adoption and Maintenance Act 1956 which has restricted application.

## CONCLUSION

It is a harsh truth that today's impatient foetus is born not as infant but as a miniature adult. He is pushed to a money spinning career at the age of two as surveyed by media elsewhere. It is the only species of all living beings, who is so brutally exploited knowingly or unknowingly, as to make the human instinct bitterly perturbed. It is therefore concluded that besides the talk of Child Rights at Universal level the most desired aspect is the protection of them from exploitation at each and every step in all the corners of the globe. Mere legislative measures would not suffice until the executive machinery and society at large is nurtured to implement the mission. Recent under-nourishment deaths of children in Khandwa District (M.P.) is eye-opening. In tribal dominated

Khalwa block in Khandwa district where at least 15 Tribal children have died of malnutrition and scores of children hospitalized, the administration on Wednesday conducted a comprehensive survey to cover all the villages in Khalwa block in association with UNICEF to identify such-children (six months to six years) who need treatment.

Child friendly schools are promoted so that children may feel at home in school besides the arrangement of their bench and recreation means for learning. NREG programme are one of the rights means in right direction as they may also help in checking drop out cases from school. The Act, 2000 for free education up to the age of 14 years need to be sincerely implemented. Such measures may create a result oriented future generation for any country. It is a paradox that on 10-10-2006 the ban on child labour came into force and violation of the ban was made punishable for imprisonment extending up to two years and a fine of Rs 20,000 or both on repeat offence, But there are still several roadside Tea stalls, eateries, houses, Agricultural farms etc. Where under 14 children can be seen working in blatant defiance of the ban. Legal awareness is not the only solution to this catastrophic problem but self-awareness among the parents and each individual of society is required to safeguard our future from extreme exploitation.

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