

Topic: Protection of Child Rights vis a vis Problem of Child Labour in India: A Socio Legal Analysis

By : Mohd Saleem

Under Supervision: Prof. (Dr.) Nuzhat Parveen Khan (Dean)

Faculty of Law, Jamia Millia Islamia, New Delhi -11025

Abstract

The problem of child labour continues to pose a challenge before the nation. Government has been taking various pro-active measures to deal with the menace of child labour. The magnitude and extent of the problem inextricably linked to poverty and illiteracy. Currently total population of India is estimated as 125 billion comparatively below then China. The numbers of working children in India vary between 22 million and 50 million indeed, some estimates have put the figure as high as 100 million. The right of child continues from womb to tomb. From the conceive process bring forth to young in womb. The rights of the child have been guaranteed under the Constitution. The Right to education has been declare as fundamental right to children up to the age of 14 years. It is the responsibility of the State Government to provides the basic facilities of education under 86th Constitutional (Amendment) 1986. Finally observing the words of *Justice V R Krishna Iyer*

“ The hallmark of culture and civilization consist in the fulfillment of our obligation to the young generation by opening up all opportunities for every child to unfold its personality and rise it to its full stature, physical, mental, Moral and spiritual. It is the birth right of every child that cries for justice from the world as a whole.”

The Constitution prohibits the employment of children below the 14 years in any establishment of hazardous nature and section 3 Child Labor Act, 1986 prohibits employment of children in some occupations and processes considered hazardous. The Act regulates employment of children in 18 processes and 65 avocation areas under the part A and B of the schedule but this law is not enforced effectively. The recent Child Labour (Amendment) Act, 2016 must be seen in wish-o-whisp. On the other hand, the Factory Act, 1948 and Mine Act, 1952 provide the maximum six hours' work daily and one day's rest per week. Forced and bonded labour by children is prohibited under the law. Eighty-five million children are not in school but doing housework, work on agriculture farms alongside their parents as unpaid labour. The right to life mentioned under Article 21 of the Constitution of India is the manifestation to the child rights. The CRC, 1989 provide the pragmatic approach towards the welfare of child. The right to live and holistic development of the children along the “Best Interest of the Child” should be our priority. Rights of the children can be summarized as follows:

1. Right to birth, health and survival;
2. Right to play, recreation and leisure;
3. Right to name and nationality;
4. Right to education and development
5. Right to enjoyment; and
6. Right to early childhood and nutrition.

The celebration of the Children Day Every year 20th November¹ and Girls International day is being observed on 10th October every year. The responsibility of the Government and the parents cannot be neglected. The lack of facility and infrastructure are the major concern for the protection of child rights violation. The coverage of the NCLP Scheme has been increased from 12 districts in 1988 to 100 districts under 9th Plan to 250 districts during 10th five Year Plan. The National Action Plan, 1992, 1995 and National Charter 2003 has been framed by the Government and amended in 2013 for the better enforcement of the rights of children.

Child labours are a social problem and demographically exist in all part of the country. In pursuant to this, in 1988, the National Child Labour Project (NCLP) Scheme was launched in 9 districts of high child labour endemic. The SSA and BBBP schemes are gaining momentum. The children of the world are most important creature of the universe. God has created the children for the Gospel of learning and understanding. The children are the harbingers of growth, potential, fulfillment, change, dynamism, innovation and creativity. The healthy future is necessary for them.

The children are the future of the country and their fundamental rights are the basic priority at national and international level. The children are the supreme national assets and they are the future of the country. The whole work has been divided in to eight chapters. first chapter deal with Introduction, second deals with historical perspective, third deals with Child Right and Child Labour: an Overview, fourth deals with Constitutional and Legislative provision, fifth deals with the National and International Policies for the welfare of children, sixth deals with the Judicial trends, seven deals with Global child issues and right to education, last chapter deal with conclusion and suggestions and futuristic approach.

Conclusion and Suggestions

After the 70 years of independence, the Problem of child labour is continuing at grass level despite the Constitutional and legislative framework. The abuse and exploitation of the children in work place has been perpetuating. Judicial response to curb the practice of child labour is praise worthy, but society as a whole should understand and contribute equally for the eradication of the child labour.

The sensitization of the society against this evil will produce the fruitful result in coming days. The role of the civil society and the Public Private Participation can bring the change towards the problem of children. There is need for more concentration on the issues of worst form of child labour and commercial use of children in modern society. There is need for holistic approach towards the child and the problem can be remove through the concerted effort of all section of the society. Finally, the roadmap for the elimination and total abolition of child labour from the society is an urgent need of today.

Dr. APJ Abdul Kalam rightly observed “*Let us sacrifice our today so that our children can have a better tomorrow.*”

¹ Resolution Number 835(IX) of the United Nation General Assembly, 20th November was declared as Universal Child Rights Day.