

## ***Right to Education : A weapon/hope to eradicate Child Labour***

*“ The Function of Education is to teach one to think intensively and to think critically”*

*- Dr. Martin Luther King Jr.*

The Globe today is witnessing a major disaster where the future of the world are either physically or due to certain situations in their vicinity are forced to work and earn wages at the time when their soft hands and innocent and developing minds are supposed to learn various things and their physique is required to build up by playing sports and not by working in a farm or at home or hazardous places. Poor and illiterate parents feel that if they give a birth to the child he/she will help them to eradicate their poverty by working somewhere during his/her tender age. This perception of such kinds of parents gives rise to a very thinkable question that are they giving a birth to a child or are they producing a labour or their servant who can work on behalf of them and eradicate their poverty and gift them a life of dignity and respect. At such a tender age their nimble fingers are used for filling explosives in fire crackers or for weaving a Kashmiri carpet for which they are paid in hundreds but the things manufactured by them are sold by the manufacturer in the global market at thousands. Investing in the education of children , is the most decisive step a country need to take as they are the source of future development of the nation.

India, a home to the largest child population in the world is also the place which is one of the major contributors of the child labours in the world. The nation considers its child population as ‘supremely important asset’ and to fulfill its commitment to secure various rights of children, it has signed various conventions and treaties. The efforts and needs to protect the rights of children are made from the year 1924 where in the Geneva Declaration containing five principle was adopted which concentrated on the all round development of children with special emphasis on educating children and protecting them from all kinds of exploitation.

Art. 26 of Universal Declaration on Human Rights provides for free education in elementary and fundamental stages. The Convention on Rights of Child 1959 provides in its Principle 7 that every child should get an equal opportunity to enable him to develop his abilities, his individual judgment capacity and a vision to understand his/her social and moral responsibility. Principle 9 strives to prevent the employment of children in any

occupation which would prejudice his/her health, education or mental and physical education. It also imposes a duty on the parents (at first position) and on the nation to raise a child to its full potential under ideals proclaimed under Charter of United Nations. A way back before the passing of 86<sup>th</sup> (Constitutional Amendment) Act, 2002 which made an obligation on States to provide free and compulsory education to all children from 6-14 years of age, in 1987 Operation Blackboard – a central govt. sponsored programme was given a green signal to provide minimum crucial facilities to all primary schools in the country.<sup>1</sup> The primary and most important objective behind this programme was to provide students studying in primary schools with necessary institutional equipments and instruction materials to smooth the progress of their education, which clearly proves that efforts to impart the idea of importance of education in children in done right from 1987 by the way of Operation Blackboard.

The Census of India as like other government programmes consider Child to be a human being below 14 years of age. Childhood is a stage between infancy and adulthood. According to UNCRC's definition of children which considers a human being as a children who is below 18 years of age. But this definition is not rigid and binding on all the signatories of the convention. The signatories like India are free to use their own discretion to determine the age limit of children in their law. But surprisingly in our country the definition of Child varies in various statute meaning thereby that there is no fixed definition given under the Indian laws also which can classify that which age group of human beings are considered as children.

### **Causes of Inequalities among children**

Parents, society and state & central administration doesn't concentrate their eyes on the fact that the children of today are the parents of tomorrow, and if they are bestowed with proper knowledge, manners and habits they can change and eradicate many aspects or conditions prevailing in the world in current age like eradicating dowry system, keeping environment clean and healthy, etc. Today India and China constitutes about one – third of the world's population and India has the highest no. of uneducated and working children in the world<sup>2</sup>.

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<sup>1</sup> <http://www.childlineindia.org.in/Operation-Blackboard.html>

<sup>2</sup> Seth Leila. 2014. Talking of Justice. Rupa Publications India.

Today for many people the process of imparting primary, secondary or other vocation or professional knowledge to the children has become a business which is widely prevalent. The increasing competition in this business has led its entrepreneurs to rise the expense which every parents are required to pay to them to avail their service of providing primary education to their child. This system of paying a huge amount to the owners of the education institutions has led to certain extent in creating various inequalities and economic differences at the age when they are required to tie the bond of friendship and flourish their relationship. Demanding of such higher fees by the administrators of the educational institutions for availing their service of teaching has led to the violation of children's right to get the education as their parents are not so financially capable to invest such huge amount behind the future of their child. Such children are deprived of receiving a high quality education only due to the financial barrier which is coming in their way to receive such quality education.

Various Regulations for Collection of School Fees in different States provides for setting up of District level committees that decide the fees for private schools, which are affiliated either to the State Educational Board or the Central Board for Secondary Education. But this decided fees by the committee keeping in mind various pre determined criteria's are not followed by the private schooling authorities and they decide their own school fees standards every year which is violative to what is decided by the concerned committee. State Legislative Assembly are making constant efforts to draft and introduce a statute comprising of such provisions which can pause the uncertain fees hike in various schools aided or unaided by the State Education Board.

### **Factors affecting implementation of the Act.**

**Firstly** The Preamble to the Right to Education Act suggest that the act has been enacted to provide free and compulsory education to children between 6-14 years of age. Prima Facie this aim of the present concerned Act is directly violating what is mentioned under the International Convention which provides for free and compulsory education to children below 18 years of age. The definition of term 'child' as given under Sec. 2(c) of the Right to Education Act and Art. 45 of Indian Constitution differs from that given under Art. 1 of the Convention on Rights of Children. **Secondly** Art. 28 of the Convention on Rights of the Child, 1989 is clearly contrary to Sec. 2(f) of the RTE Act as Art. 28 provides that the State shall make available and accessible to all children different

forms of secondary education whereas the provision of RTE Act says that the Right of Free and Compulsory Education to Children is only available for their Primary Education. Thus RTE Act doesn't talk about providing education to children below 6 years of age and those between 14-18 years of age except for a single provision which gives discretion to appropriate government to establish pre-school for children below 6 years of age. **Thirdly** the Act has prohibited the screening procedure of children but it nowhere mentions as on what criterias a child will be considered as one who is eligible to get free and compulsory education in the private schools in which 25% seats are reserved for the beneficiaries of the Act. The Act also doesn't expressly mention anywhere as, what amount will be charged as fees from appropriate government by the private schools for 25% reserved seats. So it is quite clear that the present statute is silent on all this issues.

The Right to Education Act also describes a very important concept of Pupil-Teacher Ration which should be maintained at 30:1 in primary level and 35:1 in upper primary level. According to a survey conducted by MHRD the average PTR in 2011-12 was 41 in primary school and 34 in upper primary school.<sup>3</sup> The government should strive to bring down the current PTR in primary school to those prescribed under the Act.

### **Child Labour**

Child labour is such a gigantic task which continues to create challenges before the nations growth. Poverty is the most important reason for the existence of this devil. Despite of various pro-active measures to eradicate the child labour in the nation the government machinery has failed due to the fact that it is a socio-economic problem which is inextricably linked to poverty and illiteracy. The rights of the child are inalienable and the state which neglects their rights is undoubtedly responsible of lack of humanism. It has to be seen that the tender age of the children is not abused and they are not forced to work in hazardous places which hinders their physical and mental health. At such an age when they are the rays of hope for their country's future, growth and development, they are used as potential labour force not getting even the basic primary education.

Getting the benefit of Free and compulsory Elementary Education is the Fundamental Right of every child of 6 – 14 years of age born in this country. Education is

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<sup>3</sup> <https://data.gov.in/resources/pupil-teacher-ratio-ptr-and-number-female-teachers-100-male-teachers-1950-51-2011-12/download>

such a tool which helps in eradicating the poverty of poor families. According to the Census Report of 2001 there were total of 1.26 crore working children out of 25.2 crore child population in the country<sup>4</sup>. Many of these children were among the world's estimated 246 million child labourers

The Child Labour (Prohibition and Regulation) Act, 1986 was enacted with the sole purpose to prohibit the engagement of children in certain employments and to regulate the conditions of work of children in other employments. The act prohibits the engagement of children in some 18 occupations and 65 processes<sup>5</sup>. The Hon'ble Supreme Court right from 1983 by its decision in *People's Union for Democratic Rights v. Union of India* has shown its concern related to Child Labour and has prohibited employment of children below 14 years of age in various manufacturing industries as well as on various construction sites.<sup>6</sup> Another landmark judgements by the Hon'ble Supreme Court are *Labour Working on Salal Hydel Project v. State of Jammu and Kashmir*<sup>7</sup> and *M.C.Mehta v. State of Tamil Nadu*<sup>8</sup> in which the Hon'ble Court has laid down various guidelines in compliance of which no industry or enterprise can employ any children below 14 years of age at any hazardous work place or other industries to protect the economic, social and humanitarian rights of millions of children.

Children are considered as one of the most important assets of the nation as the education and other skills they develop today are going to help them in making developments in the country tomorrow. The education if obtained by the children, can help them to earn for their livelihood directly resulting to eradicate the poverty in which they were living from years. In *Lalima Gupta and Ors. V. State of Haryana and Anr.* the Court held that the best way to educate small children is for the school to be an extensions of the home, so that the children can develop in natural and holistic manner.<sup>9</sup> Thus every schools and other educational institutes must try to setup such a homely environment in the school that children are attracted towards that atmosphere which can directly result to increase in the enrollment of school going children which can ultimately result in

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<sup>4</sup> <http://labour.nic.in/content/division/child-labour.php>

<sup>5</sup> <http://labour.nic.in/upload/uploadfiles/files/Divisions/childlabour/PolicyofGovernmenontheissueofChildLabour.pdf>

<sup>6</sup> A.I.R. 1983 Supreme Court p. 1473

<sup>7</sup> A.I.R. 1984 Supreme Court p. 177

<sup>8</sup> A.I.R. 1997 Supreme Court p. 699

<sup>9</sup> A.I.R.1993 Himachal Pradesh 11

increasing of literacy rate in the country which plays an important role in the all round development of nation.

## **Conclusion**

At the end , we can now say that education is very crucial for the growth and development of the nation. It is the best way to get out of the vicious circle of poverty and child labour. Child labour should not become an excuse for poverty. Instead, we should use education as our tool and weapon to eradicate poverty and child labour. Till now, we saw government and many NGOs and committees efforts to help these poor children to get education . there were many different schemes like success of schooling system, educating parents, amount paid to children who would come for learning and many more , now its time for people , not to remain stubborn and to determine either to make their children work for small amount or get them educated and make their family come out of this poverty circle. Once these children are sent for labour work, they might lose their children.

### **Preventive Measures:**

- There are various schemes like Mahila Samakhya Scheme, Scheme of Area Intensive Programme for Educationally Backward Minorities and Scheme of Financial Assistance or Modernisation of Madarsa Education and many others which were developed for the purpose of attracting the children especially the girl child and those from minorities or other backward classes to enroll themselves for various educational courses
- The various above mentioned ambiguous definition in the statute related to Right to Education and also various constitutional provisions must be removed to allow the precise interpretation of the provisions.
- The appropriate government should strive to encourage the families of those children who are sent to perform laborious work at various places by paying them an amount in lieu of the promise to send their children to the school and avail education.
- Awareness regarding education should be spread in the country especially in those parts where the people are largely illiterate and poor and the advantages of educating their children must be explained to them to change their mindset.

- It is shocking to know that total no. of child labour in our country is equal to the total population of Australia and much more than the population of many other small countries. This statistics regarding child labour needs to be decreased by strict implementation of various provisions made under different statutes.
- The true image of employment of children at various work places needs to be drawn by the Inspector who is specially designated under the Child Labour (Regulation and Protection) Act 1986 without getting influenced by the various external sources.
- Though the obligation to provide free and compulsory education lies on the head of the appropriate government, it takes a very huge effort arrange the requisite finance to spend behind educating millions of children upto the age of 14 years. Parents, NGO's and other individual of the nation must support the campaign of government to provide free education by contributing in various schemes of the government.
- True statistical data related to the education status in the country and no. of beneficiaries of various government schemes related to free and compulsory education must be sent by the Central Government to the Committee on the Rights of the Child (CRC) as required under Art. 44, Para 4 so that the suggestions, recommendations and various other financial aid can be available from various international organizations.

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