Abstract

Throughout history, in virtually every culture, children have worked. It is largely through work, usually in a family context, that children are socialized in many adult skills and responsibilities through work, they not only earn status as family and community members, but they acquire skills which promote their self esteem and confidence as capable and independent human beings. However, the burden of work may become too great while its educational and social role is neglected it can become a threat to their health and development. Work by children is not altogether harmful and bad if properly controlled and regulated. Child labour, actually viewed, more as a social problem of a greater magnitude than other related problems. Connected with the development of human beings, is abnormally high in underdeveloped and developing countries of the world.

It is the duty of the State to protect children's right by legislative and other means because the needs and requirements of the child is the primary grund norm of this universe. The investment in the child is, therefore, investment in the future society of a nation that is dreams build. There is hardly any product in India that has no child labour behind it. Carpet, bangles, brick, matchbox, crackers, wool and many other products have the invisible stamp of the toil put in by children caught in the web of poverty and an exploitation social system. Indeed, child labour in India comes cheap and easy.

A survey made by an NGO "Bachpan Bachoo Andolan" reveals that most of the children below 14 years of age and are paid only Rs. 130/- to 300/- per month on average. Labour inspector rarely visits. When visiting they are being properly looked after by the employer. Subject of child labour is often discussed in Conferences, Seminars and Lectures and usually it is concluded that child labour and exploitation of child labour are deep rooted problems because of unemployment, poverty, overpopulations, illiteracy and handling down of family trades. If the society gives whatever they want, the law for their protection is not necessary. Hence the eradication of child labour is difficult rather impossible.

In this thesis, an attempt is being made to analyze the problem of child labour in the context of those working children below the age of 14 years who are engaged
in gainful industrial and non-industrial occupations which are not only viewed injurious to their physical, mental or moral development but also hamper their social progress in a big way and recent amendments to child labour law. This thesis also deals reasons for existence of child labour instead of such policies.

The architects of Independent India had dreamt of creating a free India to enable the children of tomorrow to avail the benefits of joys of living and laid down a policy in the Constitution providing facilities for the healthy development of children, the protection of children and youth against exploitation, and for free and compulsory education within a period of ten years for all children until they complete the age of 14 years.

The successive government and the socio-political institutions of the country have failed to implement these policies related to children. The reasons for the failure are not beyond imagination. The successive governments did not prove to have the necessary political will, to race this challenging task.


The constitutional prohibition that children below the age of 14 years should not be employed in any factory, mine or other hazardous employment was felt to be ineffective, in the absence of legislation, prohibiting its violation till the decision of the Supreme Court in the case of People's Union for Democratic Rights v. Union of India. As a fact the Supreme Court found out that the children below the age of 14 were employed in the construction work. On behalf of the Union of India and Delhi Administration it was argued that The Employment of Children Act, 1938 was not applicable to construction industry as it is not specified in the Schedule. The Court observed:
"We have Art.24 of the Constitution which provides that no child below the age of 14 shall be employed to work in any factory or mine or engaged in any other hazardous employment. This is a constitutional prohibition which, even if not followed up by appropriate legislation, must operate proprio vigore and construction work being plainly and undoubtedly a hazardous employment, it is clear that by reason of this constitutional prohibition, no child below 14 years can be allowed to be engaged in construction work. Therefore there can be no doubts that notwithstanding the absence of specification of construction industry in the Schedule to the Employment of Children Act, 1938, no child below the age of 14 years can be employed in construction work and the Union of India as also even, State Government must ensure that this constitutional mandate is not violated in any part of the country".

Taking into consideration all the evil out puts to undertake the research, in order to throw light over the problem of employment of child labour and thereby to find out the infirmities prevailing in this regard and to evolve certain concrete measures how best the tender age of the child is protected.

This research enlightens the meaning of "Child labour" and the position of the same in the present day's society, by considering various legislative attempts made to control and eradicate the present problem. Further it also explains to certain extent the reasons for rapid growth of child labour in various sectors and attempt to give some meaningful suggestions to eradicate the problem of child labour.

The child worker is no stranger to Indian statute law. The Employment of Children Act 1938 and Children (Pledging of Labour) Act 1933 are early testimonies. After Independence, the Constitution provides for rehabilitation of the employed children below the age of 14 years in factories, mines and hazardous employments. It was in 1986, an admission of defeat in the hardly-fought battle against the perpetuation of child labour, that the Child Labour (Prohibition and Regulation) Act, 1986 [CLPRA] was enacted. It was in the same year that the Juvenile Justice Act, 2005 giving federal uniformity to the States, treatment of delinquent and neglected children was passed, However while their constituencies partly overlap, these two laws do not recognise, nor draw support from, each other.