CHAPTER 8
Children are universally recognised as the most important assets of any nation. The future of the society depends directly on how the successive generation are reared and brought up to fulfill the many requirements, which the society is faced with from time to time. Like any other living organisation, a child is basically a product of environment around him. In societies where the rigors of sheer survival are best with numerous difficulties, children are also bound to suffer in their development and growth. They develop early propensities towards fending for themselves. The parental care too is considerably tampered in the face of actual realities of situation, the consequential problems are stupendous and finding solutions to these are a real challenge to both the society and the state.

Commonly accepted definition on child labour is presently not available either in national or international context. Every definition consists of two terms child and labour. Child in terms of chronological age and labour in terms of its nature, magnitude, and income generation capacity, i.e. One can find that all the developed and the developing countries define child labour on the basis of age factor and there is no common law regarding the ages. In many Acts a working child below the age of 14 years is considered as child labour, Some Acts prescribe 16 years and where in some other Acts prescribe it as 18 years. Hence, there is no common definition on child labour. Child labour can broadly be defined as that system of child population which participates in work either paid or unpaid.
Child labour is the age-old phenomenon. It is in existence in one or other form from ancient for period, but what has changed is its perception as a social problem. There has been a drastic change in the recent past in the value orientation and attitudinal ethos of legitimising groups of society vis-à-vis child labour because of various developments. In the early days prior to the industrilisation era children used to work as helpers and learners in the traditionally determined family occupations under the direct supervision of adult family members. The task and the technology used were simple and non-hazardous which the child could learn smoothly, almost unconsciously, over the years through limitations and associations. The child's interest and welfare were protected in the family and family guaranteed maximum security in all the fields.

With the advent of industrilisation and urbanisation, the social scenario changed radically. Under the impact of the newly generated forces, there was an unbroken stream of poor rural people migrating to urban centers in search of livelihood. The new atmosphere made them to purview but reduced their life to a heap of miseries. The family members no longer worked as a team. The child had to work as an individual person either under the employer or independently without enjoying the benevolent protection of his guardian. His work place was totally changed from that of his home. His work exposed him to various kinds of health hazards, emanating from the use of chemical and poisoness substances in industries and the pollutants discharged by them, hours of work was stretched long while earning remaining meager. Employer, in almost of all cases, exploits the children to a greater extent. His work environment thus endangered his physical health and mental growth.
Another factor highlighting the evil accepts of child labour was the recent advancement in various sciences having a bearing on the child. In olden days, it was true, the child as viewed with the tender feeling and reared with love and compassion. But the fond of knowledge about these developmental needs and the consequences of their deprivation were rather meager. Today, scientific knowledge has revolutionised our outlook on childcare and his developmental imperatatives.

The diffusion to the knowledge has created a new awareness in the major institutions of society as to the relationship the child should have with his milieu, his needs object and his work etc. Against the backdrop of modern scientific knowledge about the child, child labour appeared to play a totally malfunctional role in society.

Child labour of late has evoked deep concern among who link the future of the country with the presence of the child. Child labour is viewed no less a scourge affecting the destiny of the child than his malnutrition or morbidity. However, we must make a distinction between child labour and exploitation of child labour. Both are a problem though of different orders. It can now be asserted on scientific grounds that work, as a direct fulfillment of child’s natural abilities and creative potentialities is always conducive to his healthy growth. But work when taken up as a means for the fulfillment of some other needs becomes enslaving in character and deleterious in its impact. Labour, in case of the child, is especially harmful because the energy that should have been expended on growth and development physically and mentally is consumed for the purpose of bare survival.

Child labour assumes results in a social problem as it hinders, arrests or distorts the natural growth processes and prevents the child from attaining his full-blown manhood.
Labour becomes an absolute evil in the case of child when he is required to work beyond his physical capacity, when hours of employment interfere with his education, recreation and rest, when his wages are not equal to the quantum of work done and when the occupation he is engaged, endangers his health and safety.

Child labour is a consequence of adult unemployment and underemployment. It supplements and depresses the family income. Child labour is not only a subsidy to industry but a direct inducement to the payment of low wages to adult workers. The entrance of children into the labour market reduces the volume of employment for the adult and lowers the bargaining power of adult workers. Rigors of childhood employment result in a permanently weakened and damaged labour force. Child labour involves the use of labour at its point of lowest productivity. Hence it is an inefficient utilisation of labour power. Child labour represents premature expenditure rather than savings.

Children by and large have to do action jobs, which are not mentally stimulating and career promoting. After their initial interest is over they soon discover that the job is leading them nowhere and they have landed into dark. Those dead end children seek a precious living therefore; tend to shift about frequently from one job to another with consequent idealness inseperated between jobs. Child labour increases the number and cost of accidents to which children are far more liable than adults. Long hours of work, late hours of night employment, continuous standing, sitting or use of single set of muscles, emphasis on the finer neuro-muscular co-ordination with attendant nervous strain, indoor confinement, in noisy factory and dusty trades, carrying heavy loads under the arm of lifting heavy weights, pressure of speed in their performance of simple mechanical acts, contact with industrial poisons, exposure to inclement weather are unsuitable occupations and provide harmful
conditions for the growing child peculiarity sustainable to certain deformities and diseases. Different types of labour may produce different kinds of distortions and disproportions in the body habitude of the child.

Leaving school and going to work is a major step in child life. It involves breaking away from childhood dependencies and accompanied by diverse external compulsions.

The argument, that employment of children increases the earning of family and keeps children away from mischief is misleading. It glosses over the fact that child labour deprives of children of educational opportunities, minimizes their chances of vocational training, stunts their physical growth, hampers their physical development and by forcing them into the army of unskilled labourers, condemns them to low wages all their lives child labour is economically unsound, psychologically disastrous and physically as well as morally dangerous and harmful.

After analysing the heinous condition of child labourers the Government of India passed various legislations prohibiting the practice of child labour. Early from 1933 various legislations were passed (discussed in chapter IV) and the latest was passed in 1986. Child Labour Prohibition and Regulation Act 1986. (Appendix I). Even then the problem of child labour exists, because Child Labour Prohibition and Regulation Act needs to be amended for better implementation and enforcement. The following are the areas of concern that need legal reforms.

Child Labour Prohibition and Regulation Act covers only 10% of the total working children moreover the agriculture sector, which constitute more than 75% of the child employment is not covered by the Act. The Child Labour Prohibition and Regulation Act is not easy to enforce in the unorganised sector because the units are numerous and
unregistered. The employer and employee relationship is continuously changing, and frequently the unit is a tiny family based one. Most of these units spring up and disappear overnight and are very difficult to keep track off in the absence of any requirement of registration.

Section 3 of Child Labour Prohibition and Regulation Act keeps the occupation, work, or process that is carried on by the occupier with the aid of his family out of the preview of the Act. The intention of the Act is to exempt a family enterprise in which all or several of the members of the family are involved. It was not intended to exempt piece rate work, where the home merely replaces the family premises. Employing children in respect of families and work experience acquired by the children abuse this provision. These provisions helps employer to pose as family members of the children working in their premises and thus continue to exploit the children. When any action is taken against any employer for employing child, the excuse given are that the child is relative and is helping in house work or the child is being trained for a family trade and so on. Therefore, there is a need to add to the provision that it shall be presumed that occupier is also the employer for the purpose of the Act and the onus to provide that the child is member of his or her family would rest on the occupier.

In Child Labour Prohibition and Regulation Act, the definition of ‘workshop’ in section 2(x) is to be amended to include all places of work or occupation in which children are employed. Section 3 of Child Labour Prohibition and Regulation Act 1986 should be amended to include the factories as registered under the Factories Act and the Mines Act.
The word ‘occupier’ in Section 2(VI) is not clearly defined and therefore it may not have check on employer’s agents and contractors who play a vital role in the employment of children.

The word hazardous is not clearly defined and it is left to the technical advisory committee (Child Labour Prohibition and Regulation Act, Section 4) to define hazardous occupation and processes. The word at present appears to take into consideration only the physical harm to the children. The emotional and psychological aspects have also to be taken into consideration. In fact there should be prohibition of all forms of child labour since all occupation are hazardous to the children, as they effect the development of the child. If the child is denied the primary elementary education because of the need to work it is a hazard. Besides there are occupations which are not included in the hazardous list but these children are subject to the grossest forms of physical, emotional and sexual abuse within the four walls of a home. Even though in agricultural processes, the child comes into direct contact with harmful pesticides and fertilizers, the agriculture sector is kept out of the preview of the Act. The definition of hazardous process in Factories Act could be considered. There should be provision for public mechanism and participation in functioning of Technical Advisory Committee. Children in Hazardous employment should be given top priority in all developmental efforts.

The present definition of establishment under (Section 2 iv) has considerable scope for extension and enlargement.

Child Labour Prohibition and Regulation Act does not specify the minimum age for the employment of children in the occupations and process other than the prohibited ones. Most laws and legal provisions relating to child labour specify the minimum age entry for
employment to be 15 years. Nevertheless the United Nation Convention on the Rights of the Child states in Article1, the standard concerning the definition of the child that, a child means every human being below the age of eighteen years, unless, under the law applicable to the child or majority is attained earlier. This standard age of child should be adhered to in all legislation including the Child Labour Prohibition and Regulation Act.

Determining the age of the child is a big problem. In India many children do not have birth certificates. These procedure needs to be simplified. Besides it is recommended that till such time as the age is determined, the benefit of doubt should be in favour of child.

There is no provision for the education of working children. In many countries, compulsory education laws usually precede child labour laws and their enforcement substantially reduces to eliminate child labour. There should be mandatory provisions in the Act for education vocational training and other welfare measures.

There is no specific provision in the 1986 Act for applying the provisions of other laws like the Industrial Dispute Act, The Minimum Wages Act, The Shops and Commercial Establishment Act. A child who has dispute relating to his wages salaries and other employment benefits in the permissible areas of work has to approach the adult dispute resolution mechanism. The child labour in the prohibited areas of work cannot even approach the adult dispute settlement machinery, as their employment is illegal under the Act. There should be a provision in the Act for a dispute resolution mechanism for the protection of wages or other employment benefits. Special courts could be set up for a speedy and more effective trial of violation under this Act.
Elimination of child labour should be statutory on the part of all local self-government bodies, both rural and urban. There should be provision for elimination of child labour, whether directly or indirectly immediately in all government organisations.

The rules relating to Child Labour Prohibition and Regulation Act in various states need to be immediately amended for better implementation of the Act.

ILO and many other non-governmental organisations are trying their level best to eliminate child labour from the world. These organisations conduct various surveys in various parts of the world to find the actual root cause of the problem and frame rules and regulations to curb it. Hence all the countries respect these organisations and help them in all possible manners in gathering the information regarding the problem and respect the conventions and recommendations in the manner, which suits their country in the best possible way.

Main aim of ILO is to analyse the problem in deep and come out with the solution for the same in the way of conventions and recommendations, and in return it is left for the countries to adopt it or not. There is no compulsion on any country to adopt all the recommendations and conventions passed by the ILO. The protection of children and young persons has always been considered one of the ILO's main tasks. ILO has shown its constant and continuing concern for the implementation of this principle. More particularly the minimum age for the admission to the employment, medical examination and the prohibition of night work of young persons have been made the subject of a number of convention and recommendations. In addition standards relating to other conditions of work, employment and training of young persons have been laid down in recommendations and special
provisions in favour of young persons have been included in many conventions of general application in this field and in standards regarding migrant workers.

Judiciary is very important organ of the government and it can be stated the most powerful organ of the government. The duty of the judiciary is to provide justice and in certain cases, the judiciary has come one step ahead of its power, by implementing the laws through the way of interpreting them according to the need of the hour and some of the beautiful examples can be seen in the chapter role of judiciary and the child labour. Judiciary in many cases helped the working children not only by way of rescuing them from work but also providing them basic education by ordering state governments to admit these children in the non-formal schools. The judiciary in recent years has begun to take liberal view towards the poor child workers, by relaxing the rules of locus standi. Whenever their employers cause a legal wrong or a legal injury to a child worker the judiciary has come forward to help them despite the locus-standi issue. The judiciary has always made concrete efforts to safeguard child workers against the exploitative tendencies of their employers by regularising their working hours, fixing their wages, laying down the rules about their health and medical facilities. The judiciary has even directed the states that it is their duty to create an environment where the child workers can have opportunities to grow and develop in a healthy manner in full dignity and in consonance.

Only the concentration on the organised sector child labour is not at sufficient to remove this evil system completely. Various studies reveals that more than 80% of the working children are found in the unorganised sector and it is not an excuse to state there are no proper laws to prevent the children from working. The Governments of Tamilnadu and Karnataka are specially concentrating on organised child labourers and neglecting the
unorganised child labourers as a result the number of child labourers are increasing in unorganised sector rather than in organised sector.

The problem of child labour (unorganised child labour) is increasing rapidly, as there is no law, which prohibits them from work. The survey conducted by the researcher on the bustands of two southern states of India (Tamilnadu and Karnataka) reveals that children are normally forced to do work by their own family members or relatives due to the poverty at the very young age. The children in the beginning stages work hard and give all the income to their parents, but as the day passes children stop giving money to the house and in return spend the amount on their own unwanted needs. Later their needs increases and these children tries to work hard to fulfill their demands and try to search such a job which fetches them more money without hard work and at last land up in jail or juvenile homes. On seeing these working children, many school going children are attracted to these activities, and as a result, they leave school and join these working children. In case of children who work as part timers, they automatically start to work as full timers at bustands. The begging children are more at bustands, these children beg along with their parents, when they are small, (below 5 years) they beg in the company of some body and later on they individually start begging. Many of the small children act as if they are dumb and duff to create sympathy and beg with the help of some printed materials stating that they are dumb and duff and donot have any body to support them.

From the research it came to light the main causes of child labour are poverty, illiteracy, ignorance, absence of universal compulsory elementary education, social apathy and acceptance of child labour, the tradition of making children to learn family skills, illiteracy and socio cultural background of parents. The majority of child labourers are from
urban slums and rural areas and mainly from the scheduled castes and scheduled tribes, minorities and other weaker section of the society.

The actual need of the hour is to identify all the places, whether organised or unorganised sector where the children are working and for that broad survey has to be conducted from village levels. Based on the survey a strategy has to be made keeping these working children in mind, and see to it that these working children are diverted from the work to go to school. Strict action has to be taken soon to stop the practice of child labour and punish those, who cause hurdles in implementing the policies of the Government in these regards.

SUGGESTIONS

◇ Poverty is the main factor, which compels the young children to undertake various kinds of work. So poverty elimination programme must be launched widely in the districts where poverty is more, proper employment opportunity be provided there. In the unorganised sector minimum wage be strictly implemented. This will help the parents to maintain their family and send their children; to schools. Income generation programme to raise economic background of these families would be the most pertinent solution.

◇ The overpopulation in the country and the number of family members in the working class community is also being a strong reason for the growth of child labour. In survey it has come to the light that each child worker is having more than 4 to 5 brother and sisters and in some cases even more. Some important steps have to be taken by the government to check the population growth rate. It has been seen that most of the labour class people goes to the government hospital at the time of
delivery and government shall make rules for compulsory sterilisation after 2nd delivery.

- The study has confirmed that the present occupation is not free from health hazards, as many children have shown the extent of preplan, which has affected their health and hampered their developments. The government should put a full stop for the child labour.

- The rate of law enforcement agencies is also considered to be suggestible especially in helping the people at large to get them fair wage. This will enable the parents who are partly or fully employed in the fields or daily workers and do not get fair wages, to reduce the rate of child neglect and labour.

- While the poverty alleviation policy is formulated and the programme has to be implemented, care should be taken that it covers a large chunk of poorer and needy families whose proper economic condition compels the children to join the workforce. The enhanced economic conditions of family through the suggested programme will help them to think about the practices of forcing children into child labour.

- While welfare policy and programme for children are formulated, care should be taken that poorer and the needy children in particular and others, in general, who are likely to join as child labour (because of the economic condition of their family) get due priority.

- The child labour system shall be banned in all places in all sectors and the additional power shall be vested with the police personals to see that no child works at any
place. Any child who is found working shall be sent to special schools in the initial stage, meant for the purpose and later to the regular schools.

- The parents of the working children shall also be punished in case they send their children for work and they involve their children to work along with them in the work which they do by themselves.

- The Government shall not only provide the basic education to the children but also give them training in various fields in which a child can see its future and can earn his living after completing the schoolings.

- The Government shall open evening colleges of the interested children for further studies and help these interested children to pursue higher education.

- Special attention should be given to identify the working girls and those who become the victims of child prostitution and rehabilitate them.

- An accurate assessment of the incidence of child labour in all the districts should be done. A database should be created on the number of working children and profiles of their parents.

- Depending upon the number of child labour, rehabilitation centers have to be started in each district. Rehabilitation centers cum special schools should be opened with residential facilities.

- Ignorance is a malady, a crime. Most of the social evils are occurring due to lack of knowledge and information. In order to eliminate ignorance and to fight that social evil most effective weapon, an important tool must be used. Only spreading awareness can do it and awareness flows from information. So in every districts information centers and free legal aid centers should be opened as to help the child
workers and their parents who need additional knowledge and counseling in the area where they lack up to date understanding. An opportunity for proper counseling and guidance will help them a lot in proper planning of Children future, trained councilors in these centers will enable the parents as well as child labourers to have an overall understanding of the problem they have at the movement and capacity to find solution with the help of their enhanced and restored working and adjusting capacity.

- Governmental and voluntary welfare agencies need to start non-formal education for the aged persons. Teachers of the centers should have proper training and area based understanding to teach these peoples. The policy of these centers should be simple and according to the needs of people.

- In the rural poor areas where children are likely to face neglect and join labour or unwanted sectors, vocational training with the availability of skills in different areas of adolescents future interest with limited education need to be opened. This will help to bring down the rate of child abuse and neglect notified in different forms and also provides a planned future to the poor and the needy section of the children.

- As said by Gandhiji “villages are the backbone of our country as more than 70% of total population in country belongs to rural areas and that is why he dreamt of Ram Rajya”. So special emphasis must be laid down to the rural poor areas where children are likely to face neglect and join labour or unwanted sectors, vocational training with the availability of skills in different areas of adolescent future interest with limited education need to be opened. This will help to bring down the rate of child abuse and neglect notified in different forms and also provides a planned future to the poor and the needy section of the children.
abuse and neglect notified in different forms and also provides a planned future to the poor and the needy section of the children.

- There is a greater need for awareness building among the voluntary welfare agencies and voluntary workers in this field that the problems and welfare needs of the children are properly understood and necessary measures introduced by these agencies and workers. Along with the awareness programme the concerned government department need to help these agencies regularly in having proper welfare planning and administration and trained manpower. So that they introduce more effective welfare programme in the interest of child labourers.

- Attempts must be directed towards raising the income of poor section of the community because poverty and deprivation force children to work. Children will be valued only when they are not a burden on the parents and this requires that their income is adequate to feed, clothe and rear their children in an adequate fashion. It is the cruelest form of hypocrisy to pay insufficient wages to the head of the families and then to show sympathy by employing child workers and by contributing to child welfare agencies to feel that duty has been done.

- The department of labour so far has mainly played the role of law enforcing authority. However, child labour is a very complex and widespread socio-economic problem as a multi-sectoral issue. It requires requirement of all persons representing different sections of society. Massive campaign has to be launched on the evils of child labour and generating awareness on all aspects of child labour is important.

- One reform, which can be carried out immediately, is the strengthening of inspection so that provisions of law are not violated. The penalty for the breach of Act should
be both imprisonment and huge fine. Whatever policy is made to eliminate child labour needs the fullest enforcement through proper inspection and provision of education and other facilities to children. Institutional linkage has to be created between the enforcement and rehabilitation process.

- The manufactures of all products in the country should make the provision of mentioning on the product that this commodity has employed 'no child labour'. The consumer should also purchase those commodities only where such statements stand.

- The age limit of child labour should be increased from that of 14 years to 16 years as suggested by V.V.Giri. But even this age should be subjected to prohibition of work in hazardous units or like wise.

- Unless systematic evaluation is made from time to time in respect of job in which children are employed and certain purposeful policy decisions are taken to meet the differences, the existing situation is not likely to undergo any dimensional qualitative and quantitative changes.

- There is a need of change in employer’s attitudes. Quite often it is the feeling of sympathy than the desire to exploit which weighs with employer in employing child workers. They also plead that employment of children increases the earning of the family and it keeps children away from mischief. Such arguments be not advanced by the employer to hide their ill motives. Conversion of human resources shall also be their responsibility. But for the sake of more profits, employer shall not exploit them on whom the future of nation stands.

- The ministry of social welfare has created a department of child development and many states and Union Territories have also followed suit, lack of coordination has
neglected the social development of child labour. It is therefore suggested there could be a separate Child Labour Board created under the ministry of labour like that of Labour Board for construction workers etc.,

- Child labour problem is looked more as an economic problem however; it has taken the dimension of a socio-economic and legal problem. The concept of accountability must be built in through legislative measures so that there could be effective enforcement for prevention of child labour

- Last but not the least though consciousness among people is a must for eliminating child labour, Laws can be enforced when individuals are guilty. When the society exploits the children by tolerating their employment, nothing can be done. So the children should be valued and society should be vigilant enough to save them from exploitation. Basically it is the lack of awareness among the public that situation has much worsened. In reality the emancipation, empowerment and elimination of child labour will become a reality only when the basic values of growth, development of child in all aspects like mental, physical e.t.c, are measured both in terms of quality and quantity which can be done when it is observed and approached with much humanitarian and genuine manner with high sense of moral and ethical values. To conclude, the importance, significance, utility of the child cannot be neglected and they must be given utmost priority much care and attention as they are the assets and treasures of our nation which has to be preserved. The problem is required to be tackled with “human face” as proformedly stated by Shri P. Chidambraram, our Hon’ble Finance Minister.
The researcher understands the limitations he had in collecting the data even in respect of one type of child labour confined to specific activities as such, an humble attempt is made in this thesis to touch the tip of ice burg in the ocean, which may woke a good response from every corner concerned with tackling these social menace and to provide a better future for the children. Let me conclude with the following poem which conveys the appropriate message to the whole world.
In yester years gone yonder,
Our countrymen had stopped to ponder,
O'er psalms and saying, which of old-
Were common – forgotten-now retold.

It continued to stress upon the need
To help the abandoned, to shelter and feed
The lonely deserted, homeless child-
Worse bread and water always denied.

Of the love, the warmth a home could bring.
It is sure a rise for the Urchin thing.-
He says “its for my fortunate friend”
Cause he’s never had more than his bundle to tend.
Nay none have heard that feeble cry-
Of destitude child-who’s left to die.

Awaken folks, act with pride
Do something for the destitude child.
Programmes, meetings to highlight the plight.
Oh paper workers and speeches are never enough

Go down to his dismal domain to find
Him slumbering amidst the garbage or spit,
Unwanted to feels and perfect misfit.

Pick him up, guide him and impart all you can,
Some day he will help another, ‘cause he’ll then be a man