

# Education of Street Child And Child Beggar in India.

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## ABSTRACT

The phenomenon of street and begging children is an offshoot of complex interplay of various factors in India. The phenomenon seems to have acquired a gigantic dimension in the wake of rapid industrialization and urbanization. The large-scale presence of street and working children is a symptom of the disease that is widespread due to exploitative structure, lopsided development and iniquitous resource ownership. Other parameters contributing to its presence in India are large-scale unemployment, rapid urbanization, rapid population growth, extreme poverty, increasing disparities in wealth, cutbacks in government social and educational budgets, high level of child abuse by the parents/society and a breakdown of traditional family and community structures. Human migrations from rural to urban areas have contributed significantly to a substantial increase in the number of street and child beggars. Consequently children are forced to live on the streets and earn a livelihood for themselves and also support their families. Hence the research article focuses on various enactments made by Indian government to protect these children from begging and other street works and to provide them a compulsory education. These enactments are referred as usage but still there is a wide spread ignorance of such provision and laws made by the government to provide compulsory education to children at the age between 6 to 14 years. The research is based on the status and the level of exploitation that is occurring in India and also puts forward a question that even after many laws, policies, schemes, enactment in favor of child education there are still some categories of children that remain uneducated. The research article also provides various steps that can be taken to stop such phenomenon of child begging and child working in streets, instead providing the necessary education to the fullest to such children.

**Keywords:** Begging, Child beggars, Street Children, Poverty, Policies, Schemes, Government and Education.

## INTRODUCTION

India constitute almost 19% of total child population which is largest in the world among all countries, from the beginning of time India and its rich culture has given importance to up bringing of children in safe, secure, and healthy manner and that prevails toady itself by Constitution of India. However millions of them exist below poverty line and thus malnourished and malnourished and also many of them die. Due to these

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circumstances children either opt for working in streets below minimum wages or they get caught in child begging. Even being such a critical problem there are not much studies exist with regards to street child and child beggars. The increasing number of street child and child beggars has become an issue of concern among many people, organizations either governmental or non-governmental organizations, various authorities etc. Such children are deprived of a decent education to upgrade their knowledge, the concern of earning money to meet the family needs have pre occupied the mind of these children and their childhood which is an essential part of every human life is snatched in front of their eyes. The honorable Supreme Court in *Sheela Barse & Another v. Union of India* has declared that child is the national asset. In Indian scenario child requires proper care, love, affection and nourishment but experience shows that the child are subject to ill treatment in some situations. In many compelling circumstances and having no shelter for his protection a child gets associated with crimes and criminals.

Being enacted with numerous of provision relating to compulsory education of a child more than 30 % of children are still involved in street working and begging activities. According to revised estimates as assessed by the ILO Bureau of Statistics, the number of working children in the world between the ages of 5 and 14 years is at least 120 million. India with a population of more than 1 billion in 2000 AD has the largest population of these street and working children in the world. A significant proportion of them are found working in the unorganized or informal service sector in every city, big or small, catering to various needs of city dwellers, as they offer cheap labour. Most of the children live or work on the streets of urban India, labouring as porters at bus or railway terminals; as mechanics in informal auto-repair shops; or as vendors of food, tea, and handmade articles. They work as street tailors; or as rag- pickers, picking garbage and selling usable and activities of begging. These children suffer from the worst kind of deprivation and denial of basic necessities such as education,

health, food, shelter, physical protection, security and recreation. In the rural areas children, especially the girl child, shoulder the responsibility of caring for their younger siblings, cooking, cleaning, washing clothes and fetching water. The sheer denial of education to the girls reinforces their lower status not only in the society but also in the eyes of their parents. It can be clearly seen from such atmosphere that the regard to compulsory education is not given by such parents and children are let out to dry without any furtherance of information and knowledge that shall have a life changing impact on them. Street children and child beggars in India are generally aged between 7 and 15 years old, who live, work, beg and conduct all other activities and spent most of there time on the street or public places almost every day. They may be neglected, abandoned, physically or mentally tortured by society or even by their own family members but still they are tied up in the same house living together with their family. General character of these children can be determined on these following factors – (a) Having low level of education, (b) Originally born or coming from family below poverty line, (c) Working or begging at public places for more than 5 to 6 hours , (d) Working in informal sector . In India various literature referred to education of minors but there are very

low range of implementation. The importance of education is very well stated in Article 31 of the Constitution which talks about the right of every citizen regarding education. Article 34 also states about the duty of the state to provide compulsory education. Other Constitutional Article such as 21A talks about right to education of children, Right of Children to Free and Compulsory Education Act, 2009, UNESCO report on street and working children, Article 30, Education for weaker sections Article 15, 17, 46; Article 29 and other such legislations are referred in this article.

## WHO IS CHILD-

Child by adjective phrase, means a person who is unable to maintain himself/herself, but the word Child has been used in various legislations as a term denoting relation, as a term indicating capacity and as a term of special protection for the question who is child the appropriate answer to it will be the age at which a person ceases to be child will be taken in as child<sup>1</sup>. According to article 1 of United Nations convention on rights of child 1989, a child means every human being below the age of 18 years unless, under the law applicable to the child, majority grant discretion to individual Nations to fix the age limit of child.

## STATUS OF CHILD-

The future of nation depends upon the welfare and well being of children who are the Nations assets. The state is therefore under an obligation to protect and preserve these assets keeping this view in mind different nations have provided different provisions in their legislation with accordance to child. India, as a welfare state also enacted various legislation for child. Therefore the status of child is very important in society.<sup>2</sup>

Our constitution provides provision for the protection of child. State government under article 15 (3) of the Constitution can make special provisions for children. As provided under article 39 (c) of the constitution the children of tender age shall not be subject to abuse and they should be given opportunities and facilities to develop in healthy manner, freedom and dignity of children should be protected. Article 24 prohibits the employment of children below age of 14 years because there is danger or risk to physical or mental health of children. In India there was no statutory provision regulating the employment of children in industry till 1881, the year in which the first Indian law defining child was passed which prescribed the age limit of 12 years. Factory act 1948 define child as a person who has not completed 14 years of age. Both Dangerous Machines Regulation Act and Motor Transport Workers Act 1961 define a child as a person below 14 years of age. The Minimum Wage Act, 1948 also defined child as a person who has not completed his 14 years of age whereas in Immoral Traffic (Prevention) Act, 1956 prescribed age is 16 years. Children Act, 1960 defines a child as meaning a boy who has not attained the age of 16 years and a girl who has not attained the

<sup>2</sup>Dr. S.K. Chatterjee, *Offences Against Children And Juvenile Offence 1, 2* (Central Law Publication, 2<sup>nd</sup> edition, 2016).

<sup>2</sup> *Id.* At p. 3.

age of 18 years. The Juvenile Justice (Care and Protection of Children) Act, 2015 say a child or juvenile means a person who has not completed the age of 18 years. Child Labour (Prohibition and Regulation) Act 1986 defines a child as a person below the age of 14 years.

## LEGAL DEFINATION OF CHILD-

(i) Oxford Dictionary of English defines the term Child as a young human being below the age of full physical development.<sup>3</sup>

(ii) The U.N Convention on Rights of Child, 1989 defines the term child means any human below age 18 years unless, under the law applicable to child, majority is attained earlier.<sup>4</sup>

(iii) The Majority Act, 1875 defines that a person domiciled in India shall attain the age of majority on completing the age of 18 years and not before.<sup>5</sup>

(iv) The Child Marriage Restraint Act, 1929 defines child as a male who has not completed 21 years of age and a female who has not completed 18 years of age.<sup>6</sup>

(v) The Factories Act, 1948 defines that child means a person, who has not completed his 14 years of age.<sup>7</sup>

(vi) The Minimum Wages Act, 1948 defines that a child means a person who has not completed his 14 years of age.<sup>8</sup>

(vii) The Imoral Traffic (prevention) Act, 1956 defines that child means a person who has not completed age of 16 years.<sup>9</sup>

(viii) The Young Person (Harmful Publication) Act, 1956 does not define the term child. Eight defines that young person means a person under the age of 20 years.<sup>10</sup>

(ix) The Child Labour (Prohibition and regulation act),1986 defines the term child means a person who has not completed his 14 years of age.<sup>11</sup>

<sup>3</sup> Vinod Kumar, *Crime Against Children and Their Rights 2* ( Regal publications, 2016)

<sup>4</sup> *ibid.*

<sup>5</sup> *ibid*

<sup>6</sup> *id .* at p. 3.

<sup>7</sup> *ibid*

<sup>8</sup> *ibid*

<sup>9</sup> *id .* at p. 4.

<sup>10</sup> *ibid*

<sup>11</sup> *id .* at p. 5.

(x) The Juvenile Justice (care and protection) Act, 2000 defines that juvenile or child means a person who has not completed 18 years of age.<sup>12</sup>

(xi) The Prohibition of Child Marriage Act, 2006 defines that child means a person who is male has not completed 21 years of age and a female has not completed 18 years of age.<sup>13</sup>

(xii) The Right of Children to Free and Compulsory Education Act, 2009 defines that child means a male or a female child of age of 6 to 14 years.<sup>14</sup>

(xiii) The Protection of Child from Sexual Offences Act, 2012 defines that child means any person below the age of 18 years.<sup>15</sup>

So, After going through various definitions of child provided by our national laws, inference can be drawn that there is no uniform definition of the term child or children in India. Some act defines the term child while other defines the term minor. Except labour legislation most of the legislation fixed age of 18 years while defining child or minor.

### CHILD BEGGARS-

Beggary is an accepted way of life for a large section of orphan, destitute and neglected children in our society. In urban areas we often come across children operating alone or in groups, soliciting money or food for privately run orphanages or homes. Apart from this a large number of children fend for their survival alone or in informal groups two or three. These children can be seen making appeals for private charity in various ways in the railway sections, bus stands, religious places, busy market and picnic spots. Such children are usually from poor families where the parents are unable to provide care, support or guardians for them. Sometimes child beggars may adopt the way of life of their parents. Such children often become part of organized gangs of beggars and are often the victim of the beggary evil. In India child beggars are handled in different manner and treated as a neglected child in terms of Children Act. Children leave home and resort to begging due to disorganization in the family or death of parents, or loss of mother or father, maltreatment or neglect by parents. Sometimes even Beggar kidnap children and mutilate them in order to use them as their pawns in begging.<sup>16</sup> In India thousands of children are forced to beg and many of the children are trafficked into gangs, some are kidnapped, others may have been handed over by their family out of desperation or because they have been duped. Children are trained to approach certain kinds of people and use certain mannerism to extract even more money by these gangs. The earnings of a child are handed to the gang master and if a child does not make their target that day they are beaten and tortured by them.

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<sup>12</sup> *ibid*

<sup>13</sup> *id* . at p. 6.

<sup>14</sup> *ibid*

<sup>15</sup> *ibid*

<sup>16</sup> Rubina Iqbal, *Begging a Growing Menace in India*, vol. 2, no.8.



Many child beggars are addicted to solvents, alcohol and charas. This helps the children to forget where they are, but it also helps the gang masters to keep them under control. Often children are maimed by the criminal gangs because disabled children get more money as compare to healthy ones and it increases the profit of criminal gangs.

India, the central legislation which deals with child beggar is the Juvenile Justice (care and protection of children) Act, 2000. The term child beggars are covered within the definition of child in need of care and protection.<sup>17</sup> This act also defines the term Begging apart from this some state governments are also having legislation which deals with child beggars such as the Bombay Prevention of Begging Act, 1959, The Bengal Vagrancy Act, 1943 and the Punjab Prevention of Beggary Act, 1971.

### **STREET CHILD-**

The Juvenile Justice (Care and Protection of Children) Act of 2015 is concerned with children in two broad categories: those in need of care and protection, and those in conflict with law. Street children may fall within both categories simultaneously, as children who are not provided with care and protection may end up in conflict with the legal system. Over the years, various researchers and organization have attempted to provide concise definition of the term street children. de Moura (2002) analyzed the media and literature on these children and found that the use of term street children is pre-dominant in Latin America, Asia, Africa and eastern Europe, while the term homeless children is used in North America and Western Europe. The situation of street people in India has been well summed up by Phillips “The whole family lives on pavement, procreate on pavements.” The children belonging to street dwelling families grow up to engage themselves in work from a tender age, so that they may carry some bread back home for the family’s sustenance. Into the International labour organization, “Born to parents who themselves were uneducated child workers, many child workers are forced to continue the tradition that leaves them chained to a life of poverty”. Street children can be classified into three major categories which are-

(a) Children on the street- this group consist primarily of working children who still have family connection of a more or less regular nature. Their focus in life is still the home. Are very few attend school. Most return home at the end of each working day and most well have a sense of belonging to the local community in which their home is situated.

(b) Children of the street- children in this group see the street as their home and it is there that they seek shelter, for food and essence of family among companions. Family ties exist but are remote and their former home is visited infrequently.

(c) Abandoned children- Children these groups are entirely on their own, not just for material but also for psychological survival and therefore require a different approach. It is important to stress that these children

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<sup>17</sup> Sec. 2(d)(ia), The Juvenile Justice (Care and Protection of Children) Act, 2000.

are not necessarily boys. Girls may not be as visible in the every day street life, but they are there in great numbers and in increasingly so.

### **EDUCATIONAL RIGHTS OF CHILDREN (Street Child & Child Beggar) –**

Education has always been accorded and honoured place in Indian society. In the post independence period, a major concern of government of India and the state has been to give increasing attention to education as a factor vital to natural progress and security. Various policies, charters, schemes, and constitutional provisions discuss about educational rights of children.

(i) National policy on education, 1968, 1986, and 1992- problems of educational reconstruction were reviewed by several commissions and committees and at last, in the year 1968, the government of India came out with a National Policy on Education to promote the development of education in accordance with the principles like free and compulsory education, development of languages, equalization of educational opportunity, identification of talent, work experience and national service, science education and research, education for agriculture and industry, production of books, examinations, secondary and university education, part time education and correspondence courses, spread of literacy and adult education etc. In 1986, another national policy on education was adopted by the government of India. This policy has explicitly recognized the importance of early childhood care and education as a crucial important not only for human development but also for universalization of elementary education and development of women. Again in 1992, national policy on education 1986 was modified and states that, the aim of education is to keep intact India's long accepted values of secularism, socialism, democracy and professional ethics. Education is fundamental to all round development of a person. The 1992 national policy on education promises a 4 to develop a common school system through 10+2+3 structure. With the amendment of Indian constitution in 1976, education has been placed on the concurrent list which gives the central government a bigger role in the implementation of education. In an attempt to remove inequalities in the education system, the policy emphasizes the importance of special programmes for marginalized groups such as woman, schedule caste, scheduled Tribes, handicap etc. The policy not only identifies the need to pay attention to minority groups and other backward sections of the society, but also emphasized that Hill, desert and remote areas will be provided with adequate institutional infrastructure.

(ii) National Charter for children, 2003- article 7 of the charter talks about free and compulsory primary education of children- (7)(a) The state recognize that all children shall have access to free and compulsory education. Education at the elementary level shall be provided free of cost and special initiatives should be provided to ensure that children from disadvantaged social groups are enrolled, retained and participate in schooling. (b) At the secondary level, the state shall provide access to education for all and provide supportive facilities from the disadvantage groups. (c) the state shall in partnership with the community ensured that all the educational institutions function efficiently and are able to reach universal enrolment,

cell retention, universal participation and universal achievement. (d) State and community recognize that a child be educated in its mother tongue. (e) The state shall ensure that education is child oriented and meaningful. It shall also take appropriate measures to ensure that education is sensitive to the healthy development of the girl child and to children of varied cultures backgrounds. (f) The state shall ensure that school discipline and matters related thereto do not result in physical, mental, physiological harm or trauma to the child. (g) The state shall formulate special programmes to support, identify, encourage and assist the gifted children for their development in the field of their excellence.

(iii) Scheme for working children in need of care and protection- the purpose of this scheme is to provide working children with a essential educational services such as non-formal education, and vocational training. The program aims at preventing and stopping the exploitation of working children and safeguarding their rights to education. The target of this scheme is projects in urban areas that are not covered by other schemes, specially those targeting children who are often left out of schemes such as children of slums, pavement dwellers, drug addicts, children living on railway platforms, along railway lines, children working in shops, dhabas, mechanic shops etc, Children engaged as domestic workers, children whose parents are in jail, children of migrant labourers, sex workers, leprosy patients etc.

(iv) Constitutional provisions- the Constitution of India contains various provisions relating to welfare of children. Article 21-A makes education from 6 to 14 years of age a fundamental right within the meaning of part III of the Constitution. Article 21-A provides that the state shall provide free and compulsory education to all children of the age of 6 to 14 years in such a manner as the state may, by laws, determine. The term child for the purpose of this article is held to be a child who is the citizen of India. Article 21-A may be read with new substituted Article 45 and new clause (k) inserted in Article 51A by the Constitution (86<sup>th</sup> amendment) Act, 2002. Article 41 requires that the state shall within the limits of its economic capacity and development, make effective provisions for securing the right to work, to education. Article 45, as originally stored, required the state shall endeavor to provide, within a period of 10 years from the commencement of this constitution, free and compulsory education for all children until they complete the age of 14 years. The directive contained in article 45 is now omitted and it is substituted by new directive entitled three early childhood care and education for children. According to it, the state shall endeavor to provide early childhood care and education for all children until they complete the age of six years.

(v) The Right of Children to Free and Compulsory Education Act, 2009-This act received the assent of the President on 26th August, 2009 and published in the Gazette of India, Extraordinary, Part II, section I on 27<sup>th</sup> August, 2009. This act was enacted to provide for free and compulsory education to all children of the age of 6 to 14 years. It shall extend to the whole of India except the state of Jammu and Kashmir. Subject to the provision of Articles 29 and 30 of the Constitution, the provisions of this act shall apply to Madras as, Vedic Pathshalas and educational institutions primarily imparting religious instructions. Section 4 of the act



prescribes that, where a child above six years of age has not been admitted in any school or though admitted, could not complete his or her elementary education, then, he or she shall be admitted in our class appropriate to his or her age.

(vi) Judicial pronouncements-the importance of education has come to be recognized in various judicial decisions and the Supreme Court has delivered a noteworthy decision in this regard in the case of Unni Krishnan J.P. and Others v. State of A.P and others<sup>18</sup>. The court is of the opinion that “ The fundamental purpose of education is the same at all times and in all places. It is to transfigure the human personality into a pattern of perfection through a synthetic process of the development of the body, the enrichment of the mind, the sublimation of the emotions and the illumination of the spirit. Education is the preparation for a living and for life, here and hereafter.” In that case the court observed that the Right to education is implicit in the right to life and personal liberty guaranteed by Article 21 of the Constitution and the state cannot deprive the student his right to education except in accordance with the procedure prescribed by the law. It must be considered in the light of Directive Principles of State policy enshrined in part four of the Constitution.” In Anand Vardhan Chandel v. University of Delhi<sup>19</sup>, Delhi High Court also hold the view that education is fundamental right under the Constitution and observed that, “the law is, therefore, now settled that the expression of life and personal liberty in the article 21 of the Constitution includes a variety of rights though they are not enumerated in part III of the Constitution, provided that they are necessary for the full development of the personality of the individual, and can be included in various aspects of the liberty of the individual. The Right to education is therefore, included in article 21 of the Constitution.” Similarly in Mohini Jain’s case<sup>20</sup> it was been observed that, “ Right to life is the compendious expression for all those rights which the court must enforce because they are basic to the dignified enjoyment of life. It extends to the full range of conduct which the individual is free to pursue. The Right to education flows directly from right to life. The right to life under Article 21 and the dignity of an individual cannot be assured unless it is accompanied by the Right to education. The state government is therefore, under an obligation to make an endeavor to provide educational facilities at all levels to its citizen.” In M.C Mehta v. State of Tamilnadu,<sup>21</sup> the Supreme Court at the time of deciding the case relating to child labour also give certain directions to the state regarding Right to education of such child labourers and asked the state to take effective steps to ensure the education of the children with a view to make them better citizens.

## CONCLUSION AND SUGGESTION –

India being a democratic country had made various policies for the welfare of its people and under those policies many are related to child welfare and child education. The question, which is raised in the article, is

<sup>18</sup> AIR 1993 SC 2178 : (1993) 1 SCC 645.

<sup>19</sup> AIR 1978 Delhi 308.

<sup>20</sup> 1992(3) SCC 666 : AIR 1992 SC 1858.

<sup>21</sup> AIR 1997 SC 699.

that even after having several laws, policies, schemes, enactments and national charters regarding child education there are still some categories of children that remain uneducated, these are street children and child beggars. This problem emerges because there is lack of enforcement of the policies, laws, schemes, etc, which are made to up bring the education of such children. Unless there is strong enforcement of such laws and policies made by government the number of these children will keep on increasing. Few suggestions for betterment of education of street child and child beggars are-

- i) We need to have a comprehensive and integrated code for education in India.
- ii) A positive attitude on the part of everyone in the society is essential for effective and efficient enforcement of laws made by the government for education of children.
- iii) Independent authorities for the enforcement of educational laws for children shall be made and given sufficient power to enforce such laws.
- iv) Awareness drives shall be held in the areas where most of the child beggars and street child resides and the important of education must be explained to them and their parents.
- v) Adoption of incentive-based regime for effective implementation of educational policies.
- vi) Compensation to parents/children in form of stipend on the basis of the attendance in schools shall be provided when such children are child beggars or street children.
- vii) Government or private Apps can be made to provide quick assistance to these street child and child beggars and pursue them towards education.
- viii) Families of such children can be provided with educational loans on minimum interest value so that they may take a step forward towards education of their child.