

Introduction

Child labour has been in existence since long in almost all the countries developed and the developing alike. Accompanying have been the resulting problems of children's education, their morbidity, working conditions and exploitation that have been the major concern of all the stakeholders and have drawn the attention of policy makers as well. In course of time, this was effectively addressed to a large extent in industrially advanced countries by enacting appropriate intervention strategies, such as law of compulsory education for all. However, it is still widespread in various forms in developing countries. Child labour is an evil of the society that does not only hamper children's education but also seriously affects their healthy growth as an individual with serious repercussion and far reaching implications for the society, if corrective measures do not urgently step into. It creates division between and among human beings and further widens the scope of deeply rooted inequality in the society. According to the International Labour Organization (ILO), in 2000, about 352 million children aged 5-17 years were engaged in some form of economic activity in the world. The 2001 census of India, estimated the number of working children in the country to be 12.66 million (1.23%), which had increased from the 1991 census figure of 11.28 million (1.34%) but had decreased in terms of percentage. The number of child labour is probably the highest in India. The estimates of child labour in India vary from 12 million to 100 million. Everyday some 60 million children work hard to support their families or to support themselves. In the national capital Delhi alone, 0.5 million child labourers are available, according to a conservative estimate.

The most prominent areas where children commonly work are agricultural operations, industries of different nature, hotels and restaurants, tea, *pan* (betel leaf that people chew), and cigarette shops, petty trading, business activities and household chores. The sluggish rural economy has abundant child labourforce roaming around to do any kind of job. They work as artisans, potters, blacksmiths, rope and basket makers, and handloom weavers, etc. Child labour, in urban areas, is concentrated in small and cottage industries, workshops, factories, loading and unloading of goods and commodities in both organised and the unorganised sectors of the economy. In rural India, their main concentration is in agricultural operations, household activities, local hotels and restaurants and petty business etc. Several laws have been enacted

against the use of child labour and several incentives have been provided with to poor households to promote children's education and health, in spite, children are found openly sweeping running trains, working in *Dhaba* (road side eateries), and households. The government servants too do not lag behind in employing (Pandey, 2011; DHNS, 2012) them for domestic work (Neetha, 2002; Chandra, 2008).

There are 12.66 million child labour within the age group of 5-14 years compared to total child population of 25.20 million (Census, 2001). There are 1.2 million of children working in hazardous occupations and processes who are covered under the Child Labour (Prohibition and Regulation) Act 1986. In view of persistence of the child labour problem, the government has recently notified prohibiting employment of children as domestic workers or servants and their employment in *Dhabas* (road side eateries), restaurants, hotels, motels, tea-shop, resorts, spas and other recreational centre. Furthermore, the central government has amended Rule 22-A of the Central Civil Service (Classification, Control and Appeal) Rules, 1964, prohibiting employment of children below the age of 14 years, with a view to improve economic and social condition of children and to encourage them to go to school to become enlightened citizen of tomorrow. It has been seen that above notification come into force with effect from 10th October 2006, and thereafter employment of children below the age of 14 years is not only a violation of the conduct rules but it will be an offence under the Child Labour (Prohibition and Regulation) Act 1986. All government servants should comply with such instructions in letter and spirit. In case of violation is reported, necessary disciplinary action may be taken by the competent authority against such employee, nevertheless government servants are employing children for domestic help. Despite all such provisions children are found working everywhere.

The situation of children in India is a matter of grave concern, as the number of working children is found to be on increase. While their attendance at school is showing down trend, for more opportunities being made available for employment, the growing economy has also created possibility of combining work with schooling (Kambhampati, 2009). The nature of the upcoming India's economy and employment structure is such that more people are entering into the informal and unorganised sector of the economy. The industries where child labour is in popular demand are the carpet looms and weaving (Raj & Srivastava, 2000; Chakraborty & Grote, 2009), slate (Chandra et al., 2000), lock making (Sekar & Mohammad, 2001), diamond (Desai

& Raj, 2001), knitwear (Jayaranjan, 2001), gem polishing (Mathur & Ghosh, 2001), safety match (Kothari, 1983; Sekar, 1993; Vidyasagar & Kumarababu, 2001), knife making (Ghosh & Sekar, 2002), leather (Jayaranjan, 2002), glass (Burra, 1995), glass bangle (Singh & Sharma, 2002), brassware (Sekar, 2007), and *bidi* (indigenous cigarettes made of *sal* leaves) making (Bhat, 2009). Besides, children also fall easy prey to drug mafia and other clandestine activities that are legally banned and socially condemned.

In socially and economically poor households, children do not enjoy humane consideration. They start working from an early age like any other member of the family resulting in their jeopardised upbringing and schooling. They suffer from serious malnutrition and health problems because of their unhealthy and unhygienic work environment. These children mostly come from the deprived poor households and lower castes of the society where parameters of development and way of life are differently defined. The normative socio-economic structures of the society further debar them from availing of societal facilities of education and force them to work as child labour. This has become 'the way of life' to working children and their parents in the caste-ridden society like India. In addition, natural calamities such as drought, flood, caste carnage, and political violence further drive them out to look for life elsewhere. Potential employers being aware of such conditions, fully exploit the situation to the extent they can without any hesitation, reservation, or fear of legal action.

The history of child labour is as old as possibly the history of mankind itself. Children are found taking active part in households' activities since ages, be it social or economic, along with their parents. However, this was neither considered, nor acknowledged as child labour. The serious debate in for and against the child labour started with the children's employment in industries as wage labour by the end of 19th and beginning of the 20th century. But the real momentum took-off with the ILO in lead role around 1973, when the minimum age for entry into employment was decided in its Convention 138. The scope of the debate on child labour centres around two major concerns. One is the concern for healthy growth of children in order to realize their potential, and the second is for socio-economic development of the country. Accordingly, different perspectives are in vogue to address these concerns – the 'contextual relevance', 'ideological positions', being the dominant ones. The protagonists of contextual relevance favour to combine both children's work as well as their schooling in view of households' socio-

economic conditions at the micro level, and the status of socio-economic development of the country, at the macro level. It is argued that if child labour is eliminated, this will have serious adverse effect on households and the country as a whole resulting in further compromises with children's well being.

The experience of child labour in industrially advanced countries provides enough testimony with regard to changes in child legislations arising from the contextual necessity. It was the socio-economic necessity of the British society that the child labour legislation was relaxed, so that children aged 12 or above could work on farms. "At the turn of the 19th and 20th century, working class children were the important contributors to the household economy in industrialised and industrizing countries" (Morrow, 2010). In the present context of developing countries too, it is considered that withdrawal of child labour at this stage, may prove to be detrimental and disastrous resulting in catastrophic collapse of households and the society.

The ideologues against child labour on the other hand, outrightly reject the perspective to combine children's work with their schooling. They vociferously oppose continuation of child labour in any form as this may prove detrimental to their growth and development according to their potential. They argue that diffused commitment may do justice with neither schooling, nor work. Besides, if there remains any lacunae in children's proper socialization, not that only the family will suffer, rather the entire society will have to suffer for generations to come, as today's child is tomorrow's citizen. The human rights declarations, human dignity, and honour, human value, democracy, freedom of choice and children's right to education and life etc., are further cited to strengthen this position. Both the positions however, do not offer any acceptable answer, when asked about the outcome of elimination of child labour in today's socio-economic scenario of the developing countries. India is a country with porous international borders from all sides. As a result, there is continuous influx of illegal immigrants including children (girls and boys both) from the neighbouring countries, namely Nepal, Bhutan, Bangladesh, Myanmar, Sri Lanka and Pakistan. One may be aghast and shiver to think of the situation in these countries, if child labour is withdrawn from the labour market of India. Similar is the situation in India too. There is hardly any activity where children are not found working, and which is in every one's knowledge including government officials and legal professionals. Under the conditions, it is desirable to explore the possibility of some middle path, as neither extremes offer any solution.

Furthermore, in order to even adopt middle path, it is necessary to categorize the nature of activities, children are mostly involved in. These are activities which are hazardous and complex and difficult to combine with schooling. On the contrary, there are activities of light nature. Yet some activities require total involvement, while others are in supervision of some persons. One may occasionally join it, as and when time permits. Besides, there are some activities in the household where children's help is casually demanded i.e. if someone visits the house, sometime siblings and domestics are to be looked after, if mother has to attend some person while cooking, children are asked to help. The important concern in child labour is that children should not be engaged in activities which may compromise with their health, schooling, and households well being.

As regards the definition of child labour, there is almost consensus that children between 5-14 years of age may be considered with scope for little variation in view of the countries socio-economic conditions. The major debate is whether children should be allowed to work. If yes, for how many hours and in what kind of works.

In the classical capitalism, capitalists had no inhibition in employing child labour in view of demands by industries, while democratic or progressive capitalists argue for growth of children according to their potential to ensure their availability for future labour market as an effective labour source. The ILO makes another distinction between light work and child labour for the purpose of making global estimates of child labour. As regards the debate of child labour, there is no consensus in respect to definition of child labour as socio-economic condition considerably varies from place to place and country to country. Even at the micro level, it differs from household to household. In such situations, if micro reality is not given due consideration because of larger academic acceptance, the issue of child labour can never be judiciously addressed. The Government of India for unknown reasons has not yet ratified the landmark ILO Convention No. 138, regarding minimum age for entry into employment. However, it conceded that child labour is a 'harsh reality' in view of the existing socio-economic development of the country. The constitution of the Republic of India Article 24 prohibits employment of children below the age of 14 years in factories.

The children at work are a broad concept that includes most productive activities by children in paid as well as unpaid works in the informal sector. According to United Nations Convention on the Rights of Children, a child is defined as an individual under the age of 18 years, and the age is measured in number of completed years at last birthday. ILO further defined work in terms of economic activities that cover all market production and certain types of non-market production, both paid and unpaid, including production of goods for own use. Children engaged in unpaid activities in market oriented establishment operated in the same household are considered as working in economic activities but children working in their own household performing domestic chores are not considered as economically active by the ILO.

The concept of child labour as advanced by the ILO is based on both the economic activity and Minimum Age Convention, 1973 (No.138) which is the most authoritative international definition of child labour in respect of minimum age of children for entering into employment or work. Convention No.138 says that ratifying states shall fix a minimum age below which no child should be allowed to work. Minimum age may vary according to the level of development of the ratifying states and according to the type of employment or work.

ILO considers all children under 15 years of age who are economically active excluding (i) those who are under five years old, and (ii) those between 12-14 years old who spend less than 14 hours a week on their jobs, perform light work, unless their activities or occupations are hazardous by nature or circumstance, added to this are 15-17 year old children in the worst forms of child labour, **are child labour**. ILO further classified that '*at work in economic activity*' will precede over '*at school*' category. Therefore, children combining both work and school will be classified as '*at work*' (IPEC & SIMPOC, 2002). Thus, there are three categories of child labour under international conventions:

- a) The worst forms of child labour, which are internationally defined as slavery, trafficking, debt bondage and other forms of forced labour, forced recruitment of children for use in armed conflict, prostitution and pornography, and illicit activities.
- b) Labour performed by a child who is under the minimum age specified for that kind of work (defined by national legislation, in accordance with accepted international

standards), and that is thus likely to impede the child's education and full development.

- c) Labour jeopardizes the physical, mental, spiritual, moral or social development of a child either because of its nature or because of the conditions in which it is carried out, known as "hazardous work".

Lieten (2005) made a distinction between child labour and child work and kept children's work (of light nature) in household chores out of the purview of the child labour. Burra (2001) on the other hand, considers all works as child labour which hampers children's potential growth. Bourdillon et al. (2010) is against exploitation and abuse of child labour, and recommend best quality free education for children. However, workless childhood without responsibility is not proper socialization. The ILO perspective on elimination of child labour negates the existing reality by ignoring their support to the households and learning by experience. Libel (2007) in response to new ILO report on child labour raises the question of why 'ILO is deaf to the concrete interest and needs of working children'. In order to synthesize these differing arguments White (1999) suggested for a new convention on child labour.

The subject of 'who is a child labour' is differently understood by people and differently viewed by legal experts, authors, social and human rights activists and NGOs. While households with working children in family-managed activities including domestic work never consider them as child labour, legal *pundits* (knowledgeable persons), consider it as a punishable offence, and prescribe severest action. Scholars and researchers look at it in terms of social functionality, while for social activists and NGOs, it is a serious social issue. Any child, whose development, schooling, and health are compromised with on any account or because of his working status, is a child labour. The constitution of India specifically mentions that no child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment. The Article 24 of the constitution prohibits employment of children in factories, etc. The section 2(bb) of the Minimum Wages Act'1948, section 2(b) of the Beedi and Cigar Workers (Condition of Employment) Act'1966, and section 2(ii) of Child Labour (Prohibition and Regulation) Act'1986, consider a person as a child who has not completed his fourteenth year of age. ILO, on the other hand, considers any activity other than study or play, remunerated or unremunerated, carried out by a person under the age of 15 years as child labour as mentioned

above. UN Convention on the Rights of Child (CRC) and the Statistical Information and Monitoring Programme on Child Labour (SIMPOC) view any work performed by children under the age of 18 years which is exploitative, hazardous, and inappropriate for their age, and which is detrimental to their schooling, social, mental, spiritual, or moral development, as child labour. Thus, any work done by a child between the age group of 5- 14 years on regular or irregular basis, whether exploitative or non exploitative, remunerative or non-remunerative, that results in output destined for market or even meant to support family (domestic or economic both) is child labour in Indian context for the purpose of this study, because at the end, he is deprived of schooling, and personality growth.

Lieten (2005), however, makes a distinction in this context between child labour and child work. Children's work (work of light nature) which helps households by taking part in domestic chores is a part of normal process of socialization or working elsewhere to earn pocket money should be kept out of the purview of child labour though difficult to define. Besides, in view of economic take-off and expanding economic activities in developing countries, participation of child labour in the economy is considered desirable and beneficial, should also, not be included within the scope of the child labour in the opinion of promoters of industrialization. Furthermore, children's activities that form the basis of households' survival, and also considered beneficial for the economy, be kept aside in view of development of the country. However, the vital questions of, 'can there be proper growth of a child according to her or his potential if she or he combines both work and education', and, 'is it not going to adversely affect her or his schooling or education or both' are never attempted.

Burra (2001) widening scope of child labour in a comprehensive way considers all children who are out of school as child labour. Children though may be supplementing the family income by working full time or part-time, or may be helping the household in its various activities, since their schooling, and development are certainly going to be affected, as diffused commitment and involvement do not enables child to concentrate on either and always leads to distraction from each other, be considered as child labour. This is based on the sole consideration for the child's development perspective who is expected to be a responsible citizen of tomorrow's society.

The differences with regard to conceptualization of child labour originate from the positional stand of the scholars, what is one's ideological commitment, and 'how and wherefrom one starts' how one approaches. If one looks at the child as a future citizen, the corollary would be to mobilise societal resources to ensure her or his proper and healthy growth. This view dominates many western countries where children are treated as national assets and non-compliance to it is treated as a punishable offence. Recently an Indian parent was sent to jail because of ill-treatment of their child in Norway¹.

In tune with international organizations ILO, World Bank, UNICEF, etc., the children's perspective has emerged as significant perspective with regard to debate on child labour. Although this is an enriching experience, this does not do justice in full with existing socio-economic conditions of the developing countries. How important is the theory of socialization and how important are resources in upbringing of children, are well known to the students of sociology. Most of the developing countries lag far behind in both respects from the point of view of acceptable levels. This is easily observed in faulty growth of children in terms of malnutrition, illiteracy, and poor health. In such a situation, children's perspective may be meaningful, is far away from the reality. However, at the same time, one may definitely get some impression the way children look at the issue of child labour, in spite of prevalence of 'dependency syndrome' in most of the developing countries especially India. Furthermore, there exist strong possibilities of a biased children's opinion in view of their growth in the close scrutiny of their parents. When asked to opine, whether they were satisfied with the work, the answer was in affirmative (84.40%). Similarly, what will be the consequences, if children stop working, the overwhelming opinion was that there will be a sharp decline in the households' living standard. The interesting thing is that most of the children are in favour of combining work with schooling.

Child labour is either voluntary or involuntary, or voluntary turned into involuntary or vice versa. The entry of the child labour into the market on their own or with parental consent is voluntary, while children having left household under compulsion of some difficult circumstances or picked up by the middlemen from different places and subjected to hazardous works are involuntary. The popular places where form the intermediaries, unscrupulous

¹The Statesman, Kolkata Edition, 05th December 2012

employers and suppliers of child labour traffic children are railway stations, bus stands, market places and the countryside. These children are easily spotted because of their aimless and restless movement with dejected look. Once trapped, such children are mostly engaged in clandestine activities that are either banned or not permitted by the law of the land and the civilised society. Any opposition to what is being asked to do invariably invites violent and aggressive treatment ranging from ill-treatment to extreme torture. It is to silence the child for ever by all means. The assumption is that once tolerated, the catch may be out for ever with imminent loss to economic gain and invitation to police. They are treated like slave and are kept at a secret place under strict vigil for fear of being exposed or caught by the law enforcing agencies.