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**CHILD LABOUR IN INDIA: AN ANALYTICAL APPROACH****R. H. Waghmode And J. L. Kalyan**Teaching Assistant, Department of Criminology and Forensic Science, Karnatak  
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**Abstract:** Child labour is a conspicuous in India and also every part of the world, especially in developing countries, child labours usually means work that is done by children under the age of 15, which restricts or damages their physical, emotional, intellectual, social or spiritual growth as children. The international labour organization estimates that there are 250 million children worldwide, between the age of 5 and 14, who are now working.

There are many seasons that these children working severely, lack of education lack of knowledge of one's rights and cultural tradition are all contributing factors. These children are often working in severe and hazardous conditions. These children are deprived and mistreated. They are often beat or severely punished for making even the slightest mistakes.

Children are an asset to society. The welfare of the society is closely related to the welfare of the child. India has the largest work force of children in the world. They are made to work as shares in fields and factories in homes and in cottage industries. They are deprived of their childhood. Children are also self-employed as shoeshine, milk boys, rag pickers and rickshaw pullers. They are overworked and under paid. They miss the benefits of education.

The objectives of this research paper is to understand the problem and perspective of child labour, legal approaches for prevention, rights of children under International Law and National Laws and Role of Judiciary.

**Keyword:** Child Labour, ILO, Legal Approaches, Constitution, Education.

**INTRODUCTION:**

Every child is a God-gift must be nurtured with care and affection, within in the family and society. But unfortunately due to socio-economic and cultural problems, the code of child centredness was replaced by neglect, abuse and deprivation, particularly in the poverty afflicted sections of the society. While child labour is a complex problem that is basically rooted in poverty. The strategy of progressive elimination of child labour underscores India's legislative intent, and takes cognizance of the fact that child labour is not an isolated phenomenon that can be tackled without simultaneously taking into account the socio-economic milieu that is at the root of the problem. An international Moral Code of Right and Wrong Behaviour said that "human rights and fundamental freedoms are the birthright of all human beings" and as a result such rights may neither be granted nor be taken away by legislation.

The position of India in terms of child labour is not an appreciable one; with a credible estimates ranging from 60 to 115 million, India has the largest number of working children in the world. Whether they are sweating in the heat of stone quarries, working in the fields 16 hours a day, picking rags in the city streets, or hidden away as domestic servants, these children endure miserable and difficult lives. They earn little and are made to work more. They struggle to make enough to eat and perhaps to help feed their families as

well.

They do not go to school. Many of them have been working since the age of four or five, and by the time they attain adulthood they may be irrevocably sick and deformed they will certainly be exhausted, and in this way they debarred from enjoying the basic human rights, which are essential for the advancement of one's personality. According to the statistics given by Indian government there are 20 million child labourers in the country, while other agencies claim that it is 50 million.

Child labour is a conspicuous problem in India. Its prevalence is evident in the child work participation rate, which is more than that of other developing countries. Poverty is the reason for child labour in India. The meager income of child labourers is also absorbed by their families. The paucity of organized banking in the rural areas creates a void in taking facilities, forcing poor families to push their children in harsh labour, the harshest being bonded labour. That declaration stated that all ILO members have an obligation "to respect, to promote and to realize in good faith" a set of fundamental rights which include freedom of association the effective recognition of the right to collective bargaining the elimination of all forms of forced or compulsory labour the effective abolition of child labour and the elimination of discrimination in respect of employment and occupation.

Childhood is an unforgettable period of one's life so happy childhood is the right of every child and to facilitate the same is a concern of every welfare state, here happiness is not available to majority children. They exploited in work field being a labour which is essential for their sustenance. Child labour means the employment under a specified legal age; to avoid confusion, it's best to explain –“Child Labour i.e. working under the age of 14 in some way harms and exploits them physically, mentally and morally and blocks them from education. Child Labour is predominantly a rural/urban phenomenon. Rural areas account for 85% of child workers and the incidence of child labour in rural areas than in urban areas. There are some urban pockets with high incidence and visible concentration of child labour, they work in the canteens and restaurants or engaged as domestic servants, picking rags and hawking goods, etc. those who are employed in hazardous industries for instances the firework and matchbox units, pencil industries and so on. Preference for child workers are most common in unorganized sector as it is easy for the employer to circumvent laws and earn more profits by giving less wage. However, in cases where the child is working for some one else's establishment, then it is a violation of law. (Prohibition and Regulation Act, 1986) is concerned only with the engagement of children in certain employment and such lists of specific occupation (Part-A) and process (Part-B). The occupations specified in the act include work in the Railways, Ports and the sale of fireworks and process specified include Bidi making, carpet weaving and the manufacture of soaps, matches and cement, which injures their health condition and development. Problem of child labour is a socio-economic issue and need to be looked into the backdrop of poverty and unemployment. Therefore, on 1st August 2006. The ministry of labour, (Govt. of India) added the following occupations to the list of hazardous occupations, domestic servants, workers in Dhabas, Hotels, Motels, Tea shops, resorts, restaurants and other recreational centers were in effect from 10th October 2006 and banned all forms of child labour with stringent penal provisions like fine and jail. This amendment to the Child Labour Act, which extended the ban on employment of children below the age of 14 years as domestic helper in organized and non-organized sectors, has been largely ineffective till yet. The street children who have no families constitute one of the most vulnerable groups of child labour in India.

#### **CHILD LABOUR**

“The Child is father of the Man” said Wordsworth. Children begin by loving their parents; as they grow older they judge them; sometimes they forgive them. Nehru considers children as one of the greatest asset for the nation. Mahatma Gandhi says, “If we are to teach real peace in this world, and if we are to carry on a real war against war, we shall have to begin with the children.” But due to an increase in child labour in India, the future of children seems to be in dark. And at the same time the nation bears the deadly consequences of this curse of the society

Child labour is a global phenomenon. The term “child labour” is generally used to refer “all children who are less than 15 years old and forced to work on regular basis to earn livelihood for themselves and their family in

organization or non- organization and hazardous and non-hazardous condition that are exploitative and affective to their health and to their physical and mental development and deprived of education and training opportunities.

According to International Labour Organization (ILO,2002 ) “ all children under 15 years of age who are economically active excluding those who are under 5 years and those between 12-14 years old who spend less than 14 hours in a week open their jobs unless their activities or occupation are hazardous by nature or circumstances, is called “Child Labour”.

#### **INTERNATIONAL LABOR ORGANIZATION (ILO,2002)**

“All children under 15 years of age who are economically active excluding those who are under 5 years and those between 12-14 years old who spend less than 14 hours in a week open their jobs unless their activities and occupations are hazardous by nature or circumstances.”

#### **Factories Act 1948**

“A person below the age of 14 years is to be regarded as child. Therefore any physical labour undertaken by a child either under compulsion or voluntarily in organized or unorganized sector qualifies to be called as child labour”.

#### **Shri V. V.Giri**

He has given two concept of child labour ,  
1. As a bad economic activity.  
2. As an overt social evil.

#### **Homer Floks**

Child labour “as work by children that interferes with their full physical development , their opportunities for desirable minimum of education of their needed recreation”

#### **Causes**

Child labour is a socio-economic problem. Parents for the reason of poverty have to send their children in order to supplement their income derived from child labour, however meagre are essential to sustain the family. The major reason that creates the circumstances for a child to work as a child labour includes the following.

Socio-economic backwardness

Illiteracy

Poverty

Over population

Lack of education facilities

Unemployment

Ignorance of parents about the importance of education.

Ignorance of impact on children of labour.

Government apathy

Gangrade (1978) believes that child labour is a product of such factors as customs, traditional attitude, and lack of school or reluctance of parents to send their children to school, urbanization, industrialization, migration and so on. In addition to the above mentioned factors responsible

for child labour,

For much of human history and across different cultures, children less than 17 years old have contributed to family welfare in a variety of ways. UNICEF suggests that poverty encourages child labour. The report also notes that in rural and impoverished parts of developing and undeveloped parts of the world, children have no real and meaningful alternative. Schools and teachers are unavailable. Child labour is the unnatural result. A BBC report, similarly, concludes poverty and inadequate public education infrastructure are some of the causes of child labour in India.

Between boys and girls, UNICEF finds girls are two times more likely to be out of school and working in domestic role. Parents with limited resources, claims UNICEF, have to choose whose school costs and fees they can afford when a school is available. Education girls tend to be a lower priority across the world, including India. Girls are also harassed or bullied at schools, sidelined by prejudice or poor curricula, according to UNICEF. Solely by virtue of their gender, therefore, many girls are kept from school or drop out, and then provide child labour.

International Labour Organization (ILO) and spreading smiles through education organization (OSSE) suggests poverty is the greatest single force driving children into the work place. Income from a child's work is felt to be crucial for his/her own survival or for that of the household. For some families, income from their children's labour is between 25 to 40% of the household income.

According to a 2008 study by ILO, among the most important factors driving children to harmful labour is the lack of availability and quality of schooling. Many communities, particularly rural areas do not possess adequate school facilities. Even when schools are sometimes available, they are too far away, difficult to reach, unaffordable or the quality of education is so poor that parents wonder if going to school is really worth. It government run primary schools, even when children show up, government paid teachers do not show up 25% of the time. The 2008 ILO study suggests that illiteracy resulting from a child going to work, rather than a quality primary and secondary school, limits the child's ability to get a basic educational grounding which would in normal situations enable them to acquire skills and to improve their prospects for a decent adult working life. An albeit older report published by UNICEF outlines the issues summarized by the ILO report. The UNICEF report claimed that while 90% of child labour in India is in its rural areas, the availability and quality of schools is decrepit; in rural areas of India, claims the old UNICEF report, about 50% of government funded primary schools that exist do not have a building, 40% lack a blackboard, few have books and 97% of funds for these publicly funded school have been budgeted by the government as salaries for the teacher and administrators. A 2012 Wall Street Journal article reports while the enrollment in India's school has dramatically increased in recent years to over 96% of all children in the 6-14 year age group, the infrastructure in schools, aimed in part to reduce child labour.

The National Sample Survey and the Census, two major official sources of data on child employment, do not define 'child labour.' The figures for 'child labour' are derived

from using age-wise distribution of workers. Workers are defined as "those who engage in economic activities" and 'economic activity' is defined as "any activity resulting in production of goods and services that add value to national product." The major exclusions are 'own account' processing of primary products. Similarly, activities relating to the production of primary goods for 'own consumption' are restricted to only the agriculture sector and do not include mining and quarrying activities. Further, "activities like prostitution, begging, smuggling etc., which though fetched earnings, are by convention, not considered as economic activities."

It is clear that the labour force, as defined by these sources, is associated with their contribution towards the national product based on economic accounting model. This definition of labour is narrow, as it is modeled in respect to monetary contribution to national product, so far as analysis of child labour is concerned. This may not include all work related activities performed by children that hinder their protection and development.

#### CHILD ACTIVITIES

Rodgers and Standing (1981) categorized activities in which children participate into 9 categories: domestic work; non-domestic, non monetary work; tied or bonded labour; wage labour; marginal economic activities; schooling; idleness and unemployment; recreation and leisure; reproductive activities. The International Labour Conference held in 1983 used this categorization to explain all the activities performed by children. The report adopted the first five categories of activities as 'economic activities in which children participate.' In our official statistics (NSSO), tied or bonded labour, wage labour and major part of marginal activities are generally characterized as 'labour' or 'work', but domestic work is characterized as 'domestic duties.'

Let us examine these five categories of child activities briefly:

#### DOMESTIC WORK

Children undertake domestic chores in almost all societies. This may take the form of simple cleaning tasks and washing clothes to sibling-care and fetching water or collecting firewood, depending on the nature of household needs. Many of these domestic works are not imposed upon children; nonetheless often they are 'actively' promoted in the name of child-rearing process.

Non-domestic, Non-monetary Work: According to the report of ILC, 1983, this forms a major part of child activity in subsistence communities, encompassing farm work and collection of goods, tailoring, weaving etc. although these activities are non-domestic, they are non-remunerative as well, and therefore do not qualify for being part of the conventional definition of 'labour' or 'work.' NSSO captures these activities of children as well. According to NSSO, 1999, approx 2.32% of rural girls (5-14 years) and 0.53% of urban girls are involved in such activities simultaneously performing domestic duties. The corresponding figures for boys are 0.32% and 0.00%. The gender stereotyping of such activities is again clearly visible

because of non-remunerative nature of these activities.

#### **BONDED LABOUR AND WAGE LABOUR**

Bonded labour arises as one of the obligations to landlords/ occupiers where by children's labour is pledged as part-payment of the debts. The parents in need of money have no other option but to pledge children's services against a paltry sum. Although poverty and absence of livelihood options are cited as the major reasons for bonded labour, it is actually demand factor, which attribute value to child labour. The process of bonded labour has in fact been interpreted broadly by the Indian judiciary so as to include those employments that do not provide minimum wage to the workers.

The wage employment covers "children working as part of a family group or individually in agriculture, manufacturing and services, either on a piece rate or time rate basis, as regular or casual workers." Children as part of a family group are very common in agriculture production. In the last two decades, with greater in formalization of manufacturing sector, such as system can widely seen in manufacturing sector as well, such as in carpet making, bifi industry etc.

In both cases, the relations of production actually play a major role in creating exploitative conditions of child labour, as children do not work within the 'protective' realm of the family, and even if they do, the external relations of production overshadows the other relations.

#### **MARGINAL ECONOMIC ACTIVITIES**

These activities are "typically characterized by their irregularity and short-term nature, though some of those individuals practicing the activities may do so on a regular, long term basis" This type of work includes the selling of news papers, sweets and other small items; running errands; shining shoes and sorting rubbish. Most of the activities undertaken by street children as part of their livelihood needs come under this category. In most of the cases, street children are 'self employed,' in the sense that children are not under one employer. However, that does not discount the incidence of exploitative elements, as children work and live under difficult circumstances.

#### **CHILD LABOUR: FAMILY, COMMUNITY AND STATE**

When we understand child labour through this demand-supply matrix, it would be wrong to call for poverty alleviation interventions as major intervention for elimination of child labour. Poverty itself is the result of various factors that include social discrimination and political exclusion of marginalized sections of population. As has been stated above, child labour is an outcome of one or more of the structural violence characterized by three kinds of violence, viz. gender discrimination, caste hierarchy and class prejudices. Each of this violence exacerbates the vulnerabilities of children.

#### **CHILD LABOUR AND STATE RESPONSIBILITY:**

"By independence we have lost the excuse of blaming the British for anything going wrong. If hereafter

things go wrong, we will have nobody to blame except ourselves." Earlier, we blamed the colonial government; today we blame the Indian State. Are we blaming 'ourselves' for all the wrongs happening in the society? In other words, when we blame the State for non-performing or excesses, do we blame the State as an institution external to us or as an institution internal to us? What is State? Our Constitution provides the basic framework for governance. Part III of the constitution makes it clear that the State holds the primary responsibility for ensuring all citizens, access to all the fundamental rights and also for the fulfillment of all the promises enshrined in the constitution. Article 12 defines the State as "the Government and Parliament of India.

#### **IMPACT OF CHILD LABOUR ON CHILDREN**

When one theoretically defines "Child Labour," there is an attempt to simplify child labour based on the form of the labour relationship (within the family, with family but outside home, outside the family as a wage labourer or as a bonded labourer or as a working children in the street and self employed but having a multiple labour relationships) or by the type of activity (hazardous, non hazardous, light, heavy, all following their understanding as applicable to adult labourer) or by the working condition. The above parameters cannot comprehend the effect the activity has on the child. Child activities as categorized above can have the same description but consists of different workload, health risks and psychological impact. Hence, there is a need for a detailed examination of the type of work, the risks involved for the children and the working conditions, social vulnerabilities and gender issues etc. that are inherent components of work.

Although there are studies on impact of labour on children from the traditional "hazardous" framework, little have been done on impact of labour on children's development. Therefore, still child labour that are physically hazardous only are seen as child labour. In this regards, come micro-level studies with child development framework may offer a deeper understanding on the impact of child labour. Such sector wise studies need to be undertaken to comprehensively document the impact of child labour on children, especially those working in agriculture and within homes. Similarly, in cases of children with disability, it is necessary to study the reasons for the onset of disabilities in children, especially those who are born with disabilities. The role of child labour among the causes could be one study. There are data which show that even some of the disabled children are working. It is necessary to find out how child labour prohibits these children from accessing their rights.

Finally, children are not only one of the major victims of war, but also are 'recruited' as "soldiers" to defend the interests of nation, group, ethnic communities and social groups.

This is an area which is not researched in the Indian context.

#### **LEGAL APPROACHES**

The Constitution of India has an elaborate provision on rights of children. There are certain articles in the constitution that specifically address the problem of child

labour, and there are others that indirectly speak about protecting children from exploitative labour.

**Children in the Constitution of India Part III Fundamental Rights: 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.

**Article 21-A Right to Education**

The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.

**Article 23 Prohibition of Traffic in human beings and forced labour**

Traffic in human beings 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 the law.

**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.

**Part IV Directive Principles of State Policy: Article 39 (e)**

The State shall, in particular, direct its policy towards securing 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)**

The State shall, in particular, direct its policy securing that children are given opportunities 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.

**Article 41 Right to work, to education and to public assistance in certain cases**

The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, oldage, sickness and disablement, and in other cases of undeserved want.

**Article 45 Provision 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 (below the age of six years.)

In the first case, there is a clear cut reaction from the civil society, rightly, that this is totally unacceptable to make the poor parents liable for something that is due to states nonperformance. In the second case, this provision is not

seen as the state having its responsibility.

**Part IVA Fundamental Duties**

**Article 51A**

**(k)**

Fundamental Duty\*- It shall be the duty of every citizens of India, who is a parent or guardian to provide opportunities for education to his child or as the case may be, ward between the age of six and fourteen years.

**Legal Action Against Child Labour in India**

India has legislation against child labour since 1986 which instead of preventing child labour, allows work by children in non hazardous industry. Social activist Hemant Goswami had moved the courts against this particular provision and for the failure of the Government to prevent violation of child rights and widespread child labour, his efforts against exploitation of children has forced the government to constitute Commission for Child Right in the State of Haryana, Punjab and Chandigarh. On 9th of April 2013, the Punjab and Haryana High Court gave landmark order on the writ-petition (PIL CWP2693 of 2010) moved by Hemant Goswami. The court, accepted all the contentions and suggestions put forward by Hemant Goswami (who argued the case in-person) and directed that;

There shall be total ban on the employment of children up to age of 14 years, be it hazardous or non-hazardous industries. There shall be no forced labour even for children between the age of 14 years to 18 years and when ever a child above the age of 14 years is forced to work, it has to be treated as an offence under section 374 IPC and it is to be dealt with sternly.

When any matter is brought to the notice of the State Commission involving violation of child rights even where a child above the age of 14 year is employed, the State Commission under the CPCRA Act will have the jurisdiction to deal with same and pass necessary directions.

The violators have to be dealt with effectively and in a speedy manner. Therefore, wherever violations are found, cases under the provisions of Part-IV of the Child Labour Prohibition Act have to be registered without delay in each and every case.

Wherever the officers fail or neglect to take effective action immediately; apart from taking necessary disciplinary action, action can also be taken, in appropriate cases, under section 166 IPC against such offers.

There is also a need for rehabilitation of such children in the society. (Scheme suggested by Hemant Goswami was adopted by the Court, with the following main points; a) moving out the child from the exploitative environment (b) Ensuring Education (c) Ensuring Food/ Meals/Clothes/Necessities (D) Penalty/Compensation should be for the benefit of the Child (e) Regular Monitoring.)

The Chairperson of "State Commissions for Protection of Child Rights" should be a person who has been Judge of the High Court and the process of selection of the other six members of the "State Commissions for Protection of Child Rights" should entail issuance of public advertisement for

inviting applications, interviewing eligible candidates and recommending a panel of names of suitable persons. States of Punjab and Haryana as well as U.T., Chandigarh shall also ensure that the State Commissions become fully functional by appointing Chairpersons and members. Children's Courts with specialized infrastructure be created.

#### **RIGHTS OF CHILDREN UNDER NATION LAWS**

India has all along followed a proactive policy in the matter of tackling the problem of child labour. India has always stood for constitutional, statutory and development measures required eliminating child labour. The Indian Constitution has consciously incorporated provisions to secure compulsory universal elementary education as well as labour protection for children. Labour Commissions in India have gone into the problems of child labour and have made extensive recommendations. The Constitution of India, too provides certain rights to children and prohibits child labour. Such provisions are as follows:

No child below the age of 14 years shall be employed in any factory or mine or engaged in any other hazardous work.

State, in particular, shall direct its policy towards securing that the health and strength of workers, men and women and the tender age of the children are not abused and that citizens are not forced by economic necessity to enter vocations unsuited to their age or strength.

Children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitations and against moral and material abandon.

The state shall endeavour to provide within the period of 10 years from the commencement of the Constitution, free and compulsory education for all children until they complete the age of 14 years.

The state shall provide free and compulsory education to all children between the ages of six to 14 years in such a manner as the state may by law determine.

Who is parent or guardian to provide opportunities for education to his child or the case may be ward between the age of six and 14 years.

#### **The Child Labour (Prohibition and Regulation Act)1986**

In 1979, Government formed the first committee called Gurupadswamy Committee to study the issue of child labour and to suggest measures to tackle it. The Committee examined the problem in detail and made some far-reaching recommendations. It observed that as long as poverty continued, it would be difficult to totally eliminate child labour and hence, any attempt to abolish it through legal recourse would not be a practical proposition. The Committee felt that in the circumstances, the only alternative left was to ban child labour in hazardous areas and to regulate and ameliorate the conditions of work in other areas. It recommended that a multiple policy approach was required in dealing with the problems of working children.

Based on the recommendations of Gurupadaswamy Committee. The Child Labour (Prohibition and Regulating) Act, 1986 was passed. This Act prohibits the employment of children below the age of 14 in factories, mines and in other

forms of hazardous employment, and regulates the working conditions of children in other employment. Sec.3 of this Act imposes prohibition on employment of children in dhabas, restaurant, hotels, motels, tea shops, resorts, spas or other recreational centre's etc. (23) Recently, child labour is totally banned by the government with free education and other facilities to the child up to the age of 14. The list of hazardous occupations and processes is progressively being expanded on the recommendation of Child Labour Technical Advisory Committee constituted under Act(24.)

#### **Legal Frame work**

Child labourers are exploited, exposed to hazardous work conditions and paid a pittance for their long hours of work. They belong to the unorganized labour force. The constitution of India says that:

Child labourers are exploited, exposed to hazardous work conditions and paid a pittance for their long hours of work. They belong to the unorganized labour force. The Constitution of India says that:

(a)No child below the age of 14 years shall be employed to work in any hazardous employment (Article-24.)

(b)Childhood and youth are to be protected against exploitation and against moral and material abandonment (Article-39(f).

(c)The State shall endeavour to provide within a period of 10 year from the commencement of the Constitution free and compulsory education for all children until they have completed the age of 14 years (Article-45).

A survey conducted by a research group sponsored by the Ministry of Labour, Government of India (Joshi, 1986) has reported that of the estimated 102.3 million households in the country, 34.7% had working children.

Seventy nine percent working children are in the rural areas. Two thirds of the working children belong to the 12-15 years age group and the rest are below 12 years. A survey conducted by the Operations Research Group (ORG) Baroda (Vadodara) in 1985 had put the figure of working children are 44.5 million.

#### **Rights of Children under International Law**

The concept of equality of all human beings, as embodied in the Universal Declaration of Human Rights of 1948 stipulates under Article 25 para 2 that childhood is entitled to special care and assistance. The above principle along with other principles of the Universal Declaration concerning child were incorporated in the Declaration of the Rights of the Child of 1959. The International Covenant on Civil and Political Rights under Articles 23 and 24 and the International Covenant on Economic, Social and Cultural Rights under Article 10 made provisions for the care of the child. However the International Labour Organization (ILO) provides universal standards and guidelines. The ILO, a specialized agency of the UN, aims to provide guidance and standards for labour practices around the world. The International Convention and other International instruments, which deal with the subject of child labour are as follows.

Convention on the Rights of the Child, 1989.  
Worst Form of Child Labour Convention, 1999.  
Worst Form of Child Labour Recommendation.

The International Programme on the Elimination of Child Labour (IPEC) is a global programme launched by the International Labour Organization in December, 1991. India was the first country to join it in 1992 when it signed a Memorandum of Understanding (MOU) with ILO. The MOU that expired on 31.12.1996 has been extended from time and has recently been extended till 31, December, 2006. The long-term objective of IPEC is to contribute to the effective abolition of child labour. IPEC India has, during the period 1992-2002, supported over 165 Action Programmes.

#### DISCUSSION

The lack of clarity in the Child Labour (prohibition and regulation) Act, 1986 in regard to child labour for work from home category has helped perpetuate the exploitation of children

In 2012, the Union Cabinet cleared and amended the Child Labour (prohibition and regulation) Act, 1986. The bill has proposed a ban on all forms of child labour for children who have not completed 14 years of age. However, there is no ban as of now on children to work in home-based work. This means potential for uncontrolled employment of children in bidi-rolling, embroidery work and making fire crackers as these are sub-contracted work that children do at home.

The government, however, says it has rescued several under age children employed at home. According to a labour and employment ministry 2012 report, 1.2 lakh domestic child labourers were rescued from different parts of India in 2011-2012. The figure recorded in 2011-2012 is 32 percent higher over the previous year.

The report further shows that Uttar Pradesh followed by Bihar and Madhya Pradesh are the states with highest number of domestic child labour rescues during 2011-2012.

While Uttar Pradesh had 29947 number of rescued domestic child labourers, Bihar and Madhya Pradesh had 19673 and 17589 rescued domestic child labourers respectively.

International Labour Organization (ILO) states that child labour may be defined in a number of different ways, and a different definition yields a different estimate of child labour in India as well as other countries. According to ILO, children or adolescents who participate in work that does not affect their health and personal development or interfere with their schooling, is not child labour, rather it may generally be regarded as being something positive. He is also a man who their parents around the home, assisting family or earning pocket money outside school hours and over holidays. These kinds of activities, suggests ILO, may contribute to children's developmentally, socially or morally dangerous and harmful to children, or work whose schedule interferes with their ability to attend regular school, or work that affects in any manner their ability to focus during school or experience healthy childhood.

UNICEF defines child labour differently. A child,

suggests UNICEF, is involved in child labour activities if between 5 to 11 years of age, he or she did at least one hour of economic activity or at least 28 hours of domestic work in a week, and in case of children between 12 to 14 years of age, he or she did at least 14 hours of economic activity or at least 42 hours of economic activity and domestic work per week. UNICEF in another report suggests, "Children's work needs to be seen as happening along a continuum, with destructive or exploitative work at one end and beneficial work-promoting or enhancing children's development without interfering with their schooling, recreation and rest- at the other. And between these two poles are vast areas of work that need not negatively affect child's development.

Some child rights activities argue that child labour must include every child who is not in school because he or she is a hidden child worker. UNICEF, however, points out that India faces major shortages of schools, classrooms and teachers particularly in rural areas where 90 percent of child labour problem is observed. About 1 in 5 primary schools have just one year teacher to teach students across all grades.

According to official sources of the labour department, they are facing with a practical problem when dealing with such cases in the in organized sector. They aren't able to charge or fine the employers in such cases as they simply move shop. Officials said that children working in dhabas and other roadside establishments are employed by the unorganized sector. "Whenever we get a notification of such cases, we immediately investigate the matter. But according to law, we are supposed to fine the employer Rs.20,000. However, the employer just disappears and as a result the proceedings come to a halt," said a labour department official. According to officials of Child line a Union government initiative planned to curb child labour and crimes against children, there are catenas of such cases pending with them wherein the labour department and other government bodies have been unable to take action as the accused work in an unorganized sector and are difficult to trace. The children are victimized in every respect that means they are condemned to the life of misery squator, ignorance and probably premature death. In India, besides poverty one major factor which has a strong relationship with child labour is caste. Lower caste children tend to be pushed into child labour of their family's poverty and social stigma and the attitudes of parents also contributes to the child labour. Some parents feel that children should work in order to develop skills useful in the job market, instead of taking advantage of formal education. Indeed the stark poverty compels parents to engage their children in any available opportunity, so that more hands can feed their half-starved bellies and in the context hunger evaporates their affection and the concern for the child's future. The combination of poverty and the lack of a social security network are also responsible for banned child labour. Non-availability of accurate and up to date on child labour has been a major handicap in planned intervention for eradication of this social evil. To prevent and to safe guard the interest and to prohibit child labour number of legislation have been enacted and child labour (Prohibition and Regulation Act) 1986 is one of them. The constitution of India Article-24, Article 15(3) and Article 23 and Article 39(e) and

development measures that are required to eliminate the child labour. These constitutional guarantees are only in the paper and reality is very shocking. There is no social security for children belonging to poor and weaker section of the society. They do not even redress their grievances before the authority if any harm caused to them therefore stringent action by the agency and enforcement of laws is only can check the malice. The legal aid movement is any eye wash and temporary in every respect. The Apex Court in a significance judgment given on 10th December 2006, aimed at preventing exploitation of children and safe guarding their economic, social and humanitarian rights, banned child labour on hazardous jobs and ordered setting up a child labour "Rehabilitation Welfare Fund." It further brought into drastic changes in the legislative endeavour to protect child labour.

The main focus of the National Child Labour Project is to eliminate hazardous conditions for children by providing "basic needs" (food, clothing and shelter) and education. According to the Indian Ministry of Labour, children under the age of eight have been encouraged to stay in school with the support of Sarva Siksha Abiyan (giving education to all), a part of the Ministry of Human Resource Development. Older child labourers are mainstreamed into schools.

#### **The right of Children to Free and Compulsory Education Act of 2009**

The law mandates free and compulsory education to all children aged 6 to 14 years. This legislation also mandated that 25 percent of seats in every private school must be allocated for children from disadvantaged groups and physically challenged children.

India formulated a National Policy on Child Labour in 1987. This policy seeks to adopt a gradual & sequential approach with a focus on rehabilitation of children working in hazardous occupations. It envisioned strict enforcement on Indian laws on child labour combined with development programmes to address the root causes of child labour such as poverty. In 1988, this led to the National Child Labour Project (NCLP) initiative. This legal and development initiative continues, with a current central government funding of Rs.602 crores, targeted solely to eliminate child labour in India. Despite these efforts, child labour remains a major challenge for India.

#### **SUGGESTIONS**

Though the Indian government is working hard to eliminate the problem of child labour, it has not succeeded to the extent expected. In India, the focus must be on vocational training and teaching various necessary skills, as was the plan of the Father of the Nation, Mahatma Gandhi. India should forcefully implement compulsory education for the age group six to fourteen; this must be implemented on a much larger scale in every state. I don't understand why it is being ignored year after year, because it was the primary act of the constitution. I feel ashamed to say that the right to education is often ignored in India, even though it is among the six fundamental rights of the Constitution. The Mid-day Meals programme, the Sectors website of the Indian

Government states, which is already in progress, should be improved in such a way so that every child gets free meals in government schools in every state, not just in some. The Mid-day Meals programme works to enhance enrollment and attendance in schools, while also improving nutritional levels among children. Poor students will at least come to school to eat, and get an education in the process. By doing this, we can eliminate a little bit of poverty and malnutrition because kids will want to go school.

Non-governmental organizations, or NGOs, should also play a prominent role in finding child labourers and counseling them to study. People who employ child workers should be strictly punished under the Child Protection and Women and Child Development Acts, and under the Indian Constitution. Finally, print and electronic media should spread awareness of the seriousness of the problem of child labour.

By fulfilling these minimum needs of poor people and children, child labour can be eliminated by 2010, which is India's vision—the vision of being a developed and healthy country.

It is not only the responsibility of the government to address the issue of child labour, but also the responsibility of every citizen of India. No one should be skeptical or hopeless about how an ordinary person can help reduce child labour. People simply have to learn about the issue, support organizations that are raising awareness, and even provide direct help to individual children. Individuals should not employ children for domestic or commercial work. Since the government is strict with child labour laws, the citizens should pass on information about child labour violations to the government.

The Govt should take proper effective steps to decrease the population and give the employment to the parents of child labour. Necessary practical steps should be taken to educate the children. Provided the necessary sufficient funds to the organizations working for the education and removal of child labour.

#### **CONCLUSION**

Child labour is a significant problem in India. The prevalence of it is shown by the child work participation rates which are higher in Indian than in other developing countries.

The major determinant of child labour is poverty. Even though children are paid less than adults, whatever income they earn is of benefit to poor families. In addition to poverty, the lack of adequate and accessible sources of credit forces poor parents to engage their children in the harsher form of child labour—bonded child labour. Some parents also feel that a formal education is not beneficial, and that children learn work skills through labour at a young age. These views are narrow and do not take the long term developmental benefits of education into account. Another determinant is access to education. In some areas, education is not affordable, or is found to be inadequate. With no other alternatives, children spend their time working.

The Constitution of India clearly states that child labour is wrong and that measures should be taken to end it. The government on India has implemented the Child Labour

Act in 1986 that outlaws child labour in certain areas and sets the minimum age of employment at fourteen. This act falls short of making all child labour illegal, and fails to meet the ILO guideline concerning the minimum age of employment set at fifteen years of age. Though policies are in place that could potentially reduce the incidence of child labour, enforcement is a problem. If child labour is to be eradicated in India, the government and those responsible for enforcement need to start doing their jobs. Policies can and will be developed concerning child labour, but without enforcement they are all useless.

The govt should take proper effective steps to decrease the population and give the employment to the parents of child labour. Necessary practical steps should be taken to educate the children. Provided the necessary sufficient funds to the organizations working for the education and removal of child labour. There should be effective implementations of child protective laws. There should be necessary prosecution of child labour defaulters. The involvement of the religious leaders, trade unionist and non government organizations and to tackle the child labour by forming advisory committees on child labour on block level should be there. The authorities should not bend before the pressure of the politicians while tackling the problems of child labour.

At present, in spite of policy of the government regarding removal of child labour. The various steps taken in this direction and the laws passed about it haven't controlled the ongoing child labour. This is possible only with the co-operation of all sections of the society and the law enforcement agencies and by removing or minimizing the causes of child labour. The main thrust should be on controlling the population of the country, education of the children and providing sufficient funds for its removal from the gross domestic product of India.

12 million child labourers in India, according to the 2001 national census, who are exploited by industries, institutions and landlords (Gentleman, New York Times, 2/18/2007). Male children may also become beggars and female children may become prostitutes to survive. In rural India child labour is seen in many areas; these children are often caught in a cycle of poverty. When they grow up, because of their own illiteracy and poverty, they may also make their children work at young ages.

What is child labour? It is important to note that not all work done by children is considered "child labour." According to the United Nations International Labour Organization (ILO, if children under age of 14 do work that in some way harms or exploits them physically, mentally or morally or blocks them from education, then that work is considered child labour (UNICEF.)

Today, however India is one of the largest democratic countries in the world. It has declared the right to education as a fundamental right in the constitution, but nonetheless the country faces a huge problem of child labour. Though the major cause of child labour in India is like in many other countries, poverty, other causes include over population, illiteracy and lack of awareness. Because of poverty, children are sent to work to support their families. I have seen many instances of small children in villages caring

for the cows and doing other household work. Even in urban areas many children do domestic work to help support their families.

In addition to the above causes of child labour, people are often not aware of their rights because they are illiterate and there are few proper awareness programmes to educate them. According to the Government of India 2001 census, there are an estimated 12.6 million child labourers in India under the age of 14. India also has the highest number of children in hazardous work in the world. They are involved in factories manufacturing beedis (cigars), diamonds, fireworks, silk and carpets, glass and bricks (2001) Census of India.

To reduce child labour, the government of India has implemented a number of child welfare laws. The Child Labour Prohibition and Regulation Act was enacted in 1986; the National Policy on Child Labour was introduced in 1987, rehabilitation children and giving them education, nutritious food, and vocational training with a minimum stipend for poor families. Also, the National Child Labour Project (NCLP), launched in 1988, offers these services to rural interior populations (Government of India, Ministry of Labour, National Child Labour Project).

The main focus of the National Child Labour Project is to eliminate hazardous conditions for children by providing "basic needs" (food, clothing and shelter) and education. According to the Indian Ministry of Labour, children under the age of eight have been encouraged to stay in school with the support of Sarva Siksha Abhiyan (Giving Education to All), a part of the Ministry of Human Resource Development. Older child labourers are main streamed into schools, also with the help of this organization.

Though the Indian government is working hard to eliminate the problem of child labour, it has not succeeded to the extent expected. In India, the focus must be vocational training and teaching various necessary skills, as was the plan of the Father of the Nation, Mahatma Gandhi. India should forcefully implement compulsory education for the age group six to fourteen; this must be implemented on a much larger scale in every state. I don't understand why it is being ignored year after year, because it was the primary act of the constitution. I feel ashamed to say that the right to education is often ignored in India, even though it is among the six fundamental rights of the Constitution. The Mid-day Meals programme, the Sectors website of the Indian Government states, which is already in progress, should be improved in such a way so that every child gets free meals in government schools in every state, not just in some. The Mid-day Meals programme works to enhance enrollment and attendance in schools, while also improving nutritional levels among children. Thanks to this, poor students will at least come to school to eat, and get an education in the process. By doing this, we can eliminate a little bit of poverty and malnutrition because kids will want to go to school (Government of India.)

Non-governmental organizations, or NGOs, should also play a prominent role in finding child labourers and counseling them to study. People who employ child workers should be strictly punished under the Child Protection and Women and Child Development Acts, and under the Indian

Constitution. Finally, print and electronic media should spread awareness of the seriousness of the problem of child labour. By fulfilling these minimum needs of poor people and children, child labour can be eliminated by 2020, which is India's vision-the vision of being a developed and healthy country.

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Corporation must also take on the problem of child labour as one of their corporate social responsibility programmes so that a lot more progress can be achieved. Voluntary groups from companies should focus on some of the poorer areas and take care of the education of the children in those areas. Many NGOs are already working to reduce child labour in the country.

Several incidents, including the encounter with the boy crossing the street, have encouraged me to join Lead India 2020, the second national youth movement in India, headed by Dr.A.P.J. Abdul Kalam, the former president of India. The mission of this movement is to teach and train unfortunate rural children to become global leaders. As its main motto says, "Individual transformation alone leads to the transformation of the country." We aim to provide basic awareness in education, values, physical, mental and social development, along with patriotic spirit and scientific temper. This movement allowed me to interact with thousands of illiterate and abandoned children.

Child labour is a national shame and one of the forgotten issues of our country. Undoubtedly, poverty is one among other on the seedbed for child labour and enhances the problem greatly. It is the socially and economically deprived section of the population who are working. Hence, enforcement alone cannot help to solve it. Thrust area is rehabilitation of these children and on improving the economic conditions of their families. Ample of ground come to the research but it is usually two in my view; that is one a concern for the poor household that depends on the earnings of the child workers and secondly the inability to enforce a ban on child labour in a situation of poverty.

The health conditions that have a deleterious impact on their physical ability and development, multiple remedies need to be adopted. The law must be enforced stringently, with strong mechanism for inspection and prosecution against the daredevils. Rescued children need speed educational intervention to prepare them for regular schools. It should also be made mandatory for all employers to take steps for intellectual, vocational and educational well-being

and upliftment of child workers who were so far engaged by them. The Non-Govt. Organizations should make it pertinent duty to convince the parents that a promising future awaits for them and for their children if they send their kids to the schools instead of work field and no matter in the sea of educated unemployment their children may get through and can expect a bright future instead of perpetuating their poverty and degradation by not doing so.

Many NGOs like Care India, Child Rights and You, Global March against Child Labour, etc. have been working to eradicate child labour in India. The child labour can be stopped when knowledge is translated into legislation and action, moving good intention and ideas into protecting the health of the children. The endurance of young children is higher and they cannot protest against discrimination. Focusing on grassroots strategies to mobilize communities against child labour and reintegration of child workers into their homes and schools has proven crucial to breaking the cycle of child labour. A multidisciplinary approach involving specialist with medical psychological and socio-anthropological level is needed to curb this evil. It is in this context that we have to take a re look at the landmark passing of the Right of Children to Free and Compulsory Education (RTE) Act, 2009, which marks a historic moments for the children of India. For the first time in India's history, children will be guaranteed their right to quality elementary education by the State with the help of families and communities. The world cannot reach its goal to have every child complete primary school by 2015 without India. Although there have been significant improvements in the proportion of children from socially disadvantaged groups in school, gaps still remain, Girls are still less like to enroll in school than boys in 2005, for upper primary school (Grade 6-8) girls enrollment was still 8.8 points lower than boys for Scheduled Tribes (ST) the gender gap was 12.6 points and it was 16 points for Scheduled Castes (SC). "Bringing 8 million out-of-school children into classes at the age-appropriate level with the support to stay in school and succeed poses a major challenge. Substantial efforts are essential to eliminate disparities and ensure quality with equity. Successful implementation may certainly go a long way in eradicating child labour in India.

In addition to the above causes of child labour, people are often not aware of their rights because they are illiterate and there are few proper awareness programmes to educate them. According to the Government of India 2011 census, there are an estimated 13.6 million child labourers in India under the age of 14. India also has the highest number of children in hazardous work in the world. They are involved in factories manufacturing beedies (cigars), diamond, fireworks, silk and carpets, glass and bricks (2011 Census of India.)

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