CHAPTER-2

DEFINITION AND MEANING OF CHILD LABOUR
CHAPTER - 2

DEFINITION AND MEANING OF CHILD LABOUR

2.1 Introduction

Future of a nation depends on the fact that how its children grows and develop. A large tree grows from a small seed, similarly, a great and developed nations are born out of children, who later become its citizens. According the Hon’ble Mr. Justice P.N. Bhagawati, the child is the 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.

Children need special protection and care because of their tender age, maturity and development. The environment in which the children are brought up will have a tremendous impact on the future of the child and the future of the nation.

Before Independence, many social evils like Sati system, child marriage and polygamy were prevalent in India. With the advent of the British, they helped to wipe out many of these social evils. After Independence, practices like child labour continued. The main reason why child labour started was due to the lack of access to education for the children and social and economic conditions at their houses.

2.2 Definition of ‘Child’

To understand Child Labour and its impact and ways to eradicate it, it is essential to understand the meaning of ‘child’ and ‘child labour’. In general parlance, a ‘child’ is ‘A person under the age of majority.’ A minor is an individual who is not yet an adult or who has not reached the age of majority. Most jurisdictions have defined child in terms of a specified age of majority. But where a statute is silent on the point, the common law applies.

An attempt has been made by the Indian Legislature to define ‘child’ for the purpose of application of Law. They are as follows:

- According to the Minimum wages Act, 1948, that person who has not completed fourteen years of age is a child.²

---

1 Babu Tamchi v. The State of Uttar Pradesh, AIR 1984 SC 46
2 Section 2(b) of the Minimum Wages Act, 1948
• According to the Factories Act, 1948, a child is who has not completed his fifteen year of age.³

• According to the Motor Transport Workers Act, 1961, a person below the age of fourteen years is a child.⁴

• According to the Plantation Labour Act, 1951, a person who has not completed fourteen years of his age is a child.⁵

• According to the Child Labour (Prohibition and Regulation) Act, 1986, a ‘child’ is a person who has not completed his fourteen year of age.⁶

• According to the Children (Pledging of Labour) Act, 1933, child is a person who is under the age of fifteen years.⁷

2.3 Child Labour - Definition, Nature, Magnitude and Reasons

There are various legislations that regulate labour in India. A few legislations include provisions related to child labour. These provisions give us more insight on child labour. The age of the child is the sole factor for determination as to who is a child. In India there are several legislations relating to the age of child which describe various age of the child, but its maximum age limit is 18 years.

The important provisions are :

• As laid down in the Constitution of India, no child below the age of 14 is allowed to work in any factory or mine or engaged in any other hazardous employment.⁸

• In the Plantation Labour Act, 1951, prohibits child and adolescent to work in plantations, subjected to a few restrictions.⁹

• The Factories Act, 1948 prohibits the employment of children below the age of fourteen years of age in factories.¹⁰

• The Motor Transport Workers Act, 1961, prohibits any employment of a child i.e. below the age of 14 years as defined under the Act.¹¹

• According to the Merchant Shipping Act, 1958, employing a person below the age of fourteen years of age with certain exceptions is an offence.¹²

---

³ Section 2(c) of the Factories Act, 1948
⁴ Section 2(c) of the Motor Transport Workers Act, 1961
⁵ Section 2 (c) of the Plantation Labour Act, 1951
⁶ Section 2(ii) of the Child Labour (Prohibition and Regulation) Act, 1986
⁷ Section 2 of the Children (Pledging of Labour) Act, 1933
⁸ Article 24 of the Indian Constitution.
⁹ Section 26 of the Plantation Labour Act, 1951.
¹⁰ Section 67 of the Factories Act, 1948
¹¹ Section 21 of the Motor Transport Workers Act, 1961
¹² Section 109 of the Merchant Shipping Act, 1958
The Apprentice Act, 1961 prescribes the age requirement to work as an apprentice as fourteen years of age.\textsuperscript{13}

According to the Beedi and Cigar Workers (Conditions of Employment) Act, 1966, employment of a person who has not completed fourteen years of age in the industrial premises is prohibited.\textsuperscript{14}

The Indian Mines Act, 1952, prohibits employment of a person below the age of eighteen years.\textsuperscript{15}

The Child Labour (Prohibition and Regulation) Act, 1986, prohibits the employment of children in certain occupations and processes below the age of fourteen.\textsuperscript{16}

The term child labour as is used by policy makers and researchers, who stress restoration of pleasures and opportunities of childhood to children, connotes deprivation and exploitation. The Report of Child Labour (1979) states that labour becomes an absolute evil in the case of the child when the child is required to work beyond physical capacity, when hours to work interfere with child education, recreation and rest; when the wages are not commensurate with the quantum of work done and when the occupation the child is engaged child’s health and safety.\textsuperscript{17}

Child labour as “any work by children that interferes with their full physical development, their opportunities for desirable minimum of education or their needed recreation.” Conventionally, working child is defined as a child in the range of 5-14 years who is engaged in labour either paid or unpaid.\textsuperscript{18}

\textsuperscript{13} Section 3 of the Apprentice Act, 1961
\textsuperscript{14} Section 24 of the Beedi and Cigar Workers (Conditions of Employment) Act, 1966.
\textsuperscript{15} Section 40 of the Indian Mines Act, 1952.
\textsuperscript{16} Section 3 of the Child Labour (Prohibition and Regulation) Act, 1986.
\textsuperscript{17} S. Mahendra Deve, Female Work Participation and Child Labour Occupational Data from NFHS, Economics and Political & Weekly, Nov. 2009
\textsuperscript{18} Ibid.
### Table I

State wise distribution of working children according to 1971, 1981, 1991 and 2001 census in the age group 5-14 years.*

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Andhra Pradesh</td>
<td>1627492</td>
<td>1951312</td>
<td>1661940</td>
<td>1363339</td>
</tr>
<tr>
<td>2</td>
<td>Assam</td>
<td>239349</td>
<td>357598</td>
<td>351416</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Bihar</td>
<td>1059359</td>
<td>110764</td>
<td>942245</td>
<td>11117500</td>
</tr>
<tr>
<td>4</td>
<td>Gujarat</td>
<td>518061</td>
<td>616913</td>
<td>523585</td>
<td>485530</td>
</tr>
<tr>
<td>5</td>
<td>Haryana</td>
<td>137826</td>
<td>19419</td>
<td>109691</td>
<td>253491</td>
</tr>
<tr>
<td>6</td>
<td>Himachal Pradesh</td>
<td>71384</td>
<td>99624</td>
<td>56438</td>
<td>107774</td>
</tr>
<tr>
<td>7</td>
<td>Jammu &amp; Kashmir</td>
<td>70489</td>
<td>258437</td>
<td></td>
<td>175630</td>
</tr>
<tr>
<td>8</td>
<td>Karnataka</td>
<td>808719</td>
<td>1131530</td>
<td>976247</td>
<td>822615</td>
</tr>
<tr>
<td>9</td>
<td>Kerala</td>
<td>111801</td>
<td>92854</td>
<td>34800</td>
<td>26156</td>
</tr>
<tr>
<td>10</td>
<td>Madhya Pradesh</td>
<td>1112319</td>
<td>169897</td>
<td>135263</td>
<td>1065259</td>
</tr>
<tr>
<td>11</td>
<td>Maharashtra</td>
<td>1188357</td>
<td>1557756</td>
<td>1068427</td>
<td>764075</td>
</tr>
<tr>
<td>12</td>
<td>Chattisgarh</td>
<td></td>
<td></td>
<td></td>
<td>364572</td>
</tr>
<tr>
<td>13</td>
<td>Manipur</td>
<td>16380</td>
<td>20217</td>
<td>16493</td>
<td>28836</td>
</tr>
<tr>
<td>14</td>
<td>Meghalaya</td>
<td>30440</td>
<td>44916</td>
<td>34633</td>
<td>53940</td>
</tr>
<tr>
<td>15</td>
<td>Jharkhand</td>
<td></td>
<td></td>
<td></td>
<td>407200</td>
</tr>
<tr>
<td>16</td>
<td>Uttarakhand</td>
<td></td>
<td></td>
<td></td>
<td>70183</td>
</tr>
<tr>
<td>17</td>
<td>Nagaland</td>
<td>13726</td>
<td>16235</td>
<td>16467</td>
<td>45874</td>
</tr>
<tr>
<td>18</td>
<td>Orissa</td>
<td>492477</td>
<td>702293</td>
<td>452394</td>
<td>377594</td>
</tr>
<tr>
<td>19</td>
<td>Punjab</td>
<td>232774</td>
<td>216939</td>
<td>142868</td>
<td>177268</td>
</tr>
<tr>
<td>20</td>
<td>Rajasthan</td>
<td>587389</td>
<td>819605</td>
<td>774199</td>
<td>126570</td>
</tr>
<tr>
<td>21</td>
<td>Sikkim</td>
<td>15661</td>
<td>8561</td>
<td>5598</td>
<td>16457</td>
</tr>
<tr>
<td>22</td>
<td>Tamil Nadu</td>
<td>713305</td>
<td>9875055</td>
<td>578889</td>
<td>418801</td>
</tr>
<tr>
<td>23</td>
<td>Tripura</td>
<td>17490</td>
<td>24204</td>
<td>16478</td>
<td>21756</td>
</tr>
<tr>
<td>24</td>
<td>Uttar Pradesh</td>
<td>132726</td>
<td>143675</td>
<td>1410086</td>
<td>1927997</td>
</tr>
<tr>
<td>25</td>
<td>West Bengal</td>
<td>511443</td>
<td>605263</td>
<td>711691</td>
<td>857087</td>
</tr>
<tr>
<td>26</td>
<td>Andaman &amp; Nicobar Island</td>
<td>572</td>
<td>1309</td>
<td>1265</td>
<td>1960</td>
</tr>
<tr>
<td>27</td>
<td>Arunachal Pradesh</td>
<td>17925</td>
<td>17950</td>
<td>12395</td>
<td>18482</td>
</tr>
<tr>
<td>28</td>
<td>Chandigarh</td>
<td>1086</td>
<td>1986</td>
<td>1870</td>
<td>379</td>
</tr>
</tbody>
</table>

**The data used in this thesis is from The Indian Census Report of 2001, as the complete text of The Indian Census Report 2011 is not available.**

According to conventional definition, incidence of child labour based on National Sample Survey (NSS) data was 3.8% in 1999-2000 while it was 5.2% in 1991 based on census data. National Family Health Survey (NFHS) data shows that the incidence of child labour was 4% in rural areas and 1.7% urban areas. In urban areas child labour among boys was higher than among girls.\(^\text{19}\)

The Ministry of Labour and Employment disclosed the number of children swearing it out in the heat of stone quarries or firecrackers factories, those working in fields or as domestic servants stands at 1,259,1,667 (about 12.6 million) but NGO’s like the Child Relief and You (CRY) shows the figure at close to 10 million.\(^\text{20}\)

Thus Indian policy makers and planners had learnt a lesson from this alarming and mind boggling information and strive towards eradication of child labour which has been deeply rooted in the Indian soil. It cannot, unless there is marked change for betterment in those conditions, the change must be introduced mainly to eradicate poverty which is the cause of misery of the Indian people.

2.3.1 Child Labour- Nature

The child is the most vital national resource for all states, because of his being the greatest human resource potential and hence it is necessary to evolve and sustain

---


\(^\text{20}\) 46.7, Indian Labour Journal, 649, (July 2005)
constitutional and legal culture to ensure that the rights of the child survive and thrive under the protection of present legal system. The children must be guaranteed better future. They must not be left uncared to face to courage of malnutrition, ill health and environmental pollution. All the adults of the world have to take care that the children’s rights are properly enforced. They must be provided opportunities and facilities to develop in a healthy manner, in conditions of freedom and dignity and protected against moral and material abandonment. They are an end and means of progress. According to a United Nations Children's Fund report there are two test of civilization, one, how well it protects its vulnerable and other how well it safeguards its future-the children are subject to both. We should not forget that degrading children through exploitation or abuse degrades society and puts civilization in peril.

Referring to the adults of tomorrow of our country Jawaharlal Nehru once observed: Somehow the fact that ultimately everything depends upon the human factor gets rather lost in our thinking of plan and schemes of national development in terms of factories, machines and general schemes. It is very well important that we must have them but ultimately of course, it is human being that counts and if the human being counts, well, he counts much more as child then as a grownup.

2.3.2 Child Labour and its magnitude

- **International level**

  According to the International Labour Organization (ILO) estimates, more than 73 million children in 10 to 14 years age group alone are economically active in 1995 representing 13.2 per cent of total children of the world in this age group. Estimates of the number of working children in the age group of 5-14 according to ILO is 250 million in the developing countries.\(^{21}\)

- **National Level**

  The Indian scenario is that the total population in the age group of 5-14 years is 29.70 crores. Out of which 20.33 crores are in the age group of 5-10 years (11.62 crores are full time students whereas 1.27 crores are full time child workers and 7.44 crores are neither students nor workers, they are just of school). The Child labour accounts for 5.2% of the

---

total labour force in India. Ninety percent of the working children are in rural areas. They work more in agriculture sector and less in other disciplines.\(^{22}\)

Our country has the largest number of urban and rural child workers in the world. The Union Government acknowledges at least 17.5 million working children but the estimate by various organizations ranges for 44 million to over 100 million child labourers. The child labourers are completely denied the childhood. They are deprived of all those needs which are basically required by them to grow and develop. They lack freedom, the time, the facilities and the space for recreation, learning, nutrition and health care. They are forced into adulthood almost at birth and are bonded labour almost as soon as they learn to walk. It is unfortunate that after 65 years of independence we still have abject pain and misery of child labour while some use washing machines, vacuum cleaners and microwave ovens. We still have little children picking through refuse dumps sorting out garbage while some eat fast foods. We have little boys not more than nine years old working eighteen hours a day, standing in dirty water, washing utensils in the grubby little back rooms of restaurants. There are still who use children to scrub and clean their comfortable homes while their own kids go and watch TVs. The matches we use, the beedi’s, we smoke, the bangles we wear the carpets we walk on the sari embroidered garments we crave for, the slates we write on and much more are all produced by tiny hands- hands that could be playing, writing, painting, gesticulating in joy and helping to build a better world.

In 1971 census which did not include the figures from Assam and Sikkim indicated 10.7 million child workers in India. This number grew to 13.6 million in 1981 and the estimated number of working children has now reached to 17 million. In our country millions of children below the age of 14 years are employed in occupations like lock making, diamond cutting, match and fireworks and carpet weaving etc. In urban areas they are largely employed in Dhabas tea stalls, motor workshops, cycle repair shops. In house hold jobs, cooking, where the ruthless employers use them according to their own rules. To quota a UNICEF report the working children conditions for child labourers are harsh in India. For example it has been found that about 12 hours a day in the match and fireworks industries in cramped environment with hazardous chemicals and inadequate ventilation. In the ‘beedi’ making industry, children of tender age are put in work for long hours and often contact bronchitis and tuberculosis. Similarly, in the lock making industry many children have several ear problems after working with buffing machines. At Aligarh in Uttar Pradesh such industries employ 8000 to 10,000 child labourers who work for 12 to 15 hours

\(^{22}\) Ibid.
in dim light. They have to handle poisonous chemicals which expose them to various kind
of skin problems. In Mirzapur and Varanasi carpet industries engage 1,50,000 children who
are reported to have been tortured and locked into small premises where work goes on.
Knitting weaving and preprocessing distort their backs, weaken their eye sight and many a
times they lose their fingers. The Anti-Slavery Society has quoted a study by Madras
School of Social Works, which reveals that 31 percent of children employed as mechanics,
construction works and weavers have to work for 12 to 13 hours and 41 percent for 10 to 12
hours daily for very low wages only on the ground their being under training. According
to the report in 1994, namely, “By the Sweat and Toil of Children : the use of Child Labour
in American import” prepared by The Bureau of International Labour Affairs of the US
Labour Department, the major export industries in India which utilize child labour include
hard knitted carpets, gemstone polishing, brass and base metal articles, glass and glass
wares, footwear, textiles silk and fire workers. The other industries allegedly using child
labour are locks, leather pottery granite, auto parts and accessories, mica, slate, mining,
cashew processing, iron and steel products, wood and walnut furniture, suitcase and trucks,
sport goods, garments, tiles, and sea food proceeding.

The children are employed in the most non-skilled areas and they are paid less than
adults. In the name of keeping the traditional skills alive, children are exploited whereas
the parents idle at home. At carpet weaving industry the children under eight years of age
are being trained in the district weaving centers and the State in aiding and abetting the
breaking of its own laws. A monthly stipend of rupees 100 is given in Rajasthan for
training in the weaving industry. The State pays the master weaver who in turn trains
children under 14 years of age in the name of keeping traditional skills alive. Its children
are working in Stage-run-industries and contributing to family income, despite being below
14 years of age they do not come under the Factories Act. The private owners also to get
grant from the government, call their establishments training cum production centers.

The North-west part of Lucknow, the capital of Uttar Pradesh, is a prominent centre
of sari work which is a classical stitch work on the sarees and other garments by silk, silver
and gold threads. According to a study more than one lakh people are employed and
engaged in this industry and half of them are the child workers. The study reveals that the
families engaged in sari work are mostly poor. This work is being run in unorganized sector
and hence it stands out of preview of the Child Labour (Prohibition and Regulation) Act,
1986. The children of very tender age of 6-7 years are employed because of the fact that

---

04, 1995. p.-10
this work needs a high level perfection so the parents send their children since a very tender age so that they may be expert at the age of 16-17 years. This factor also results in the exploitation of these tiny labourers in the hands of not only the employers but also middlemen. Further it was revealed that the children are forced by their family, environment, poverty and illiteracy of the parents and that they are paid nothing for the work which they are made to do for 12-14 hours without any lunch break or interval daily just in the name of training. They have no opportunities for recreation. They do not find healthy environment as 8-10 workers have to work in a room of 10 x 12 feet with no adequate ventilation and light. The work places are mostly dirty, unhygienic and without first aid facilities.24

According to Prof. Myron Weiner giving the children back their future is not just giving their right, but is a solemn duty of the State and its people. Expressing his view on the two interlinked problems in India namely, the lack of primary education and child employment he recently observed that making child education compulsory could put an end to child labour in India, a country which has earned a dubious distinction of producing highest number of illiterates in the world.25

The US Labour Department has recently surveyed nineteen countries including China, Bangladesh, India, Indonesia, Nepal, Pakistan, Thailand, Egypt, Brazil, Columbia and the Philippines for child employment and reported that more than 50 percent of the world’s estimated 100 million to 200 million child labourers are in Asia and constitute a large part of the work force in parts of Latin America and Africa. Washington Department of Labour and Employment, the United Nations Education Fund and the International Labour Organisation estimate that there are between 2.1 million and 5.7 million children working. The United Nations put this number to about four million. Work places in Asia ranges from crowded garment factories where the doors are locked and children work for 14 hours a day to small dusty earthen huts which can seat four children in a loom, knotting carpets in a pit for hours. The Indian Government acknowledges at least 17.5 million working children.26

Regarding Indian scenario Mr. Kailash Satyarthi, Chairman South Asian Coalition for Child servitude asserts that there are more than 5.5 crore child labourers in our country

24 Peruez Alchtar and Pradeep Pant, Implementation of Child Labour Act in Zari Industry in Lucknow Region presented at Workshop on Rights of the Child held at Lucknow on Jan-1516, 1994
25 Prof. Myron Weinger, The Role of the State in Child Education and Employment presented at a Symposium organized by The Rajeev Gandhi Institute of Contemporary Studies in New Delhi
out of a total population of 22 crore children in the age group of four to 14 years.\textsuperscript{27} According to the Chief Secretary of Uttar Pradesh, Mr. Brijesh Sahai, there are 2.5 lakh workers engaged in the glass bangle industry in Ferozabad of whom there are 60,000 child workers.\textsuperscript{28}

Traditionally it was felt that bulk of child workers were engaged only in the match and fire works industries in TN but a large number of children are engaged in other places also. Many children aged between 8 years to 14 years are engaged in motor and two wheeler repair shops. It is estimated that in Madurai alone there are over 15,000 children employed in the city garages. According to a survey 90 percent of children work between four to nine hours each day while 10 percent of them work upto 16-18 hours. 33 percent of the children in these garages are given one or two meals by their employers while 50 percent of the children get only two cups of tea, in a day. In many cases they are not given even weekly off. According to a study by a Dindigul based organization the child workers are subjected to abuse and beating by their employers. Twenty five percent of them claimed that they were regularly beaten and abused by their employers for minor faults and that were paid rupees three to five as daily wages.\textsuperscript{29}

Stating the working conditions of small children in the match and fireworks industries at Sivakasi in Tamilnadu Myron Weiner writes as follows: Sivakasi is perhaps the most publicized centre of child labour in India. Children are brought to Sivakasi by bus from neighbouring villages within radius of about 20 miles. They are loaded into busses and vans from three to five in the morning to reach to the factories at six or seven and they return home between six and nine in the evening. As many as 150 to 200 children are packed in a vehicle. The children work for about 12 hours but they are away from home for 15 hours. 45,000 children below 15 years of age work in Sivakasi or nearby workshops or cottages within their own villages perhaps the largest single concentration of child labour in the world. Each village has an agent who enrolls the children and ensures that they are awaken when the transport arrives. They receive a monthly salary of rupees 150. They may give to the parents an advance of upto rupees 200 per child labour enrolled. The advance is then deducted from child’s salary.\textsuperscript{30}

There are many small workshops just outside the town employing children mostly from nearby villages. The Children fill slotted frames with a pile of splints the length of match

\textsuperscript{27} Section 82 of the Indian Penal Code, 1860, P.2 
\textsuperscript{28} Hindustan Times dt. December 11,1994
\textsuperscript{29} Ibid. dt. January 14, 1995, p-3
sticks. The full frames are locked and tips are dipped into a hot solution of gum and chemicals and the put to dry. When dry, the frame is opened and the match sticks are put into match boxes. Each match box is handmade. With a brush or roller the striking surface of the match box is coated with chemicals. Brand labels are placed on the boxes which are then packed into cases. The children are paid on piece rate basis. Younger children those between 4 to 10 years earn from 7 to 10 rupees per day while older children earn 10 to 15 rupees per day. While the children are usually 8 or older in one workshop on the tamarind tree-lined road between Madurai and Sivakasi. Child labour is legally permitted in small family owned workshops but not in the factories.31

The child labour means the employment of children under a prescribed legal age.32 But the term ‘Child Labour’ is more meaningfully defined as the ‘employment of boys and girls when they are too young to work for hire, or when they are employed at jobs unsuitable or unsafe for children of their ages and under conditions injurious to their welfare.33 Thus the child labour may be taken to mean the work done by a child at such age, which is in contravention to the age limit prescribed under the existing statutory provisions. Further the child labour has also been defined as that ‘segment of the child population which participate in work either paid or unpaid’.34 The child labour generally concentrate on two concepts i.e. child in terms of chronological age and labour in terms of its nature, quantum and income generation capacity.35 It may also be explained as employment of children in gainful occupations or a material contribution to the income of the family.36

The street children are also an important fragment of urban child labour. They require protection in the form of shelter, medical aid, fresh water and security from vested interested and even police. They may be found on the streets begging or working in ice factories, slaughter houses, carrying loads at railway stations, cleaning vessels at wedding parties and fish at the docks etc. They are vulnerable to exploitation by almost all from common man to the cops alike.

31 Prof. Myson Weinger, The Child and State in India
33 The Encyclopedia America 1963, P. 461
35 Ibid.
36 Kulshreshtra JC, Child Labour in India (1998)
2.3.3 The Reasons for Child Labour in India

Child Labour is a universal phenomenon. Child Labour remains widespread throughout the world. Their exploitation is an abuse of human rights. Millions of children are made to sacrifice their health and tender emotions by forcing them to work in hazardous industries and other occupations. Those who should be in schools are working at various jobs in the most unhygienic conditions for a pittance.

The Child Labour, simply means the labour done by children. In India many children have to work because they have no basic needs but the important question is why they have to work? And what are the causes of child labour? In India everything is regulated by population thus even in the case of child labour the most important cause to this problem is population. Many reasons can be attributed to the growing menace of child labour in India. Amongst others, the main reasons are poverty, Low income of the bread earner of the family, illiteracy and ignorance, child labour is cheaply available, unemployment, population and large family, in-equitable distribution of land assets, absence of scheme for family allowance and also absence of scheme for social security, failure of government to control the child labour, in sufficient protective legislation.

The main reasons for child labour are the following.  

i) Poverty:

In India, poverty is a major contributing factor which has given rise to the problem of child labour. Approximately in India 40% children lead a life of poverty and because of poverty they are underfed and undernourished. Since it is known fact that India is a developing country and many Indian people are poor and come under below poverty line. It is very hard to arrange the meal for two times in a day and because of this it is but obvious that even small children has been compelled by the condition and need of the life to earn and therefore they without caring about their life jumps into hazardous industries for employment only to have basic needs of life without which they have to suffer a lot. In the industries, however, mostly work done by machine, but industrialist try to earn more profit so they get the work done by children at very low wage.

Child labour is directly related with high rate of dropouts from the school. The high rate of dropouts is invariably a consequence of poverty. The second reason is that in most places schools are situated in very remote areas and are inaccessible to a sizeable population. The schools also present stale and dismal pictures and hold little attraction of

---

37 S. Murthy “Child Labour in India”, 17-20 and also from 106-108
children. Due to lack of funds, many schools do not run regularly with teachers absenting most of the time. Schooling of the children becomes burdensome for the poorer families which involves certain expenses on one hand and deprives them of the income that accrues from child labour, on the other.

ii) **Low Income of The Bread Earner and Need of the Income to the Family:**

The inadequacy of the wage of the adult earning members of the family compels them to send their children to work and supplement to family income. Another reason would be need of income to the family because sometimes children have to support their family members so they generally run towards the industries.

iii) **Illiteracy:**

India is ranked the lowest in the world as far as literacy is concerned. The average rate of literacy according to 1991 census was 52.11 percent. Some states like Andhra Pradesh, Bihar, Madhya Pradesh, etc. registered less than forty percent literate population.

Most of the children belong to the communities who live below the poverty line children and parents of these communities show little interest towards school education. The illiterate parents do not think of the future as they are more worried about their family’s present needs. For any family, who is below poverty line, food and shelter is their basic requirements and to fulfill these requirements they need more earning hands. Thus, for their survival and survival of their family, they need to send their children to work.

iv) **Unemployment:**

Children seek work because of their unemployed parents or adult relations in the family, which is sometimes due to under-employment of the adults.

However, government of India has made many efforts of reducing the unemployment in the country by introducing various schemes and Acts.

The Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) is one such Act. It is an Indian job guarantee scheme, enacted by legislation on August 25, 2005. The scheme provides a legal guarantee for one hundred days of employment in every financial year to adult members of any rural household willing to do public work-related unskilled manual work at the statutory minimum wage of Rs. 120 per day in 2009 prices. The Central government outlay for scheme is Rs. 40,000 crore in Financial Year 2010–11.
This act was introduced with an aim of improving the purchasing power of the rural people, primarily semi or un-skilled work to people living in rural India, whether or not they are below the poverty line. Around one-third of the stipulated work force is women. The law was initially called the National Rural Employment Guarantee Act (NAREGA) but was renamed on 2nd October 2009.

v) Population and large family:

In India everything is regulated by population. Thus even in the case of child labour the most important cause to this problem is population. There is no family planning in India, a person believes in having more and more children without realizing the fact that whether they would be able to give basic amenities of life to their children or not. And this would leads to poverty and because of poverty parents cannot fulfill the needs and aspiration of children and they develop bad habits.

vi) Child Labour is Cheaply available:

Employment like to get more production with cheap labour cost which they get easily by employing child labour rather than adults which ensures greater margin of profits. Poverty is a blessing to these employers as they got the poor children more easily in the labour market.

vii) In-Equitable Distribution of Land Assets:

In India, merely 10 percent of the privileged class holds 90 percent of the agricultural land. The rest of the farmers are actually farm labourers who work for wages. In spite of forty-five years of enforcement of tenancy laws, there has been practically no reform at this front. Even today, most of the tenant farmers are mortgaged to big landlords and rich farmers. Thus the slogan “land to the tiller” has borne little fruit. The poor families, on the account of insufficient earnings, compel their children to take up jobs in order to supplement their meagre family income.

viii) Absence of Scheme for Family Allowance and Social Security:

In India there is no any scheme of family allowance and social security for the poor and weaker section of the society. Absence of social security measures compels some children to work consequent upon the death of their parents.
ix) **Failure of Government to Control The Child Labour:**

Another cause of child labour is failure of Government to control the child labour. It is upto the Government to implement the laws strictly so that the child labour can be controlled. In India there are, at present, many Acts to control child labour but most important aspect is its implementation because the effect of the child labour is very dangerous, not only for children but also for the Country, because the today’s children is the future of tomorrow, the success and development of this Country is depend upon them and therefore it must be safeguarded.

x) **Insufficient Protective Legislations:**

The practice of engaging child labour is an indicator of the backwardness and inadequacies of rules and regulative measures in India. The country has provisions for almost all the industries which engage children as labour, specifying their working hours, terms and conditions of work, education, wages, etc. But very few years have so far strictly adhered to these rules and the administrative machinery has a callous attitude to enforce the same on the employers. Thus there is hardly any organizational or institutional set up which can protect the children from their miseries of work.

xi) **Lack of Strong Child Labour Unions:**

In some industries like, beedi, glass, matchbox, carpet, etc. children workers are preferred as workers. The most plausible reason for their preferential employment in such industries is lack of organizational support to child labour. The working children are usually not associated with any trade union. As such, they have no voice and strength to fight their duties, rights and privileges. There is no institutional set up which can appraise them of their rights and mandatory provisions. In the absence of proper guidance and patronage, the child labour yields to deprivation and callousness.

Thus aforesaid mentioned list is the causes to the child labour but within this list there is also one categorization as well and that categorization cast the responsibility over State and the Public. So within this list there are two most important causes, which are the genesis of above mentioned and they are- population and education.38

2.4 **What is hazardous?**

Hazard means any kind of danger or risk involved. Any kind of activity which is dangerous for one person according to his age and strength may not be the same. It is

---

38 Ram Ahuja “Social Problems in India” (2nd Ed) 2003, P. 234-242
relative term and varies from one child to another. In order to know about what occupations are hazardous for a child we will look into the various kinds of occupations they are engaged in and how they can be hazardous.

According to the Factories Act, 1948, hazardous process is that process or activity of an industry mentioned in Schedule 1 of the Act, unless special care is taken, raw materials used therein or the intermediate or finished products, bye-products, wastes or effluents thereof would cause material impairment to the health of the persons engaged in or connected therewith, or result in the pollution of the general environment.\textsuperscript{39}

The present understanding of the term “hazardous” is too narrow. Hazardousness of an occupation is to be clearly defined keeping in mind the factors like, distance between place of child’s work and his house, process of work, the work environment, the wage his medical background, physical capability to work, the nourishment required and what he can buy out of the wages received, the psychological and moral risks etc. An activity will have to be understood as hazardous for a child, if:

1) There is an inherent risk involved with a particular kind of occupation, etc. Danger of accident, danger due to poisonous gases, electricity, chemicals, explosives, danger of acquiring any occupational disease.

2) There is a possibility that the particular occupation might hamper child’s physical and mental growth Eg. Working in carpet, glass, diamond cutting industry.

3) There will be psychological or moral danger to the child where child may be tortured physically, mentally or may be used for immoral purpose by the employer.

4) It is a forced employment without payment of minimum wages or no wages.

If any of the above mentioned working condition is found in any occupation, it shall be considered hazardous. In order to classify hazardous and non-hazardous occupations, assistance should be obtained from surgeons, psychologist, social worker, etc.

2.4.1 Hazardous Employment

Extreme poverty, lack of opportunity for gainful employment, low wages are the main reasons for the prevalence of child labour in India. Though child labour is considered to be social evil, still a large number of poverty stricken parents in any society are forced to send their children for any kind of hazardous or non-hazardous occupation. Employers too

\textsuperscript{39} Section 2(cb) of the Factories Act, 1948
prefer children as they find them to be efficient, innocent and low cost labourers. It is said that children are more active, agile and quick and feel less tired in certain tasks. That is why children are found in diverse agricultural occupations, in plantation, motor transport undertakings, industries, mines, handloom and carpet weaving industries. Without any consideration for their tender age and strength, they are exposed to all sorts of occupational hazards. These hazardous occupations not only retards their growth and development but makes them highly susceptible to chronic diseases like tuberculosis, asthma, bronchitis etc.

2.4.2 Children & hazardous employment

A number of studies conducted showed that children engaged in carpet weaving have lost or completely damaged their eye sight. Weaving is rarely done by children in a factory. Other processes like separating coloured strands ruffled and entangled during the treatment with chemicals is handled by the children. Consequences of that, there is very possibility of getting dye and acid strained wool fibers into eyes, lungs and skin too.

Children working in Handloom and Sari industries work in dust and dingy rooms for long hours in crouched position thus affecting adversely their physical growth and development and consequently a worthless asset of the country.

Girls working in glass industries have to perform various processes like joining of ends, engraving of different patterns, heating, counting, packing and decoration. These factories work only at night and the temperature inside is found to be 40-45 degree centigrade. Children working in these factories are found to be suffering commonly from asthma, bronchitis, eye diseases, tuberculosis, etc.

Children in Beedi industry are generally found to be suffering from bronchitis, asthma, tuberculosis etc.

Children in diamond cutting industries are found to develop eye defects very soon; many of them become jobless in their teens due to early signs of eye fatigue.

Those working as scrap collectors are prone to various kinds of skin disease area, and accidents due to broken glasses, tin and explosives. Similarly children working in dhabas, restaurants etc. are made to climb up and down staircases carrying hot tea. They face problem in case they happen to drop the tray. It has been observed that such children suffer from various kinds of mental problems. They are made to work 14-15 hours. Lack of sleep, caused by long hours of work increases accident rates. Sometimes girls and boys are used for immoral purpose and criminal activities by the employer. In Sivakashi and
Mirzapur children were sold to the employer by a middleman. They were banged with iron rods, hung upside down, starved and made to work for long hours in all ventilated rooms without wages.⁴⁰

Large number of children are working in the unorganized and self-employed sectors in towns as domestic servants, in general repair shops, construction workers, vendors, hawkers newspaper sellers, shoe shiners, coolies, rickshaw pullers, casual labourers etc. A child construction worker digs the earth, carries loads of mud and mortar, breaks stones, and solders heavy iron rods on their heads. All such types of work require hardest of physical labour which stunts the growth of the child without any future prospects.

Whatever kind of occupation it may be, hazardous or non-hazardous, to compel the child to work is not good for the proper development of the child. Considering the tenderness and significance of growth and development during this stage, our Constitution speaks of the welfare of the child. During the period of growth, a child should be provided with proper educational, nutritional facilities besides emotional support and care. If such a child instead of being provided all these facilities, gets employed and work like adult, that will definitely retard his normal growth and development.

2.5 Adverse Effect of Child Labour on the Child and Society :

Mankind owes to the children special attention, care and safeguards for the good of the society. But by engaging the children as labourers we deprive them of certain basic physiological, psychological, biological and social needs, which is a disgrace to mankind. Child labourers are deprived of:

1. Full and harmonious development
2. An atmosphere of affection and love
3. Moral and material security
4. Education
5. Culture
6. Opportunity to develop to their abilities
7. Opportunity to develop a sense of moral and social responsibility
8. Legitimate right to childhood
9. The assurance to develop into productive adults and to take their legitimate place in the society
10. A normal childhood, putting and children to work may be temporarily beneficial to family but costs heavily to the child as an individual, its family and the

---
⁴⁰Economics of Child Labour in Hazardous Industries of India, Edited by R Anker, S Barge, S.Rajagopal, M P Joseph, CORT, Baroda, 1998
society at large. Unhappy and disturbed childhood do not offer sound foundation for their future growth and development. Poor children are generally malnourished if their work increases, their energy requirement and leads to calories deficit. If they suffer from anemia, fatigue and inadequate rest and sleep, they become more susceptible to infectious diseases. Generally children at work suffer from physical health hazards, body injury and postural deformities.

2.6 Conclusion:

The child labourers endure miserable and difficult lives. They earn little and struggle to make enough to feed themselves and their families. They do not go to school; more than half of them are unable to learn the barest skills of literacy. Scant attention has been paid by trade unions and concerned organizations to the problem of child labour. In the present capitalist development and global power relations, it cannot be eliminated or even substantially reduced.

When considering intervention, we are faced with a grim reality where we have to accept that in this situation, we can at best, humanize this development, whilst containing our other interventionist activities.

The other temporary and limited role can be that which the Supreme Court can play. But even this depends on effective implementation which is not the Court’s role. This raises basic question of the limitations of the Supreme Court to defend and uphold civil and democratic rights. The court can only displace the child.

Inadequate schools, a lack of schools, or even the expense of schooling leaves some children with little else to do but work. The attitudes of parents also contribute to child labor; some parents feel that children should work in order to develop skills useful in the job market, instead of taking advantage of a formal education. From the time of its independence, India has committed itself to be against child labor. Article 24 of the Indian constitution clearly states that "No child below the age of fourteen years shall be employed to work in any factory or mine or employed in any hazardous employment" The Bonded Labour System Act of 1976 fulfills the Indian Constitution's directive of ending forced labour. A Plethora of additional protective legislation has been put in place. There are distinct laws governing child labour in factories in commercial establishments, on plantations and in apprenticeships. There are laws governing the use of migrant labour and contract labour. A recent law The Child Labour (Prohibition and Regulation law) of 1986 designates a child as a person who has not completed their 14 year of age. It purports to regulate the hours and the conditions of child workers and to prohibit child workers in
certain enumerated hazardous industries. However there is neither blanket prohibition on
the use of child labour, nor any universal minimum age set for child workers. All of the
policies that the Indian government has in place are in accordance with the Constitution of
India, and all support the eradication of Child Labor. The problem of child labor still
remains even though all of these policies are existent. Enforcement is the key aspect that is
lacking in the government's efforts.\textsuperscript{41}

The only really significant change that can reduce child labour is to launch massive
irrigation programme in the area. Not only will substantial land be made productive,
parents of working children who own this land will experience economic recovery. But as
pointed out earlier, there will be tremendous resistance to this from the owners of industry.

If, therefore only displacement takes place, can their parents who because of
economic compulsion send their children to work, work in their place. This will of course
mean a final step in their alienation from their lands.

And finally, another implication, if in the current set-up child labour cannot be
eliminated in Sivakasi, is to mechanize the entire production of matches. This, of course,
raises the question of the very existence of the cottage sector. Mechanization also implies
heavy investments and additional displacement of labour.

We can therefore conclude that there is only a political solution to the problem.
Solutions have to be conceived and achieved outside the present frame-work. Meanwhile
only a major movement by action groups and / or trade unions, which agitate for the
children’s rights can change the plight of child labour not only in Sivakasi but all over the
country. Till then, while we can gradually improve the working conditions and create
public opinion, children will continue to face shortened lives of drudgery.

Child labour is a global problem. If child labour is to be eradicated, the governments
and agencies and those responsible for enforcement need to start doing their jobs. The most
important thing is to increase awareness and keep discussing ways and means to check this
problem. We have to decide whether we are going to take up the problem head-on and fight
it any way we can or leave it to the adults who might not be there when things go out of
hand.\textsuperscript{42}

\textsuperscript{41}www.azadindia.org/social-issues/child-labour-in-india.html, last visited on 04/12/2011 at 8:20 p.m
\textsuperscript{42}Encyclopedia of Laws of the Child by S.P. Shaw, 1\textsuperscript{st} Edition, P.121