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# SOCIOLOGICAL STUDY OF CHILDREN (PLEDGING OF LABOUR) ACT, 1933

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**SOCIOLOGICAL STUDY OF CHILDREN (PLEDGING OF LABOUR)  
ACT, 1933<sup>1</sup>**

National Law University, Delhi

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## List of Abbreviation

AIR	All India Reporter
Ed	Edition
Ibid	Ibidem
J	Justice
Op. cit	Opere Citatao
SC	Supreme Court
SCC	Supreme Court Cases
sec.	Section
v.	Versus
Vol	Volume

## **CHAPTER - I**

### **INTRODUCTION**

Child labour in India is a socioeconomic phenomenon arising essentially out of poverty and lack of development. Intensive measures are being undertaken to eliminate child labour in India. Action by others who would like to see the achievement of that larger goal should be supportive of the positive steps India is taking – which are in the same direction and have the same goal.

The overwhelming majority of working children in India are rural children in the unorganized, agricultural and allied sectors (the traditional sectors of the Indian economy that often provides employment for all members of a family). They work primarily due to socio-economic factors and do so alongside and under the supervision of their parents/guardians. They do not fall in the category of “forced or indentured” child labour. Every working child cannot be regarded as a forced or indentured child labourer. The distinction between children working in a family setting and “forced or indentured” child labourers must constantly be kept in sight.

India has all along followed a proactive policy in the matter of tackling the problem of child labour. India has always stood for constitutional, statutory and developmental measures that are required to eliminate child labour. Six ILO conventions relating to child labour have been ratified and three of them as early as first quarter of 20<sup>th</sup> century. The framers of the Indian Constitution consciously incorporated relevant provisions in the constitution to secure compulsory universal primary education as well as labour protection for children. Labour commissions and committees have gone into the problems of child labour and made extensive recommendations. India’s judiciary right up to the apex level has demonstrated profoundly empathetic responses against the practice of child labour. India’s policy on child labour has evolved over the years in this backdrop. The present regime of laws relating to child labour have a pragmatic foundation and are consistent with the International Labour Conference Resolution of 1979 which calls for a combination of prohibitory measures and measures for humanizing child labour wherever the same cannot be outright eliminated in the short run.

The Royal Commission established in 1929 had observed the conditions of child labour in different industries and had found that children had been obliged to work any number of hours per day as required by their masters. The recommendations of the commission came to be

discussed in the legislative assembly and the Children (Pledging of labour) Act, 1933 came to be passes, which maybe is said to be the first statutory enactment dealing with child labour.

Thus the first Act in India relating to child labour was the Enactment of Children (Pledging of Labour) Act of February 1933. Since then there have been nine different Indian legislations relating to child labour. The strategy of progressive elimination of child labour underscores India's legislative intent, and takes cognizance of the fact that child labour is not an isolated phenomenon that can be tackled without simultaneously taking into account the socio-economic milieu that is at the root of the problem. The Government of India is determined to eradicate child labour in the country. The world's largest child labour elimination program is being implemented at the grass roots level in India, with primary education targeted for nearly 250 million. In this a large number of non-governmental and voluntary organizations are involved. Special investigation cells have been set up in States to enforce existing laws banning employment of children in hazardous industries.

The Census data, compiled by the Registrar General & Census Commissioner estimated figure of working children to 13.6 million in 1981. According to the 1991 Census, the number of working children in the country is of the order of 11.28 million and the estimated number of working children in the country is 10.4 million according to the Estimates of the 55th round of the NSSO survey (1999-2000).

### **1.1 Research scheme**

The research scheme undertaken by the researcher would comprise of doing a doctrinal study of the books available at the library of the National Law University, Delhi and besides that the researcher would take the help of the internet to look into some of the articles relating to the concept of Pledging of Labour Act..

### **1.2 Research Techniques for Data Collection**

Research technique of analysis, critique, and review of the theories would be intended to be employed.

### **1.3 Research Methodology**

The researcher has followed the doctrinal method of research throughout the project and the MLA system of formatting has been adopted by him.

#### **1.4 Scheme of Chapterisation**

The first chapter as highlighted by the researcher would include a general introduction to the topic, stating the Act and a few provisions and laying down that the scheme of research, research methodology, research techniques and data collection. The second chapter would foreground the evolution of India's child labour policy and the third would state the history relating to the problem. Further the fourth and the fifth chapter would lay emphasis on the current status of the incidence of pledging and highlight the measures to be undertaken to counter the problem respectively. The sixth chapter would state some important and recent Supreme Court judgment relating to the problem. Lastly, chapter seven would conclude the project.

## CHAPTER - II

### EVOLUTION OF INDIA'S CHILD LABOUR POLICY

Ratification of No. 6 Night Work of young person (Industry) Convention. 1919 of ILO	July, 1921	Night work of young persons in any public or private industrial undertaking prohibited
Ratification of No. 15 Minimum age of (Trimmers and Stokers) Convention, 1921 of ILO	November, 1922	Employment of young person as trimmers and stokers in vessels or ports prohibited.
Ratification of ILO No. 16 Medical Examination of young persons (c) Convention, 1921 of ILO	November, 1922	Compulsory medical examination of children and young person employed at sea provided for.
Enactment of Children (Pledging of Labour) Act, 1933	February, 1933	Pledging of Labour of children prohibited and penalty for parents/guardians pledging child labour prescribed.
Enactment of Employment of Children Act, 1938	1938	Employment of children below 14 years prohibited in certain occupations.
Adoption and Enactment of Constitution of India Act by the Constituent Assembly	1949	Prohibition of employment of children below 14 years of age in factories, mines and hazardous employments in terms of a fundamental right; and Directive Principles laid down against the abuse of the tender age of the children until



		14 years of age.
Ratification of No. 90 Night Work of Young Persons (Industry) Convention, (Revised) 1948 of ILO	February, 1950	Night work by children and young persons abolished.
Ratification of No. 5 Minimum Age (Industry) Convention, 1919 of ILO	September, 1955	Employment of children under 14 years of age in any public or private industrial undertaking prohibited.
Report of the National Labour Commission	1969	Recommended combination of work with education and flexible employment hours which would not inhibit education.
Ratification of No. 123, Minimum age (Under ground Work convention), 1965 of ILO	March, 1975	Employment of persons below 16 years of age for work under ground in mines prohibited.
Report of Gurupadswamy Committee, 1979	1979	Recommended setting up of Child Labour Advisory Boards, fixation of minimum age of entry to any establishment, strengthening of enforcement machinery, formulation of effective educational policy with emphasis on integration of educational requirements with local crafts.
Establishment of the Central Child Labour Advisory Board	March, 1981	To review implementation of existing laws; to suggest

with Labour Minister as Chairman		legislative and welfare measures for working children; to review progress of welfare measures; and to recommend industries where child labour should be eliminated.
Enactment of Child Labour (Prohibition & Regulation) Act, 1986	December, 1986	Employment of children below 14 years of age prohibited in specified occupations and processes; procedure of modification of schedule of banned occupations of processes laid down; regulation of working conditions of children in non-prohibited employments provided for; penalties for violation of the law provided; and uniformity in definition of "child" in related laws provided for.
Adoption of the National Child Labour Policy, 1987	August, 1987	Provided for a legislative action plan; focusing of general development programmes for the benefit of working children as well; and formulation of project based action plan in areas of high concentration of child labour.
Report of the task force on	December, 1989	Recommended amendments to

child labour set up by the Child Labour Advisory Board under the Chairmanship of . L.M.Singhvi.		child labour laws and national policy on Child Labour.
Report of the National Commission on Rural Labour	July, 1991	Recommended enactment of compulsory primary education Acts by State; creation of non- formal education centre's, enhancement of outlays for elementary education; guarantee wage employment of parents of working children; universal prohibition of child labour, media publicity against child labour.

## **CHAPTER - III**

### **HISTORY RELATING TO THE PROBLEM**

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

In India, the post-independence era has seen an unequivocal commitment of the government to the cause of children through constitutional provisions, legislation, policies and programs. The Constitution of India in Article 39 of the Directive Principles of State Policy pledges that "the State shall, in particular, direct its policy towards securing ... that the health and strength of workers, men and women, and the tender age of children are not abused, and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength, 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."

As a follow-up of this commitment, and being a party to the UN Declaration on the Rights of the Child 1959, India adopted the National Policy on Children in 1974. The policy reaffirmed the constitutional provisions and stated that "it shall be the policy of the State to provide adequate services to children, both before and after birth and through the period of growth to ensure their full physical, mental and social development. The State shall progressively increase the scope of such services so that within a reasonable time all children in the country enjoy optimum conditions for their balanced growth."

India has also ratified on December 2, 1992, the Convention on the Rights of the Child which came into force in 1990. This ratification implies that India will ensure wide awareness about issues relating to children among government agencies, implementing agencies, the media, the judiciary, the public and children themselves. The Government's endeavor is to meet the goals of the Convention and to amend all legislation, policies and schemes to meet the standards set in the Convention.

India is also a signatory to the World Declaration on the Survival, Protection and Development of Children. In pursuance of the commitment made at the World Summit, the Department of Women and Child Development under the Ministry of Human Resource Development has formulated a National Plan of Action for Children. Most of the recommendations of the World Summit Action Plan are reflected in India's National Plan of Action.

India's policy on child labour has evolved over the years against this backdrop and its present regime of laws relating to child labour has a pragmatic foundation, consistent with the International Labour Conference resolution of 1979. This ILO resolution calls for a combination of prohibitory measures and measures for humanizing child labour, wherever such labour cannot be eliminated altogether in the short turn. It should also be mentioned that India is second to none in its commitment to and in the upholding of the core international labour standards such as freedom of association, collective bargaining, non-discrimination, etc. India is signatory to a record 36 ILO labour conventions.

The Child Labour (Prohibition & Regulation) Act, 1986 of India prohibits the employment of children below the age of 14 in factories, mines and in other forms of hazardous employment, and regulates the working conditions of children in other employment. India has announced a National Policy of Child Labour as early as 1987, and was probably the first among the developing countries to have such a progressive policy. Through a notification dated May 26, 1993, the working conditions of children have been regulated in all employment not prohibited under the Child Labour (Prohibition and Regulation) Act. Further, following up on a preliminary notification issued on October 5, 1993, the government has also prohibited employment of children in occupations such as abattoirs/slaughter houses, printing, cashew de-scaling and processing, and soldering.

With the setting up of the National Authority for the Elimination of Child Labour (NAECL) under the Chairmanship of the Labour Minister, Government of India, a convergence of services and schemes for eliminating child labour is being achieved. The NAECL, comprising representatives from the Central Ministries, meets the need for an umbrella organization to coordinate the efforts of the different arms of the Government for the progressive elimination of child labour.

The child labour program in India is national in character and involves the Government of India, the governments of the States and the Union Territories of India, as well as such tripartite fora as the Indian Labour Conference and the Standing Labour Committee. A massive national and regional media campaign has been launched to sensitize society against child labour. Funds have been allocated to districts identified as child-labour endemic for surveys to identify child labour, and for awareness generation programs among employers, parents and the working children themselves.

India's first act on the subject was the enactment of the Children (Pledging of Labour) Act of February 1933. The Act lays down that an agreement, oral or written, expressed or implied, made by parent or guardian of child in consideration of some payment or benefit for causing or allowing the services of a child to be utilized in any employment, shall be void<sup>2</sup> However, it is worth mentioning that an agreement without detriment to the child and made in consideration of any benefit, other than reasonable wages to be paid for the services of the child and terminable at not more than a week's notice will not be void.

This was followed by the Employment of Children Act in 1938. Subsequently, twelve additional legislations were passed that progressively extended legal protection to children. Provisions relating to child labour under various enactment such as the Factories Act, the Mines Act, the Plantation Labour Act etc. have concentrated on aspects such as reducing working hours, increasing minimum wage and prohibiting employment of children in occupations and processes detrimental to their health and development.

The Child Labour (Prohibition & Regulation) Act 1986 of India was the culmination of efforts and ideas that emerged from the deliberations and recommendations of various committees on child labour. Significant among them are the National Commission on Labour (1966-69), Gurupadaswamy Committee on Child Labour (1979), and the Sanat Mehta Committee (1984).

The Act aims to prohibit the entry of children into hazardous occupations and to regulate the services of children in non-hazardous occupations. The Act in particular, bans the employment of children, i.e. those who have not completed their 14<sup>th</sup> year, in specified occupations and processes lays down a procedure to make additions to the schedule of banned occupations or processes; regulates the working conditions of children in occupations where they

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<sup>2</sup> Section 3.

are not prohibited from working; lays down penalties for employment of children in violation of the provisions of this Act,, and other Acts which forbid the employment of children; brings uniformity in the definition of the "Child" in related laws.

## CHAPTER - IV

### THE CURRENT STATUS OF THE INCIDENCE OF PLEDGING OF CHILD LABOUR

In spite of all the development and legislative measures taken to prevent and regulate, the incidence of child labour has been increasing in the country, including in the hazardous occupations. It is difficult to estimate how many children are actually working because many work without pay in assisting their parents or are working for employers that do not report it to the census. Studies indicate that the burden of household duties fall largely upon the female child. There are jobs that may jeopardise a child's psychological and social growth more than physical growth. In rural areas girls are responsible for looking after younger siblings, cooking, cleaning, fetching, and carrying, which releases adults for productive work. Though a domestic job can involve relatively 'light' work. However, long hours of work, and the physical, psychological and sexual abuse to which the child domestic labourers are exposed make the work hazardous. Studies show that several domestic servants in India on average work for twenty hours a day with small intervals.<sup>3</sup>

These children are engaged in the unorganised sector where the legislative measures are not implemented. Because of the wide coverage and informal nature of the unorganised sector, monitoring the same becomes an obstacle. Varandani estimated that there were nearly 55 million children in India working as bonded labourers in agriculture, mining, brick-kilns, construction work, fishing activities, carpet weaving, fireworks, matches, glass moulding, bidi-making (cigarettes), gem-cutting and polishing work, electroplating, dyeing, washing and domestic work. About 20 percent of these bonded child labourers were sold to cover some small debts obtained by their parents, usually for some social celebration like a wedding in the family.<sup>4</sup>

The study of Varanasi carpet industry corroborates it. The manufacturers, weavers and other involved in the industry said that children had nimble fingers and keen eyesight which are essential for accuracy. They will sit in same posture for hours at a time and, all they have very

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<sup>3</sup> Nazir Ahmad Shah

<sup>4</sup> Varandani, G. p .42.



little bargaining power.<sup>5</sup> There are thousands of children who live and work in the city streets of India.

According to a study conducted among the street children in the city of Chennai (Madras), about 90% of them live with their parents in the streets. The same study also revealed that the largest group of street children in Chennai work as coolies (22%). About 10.4% of them work in hotels (small restaurants and snack bars), 9.6% do rag picking, 8% pull rickshaws, and 7.1% sell flowers. A smaller percentage of children are employed in other areas of work, including prostitution (0.3%). They work for 10-12 hours a day and at the end of the day what they earn is barely enough for their survival. About 32% of them receive less than 100 rupees (about 2.5 U.S. dollars) per month as wages.<sup>6</sup>

A recent ILO report, in India about 80 percent of child labourers are employed in agriculture and allied occupations. Studies also reveal that about 86 percent of bonded labour is found in India's agricultural sector<sup>3</sup>. They are also mostly the children of parents who belong to scheduled castes and tribes. According to one study, there are about 10 million bonded child labourers working as house servants in Indian families.<sup>7</sup>

Among some of the major factor responsible for the institution of child labour in India, poverty ranks first. Most of the child workers belong to poor, landless and semi-landless families whose income is otherwise insufficient to keep the family alive. The children are, therefore, made to work to supplement the meager income of the family. Large private entrepreneurs with automatic machines render a large number of workers jobless. There is major expansion of the unprotected, unorganised labour force. Unemployment among men, together with increased migration or desertion and alcoholism among men, has led to an increasing number of women and children joining the labour force.<sup>8</sup> The disruption of food supplies, the destruction of crops and agricultural infrastructures, the disintegration of families and communities, the displacement of populations and the destruction of educational and health services and of water and sanitation systems, all lead to further exploitation of the vulnerable children.

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<sup>5</sup> Kanbargi, 1988.

<sup>6</sup> Joe Arimpoor, 1992

<sup>7</sup> UNICEF, 1999

<sup>8</sup> World Bank, 1991

## CHAPTER - V

### MEASURES WHICH ARE TO BE UNDERTAKEN

#### **PROPOSED AMENDMENTS REQUIRED IN THE CHILDREN (PLEDGING OF LABOUR) ACT, 1933-**

There are four major areas in the act which require major and urgent amendments. Firstly, in section 4 which states that ‘Penalty for parent or guardian making agreement to pledge the labour of a Child. – Whoever, being the parent or guardian of a child, makes an agreement to pledge the labour of that child, shall be punished with fine which may extended to fifty rupees.’ The amendment for the same should be ‘Penalty for parent or guardian making agreement to pledge the labour of a Child. – Whoever, being the parent or guardian of a child, makes an agreement to pledge the labour of that child, shall be punished with fine which may extended to **twenty thousand rupees.**’

Secondly, in section 5 which states that ‘Penalty for making with a parent or guardian an agreement to pledge the labour of a Child. – Whoever makes with the parent or guardian of a child an agreement whereby such parent or guardian pledge the labour of the child shall be punished with fine which may be extended to two hundred rupees.’ The amendment for the same should be ‘Penalty for making with a parent or guardian an agreement to pledge the labour of a Child. – Whoever makes with the parent or guardian of a child an agreement whereby such parent or guardian pledge the labour of the child shall be punished with fine which may be extended to **twenty thousand rupee.**’

Thirdly, in section 6 which lays down that ‘Penalty for employing a child whose labour has been pledged. – Whoever, knowing or having reason to believe that an agreement has been made to pledge the labour of a child, in furtherance of such agreement employees such child, or permits such child to be employed in any premises or place under his control, shall be punished with fine which may extend to two hundred rupees.’ The amendment for the same should be ‘Penalty for employing a child whose labour has been pledged. – Whoever, knowing or having reason to believe that an agreement has been made to pledge the labour of a child, in furtherance of such agreement employees such child, or permits such child to be employed in any premises or place under his control, shall be punished with **imprisonment for a term, which shall not be less than six months but which may extend to one year, or with fine, which may extend to twenty thousand rupees or with both.**’

And lastly, a new provision for making a second default should be introduced, which should state that, ‘Penalty for making Second Default. – Whoever, having been convicted of an offence under Section 4, 5 and 6, commits a like offence afterwards, shall be punished with

imprisonment of either description for a term which shall not be less than six months nor more than two years or with fine of twenty thousand rupees or with both’.

Given the magnitude and complexity of the problem and the relative ineffectiveness of the government, many non-government organizations and collaborative efforts by the government and non-government agencies are becoming more prevalent in recent years. Though many organizations are focusing on eradicating child labour by mobilizing community participation for universal primary education, there is a common attitude prevailing in our country to accept child labour as an unavoidable consequence of poverty. There is a need to formulate a holistic, multi-pronged and concerted effort to tackle this problem. An integrated approach involving various strategies like poverty eradication programmes, campaigns, budget advocacy, community action, engaging institutions of governance for the ultimate attainment of the desired goal.

**1. Poverty Eradication Programmes:** Poverty has an obvious relationship with child labour, and studies have "revealed a positive correlation - in some instances a strong one - between child labour and such factors as poverty".<sup>9</sup> With the growing gap between haves and have-nots, poverty eradication programmes occupy a central position. The poor and needy should get their share in the development process. There is need to create and implement pro-poor, inclusive policies with strong political will. Caste is also an important determinant on child labour. When analyzing the caste composition of child labourers Nangia (1987) observes that, "if these figures are compared with the caste structure of the country, it would be realised that a comparatively higher proportion of scheduled caste children work at a younger age for their own and their families' economic support" (p. 116). Scheduled caste (lower caste) children tend to be pushed into child labour because of their family's poverty. Nangia (1987) goes on to state that in his study 63.74% of child labourers said that poverty was the reason they worked (p. 174). The combination of poverty and the lack of a social security network form the basis of the even harsher type of child labour. For the poor, there are few sources of bank loans, governmental loans or other credit sources, and even if there are sources available, few Indians living in

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<sup>9</sup> Mehra-Kerpelman 1996, 8

poverty qualify. Here enters the local moneylender, for an average of two thousand rupees, parents exchange their child's labour to local moneylenders.<sup>10</sup>

Since the earnings of bonded child labourers are less than the interest on the loans, these bonded children are forced to work, while interest on their loans accumulates. A bonded child can only be released after his/her parents make a lump sum payment, which is extremely difficult for the poor.<sup>11</sup> Even if bonded child labourers are released, "the same conditions of poverty that caused the initial debt can cause people to slip back into bondage".<sup>12</sup>

Even though poverty is cited as the major cause of child labour, it is not the only determinant. Inadequate schools, 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 labour; 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. This abhorred practice is accepted as being necessary for poor families to earn an income. Thus, an extensive reform process is necessary to eliminate the proliferation of child labour in India which strives to end the desperate poverty in the nation. Changing the structure of the workforce and hiring the high number of currently unemployed adults in greatly improved work conditions is only the first step in this lengthy process. Emergency relief should give attention to the rehabilitation of agriculture, live stock and fisheries. New labour standards and wages must be adopted and medical examinations and minimum nutrition requirements must be established in India.

**2. Campaign for strict implementation of Legislations:** NGOs and voluntary organisations can do an intensive campaign to spread across the civil society organisations through networking to draw the attention of the policy makers, implementators and the community. The organisations working on any issues should involve in the campaign by putting the problem of child labour on the prime agenda. The campaign should focus on the effective implementation of the various legislations. The strategies should be aimed at change at the local, provincial, national and/or international levels. NGOs can play a pivotal role in the process of universalisation of education by adopting innovative approaches to quality education. Effective implementation of National

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<sup>10</sup> Human Rights Watch 1996, 17

<sup>11</sup> Human Rights Watch 1996, 17

<sup>12</sup> International Labour Organization 1993, 12

Rural Employment Guarantee Act (NREGA) would translate the Right to Work as envisaged in the Article 41 of Indian Constitution to a statutory legal right. The NREGA heralds a promising era in poverty alleviation. Poverty is not just income deficiency; the need for enabling environment both physical and psychological needs to be addressed. The works are necessary for the rural agriculture economy that has the potential to get this poor deprived community out of poverty. Hence there is a need to get active during the implementation of the various legislations.

**3. Budget Advocacy:** The organisations need to take up the issue of budget analysis and advocacy for budget allocation for the implementation of the policies. Most of the timethe policies are formulated without proper budget allocation which affect the process of implementation. Budget analysis is an advocacy tool for developing public understanding on policy priorities of the Government which will have a greater impact on those who have little political influence (poor and marginalized). It is important to scrutinize the Government Budgets from the perspective of child development. Mere analysis of the Budgets alone cannot influence the policy making unless it is supported by proper public action or advocacy to promote the findings in public forums so as to influence the common mindset. This would eventually empower the people to seek Governments' accountability. It will give widespread information about the performance of the Government and can also become a ground for creating public pressure on the issues that affect the children. There is a need to establish a strong lobby body or platform to work with Government to increase allocation of budget for children. Coordinated and collective effort from the NGOs and Civil Society Organizations strengthen the budget allocation for children.

This process would provide a large operative space and public support to the child labour campaign. 93rd constitutional amendment to the constitution made the right to education as a fundamental right is an opportunity to strengthen the campaign. The main motto of the campaign should be to change political attitudes by socializing the issues of children at the community level.

**4. Community Action towards Child Education:** There is need to bring about wide spread public awareness towards initiating community action in promoting school enrolment. Education helps a child to develop cognitively, emotionally and socially, and needless to say, education is

often gravely reduced by child labour. We need to create a conducive climate in which community people at large would not tolerate the child labour in any form any more. There is need to bring about awareness among the poor parents so that they will develop a willingness to make any sacrifice to get their children educated. It is possible only when they are convinced about the significance of education.

Once the child is released from labour, the child should be admitted either to formal education or to informal education depending upon various factors like age, level of understanding. This should be accompanied with vocational training depending upon their own choice. Preparation should also be made for sustaining education outside of formal school buildings, using community facilities and strengthening alternative education through a variety of community channels. Influence and sensitize the political parties to include child education and eradication of child labour in their election manifesto. Through training and capacity building of central care givers, including parents, teachers, and community health workers, a diversity of programmes can enhance the community's ability to provide education to children.

**5. Engaging Institutions of Governance:** The institutions of governance at grass root can monitor the policies, programmes and laws to ensure protection of children's interests and rights. Gram Panchayat can play a responsible role in identification of the projects in the Gram Panchayat areas and allocate employment opportunities to the needy. It can also ensure child participation and choice in matters and decisions affecting their lives. There is need to create community monitoring system through their effective participation in the Gram Sabha. Strengthening community participation in the whole process by way of conducting regular social audits of all the programmes is a prerequisite. In doing so they seek authorities accountable and transparent towards effective implementation of various government programmes meant for child education and eradication of child labour.

## **CHAPTER - VI**

### **SUPREME COURT JUDGEMENTS ON CHILD LABOUR**

- The matter regarding elimination of child labour has also been deliberated by the Hon'ble Supreme Court. The Supreme Court of India, in its judgement dated 10<sup>th</sup> December, 1996 in Writ Petition (Civil) No.465/1986 has given certain directions regarding the manner in which the children working in the hazardous occupations are to be withdrawn from work and rehabilitated as also the manner in which the working conditions of the children working in non-hazardous occupations are to be regulated and improved upon.
- The important directions given in the judgement dated 10th December, 1996 include completion of the survey of children working in hazardous employments within a period of six months, payment of compensation amounting to Rs.20,000/- by the offending employer for every child employed in contravention of the provisions of the Act, giving alternative employment to an adult member of the family in place of the child withdrawn from the hazardous occupation or payment of an amount of Rs.5, 000/- for each child employed in hazardous employment by the appropriate Government, payment of interest on the corpus of Rs.25,000/- (Rs.20,000/- to be paid by the employer and Rs.5,000/- to be contributed by the appropriate Government to the family of the child withdrawn from work, provision of education in a suitable institution for the child withdrawn from work and constitution of the Child Labour Rehabilitation-cum-Welfare Fund, constitution of a separate cell in the Labour Dept. the appropriate Government for the purpose of monitoring.
- In a related judgement on 7th May, 1997, the Supreme Court in Writ Petition Civil No.12125/84 and 11643/85- Bandhwa Mukti Morcha, etc. (Petitioner) V/s UOI & Ors.(Respondents) has also given a number of directions on the identification, release and rehabilitation of child labour. The Court, inter alia, directed Government of India to convene a meeting with the State Governments to evolve principles/policies for progressive elimination of employment of children below 14 years in all the employments consistent with the scheme laid down in Civil Writ Petition No.465/86.

These directions were given by the Court in the context of employment of children in the carpet industries in the State of U.P. In this case, the Court issued the following directions to the Government of Uttar Pradesh:

1. Investigate into the conditions of employment of children.
2. Issue such welfare directions as are appropriate for total prohibition of employment below 14 years of age.
3. Provide facilities like education, health, sanitation, nutritious food, etc.

The implementation of the directions of Supreme Court is being monitored by the Ministry of Labour and compliance of the direction reported to the Hon'ble Court on the basis of information received from the State/UT Governments from time to time.



## CHAPTER - VII

### CONCLUSION

It is high time that we understand that engaging children in any sort of work inhibits affects their fullest growth. Legislative provisions are formulated to prevent the menace of child labour. But the children are the most deprived section of population forced to earn a pittance or to contribute to family work sacrificing personal development. Poverty coupled with rapidly growing population, ignorance and increasing dependency load are behind the grim incidence of children employment in the villages and towns of developing countries. Though India is signatory of various international Conventions and Agreements, there is growing number of child labour in India. They work under very hazardous conditions. Given the magnitude and complexity of the problem, this research paper is an attempt to formulate integrated approach and various intervention strategies towards eradication of this problem

Unless there are socially conscious policies in the country, the policies won't make that much of a difference. It is still true that things are not very good for children. Child rights need to be actively respected rather than simply acknowledged, and we must admit that more than the passage of laws and publicizing the same to stimulate the kind of debate in such a way that leads to attitudinal change. The problem of child labour can be best addressed by adopting various strategies ranging from enrollment and retaining children in the school, income generation avenues for adults, poverty eradication programmes simultaneously. Awareness generation in the society towards universalisation of primary education is much needed. The need of the hour is that the Government should ensure all measures and an enabling environment for survival, growth, development and protection of all children, so that each child can realize his or her inherent potential and grow up to be a healthy and productive citizen. This calls for collective commitment and action by all sectors and levels of governments and partnership with families, communities, voluntary sector, civil society and children themselves.

According to an estimate there is about 17 million child labour in this country. The child labour (prohibition and regulation) Act 1986 was passed to improve conditions a lot of child workers, and yet, nothing significant came out. The law failed to protect children who are forced to earn a living because of the rural impoverishment and struggle for existence in urban areas. Since poverty is not eliminated overnight, the pragmatic approach was to regulate child labour.

“Nothing is Impossible”- the word Impossible itself stands for ‘I AM POSSIBLE’ and thus its time that we pledge that we will join our hands together to eradicate this evil of child labour from our Indian society and make India a better living place not just for the rich but for the poor as well. After all Right to Life is a Fundamental Right of every citizen of India so why should only few among the elitist class enjoy it. With our efforts and determination one day definitely India will get rid of this evil and every child will have a tension free smile on his face. Let us bring back those smiles, happiness, security and zest for living which are lost somewhere.

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