

LABOUR LAW

Paper II

ASSIGNMENT

(Semester III)

TOPIC: CHILD LABOUR- PROVISION FOR WOMEN AND
CHILDREN

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INTRODUCTION:

The great Romantic Poet Wordsworth said it all when he wrote “The Child is the father of man”. It symbolizes the need of children in building a healthy nation and society. Childhood is the first stage after infancy. It is the formative period in men's life. For their minds are very soft, receptive and plastic at this tender age. Children’s mind is like potter's clay. It has to be shaped in a right manner. A child normally has to enjoy its childhood days with its parents, teachers, friends, etc. It is the age where fine and long lasting impressions gather in child's mind.

A child is a National Asset and it is the duty of the civilized society to look after the child with a view of ensuring full development of its personality. The future of the country will be in the dark, if there is no proper growth of the child today. Thus, it is an obligation of every generation to bring up children who will be citizens of tomorrow in a proper way. Today’s children will be the Leaders who will hold the country’s banner high and maintain the prestige of the nation. Every society must, therefore, devote full attention to ensure that children are properly cared for and brought up in a proper atmosphere where they will receive adequate training, education and guidance.

India has the largest child population in the world. At both International and National levels great interest is being shown in the matter of welfare of children. All out efforts are being made by India for the development and welfare of children. Significant progress has been made in many fields in assuring children their basic rights.

Children are supremely important National asset and thus they need special law to protect them from exploitation and fraud, to save them from certain liabilities and to develop their personality in view of their weak position. Children are most vulnerable to exploitation and abuse. A lot more has to be done for the health, nutrition and education of children. It is unfortunate that girls in particular face debilitating discrimination at all stages. Therefore, specific concentration is being given to the efforts to improve the life and opportunities of the Girl Child.

The necessity of child welfare cannot be over- emphasized, in a civilized society, because the welfare of the entire community, its growth and development, depends upon the health and well being of its children. Hon’ble Justice Mr. Suba Rao has rightly observed: “Social justice must begin with children”.

Children are the hope of parents and the future of the nation and thus they deserve adequate opportunities and facilities for developing themselves. Innocent children are unable to raise their voice against those who injure them or deprive them of their rights. The protective arm of the law has therefore to be strong enough to confer justice to these children.

DEFINITION:

Child: - International Conventions define children as aged 18 and under.

A “child” is not necessarily delineated by a fixed age. Social scientists point out that children’s abilities and maturities vary so much that defining a child’s maturity by calendar age can be misleading.

Child Labour: - Generally speaking it is work for children that harm them or exploit them in some way (physically, mentally, morally or by blocking access to education).

There is no universally accepted definition of “Child Labour”. One cannot generalise that, all work is bad for children. Some social scientist point out that some kinds of work may be completely unobjectionable except for things about the work that makes it exploitative. For instance, a child who delivers newspapers before school might actually benefit from learning how to work, gaining responsibility and earn a bit of money. But if the child is not paid then he or she is being exploited.

UNICEF’S 1997 State of the World’s children Report states that, “Children’s work needs to be seen as happening along a continuum, with destructive or exploitive work at one end and beneficial work like 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 a child’s development”.

A clear valid definition of child labour is presently not available either in the national or international context. The definition looks into two components of the term child labour i.e. child in terms of his chronological age and labour in terms of its nature, quantum and income generation capacity.

Child Labour, however, can broadly be defined as that segment of the child population which participates in work either paid or unpaid.

Child labour means a working child who is between 6 and 15 years of age, is not attending school during the day, is working under an employer or is learning a trade as an apprentice.

According to V.V. Giri¹ child labour is commonly interpreted in two different ways: as an economic practice and as a social evil.

Basically child labour can be defined as any work undertaken by children below 14 years in such works which are injurious to their health and harmful to their proper development.

¹ prolific writer and orator

The term child labour is often defined as work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development.

It refers to work that:

- is mentally, physically, socially or morally dangerous and harmful to children; and
- interferes with their schooling by:
 - depriving them of the opportunity to attend school;
 - obliging them to leave school prematurely; or
 - requiring them to attempt to combine school attendance with excessively long and heavy work.

In its most extreme forms, child labour involves children being enslaved, separated from their families, exposed to serious hazards and illnesses and/or left to fend for themselves on the streets of large cities; often at a very early age. ²

² en.wikipedia.org

HISTORY:

Child labour over different periods has a pathetic history and presents a vivid account of the child's sad plight.

- a) Child Labour in Ancient India: - child Labour existed in the form of child slaves in ancient India. Child slaves could be purchased or sold like commodities. While dealing with slavery, Kautilya stated that purchase or slave of children as slaves was not forbidden amongst the Mulches for they were backward, but an Aryan child could in no way be allowed to remain as a slave.

Kautilya however also realised that slave children were not much different from Aryan children and thus forbid taking ignoble and low work from slave children. In spite of this freedom and equality of opportunity were often denied to them.

The economic status of hired labourers, slaves and unskilled workers was worse and it was the same position of a child when he was engaged in agricultural sector. It is revealed that child labour in ancient India was very common and could be witnessed in different occupations where they were engaged by the rich landlords to carry out activities directly or indirectly related to the agricultural sector.

- b) Child Labour in Medieval Period: - during the medieval period there was no retrieve for child labour. Increasing pressure on land led to fragmentation of holding. Growing families had to look beyond personal cultivation for subsistence. And these labourers used their children to help in their economic activity.

At that period of time there was the labour market where labourers and slaves were composed. King Akbar freed the slaves by not calling them Ghulam (slaves), but calling them chalas (disciples) however, this did not in the least improve the lot of chalas.

During the rule of Jahangir the position of child labour did not improve at all. There was a demand of child labour in the capital but the supply of child labour was huge.

Thus child labour in medieval India remained in existence on a large scale and even the rules encouraged, trafficking of child slaves.

- c) Child Labour in Modern Era: - in economic activities through the years, the child labour has been used. In pre-capitalist societies including India, children had been employed in guilds and in trade occupation. The child grew up in the family and got the job within the family or work within the family environment, where the child was not given the hazardous and difficult task. This concept changed in the 18th century with the advent of capitalism in industrialization and child labour began to be designated as a social problem. A large number of labourers were displaced due to mechanisation of agriculture. So Also extreme poverty caused the children to be dragged into the society for serving the master and had to be introduced in the labour market.

With the onslaught of industrialization it gave a near turn to the history of mankind and brought a change in the overall socio-economic order. The workplace was changed from the family environment to the industrial environment, and the child had to work from morning to night, but the earnings remained quite meagre. There was no scope to grow mentally and physically sound. No allowances to enable the parents to secure the child's living condition or to get education upto a certain age, and thus children were left free to accept certain occupations even at tender age. In the middle of the 19th century the mechanized large scale production came into existence.

To maintain the protection of child labour, the legislation was enacted in the year 1881. That was the first legislation for the protection of child labour. The Act was known as the Factories Act, 1881 which provided some protection to children i.e. by forbidding employment of children less than 7 years of age in factories and also in two separate factories on the same day, by limiting their working hours to 9 hours a day and by making it compulsory to give holidays in a month including rest intervals.

The Government appointed the Free Smith Committee in 1906 and a Factory Labour Commission in 1907 to make inquiries on labour conditions in factories. Therefore the Factories Act of 1911 was enacted which reduced the working hours of children to 6 hours a day and provided that a certificate of age and fitness for employment. They were not allowed to work at night and were prohibited to work in certain dangerous processes. The Factories Act was amended in 1922 to give effect to the International Labour Conventions, and in 1931 providing penalties on parents and guardians.

Factories Act was subsequently amended by Factories Amended Act, 1935 and Repealing and Amending Act, 1937 which did not alter the general provision of the Act. The Employment of Children's Act, 1938 was enacted in order to prevent the evil of employment of children in workshops though it was not covered by Factories Act.

- d) Post Independence: - when the Indian Constitution came into force on January 26th 1950 some provisions of child labour were made and also protection to the child labour from exploitation was enforced. National Commission Labour Report was published in the year of 1961 which showed that child labour persisted in varying degrees in the unorganised sector such as plantations, restaurants, hotels, cotton ginning and weaving, carpet weaving, etc. In 1974 the National Policy for Children Regulation was adopted for the protection of childhood and youth against exploitation for work in factories.

Hence the evils of child labour in India have been in existence from a very ancient time.

REASONS FOR CHILD LABOUR:

There are many reasons for existence of child labour and it varies with place and person to person. In India, poverty is one of the factors but can't be the sole factor because Punjab is a rich State even then there are many child labourers; on the other hand, Kerala is poor State in comparison to Punjab but, there is less child labour. Children provide cheap labour, the person who wants labour has to pay less money than adult labour. There is command over the labour, the child can be commanded more than the adult. The pull factor of child labour is to maximize profit and to command an utmost docile and flexible child labour force. The absence of strong labour movement and strong civic society in general in combination with the inertia of Government institution allow the tendencies a freehand.

The causes of child labour are³:

Poverty

Parental illiteracy

Tradition of making children learn the family skills

Absence of universal compulsory Primary education

Social apathy and tolerance of child labour

Ignorance of the parents about the adverse consequences of Child labour

Ineffective enforcement of the legal provisions pertaining to child labour

Non-availability of and non-accessibility to schools

Irrelevant and non-attractive school curriculum

Employers prefer children as they constitute cheap labour and they are not able to organize themselves against exploitation.

Trades generally employing child labour: Foundry Diamond Industry Ship breaking yard, Agriculture Operation, Salt Pan, Sugar Industries, Brick Manufacturing, Beedi-Manufacturing, Transport, Domestic Work, fishing, Forestry, Poultry Farm, Fire Crackers, Hotel Industries, Tea Shop, family Works, etc.

³ www.tnchildlabour.tn.gov.in

PROVISION FOR WOMEN AND CHILDREN: -

A. INTERNATIONAL FRAMEWORK:-

The problem of child labour is not limited to our country but is world-wide. The International Labour Organization (ILO) was the earliest concern of any world body for the protection of children. Many International Conventions have been adopted by General Assembly of ILO and many countries have ratified it and India is a signatory to many of them. Some of the ILO Regulations are:

- i. ILO Con. No. 5 of 1919: - It is the earliest Convention in 1919. ILO prescribed minimum age of employment in any industrial undertaking to be 14 years. As a general rule, it prohibited the employment of persons below 14 years of age. India ratified this convention on 9th September 1955.
- ii. ILO Con. No. 6 of 1919: - In the same year ILO legislated another Convention, prohibiting children and young person's below the age of 18 to be employed during night shift. India ratified this convention on 14th July 1921.

In 1920 ILO has also prescribed minimum age for admission of children to employment at sea.

In 1921 ILO prescribed the minimum age for agricultural activities prescribing that children under the age of 14 years may not be employed or work in any public or private agricultural undertaking.

- iii. ILO Con. No. 15 of 1921: - – It prohibits a person who is below 18 years of age from being employed on Vessel as Trimmers and Stockers. India ratified this convention on 20th Nov. 1922.
- iv. ILO Con. No. 16 of 1921: - It prescribed compulsory medical examination of child. India ratified this convention on 20th Nov. 1922.

ILO Con. No. 90 of 1948 revised the Con. No. 6 of 1919 and put 12 working hours. Con. 7 of 1920 on minimum age for admission of children to employment at sea was amended with Con. No. 58.

- v. ILO Con. No. 123 of 1965: - It prohibits the employment in mines of a child below the age of 16 years. India ratified this convention on 20th March 1975.

- vi. ILO Con. No. 124 of 1965: - It prescribed for compulsory medical examination of child working in mine.
- vii. ILO Con. No. 138 of 1973: - It prohibits employment of a child below the age of 15 years but allowed after permission up to 14 years.
- viii. Optional protocol to the Convention on the Rights of the child on the Involvement of children in Armed Conflict - UN General Assembly has adopted it on 26th March, 2000.
- ix. Convention on Rights of the Child (CRC) drafted by the UN Commission on Human Rights and adopted by the General Assembly of the United Nations on November 20, 1989 recognizes the exception vulnerability of children and proclaims that childhood is entitled to special care and assistance. It draws attention to the four categories of basic rights i.e. civil, political, social, economic and cultural rights of every child.
- x. Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (ILO Convention 182) 1999, adopted by ILO on 19th Nov. 2000. It prohibits worst forms of child labour as including all forms of slavery, trafficking, child prostitution, child pornography, use of children for illicit activities and further states that children protected below 18 years of age should not be involved.

B. NATIONAL FRAMEWORK :

- I. Constitutional Provisions: - This primary category can be sub-classified as follows: -
 - a) Guaranteed rights enforceable through court action.
 - b) Directive principles of State Policy fundamental to the governance of the country but not guaranteed.
 - c) Constitutional values as scripted in the Preamble and Basic Structure.

Our Constitution provides special provisions for children under Articles 15 (3), 21, 21A, 23, 24, 39(e), 39(f), 43, 45 and 51A (k).

Fundamental Rights: -

- 1) **Article 15(3):** - It enables the State to make provisions in its law for giving favourable treatment to make special treatment to children

and women. Though, no ground is mentioned, preferential treatment is permitted on consideration of inherent weakness of children, Art 15(3) serves as an exception to Art 15(1) and 15(2), Art 15 in general prohibits the discrimination on the ground of religion, race, caste, class, sex or place of birth. It is submitted that specific positive provisions serves the purpose of avoiding any controversy and demonstrates the concern, however inadequate of the framers of the Constitution that State shall strive to promote the welfare of the people including children.

- 2) **Article 21:** - It states that "no person shall be deprived of his life or personal liberty except according to the procedure by law". This provision of the Constitution is very important for human race and humanity. In "*Fancis Coralie Mullin v. Union Territory of Delhi*"⁴ Hon'ble Apex Court has interpreted, that right to live includes the right to live with human dignity and all that goes along with it, namely the bare necessities of life such as adequate nutrition, clothing and shelter and facilities for reading, writing and expressing oneself in diverse forms freely moving about and mixing with fellow human beings. Virtually right to livelihood received protective umbrella under canopy of Article 14 and 21 of the Constitution of India. The basic facilities enumerated are the minimum requirements which must exist in order to enable a person to live with human dignity and no Government has right to take any such action which will deprive a person of the enjoyment of the basic essentials.
- 3) **Article 21A:** The Constitution (86th Amendment) Act 2002 has added a new Article 21A after Article 21 and has made education for all children of the age of 6 to 14 a Fundamental Right. It provides that "the State shall provide free and compulsory education to all children of the age of 6 to 14 years in such manner as the State may, by law, determine". Indian civilization recognises education as one of the pious obligation of the human society. To establish and administer educational institution is considered a religious and charitable object. Education in India has never been a commodity for sale. Looking at the economic front even after six decades of achieving Independence, 30% of the population is living below poverty line and bulk of the remaining population is struggling for existence under poverty conditions. The Fundamental Rights cannot be appreciated and fully enjoyed unless a citizen is educated and is conscious of his individuality dignity.

⁴ AIR 1987 SC 597

In *Unni Krishnan case*⁵ the Supreme Court declared that Right to free education is fundamental right, but up to the age of 14 years.

- 4) **Article 23:** - This Article of the Constitution prohibits traffic in human beings, beggar and other similar forms of forced labour and exploitation. Although this article does not specifically speak of children, yet it is applied to them and is more relevant in their context because children are the most valuable section of the society. It is a known fact that many children are exploited even by the parents who allow their exploitation because of their poverty. And in the absence of parents their exploitation by close relatives still deeper. They are deprived of education, made to do all sorts of work injurious to their health and personality. In rural areas, children are pledged by destitute parents to the landlords as full-time servant or part-time worker to look after both domestic and agricultural operation. In urban areas, the exploitation of children on myriad form exists such as helpers to artisans and skilled workers and also as domestic servants.

The word "beggar" has been explained by the Hon'ble Apex Court in *People Union for Democratic Rights v. Union of India*⁶ and held that labour or service for remuneration which is less than minimum wage, amounts to violation of Art 23. Even inadequate payment for the work rendered by the child amounts to beggar or forced labour.

- 5) **Article 24** says that "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".

Employment of children below a particular age is prohibited so also hazardous or injurious work may be prohibited to children taking into consideration their physical structure. This article does not create an absolute bar to the employment of children below the age of 14 years. Moreover, it does not prohibit their employment altogether. The employment is prohibited only in factories or mine or in any other hazardous occupation. This provision raises a question as to what are the 'hazardous' employment'.

While interpreting the nature and extent of hazardous employment Hon'ble Apex Court in "*labour working in Salal Project v. State of J.K*"⁷ has held that child below the age of 14 years cannot be employed and allowed to work in construction process.

⁵ Unni Krishnan J.P v/s State of A.P., (1993) 1 SCC 645

⁶ AIR 1982 SC 1473

⁷ 1984 AIR 177 1983 SCR (2) 473

In a landmark judgment in *M. C. Mehta v. State of Tamil Nadu*⁸, the Apex Court has held that children below the age of 14 years cannot be employed in any hazardous industry, mines, or other works and has laid down exhaustive guidelines how the state authorities should protect economic, social and humanitarian rights of millions of children, working illegally in public and private sections.

Directive Principles of State Policy: -

- 6) **Article 39(e):** - It states 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 a vocations unsuited to their age or strength.

- 7) **Article 39(f):**- It states 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. In *M. C. Mehta v. State of Tamil Nadu* it was held that in view of Art 39 the employment of children within the match factories directly connected with the manufacturing process of matches and fireworks cannot be allowed as it is hazardous. Children can, however be employed in the process of packing but it should be done in area away from the place of manufacturing to avoid exposure to accidents.

- 8) **Article 42:** - The State shall make provision for securing just and humane condition of work and for maternity relief". The measures for maternity relief are meant for expectant mothers and mothers during the period of pregnancy and after the birth of the child. These measures meant for providing proper health and care and other facilities to the mothers before and after the child birth are expected to promote the health of children and to provide healthy environments for their bringing up.

- 9) **Article 45:** - The State shall endeavour to provide early childhood care and education for all the children until they complete the age of fourteen years". This Directive signifies that it is not only confined to primary education, but extends to free education whatever it may be upon the age of 14 years. Article 45 is supplementary to Article 24 on the ground that when the child is

⁸ AIR 1997 SC 699

not to be employed before the age of 14 years, he is to be kept occupied in some educational institutions. It is suggested that Article 24 in turn supplements the clause (e) and (f) of Article 39, thus ensuring distributive justice to children in the matter of education.

Virtually Article 45 recognises the importance of dignity and personality of the child and directs the State to provide free and compulsory education for the children upto the age of 14 years. Hon'ble court in *Mohini Jain Case*⁹ has observed that the significance of child education and other related provisions of the Constitution, along with the preamble promises to secure to all citizens of the country "Justice Social, Economic and Political", liberty of thoughts, expression, belief, faith and worship. It further provides "equality of status and of opportunity" and assures the dignity of the individual.

- 10) **Article 47:** - The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medical purposes of intoxicating drinks and of drugs which are injurious to health". Thus, it is the responsibility of the State to provide nutritious food to children as the word "people" includes not only adults but also children. This provision becomes more relevant in case of children as the malnutrition can cause irreparable danger to the personality of the children through mental retardation and blindness.

Locus Standi Rule: The liberalization of the concept of *locus standi*; to make access to the court easy, is an example of changing attitude of the courts. It is generally seen that all the working children come from the families which are below the poverty, line and there are no means to ventilate their grievance that their fundamental rights are being breached with impunity.

Keeping in view the pitiable conditions of the child workers, the apex court has shown its generosity by relaxing the concept of *locus standi*.

The judiciary is intended to vindicate and promote public interest by rendering help to those people of the society who are unable to approach the court because of their poor economic conditions.

The issue of *locus standi* has arisen in number of cases before the Supreme Court.

⁹ Mohini Jain v/s State of Karnataka, (1992) 3 SCC 666

Krishna Iyer, J. in *Fertilizer Corporation Kamgar Union v/s Union of India*¹⁰ stated: “In simple terms *locus standi* must be liberalized to meet the challenge of time”.

The liberalized rule of *locus standi* has further been reflected in various decisions however one important case in which the Supreme Court entertained a letter sent by post as public interest litigation was *People’s Union of Democratic Rights v/s Union of India* commonly known as *Asiad Case*. The Supreme Court took cognizance of the child worker’s interest and held that notwithstanding the absence of specification of construction industry in the schedule to the Employment of Children Act, 1983, no child below the age of 14 years can be employed in construction work and the Union of India as also every State Government must ensure that this Constitutional mandate is not violated in any part of the country.

II. National Statutes: - These can be classified into two categories:

1. National Acts solely dealing with children i.e. –

a) Child Labour (Prohibition and Regulation) Act, 1986 and Rules:

This Act has been enacted to prohibit the engagement of children in certain employments and to regulate the conditions of work of children in certain other employments. This Act seeks to achieve the following objects-

-To ban the employment of children below 14 years of age in certain employments.

-To lay down a procedure to decide of modifications to the schedule of banned occupations and processes.

-To regulate the conditions to work of the children, where they are not prohibited from working.

-To lay down the enhanced the penalties for employment of children in violation of this Act and Acts which prohibit the child labour.

-To obtain uniformity in the definition of child in labour laws

b) Child Marriage Restraint Act, 1929.

c) Children (Pledging of Labour Act), 1933.

d) Guardians and Wards Act 1890.

e) Hindu Minority and Guardianship Act, 1956.

f) Indian Majority Act, 1875.

g) Juvenile Justice (Care and protection of children) Act, 2000.

¹⁰ 1981 SCR (2) 52

2. National Statutes in which some sections deal with child:
 - a) Apprenticeship Act, 1961.
 - b) Code of Criminal Procedure, 1973 (Sec. 125)
 - c) Factories Act, 1948 (Sec. 27, 60, Ch. VIII)
 - d) Family Court act, 1984.
 - e) Immoral Traffic (Prevention) Act, 1986.
 - f) Indian Contract Act, 1590.
 - g) Indian Evidence Act, 1872.
 - h) Indian Partnership Act, 1932.
 - i) Indian Penal Code, 1861 (Secs. 82, 83, 89, 90, 105, 315, 316, 369)
 - j) Merchant Shipping Act, 1958 (Sec. 109)
 - k) Mines Act, 1952.
 - l) Minimum Wages Act 1948.
 - m) Motor Transport Workers Act, 1961.
 - n) Probation of Offenders act, 1958.

3. State Statutes dealing only with the Child's education:
 - a) Goa Children Act, 2003:

In 2003 the State Government of Goa legislated and passed the only state level child welfare act in existence. The Goa Children's Act was amended two years later in 2005. The Goa Children's Act 2003 was enacted with the objective to protect, promote and preserve the best interests of Children in Goa and to create a society that is proud to be child friendly. With regards to Education¹¹ the Act states that:

The State shall endeavor to promote holistic education and Universal application of joyful learning processes should be ensured.

The State accepts the concept of zero rejection for children. No child shall therefore be denied admission to any school on any ground including that the name of the father is not available; the absence of relevant documentation, etc.¹²

All schools shall have child rights and gender justice in their curriculum and this will apply to all students from Standard V and above.¹³

Health applied education towards holistic health shall be included in all schools along with other things like yoga and meditation, in the physical education curriculum which will apply to all students¹⁴.

¹¹ Section 4

¹² Section 4 (2)

¹³ Section 4 (4)

¹⁴ Section 4 (6)

Every school shall be equipped with appropriate and adequate teaching aids.¹⁵ And Corporal punishment is banned in all schools.

Any contravention or non-adherence of the provisions of this section shall be dealt with by the Competent Authority only and shall be punishable with a fine which may extend to Rs. 50,000/-¹⁶.

- b) Himachal Pradesh Compulsory Primary Education Act, 1953.
- c) Kerala Education Act, 1959.
- d) Punjab Primary Education Act, 1960.
- e) Delhi Primary Education Act, 1960.
- f) Gujarat Compulsory Primary Education Act, 1961.
- g) Orissa Education Act, 1969.
- h) Bombay Primary Education Act, 1947

III. National Policies: - The national Policies influence law-making and referred to clarify laws. They are the bases of administrative programmes which have the effect of supporting rights. The following National Policies concern themselves with children.

- a) National Children Policy.
- b) National Child Labour Policy.
- c) National Education Policy
- d) National Policy on Handicapped Persons.

These laws can be grouped into subject categories of criminal laws, labour laws, property laws, welfare laws which take care of the following situations.

Criminal: - Make abandonment a criminal offence and oblige parents to pay maintenance.

- Severely punish sexual offences against children.
- Forbid calling child witness to police stations.
- Forbid locking up of children in police cells and jails.
- Forbid life imprisonment and death sentences to children.
- Treat offences as 'delinquencies' that ought to punish mildly and corrected thought special programmes.

Labour: - Ban child exploitation (a fundamental right).
- Ban employment and engagement of children in factories, mines and other hazardous occupation and processes.

¹⁵ Section 4 (11)

¹⁶ www.nls.ac.in

- Regulate employment of children in non-hazardous occupation and processes.

- Welfare:
- Regulate adoption among Hindus.
 - Regulate custody and guardianship.
 - Protect inheritance rights according to personal laws.
 - Offer institutional care to the abandoned, destitute, lost and neglected children.

IV. Government Policies:

- i) National child labour Project (NCLP)
- ii) International Programme on Elimination fo Child Labour

1991(IPECL)

- iii) National Resource Centre on Child Labour, 1993 (NRCCCL)

- iv) National Authority for the Elimination of Child Labour,

1994(NAECL)

- v) **Sarva Shiksha Abhiyan:** It is a programme by the Government of India aimed at the universalization of elementary education "in a time bound manner", as mandated by the 86th amendment to the Constitution of India making free education to children aged 6–14 a fundamental right. SSA is being implemented in partnership with State Governments to cover the entire country and address the needs of 192 million children in 1.1 million habitations. It decided to ensure five years of primary schooling for every child in India by 2007 and eight years of elementary schooling by 2010. Its goals of 2011 were to do the following:

Open new schools in areas without them and to expand existing school infrastructures and maintenance.

Address inadequate teacher numbers and provide training a development for existing teachers.

Provide quality elementary education including life skills with a special focus on the education of girls and of children with special needs, as well as computer education¹⁷.

- vi) Midday meal programme launched for Primary School: A nation-wide Midday Meal programme has been launched from 15th August, 1995 to give boost to Universal Education Elementary

¹⁷ en.wikipedia.org

(UEE), improve enrolment, retention and attendance in primary schools and also to improve nutritional status of children. This scheme is expected to hasten the country's march towards the goal of UEE. The key objectives of the programme are: protecting children from classroom hunger, increasing school enrollment and attendance, improved socialization among children belonging to all castes, addressing malnutrition, and social empowerment through provision of employment to women¹⁸. Where the provisions of the midday meal is not possible the Government has made the provision to provide them wheat or rice, etc. through the local self-government system. The Government also tried to solve this problem through the distribution of the dress material to the primary students.

V. Judiciary: -

The Hon'ble Supreme Court in the case of *M.C Mehta v State of Tamil Nadu* had given certain directions, to withdraw children from the hazardous working occupation and rehabilitate them. Where children are allowed to work in non-hazardous occupations, the condition of work shall be regulated and improved. The court had directed the government to-

- 1) Survey for identification of working children; withdrawal of children working in hazardous industries and ensuring their education in appropriate instructions; contribution at the rate of Rs 20,000 per child to be paid by the offenders to a welfare fund to be established for this.
- 2) Employment to one adult member of the withdrawn child's family and if that is not possible, a contribution of Rs 25,000 to the welfare funds to be made by the State Government.
- 3) Financial assistance to the families of the children so withdrawn to be paid out of the interest earnings on the corpus of Rs 20,000/25,000 deposited in the welfare fund as long as the child is actually sent to school.
- 4) Regulating working hours for children in non-hazardous occupations, the court held that they should not exceed six hours per day with one paid holiday in a week and education expenditure to be borne by the employer.

¹⁸ en.wikipedia.org

C. SEXUAL EXPLOITATION: -

Art 51A(e) of the Constitution imposes the duty on every citizen of India in mandatory form which says that “it shall be the duty of every citizen of India to renounce practices derogatory to the dignity of women”.

The sexual exploitation of children is a social disease that denies a child their most basic rights and their human integrity. It has many forms, the most common of which is child prostitution; but incest abuse, rape, child brides, and female genital mutilation are various forms of sexual abuse.

India’s child - flesh industry is considered the second largest in the world. Children are also smuggled abroad for such heinous purposes. In Mumbai, 30 to 35% of sex workers are children, and the age of the child sex worker is reducing every year.

LEGAL FRAMEWORK:

At regional (South Asia) level we are signatory of two instruments, dealing with the sexual exploitation. These instruments are:

- (i) SAARC Convention on Preventing and Combating Trafficking in Women and children for Prostitution, 2002: and
- (ii) SAARC Convention on Regional Arrangements for the Promotion of child Welfare in South Asia, 2002.

In India, besides the specific offences covered by Indian Penal Code 1860; we are having special laws dealing with this problem:

- (1) The Immoral Trafficking (Prevention) Act 1956;
- (ii) The Indecent representation of Women (Prohibition) Act 1986
- (iii) The Juvenile Justice (Care and Protection of Children) act 2000;
- (iv) Information Technology Act 2000 and
- (v) The Prohibition of child Marriage Act 2006.¹⁹

Besides the sexual crimes against women, there are following forms of commercial sexual exploitation of children namely a) child prostitution b) child pornography in general on the internet c) Trafficking for sexual exploitation, d) Incestuous sexual exploitation e) Child sex tourism, and f) child marriages.

a) CHILD PROSTITUTION:

Prostitution means “the use of a child in sexual activities for remuneration or any other form of consideration” Another statute defines “the sexual exploitation or abuse of persons for commercial purposes and the expression prostitute shall be construed accordingly”.²⁰

¹⁹ The Act replaced the Child Marriage (Restraint) Act 1929

²⁰ Section 2(f) of Immoral Trafficking (Prevention) Act 1956.

There are extensive International human rights laws prohibiting child prostitution. In particular, Art 34 and Art 42 of the Convention on the Rights of the Child (CRC) “States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse.

Indian Penal Code 1860: -

- i) Sec 366-A: Procuration of minor girl:
- ii) Sec 366-B: Importation of girl from foreign country
- iii) Sec 372: selling minor for purposes of prostitution etc
- iv) Sec 373: Buying minor for purposes of prostitution, etc: whoever with the intent the such person shall at any age be employed or used for the purposes of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowingly it to be likely that such person will at any age be employed or used for any such purpose, all the above acts shall be punishable with imprisonment upto 10 years and fine.

Immoral Trafficking (Prevention) Act 1956: -

This is the principle legislation on commercial sexual exploitation in the country, and all cases of prostitution are registered under it. This Act defines a child as a person who has not completed 16 years of age; a minor as a person between 16-18 years of age, and a major as a person who has completed 18 years of age. Some offences under this Act are as follows-

- i) Keeping a brothel or allowing premises to be used as a brothel
- ii) Living on the earnings of prostitution is punishable
- iii) Procuring, inducing or taking person for the sake of prostitution
- iv) Detaining of a person in premises where prostitution is carried on
- v) Prostitution in or in the vicinity of public place
- vi) Seducing or soliciting for the purpose of prostitution
- vii) Seduction of a person in custody.

Juvenile Justice (Care and Protection of Children) Act 2000: -

Juvenile Justice Act 1986 was substituted by Juvenile Justice (Care and Protection of children) Act 2000. The provisions were made for the “juvenile in conflict with law” and “the child in the need of care and protection” but definition of the child and juvenile is the same below the age of 18 years.

Minor girls recovered or rescued from brothels house are children in need of care and protection.

In the case of *Gaurav Jain v. Union of India*²¹

Direction issued to rehabilitate the prostitution and their children:

The Hon'ble Supreme Court in its significant judgement has issued the direction for protection of women from prostitution and rehabilitation of their children. The Hon'ble Supreme Court issued number of directions to the Government and all social organizations to take upon appropriate measures for prevention of women in various forms of prostitution and to rescue them from falling again into the trap of the red light areas and to rehabilitate their children through various welfare measures so as to provide them with dignity of person, means of livelihood and socio-economic improvement.

b) CHILD PORNOGRAPHY IN GENERAL / ON THE INTERNET:

The Art 34 of CRC outlines the measures that States parties must undertake to protect children from sexual exploitation, including “prostitution or other unlawful sexual practices”. Accordingly Art 2 or Optional Protocol expands on this principle and defines pornography “as any representation by whatever means of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes”. Similarly to the case of prostitution, Art 3 of Optional Protocol sets out a framework for criminalizing child sex abusers and requires that States parties provide criminal sanctions for “producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography”.

- i. Indian Penal Code 1860: has several provisions on obscenity that could be used to prosecute cases of child pornography.
- ii. Indecent Representation of Women (Prohibition) Act 1986: Sec 4 prohibits indecent representations of women in any form, including advertisements, publications, writings, paintings or figures.
- iii. Juvenile Justice (Care and Protection of Children) Act 2000: this Act removes this difficulty and provides that all juveniles below the age of 18 years cannot be prosecuted and Bombay High Court held that girls removed or rescued in a raid by Social Service branch, since were minors and not involved in any offence, they could have been described as children in need of care and protection.
- iv. Information technology Act 2000: This statute was primarily introduced to legitimize electronic transactions, but it contains a provision

²¹ AIR 1997 SC 3021

that prohibits electronically publishing or transmitting “any material which is lascivious or appeals to the prurient interest or its effect is such as to tend to deprave and corrupt persons....” Violators may be punished for 5 to 10 years imprisonment and fine with one to two lakhs.

v. Judiciary on the child pornography: The most significant case on the display of pornographic material depicting the abuse of children was in *Freddy Albert Peat’s case*,²² the accused was found with a large amount of pornographic material reflecting the sexual abuse of boys.

c) **CHILD TRAFFICKING FOR SEXUAL EXPLOITATION:**

State parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for purpose of any form.

i) International and regional instruments:

The key international legal instrument on trafficking is the Trafficking Protocol, Art 2 says that the aim of the Protocol is to eliminate the trafficking of children and women, provide support for victims and promote cooperation among State parties to meet these objectives.

ii) National Legislations against child trafficking:

The Goa children Act 2003 prohibits and defines trafficking in accordance with the Optional Protocol to Prevent Suppress and Punish Trafficking in Persons especially Women and children.

d) **INCESTUOUS SEXUAL EXPLOITATION:**

Incest consists of either cohabitation or sexual intercourse between closely related persons, such as between parent and child or between siblings, Incestuous abuse is the worst form of sexual offences. It is the rape committed by the person in whom the victim reposes her faith. It becomes downright monstrous when the victim is a child and the offender is her father, grandfather or brother or any person legally her guardian.

e) **CHILD SEX TOURISM:**

Promotion of tourism has also in a way lead to child trafficking and exploitation.

f) **CHILD MARRIAGES:**

Art 1 of the Convention on Consent to Marriage, minimum Age for Marriage and Registration for Marriages states that “No marriage shall be legally entered into without the full and free consent of both parties, such consent to be expressed by them in person after due publicity and in the

²² State of Goa v Freddy Albert Peat (Cr 112/91, State of Goa Sessions Case 24/91)

presence of the authority competent to solemnize the marriage and of witnesses, as prescribed by law”.

Child Marriage (Restraint) Act 1929: The Act defines child as males below 21 years of age and females below 18 years of age and a minor as a person of either sex who is below 18 years of age.

Child Marriage Prohibition of Child Marriage act 2006:

Sec 3: Child marriages to be voidable at the option of contracting party being a child.

Sec 4: Maintenance and residence to female contracting party to child marriage.

Sec 5: Custody and maintenance of children of child marriage:

Sec 7: Legitimacy of children born of child marriages: Every child born of voidable marriage shall be deemed to be legitimate.

Sec 15: Offences to be cognizable and non-bailable.

Sec 12: Marriages of a minor child to void in certain circumstances.

Sec 13: Power of court to issue injunction prohibiting child marriages.

Sec 14: Child marriages in contravention of injunction orders to be void.

Sec 16: Appointment of the child marriage prohibition officers.

D. ADOPTION: -

Adoption can be a most beautiful solution not only for childless couples or single person, but also for homeless children. It enables a parent-child relationship to be established between persons not biologically related. The love and affection of biological parents is an ideal impetus for emotional, physical and intellectual growth, there are a large number of children who find themselves in orphanages and other such institutions due to various circumstances. At this juncture, institutional care may be unavoidable for such children at the initial stage, their best interest lie in being able to find families, which will adopt them and provide them with the required emotional and physical security.

CONCEPTS OF ADOPTION:

Adoption means the process through which the adopted child is permanently separated from his biological parents and becomes the legitimate child of his adoptive parents with all the rights, privileges and responsibilities that are attached to the relationship.²³

In country adoption: In country adoption means adoption of an Indian child by Indian parents residing in India

Inter country adoption: An Inter- country adoption is one in which the adopters and the child do not have the same nationality, as well as one in which the habitual residence of the adopter and the child is in different countries.

The Objects of the adoption: The first is religious, namely, to secure spiritual benefit to the adopters and his ancestors by having a son to offer funeral cakes and libations of water. Second is to secure an heir and perpetuate the name of the adopter.

PROBLEMS RELATING TO ADPOTION:-

- No uniform law of adoption in India: only Hindu Adoption and Maintenance Act 1956.
- No Statutes on Inter-Country Adoption in India.
- Abuses of adoption.
- Distribution of the property not equal.
- No International Convention on Inter- State Adoption.

²³ This definition was inserted under Section 2(aa) of JJ Act 2000, by Amendment Act 2006.

Legal Provisions on Adoption:

- a) The UN Convention on the Rights of Child 1989:- (India has ratified in 1992)
- Every child has the inherent right to life and states shall ensure to the maximum child survival and development.
 - Every child has the right to a name and nationality from birth.
 - Children are shall not be separated from their parents except by competent authorities for their well being.
 - Disabled children shall have the right to special treatment, education and care.
 - Children in detention shall be separated from adults, they must not be tortured or suffer cruel and degrading treatment.
- b) The Hindu Adoption and Maintenance Act 1956: -
- The person adopting is lawfully capable of taking in adoption.
 - The person giving in adoption is lawfully capable of giving in adoption.
 - The person adopted is lawfully capable of being taken in adoption.
 - The adoption is completed by an actual giving and taking.
 - Capable to take in adoption:
 - Capacity of male: A person of sound mind and major in age has the capacity to take a son or daughter in adoption. If he has a wife then with the consent of his wife, unless his wife has i) completely and finally renounced the world. Or ii) has ceased to be a Hindu or iii) has been declared by a court of competent jurisdiction to be of unsound mind.
 - Capacity of female: A person of sound mind and major in age has the capacity to take a son or daughter in adoption. If he has a husband then with the consent of her husband, unless her husband has i) completely and finally renounced the world. Or ii) has ceased to be a Hindu or iii) has been declared by a court of competent jurisdiction to be of unsound mind.
 - The father or mother or guardian of the child shall have the capacity to give the child in adoption. But adoptive father or mother cannot give adoptive child, into further adoption. A guardian means appointed by father or mother by will or appointed /declared by competent court may give child into adoption.²⁴
 - No person shall be capable of being taken in adoption unless the following conditions are fulfilled namely 1) he or she is a Hindu 2) He or she has not already been adopted 3) He or she had not been married unless there is a custom or usage applicable to the parties which permits persons who are married being taken in adoption and 4) he or she has not completed the age of fifteen years unless there is a custom or usage applicable to the parties which permits persons who have completed the age of 15 years being taken in adoption.

²⁴ Sec 8 of Hindu Adoption and Maintenance Act, 1956.

c) The Guardians and Wards Act 1956: -

Under this Act, people belonging to the communities such as Christians, Muslim, Parsis and Jews and those who wish to adopt can only take the guardianship of the child.

The statute does not deal with the adoption but it mainly deals with guardianship. The process makes the child a ward, not an adopted child.

This act confers only guardian child relationship. This relationship exists until child completes 21 years of age. Under this Act, when children turn 21 years of age, they no longer remain wards and assume individual identities. They do not have an automatic right of inheritance. Adoptive parents have to leave whatever they wish to bequeath to their children through a will, which can be contested by any blood relative.

d) The Juvenile Justice (Care and Protection of children) Act 2000: -

Foster care: Section 42 of the JJ Act, makes the provisions for foster care as i) the foster care may be used for temporary placement of those infants who are ultimately to be given for adoption. ii) In foster care the child may be place in another family for a short or extended period of time, depending upon the circumstances where the child's own parents usually visit regularly and eventually after the rehabilitation, where the children may return to their own homes. iii) The State Government may make rules for the purposes of carrying out the scheme of foster care programme of children.

e) Guideline issued by Hon'ble Supreme Court in the case of *Lakshmikant Pandey v Union of India*²⁵:-

Sc held that since there is no Statutory enactment in our country providing for adoption of a child by foreign parents or laying down the procedure which must be followed in such a case, resort is had to the provisions of Guardians and wards act 1890 for the purpose of facilitating such adoption.

Sc also held that if it is not possible to provide children in India decent family Life such as Nutritive food, Health care and education and lead a life of a basic human dignity with stability and security, moral as well as material, there is no reason why such children should not be allowed to be given in adoption in foreign parents. Such adoption would be quite consistent with our National Policy on children because it would provide an opportunity to children , otherwise destitute, neglected or abandoned to lead a Healthy life, without privation and suffering arising from Poverty, ignorance, Malnutrition and Lack of sanitation and Free from neglect and exploitation , where they would be able to release full potential of growth.

f) Guideline for In- State Adoption, 2004.

²⁵ AIR 1984 SC 480

E. RIGHT TO EDUCATION IN INDIA:

The Constitutional framers were with the view that right to education should exist in India, but at that time the position was different, so they had put it under Art 45 in Directive Principles of the State Policies. Initially this Articles states that the State to make provision within 10 years for free and compulsory education for all children until they complete the age of 14 years. The object of this directive was to abolish illiteracy from the country.

a) Right to free education is Fundamental Right:

Mohini Jain case²⁶: In this case, petitioner Mohini Jain of Meerut (UP) had challenged the validity of a notification issued by the Government under the Karnataka Education Institutions (Prohibition of capitation fee) act 1984 which was passed to regulate tuition fee to be charged by the Private Medical Colleges in the State. Under the notification the tuition fee to be charged from the students was as: Candidates admitted against government seats Rs 2000 per annum, the Karnataka students Rs 25,000/- per annum and students from outside Karnataka Rs 60,000 per annum. The petitioner was denied admission on the ground that she was unable to pay the exorbitant tuition fee of Rs 60,000 per annum.

Principle held by Supreme Court: The Hon'ble Supreme Court held that the right to education is a Fundamental Right under Art 21 of the Constitution, which cannot be denied to a citizen by charging higher fee known as capitation fee. The Right to education flows directly from the Right to life. The Right to Life under Art 21 and the dignity of an individual cannot be assured unless it is accompanied by the right to education.

b) Right to free education is Fundamental Right, but upto the age of 14 years:

Mohini Jain's case was partly overruled in Unnikrishnan case²⁷: It held that admission to all recognized private educational institutions particularly medical and engineering shall be based on merit, but 50% of seats in all professional colleges be filled by candidates to pay a higher fee. The Court held that there shall be no quota reserved for the management or for any family, caste or community, which may have established such college. The criteria of such eligibility and all other conditions shall be the same in respect of both *free seats* and *payment seats*, the only distinction shall be requirement of higher fee by payment students. The court evolved a scheme which would provide more opportunities to meritorious students who are unable to pay higher fee prescribed by Government for such colleges.

²⁶ Mohini Jain v State of Karnataka (1992) 3 SCC 666: AIR 1992 SC 1858

²⁷ Unni Krishna J.P. v State of A.P. (1993) 1 SCC 645: AIR 1993 SC 2178

*TMA PAI foundation v/s State of Karnataka*²⁸

The 11 judge constitutional bench of the SC held that the decision in Unnikrishnan's scheme relating to the grant of admission and fixing of fees was not correct and was thus to that extent overruled. According to court such institutions may charge high fees for their development, but there should not be the element of profiteering.

c) Right to free education is Fundamental Right from 6 to 14 years of age:

Art. 21-A: Right to education

Art. 45: Early childhood care and education to children below the age of six years.

Art. 51-A (k): Fundamental duties of the parent or guardian.

Art. 41: Right to education and to public assistance in certain cases.

Art. 46: Promotion of education and economic interests of SC, ST and other weaker sections.

F. COMMISSION FOR PROTECTION OF CHILD RIGHTS

This is an Act to provide for the constitution of a National Commission and State Commissions for Protection of Child rights and Children's Courts for providing speedy trial of offences against children or of violation of child rights and for matter connected therewith or incidental thereto. The Commission for Protection of Child Rights Act 2005, extends to whole of India except the State of Jammu and Kashmir. This Act is published in Official gazette on 20th January 2006.

THE NATIONAL COMMISSION FOR PROTECTION OF CHILD RIGHTS:

Constitution of commission: The office of the Commission shall be at Delhi and it will consist of the following members.

- i) A *Chairperson* who is a person of eminence and has done outstanding work for promoting the welfare of children.
- ii) *Six members*, out of which at least two shall be women, from the following fields, to be appointed by the central Government from amongst persons of eminence ability standing and experience in a) education, b) child health care, welfare or children development, c) juvenile justice or care of neglected or marginalized children or children with disabilities, d) elimination of child labour or children in distress, e) child psychology or sociology and f) laws relating to children.

²⁸ AIR 2003 SC 355

Functions of the Commission:

- a) Examine and review the safeguards:
- b) Present reports on working of safeguards.
- c) Inquire into violation of child rights.
- d) Examine all factors.
- e) Look into the matter needing special care and protection.
- f) Study treaties and other international instruments.
- g) Undertake and promote research.
- h) Spread child rights literacy among various sections.
- i) Inspect juvenile custodian home, etc.
- j) Inquire into complaint or take suo motu notice.
- k) Restriction on inquiry: The commission shall not inquire into any matter which is pending before the State Commission or any other Commission duly constituted under any law for the time being in force.

Powers of the Commission: The commission while inquiring the complaint or taking suo motu notice, shall have all the powers of a civil court trying a suit under CPC 1908, and in particular, in respect of the following matters, namely-

- i) Issuing of Summons: Summoning and enforcing the attendance of any person and examining him on oath.
- ii) Requiring the discovery of documents: requiring the discovery and production of any document.
- iii) Receiving evidence: receiving evidence on affidavits.
- iv) Requisitioning any public record: requisitioning any public record or copy thereof from any court or office.
- v) Appointing of commissions: Appointing of commissions for the examination of witnesses and documents.

STATE COMMISSION FOR PROTECTION OF CHILD RIGHTS

a) Constitution of State commission for Protection of Child Rights. A State Government may constitute a body to be known as the (name of the state) commission for Protection of Child Rights to exercise the powers conferred upon, and to perform the functions assigned to State Commission. The State Commission shall consist of the following members:-

A *Chairperson* who is a person of eminence and has done outstanding work for promoting the welfare of children.

Six members, out of which at least two shall be women, from the following fields, to be appointed by the central Government from amongst persons of eminence ability

standing and experience in a) education, b) child health care, welfare or children development, c) juvenile justice or care of neglected or marginalized children or children with disabilities, d) elimination of child labour or children in distress, e) child psychology or sociology and f) laws relating to children.

CHILDREN'S COURTS:

a) Children's Court: According to sec 25 of the Act, for the purpose of providing speedy trial of offences against children or of violation of child rights, the State Government may with the concurrence of the Chief Justice of the High Court, by notification specify at least a court in the State or specify, for each district, a Court of Session to be children's court to try the said offence. It shall not apply if, a Court of Session is already specified as a special court or a special court is already constituted for such offences under any law for the time being in force.

b) Special Public Prosecutor: the State government shall specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for at least 7 years as a Special Public Prosecutor for the purpose of conducting the cases in every Children's Court.

c) Powers to remove difficulties: if any difficulty arises in giving effect to the provisions of this Act, the Central government may, by order published in the Official gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty. No order shall be made under this section after the expiry of the period of two years from the date of commencement of this Act. Every order made under this section shall be laid before each House of Parliament.

G. Role of Stakeholders in Stopping Child Labour:

1. National Government Agencies.

- National Agencies need to ratify the UN Convention on the Rights of the Child. (CRC)
- An effective legal system needs to be introduced to check employment of children below 14 years through proper legislation
- Economic sanctions to be enforced on countries that allow the employment of children for the manufacturer of export products
- Proper monitoring and implementing authorities to be set up to implement various acts passed by the National Government.
- National social welfare schemes to be introduced to supplement income for poor families whose children are removed from work sites

2. N.G.Os

- NGOs have a Key role in raising awareness and informing people about the misuse of children, denying them the fundamental rights of shelter, food and education. UNICEF has clarified the role of NGOs as essential players in many of the intervention stages with direct involvement in identification and rescue operations.

- Assist governmental agencies in implementing various pieces of legislation
 - Identify areas where child labour exists and bring to the notice of Government.
 - Undertake advocacy with national governments for the implementing of strict legislation to ban child labour
 - Organise rehabilitation centres to shelter children removed from work sites.
3. Civil society / Peoples forum
- Civil society can play an active role in identifying and alerting authorities to child labour sites.
 - Create awareness among parents and the public about the effect of child labour on children.
 - Motivate parents to send their children to school.
 - Organise counselling sessions for children and parents.
 - Organise joint protests, rallies, hoardings etc. against employing children below 14 .
4. Corporate entities
- Include banning of child labour in their mission.
 - Introduce welfare schemes for children.
 - Allot separate welfare funds as part of corporate social responsibilities to help organisations working for the cause to ban child labour.
 - Put up hoardings giving messages on the benefits of banning child labour.
5. Individual social service activists
- Resist any form of child labour
 - Openly oppose child labour activities which comes to their notice without any fear
 - Be very assertive in expressing displeasure to shop owners and organisations that employ children for labour.

In India there are many international and national NGOs campaigning for the abolition of child labour. A few important NGOs in the field are

- 1) Child Right Resource Center (CRRC)
- 2) Campaign against Child Labour (CACL)
- 3) Child Line

CONCLUSION:

It is revealed that the preamble of Indian Constitution stands as a testimony to witness the presence of philosophy of socio-economic and political justice under our National Charter. In order to achieve the goals of social, economical and political justice, the Constitution of India guarantees special protection to the children against exploitation. To impart justice to them, the State has been empowered to make special provisions to their welfare so as to bring them at par with other sections of the society. There are various provisions in the Constitution which put the State under duty to ensure that the tender age of children is not abused and they are not exposed to economic necessity to enter avocation unsuited to their age and strength.

Thus, analysis of various provisions contained in our National Charter makes it abundantly crystal clear that it is the duty of the State to promote the welfare of children and help them grow into good citizens of the country. Indeed, our Constitution-makers are wise enough as they were sure that the dream of India's of their vision development would not come true if children of the country are not nurtured and educated.

Thus, we find that Constitution of India, gives full protection to the individuals through fundamental rights as enriched in Part III, and also give directions to the state to make laws, legislation for the protection of the individual as highlighted in the Part IV of our Constitution.

Article 15 (3) of the Indian Constitution empowers the state to make special provisions for women and children in the same way Article 24 prohibits the employment of children who are below the age of 14 years; it is an additional precautionary measure in securing distributive justice to children.

Similarly Part IV of our Constitution envisages many important provisions with regard to the welfare of the child workers; it has been designed with an earnest zeal to strive to protect and promote the overall growth of the child workers.

The role of the judiciary in India is remarkable in promoting child labour welfare. The judiciary has always given a lead to save the children from exploitation and has always made concrete efforts to safeguard them against the exploitive tendencies of their employers by regularizing their working hours, fixing their wages, laying down rules about their health and medical facilities.

Although, our Constitutional framework and national policy for child welfare take into account very well all phases of child development. But a large number of legally uncovered gaps due to administrative hindrances frustrate the objective of child welfare. In spite of all the Constitutional and conventional protection accorded to the child workers in our country; the fact remains that children of tender age are forced to take up economic pursuits to augment the income of their family in most of the cases in the lower income bracket.

It must be stated that voluntary organizations can play an important role to eradicate child labour as there is a need for the right type of leadership to explore the hidden energy of the exploited children. There is a need to bring consciousness among the children so that they may be aware of their constitutional rights and get relief accordingly. So also Education must be made legally compulsory.

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