CHAPTER-1

INTRODUCTION
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1.1 INTRODUCTION

The significance and the importance of the child lies in the fact that the child is the universe. If there was no child, there would be no humanity and there cannot be a universe without humanity. Therefore, mankind owes to the child the best that it has to be given. If a child goes wrong for want of proper attention, training and guidance, it will indeed be a deficiency of the society and of government of the day.

Every society, must, therefore, devote full attention to ensure that children are properly cared for and brought up in a proper atmosphere where they would receive adequate training, education and guidance, in order that they may be able to have their rightful place in society which they grew up. The importance of child welfare services lies in the consideration that the personality of man is built up in the formative year, and the physical and mental health of the nation is determined largely by the manner in which it is shaped in the early stages. Social justices must begin with children, unless tender plant is properly tended and nourished, it has little chance to growing into a strong and useful tree. So first, priority in the scale of social justice shall be given to the welfare of children.

Right now it is the time his bones are being formed, his blood are being made and his sense being developed. To him we cannot answer "Tomorrow". His name is "Today". The protection arm of the law has therefore; to be long and strong enough if distributive justice to the adults of tomorrow is to be secured employment of children has continued thereafter to be a problem.

Throughout history, in virtually every culture, children have worked. It is largely through work, usually in a family context, that children are socialized in many adult skills and responsibilities through work, they not only earn status as family and community members, but they acquire skills which promote their self esteems and confidence as

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2 Hon’ble Mr. Justice P.N. Bhagavati, CJ and Hon’ble Mr. Justice R.S. Pathak in Sheela Barse vs The Secretary Children Act Society, Supreme Court Journal, 1987, P-585, Para II
3 Sanir Das Gupta “Child Labour” A National Problem, Yojna, Vol. XXIII/20, Nov. 1979, P- 25
4 Vijay Veena “Child Labour Need for Special Awareness” Yojna, Nov 1, Vol. XXII/20 P-13
5 Quoted by V.R. Krishna Iyer in Law and Life, 1979, P-8
7 Report of the Director General ILO; Youth and Work, Part – II, 1960, P-311
capable and independence human beings. However, the burden of work may become too great while its educational and social role is neglected it can become a threat to their health and development. Work by children is not altogether harmful and bad if properly controlled and regulated. Child labour, actually viewed, more as a social problem of a greater magnitude than other related problems. Connected with the development of human beings, is abnormally high in under developed and developing countries of the world.

It is the duty of the State to protect children's right by legislative and other means because the needs and requirements of the child is the primer dial grund norm of this universe. The investment in the child is, therefore, investment in the future society of a nation that is dreams build. There is hardly any product in India that has no child labour behind it. Carpet, bangles, brick, matchbox, crackers, wool and many other products have the invisible stamp of the toil put in by children caught in the web of poverty and an exploitation social system. Indeed, child labour in India comes cheap and easy.

A survey made by an NGO "Bachpan Bachoo Andolan" reveals that most of the children below 14 years of age and are paid only Rs. 130/- to 300/- per month on average. Labour inspector rarely visits. When visiting they are being properly looked after by the employer. Subject of child labour is often discussed in Conferences, Seminars and Lectures and usually it is concluded that child labour and exploitation of child labour are deep rooted problems because of unemployment, poverty, over populations, illiteracy and handling down of family trades. If the society gives whatever they want the law for their protection is not necessary. Hence the eradication of child labour is difficult rather impossible.

In this thesis, an attempt is being made to analyze the problem of child labour in the context of those working children below the age of 14 years who are engaged in gainful industrial and non-industrial occupations which are not only viewed injurious to their physical, mental or moral development but also hamper their social progress in a big

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8 Sudesh Kumar Sharma, “Child Labour Problems and Prospects”, faculty of Law, University of Jammu, 1999
9 UNICEF, ECOSOC, “Children in especially difficult circumstances”, Executive Board Session, 1986
12 Gurupada Swamy Committee Report, 1979
way and recent amendments to child labour law. This thesis also deals reasons for existence of child labour instead of such policies.

A Working Group was set up to suggest amendments, if any, in the Child Labour (Prohibition & Regulation) Act, 1986. It was headed by Shri S.K. Srivastava, the then Joint Secretary in the Ministry of Labor & Employment. The Working Group has submitted its report and the major recommendations are as under:

i) The existing definition of child as a person who has not completed 14 years of age may continue.

ii) Setting up of special courts to trial child labour cases.

iii) To include education of child labour in addition to health and safety already provided under the Act.

iv) Specific provisions for offence of trafficking of children for labour.

v) Compounding of offences and enhancement of penalties.

vi) Provision of power to search and seizer under the Act.

vii) Retention of proviso to Section 3 of the Act allowing children to work under the parental care.\footnote{Press Information Bureau report dated March 08, 2010}

These recommendations have still not been incorporated under the Act. Moreover, mere inclusion of changes into the Act will not make it an effective mechanism to handle child labour. The main reason for the failure of removal of child labour in spite of the existence of the the Child Labour (Prohibition & Regulation) Act, 1986, is the absence of strict implementation of the provisions of the Act.

A detailed survey on child labour at intervals will certainly help the policy makers to get a correct idea on the nature and magnitude of the problems of child labour and consequently the government can deal with the problems in a better way.

Under Industrial Law, child Labour actually viewed more as a social problem of a greater magnitude than other related problems connected with the development of human beings, abnormal high in under developed and developing countries of the world.

Child Labour is a pervasive, grave and extensive problem throughout the world, especially in developing countries. India is the biggest example and a nation plagued by the problem of child labour. The fact that, children are being exploited, forced into labour
and not receiving education are crucial to development, concerns man- people. The development of India as a nation is being hampered by child labour. Children are growing up illiterate because they have been working and not just attending the school. A cycle of poverty is formed and the child labour is reborn after every generation. Hence there must be policies relating to compulsory primary education. Recent amendments in curriculum must be invaded in syllabus concerning child rights and raising awareness.

Human conscience at the present stage of civilization refuses to promote Child labour as a source of capital accumulation in the process of economic development because Child Labour is perceived as a social evil in the present day world. Child labour is called as social evil because it not only impairs the growth and development of child but in turn the progress of the country in future itself. Today in India, millions of children are working long hours at notional wages or no wages in almost all sectors of economy at the expense of their education, play, health, dignity, freedom and future, and generate surplus to the 'economic development'. After 65 years of independence, child labour in India is a common sight to everyone in all its inhuman forms.

The architects of Independent India had dreamt of creating a free India to enable the children of tomorrow to avail the benefits of joys of living and laid down a policy in the Constitution providing facilities for the healthy development of children, the protection of children and youth against exploitation, and for free and compulsory education within a period of ten years for all children until they complete the age of 14 years. The Constitution of India provides for prohibition of child labour and protection of the children. Various Constitutional provisions are as follows:

Part III of the Indian Constitution-Fundamental Rights

- Human trafficking and forced labour is prohibited and are punishable in accordance with law.\(^{15}\)

- Children below the age of 14 years are not to be employed to work in any factory, mine or other employment which is of hazardous nature.\(^{16}\)

- Every child between 6-14 years of age is entitled for free and compulsory education.\(^{17}\)

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\(^{15}\) Article 23 of the Constitution of India

\(^{16}\) Article 24 of the Constitution of India
Part IV of the Indian Constitution-Directive Principles of State Policy

- Children to be given opportunities and facilities to develop in a healthy way and to ensure that they are protected from exploitation and against moral and material abandonment.\(^{18}\)

- The State has to make provisions for securing Right to Education.\(^{19}\)

- The State should work out ways to provide early childhood care and education until they complete the age of 6 years.\(^{20}\)

The successive government and the socio-political institutions of the country have failed to implement these policies related to children. The reasons for the failure are not beyond imagination. The successive governments did not prove to have the necessary political will, to race this challenging task.


1.2 DEFINITION OF CHILD AND CHILD LABOUR

1.2.1 Definition of the child

According to the Minimum wages Act, 1948, that person who has not completed fourteen years of age is a child.\(^{21}\)

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\(^{17}\) Article 21(A) of the Constitution of India  
\(^{18}\) Article 39(f) of the Constitution of India  
\(^{19}\) Article 41 of the of the Constitution of India  
\(^{20}\) Article 45 of the Constitution of India  
\(^{21}\) Section 2(bb) of the Minimum Wages Act, 1948
According to the Plantation Labour Act, 1951, a person who has not completed fourteen years of his age is a child.22

According to the Child Labour (Prohibition and Regulation) Act, 1986, a ‘child’ is a person who has not completed his fourteenth year of age.23

According to the Children (Pledging of Labour) Act, 1933, child is a person who is under the age of fifteen years. 24

1.2.2 DEFINITION OF CHILD LABOUR

Generally valid definition of child labour is presently not available either in the National or International context. Child labour, however, can broadly be defined as that segment of the child populations which participates in work either paid or unpaid. The definition of child labour varies from one Act to another depending upon the seriousness of the problems of children working in a particular employment. The precise age of what constitute child labour has not been laid down anywhere because of variations in the age of child as given under different legislative enactments. Section 83 of the Indian Penal Code, reads "Nothing is an offence which is done by a child above 7 years and under 12 who has not attained sufficient maturity of understanding to judge the nature and consequence of his conduct on the occasion.25

As laid down in the Constitution of India, no one below the age of 14 is allowed to work in any factory or mine or engaged in any other hazardous employment.26

In the Plantation Labour Act, 1951, no child, as defined under the Act and no adolescent will be needed to work in plantations, subjected to a few restrictions.27

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22 Section 2 (c) of the Plantation Labour Act, 1951
23 Section 2(ii) of the Child Labour (Prohibition and Regulation) Act, 1986
24 Section 2 of the Children (Pledging of Labour) Act, 1933
25 Section 82 of the Indian Penal Code, 1860.
26 Article 24 of the Indian Constitution.
27 Section 26 of the Plantation Labour Act, 1951.
According to the Beedi and Cigar Workers (Conditions of Employment) Act, 1966, employment of a person who has not completed fourteen years of age in the industrial remises is prohibited.²⁸

The Indian Mines Act, 1952, prohibits employment of a person below the age of eighteen years.²⁹

The Child Labour (Prohibition and Regulation) Act, 1986, prohibits the employment of children in certain occupations and processes below the age of fourteen.³⁰

There is no clear cut definition of Child Labour made by the Legislature. They are merely provisions that are of prohibitory nature.

The age of the child is the sole factor for determination as to who is a child. In India there are several legislations relating to the age of child which describe various age of the child, but its maximum age limit is 18 years.

The term child labour as is used by policy makers and researchers, who stress restoration of pleasures and opportunities of childhood to children, connotes deprivation and exploitation. The Report of Child Labour (1979) states that labour becomes an absolute evil in the case of child, when the child is required to work beyond physical capacity, when hours of work interfere with child education, recreation and rest; when the wages are not commensurate with the quantum of work done and when the occupation the child is engaged child’s health and safety.³¹

Child labour as “any work by children that interferes with their full physical development, their opportunities for desirable minimum of education or their needed’ recreation.” Conventionally, working child is defined as a child in the range of 5-14 years, who is engaged in labour either paid or unpaid. Here one can distinguish between child labour and child work. While child labour is broader one and includes the deprivation of the right to education and childhood.

Therefore the child labour has been differently defined in various studies. According to the committee on child labour, "Child Labour however, can broadly be defined as that

²⁸ Section 24 of the Bidi and Cigar Workers (Conditions of Employment) Act, 1966.
²⁹ Section 40 of the Indian Mines Act, 1952.
³⁰ Section 3 of the Child Labour (Prohibition and Regulation) Act, 1986.
³¹ S. Mahendra Dev, Female Work Participation and Child Labour Occupational Data from NFHS, Eco and Pol Wkg, 741 (Feb 14, 2004)
segment of child population in work either paid or unpaid. ‘Child Labour’ is commonly interpreted in two different ways:

1. As an economic practice.
2. As a social evil

The causes for child labour are given below. Some of the causes for child labour are described in detail in the second chapter.

- Poverty and gross inequality
- Unjust income distribution,
- Political instability
- Discrimination
- Traditional cultural practice employer’s desire for cheap and flexible labour.
- Gender inequality
- Unemployment & illiteracy
- Inadequate Social Protection
- Poor and inadequate education
- Population
- Lack of social awareness
- Non-implementation of Legislative & Constitutional provisions

1.3 JUDICIAL RESPONSE:

The constitutional prohibition that children below the age of 14 years should not be employed in any factory, mine or other hazardous employment was felt to be ineffective, in the absence of legislation, prohibiting its violation till the decision of the Supreme Court in the case of Peoples Union for Democratic Rights v. Union of India. As a fact the Supreme Court found out that the children below the age of 14 were employed in the construction work. On behalf of the Union of India and Delhi Administration it was argued that the Employment of Children Act, 1938 was not applicable to construction industry as it is not specified in the Schedule. The Court observed:

"We have Art.24 of the Constitution which provides that no child below the age of 14 shall be employed to work in any factory or mine or engaged in any other hazardous

33 AIR 1991 SC 1473
employment. This is a constitutional prohibition which, even if not followed up by appropriate legislation, must operate proprio vigore and construction work being plainly and undoubtedly a hazardous employment, it is clear that by reason of this constitutional prohibition, no child below 14 years can be allowed to be engaged in construction work. Therefore there can be no doubts that notwithstanding the absence of specification of construction industry in the Schedule to the Employment of Children Act, 1938, no child below the age of 14 years can be employed in construction work and the Union of India as also even, State Government must ensure that this constitutional mandate is not violated in any part of the country".

The judiciary in the country has shown its great concern for the working children by bringing occupations or process under the judicial scrutiny by directly applying the constitutional provisions relating to children. In the People's Union for Democratic Rights v. Union of India, the court held: But apart from the requirement of ILO Convention No. 59, we have Article 24 of the Constitution which even if not followed up by appropriate legislation must operate proprio vigore and construction work being plainly and undoubtedly a hazardous employment, it is clear that by reason of constitutional prohibition no child below fourteen years can be allowed to be engaged in construction work.

In Labourers Working on Salal Hydro Project v. State of Jammu and Kashmir and Others, the Supreme Court has suggested that it is the duty of the government to ensure education of children of parents who are working in construction sites. The Supreme Court directed that whenever the Central Government undertakes a construction project which is likely to last for a considerable period of time, it should ensure that children of construction workers who are living at or near the project site are given facilities for schooling. The Court also specified that this may be done either by the Central Government itself or if the Central Government entrusts the project work or any part thereof to a contractor, necessary provision to this effect may be made in the contract with the contractor. In Rajangum, Secretary, District Beedi Workers Union v. State of Tamil Nadu and Others, the Supreme Court opined that tobacco manufacturing was indeed hazardous to health. Child labour in this trade should therefore be prohibited as far as

34 Ibid
35 1983 9460 FLR 453
36 AIR 1992 SCC 221
possible and employment of child labour should be stopped either immediately or in a phased manner that is to be decided by the State Government within in a limited time.

In *M. C. Mehta v. State of Tamil Nadu and Others,*[^37] the Supreme Court allowed children to work in a prohibited occupation like fireworks. According to Justice Ranganath Mishra and Justice H.I. Kania, the provision of Article 45 in the Directive Principles of State Policy still remained a far cry and according to this provision all children up to the age of fourteen years are supposed to be in school, economic necessity forces grown-up children to seek employment.

A Bench of Justices Dalveer Bhandari and A.K. Patnaik, passing orders on a petition filed by the Bachpan Bachao Andolan, said: “To implement the fundamental right of children under Article 21A [Right to Education], it is imperative that the Central government issue suitable notifications prohibiting the employment of children in circuses within two months.”[^38] In *M. C. Mehta v. State of Tamil Nadu and Others,*[^39] the Supreme Court of India gave certain directions on the issue of elimination of child labour. It ordered for survey for identification of working children; withdrawal of children working in hazardous industry and ensuring their education in appropriate institutions; contribution @ Rs.20,000/- per child to be paid by the offending employers of children to a welfare fund to be established for this purpose; employment to one adult member of the family of the child so withdrawn from work and it that is not possible a contribution of Rs.5,000/- to the welfare fund to be made by the State Government; financial assistance to the families of the children so withdrawn to be paid out of the interest earnings on the corpus of Rs. 20,000/25,000 deposited in the welfare fund as long as the child is actually sent to the schools; regulating hours of work for children working in non-hazardous occupations so that their working hours do not exceed six hours per day and education for at least two hours is ensured. The entire expenditure on education is to be borne by the concerned employer.

### 1.4 STATEMENT OF THE PROBLEM

In this research work an attempt is being made to analyse the problem of child labour in view of the fact that in most of the unorganised sector, the children are employed in large number. The exploitation by extracting more work and payment of meagre wages

[^37]: AIR 1991 SC 283
[^39]: AIR 1997 SC 699
is the order of the day. In this context the study focuses on the existing legal frame work, the efforts made at the International Level and how far the child labour laws have been implemented by the executives and the measures employed in order to curtail the growing tendency of the abuse of the rights of child.

The child labour is a serious and multi-dimensional problem across the world. Multiple causes are responsible for perpetuating problem of child labour. There are various practical difficulties involved in the design and implementation of laws. There is also a problem of differences in perception about what constitutes a child or child work or child labour.

There is also a problem with regard to prohibition and regulation of child labour. There is a difficulty in understanding, the term of child labour in hazardous and non-hazardous sectors. The Government policy has been framed to abolish child labour by immediately prohibiting it in hazardous sector of work and gradually eliminating from the non hazardous sectors of work.

This is reflected in Child Labour (Prohibition and Regulation)Act,1986 and the National Policy on Child Labour1987. There is no clarity about the exact nature or content of the ‘gradual method’ of eliminating Child Committee on Child Labour 1979, also called Gurupadswamy Committee, which presently exists in the regulated sphere. There has been little attempt to establish criteria for measuring the success of the “progressive elimination” of child labour. Although the Government of India, in its National Policy on Child Labour 1987, attempts to lay down some components of the gradual method of eradicating child labour, there is no certainty that child labour would eventually be abolished, given their remedial nature and the absence of new concrete strategies to attack the roots of the problem.

The concept of child labour is classified in two types, legal and illegal child labour. Legal child labour is child labour who is above the minimum age but is not an adult, i.e. 14 to18 years. On the other hand illegal child labour is one who is below the specified age limit and working in the organised sector themselves. For example hotels, garage, tea shops, house hold, industries, earlier not covered under the child labour legislation but now by amendment to the Child Labour Legislation 2006, same have been covered and recognized as illegal child labour.
Child labour in hazardous industries is another serious problem. Children’s occupation is categorized as hazardous and non-hazardous on the basis of level of the risks involved in the occupations. Recent survey has shown that 91% children are working in hazardous sectors. Children working in agriculture sector in India is said to be the highest than rest of the sectors. Children working in agriculture throughout the world and often face hazards through exposure to biological and chemical agents.

Children can be found mixing, loading, and applying pesticides, fertilizers or herbicides, some of which are highly toxic and potentially carcinogenic which cause cancer. Early involvement of children in continuing family tradition work also causes child labour problem. Many Anthropological factors too contribute to this problem. The educational system adds yet another dimension to the prevalence of this problem.

Defective education system, draw backs in laws, low economic growth, breaking of joint families, urbanization, migration, corporal punishments at the schools etc., are some of other factors responsible in perpetuating the child labour problem. Poor implementation of child labour provisions is another problem and consequently children receive low priority in implementation system. The enforcement machinery very often does not have proper inclination to deal with the problem of child labour. The enforcement of the child labour law is vested in machinery controlled by both the Central and State Government is another problem perpetuating child labour. Gender inequalities is one of the important factor not addressing child labour problem, since gender discrimination cut across religion, caste and class which is a direct bearing particularly upon girl child labour.

There are several factors contributing towards low enrolment and high dropout in the education attainment system. Thus, there is a need to make an objective assessment of the socio legal framework to ascertain whether they are adequate to protect children from physical and economical exploitation, in order to eliminate the problem of child labour and also to conduct empirical study at the grass roots level to understand the ground reality, so that the problem can be tackled on the basis of actual knowledge of issues involved.

1.5 RESEARCH QUESTIONS

1. In what way do the laws related to child labour in India address the issue of child labour elimination from the perspective of the Rights of the child?
2. What are the objectives, scope and content of the Child Labour (Prohibition and Regulation) Act 1986 and other legislative provisions on child labour in India?

3. What are the factors within the legal system which facilitate or hinder the process of eliminating child labour?

4. What are the changes required to be made in the legal frame work for eliminating child labour from a perspective of the Rights of the Child?

5. What are the reasons for non-implementation of the policies framed by the government within the executives for eliminating child labour?

6. What are the changes required in the intervention by NGO’s for eliminating child labour through the protection of the rights of the child

1.6 HYPOTHESIS

The primary hypothesis of the study is that, the problem of child labour is quite rampant in India and the inadequacy of laws and their faulty implementation has contributed to its prevalence. From the above primary hypothesis following sub hypotheses have been formulated

- Large scale prevalence of the phenomenon of child labour is due to poverty, illiteracy and ignorance of people.
- Problems of child labour can be resolved through Legislations, only if it is implemented effectively by the implementing authority.
- Child labour is prevalent predominantly among under-privileged, backward communities of the society.
- International Conventions are to be viewed with positive efforts.
- Judicial response to curb the practice of child labour is praise worthy, but society as a whole should understand and contribute equally for the eradication of the child labour as judiciary alone cannot eradicate the child labour.
- Parental attitude is also responsible for the existence of child labour.
- Administrative apathy is one of the factors responsible for the failure of Laws in effectively controlling child labour.
- NGOs play a vital role in the eradication of the practice of Child labour.
- There is absence of proper rehabilitation programme for the rescued children.
- Lured by the availability of cheap labour, the employer actively promotes child labour.
1.7 THE OBJECTIVE OF THE STUDY

The primary objective of the study is to examine the problem of child labour and to evaluate measures adopted by the State with a view to determine their implementation and effectiveness. The other related objectives are:

- To identify the problems pertaining to employment of child labour;
- To analyse the various forms of abuse of children;
- To study the concept of child and child labour and factors leading to child labour;
- To study the various International instruments dealing with child labour;
- To study the Existing Legal Regulations of Child Labour in India;
- To assess the role of the Judiciary with an objective that, how far it has been successful in this direction;
- To study the executive policies framed by the Government for eradication of child labour;
- The role of NGOs in the rehabilitation of child labour;
- To make an empirical study on the Implementation of Child Labour Laws by the Executives
- Lastly, to present the general findings of the study and to offer suggestions for effectively eradicating the problem of child labour in India.

1.8 IMPORTANCE OF THE STUDY

- The importance of the study lies in the fact that, it analyses the inherent socio-economic factors in the society which are responsible for the perpetuation of the problem of the child labour and offers valuable suggestions for its eradication.
- The study has provided excellent opportunity to understand complexity of child labour and various factors leading to child labour and to find out strategies to combat and elimination of child labour.
- Further, the importance of the study lies in the fact that it analyses the inherent defects in Present Legislations and Law Enforcement Mechanism and offers valuable suggestions for their improvement.
- It is believed that this study will be useful to the government in strengthening the legal machinery and will be highly useful for social activists, judges, advocates,
legislators and prosecutors to device suitable means to eradicate the problem of child labour.

- Lastly, the importance of the study lies in the fact that it makes original contribution in the field of child labour legislation and to protect best interest of children and to ensure justice and equality to child labourers.

1.9 RESEARCH METHODOLOGY

The methodology adopted in the study is both doctrinal and empirical. Doctrinal study includes analysis of research articles, books, reports treaties, conventions, Statutes, mass media like news papers, Journals, Periodicals, Bulletins, Websites and cases decided by courts. The study also includes empirical study for which data is collected from the implementing authority i.e. Labour Inspectors, Child Welfare Department, Ministry of Education, Government of Karnataka, Department of Labour, Government of Karnataka, Child Right Cell at each Anganawadi Centres, Block Education officer (B.E.O) and District Education Officer(D.E.O) etc.

During the study, the tools used for the collection of data are interview and questionnaires. Further the primary data is also collected from the employers of automobile/ workshops/ Garage/ Hotels/ Restaurants/ Brick-kiln industry and construction works to get the true picture of the problem of the child labour, by way of in depth interviews by using a pre-structured set of open-ended questions.

1.10 Review of Literature

1. Literature Survey:

The Literature collected by the Researcher has been discussed in detail in the following heads

A) Books

The Researcher for the purpose of study has collected 27 books. Few important books have been discussed in detail.

1) Labour problems in India Industry⁴⁰ – The author Sri V.V. Giri has discussed the concept of Child Labour in two ways.

a. Employment of children in gainful occupations with a view to add an income to their families.

b. Purposeful oppression and exploitation of working children leading to deprivation of their legitimate opportunities of growth.

2) Sri Sharma A.M. in his book entitled “Aspects of Labour Welfare and Social Security” reveals on the working the extent of exploitation and socio-economic background of child labour found that 565 of the respondents had to work for 15 to 18 hours per day for earning their livelihood 44% for 10 – 15 hours per day. As far as payment of wages, 815 of the respondents were receiving upto Rs. 50/- per month, while only 35 respondents received more than Rs. 100/- per month.41

3) Sri Singh R. in his book entitled “Legislation Protection to the Child Labour” is of the opinion that implementation of various laws for the working conditions and welfare of child labour is concerned that employees had colossal ignorance about the existing laws. Only 20 were in favour of legislation for regulating employment of children.42

4) Sri Weiner in his book entitled “The Child and the State in India” expresses his view that historically in our country child labour has been seen as an economic phenomenon. As per his study the relationship between children and work is dictated to a great extent by the state of economic development or the system of production prevalent in the country. Another survey conducted by Vemuri and Anand (1998), reveals that child labour contributes to over 20 percent in India.43

5) Sri Gangrade K. D. in his book entitled “The Child Labour in India Department of Social Work ” expresses his views on Child Labour. Child Labour is a product of such factors as customs, traditional attitudes, lack of school or reluctance of parents to send their children to school, urbanization, industrialization, migration.44

B) Articles

Few importance articles have been referred by the researcher. They are

42 Singh R. Legislation Protection to the Child labour, Chandigarh, Punjab University, 1980
43 Werner. M. The Child and the State in India Delhi, Oxford University Press, 1980
1) The article entitled “The Child Labour Problems and Prospects” written by Sri Baldev Singh has discussed that it is the duty of the State to protect children's right by legislative and other means because the needs and requirements of the child is the prime ground norm of this universe.  

2) Sri Dhingra C. I. In his article titled “Child Labour and the Law” examines that the investment in the child is, therefore, investment in the future society of a nation. Today’s children are tomorrow’s citizens. There is a great need to protect the interests of these children. Children are a very important section of a society. It is the duty of the society to ensure the proper upbringing of children. If the society provides all that the children would require, then, there is no need to regulate the society by means of laws and enactments. Laws are made for this very purpose, to ensure, the society provides for the needs of the children.  

3) Sri Deepak Miglani in his articles entitled “Compulsory Education and Child Labour” is of the opinion that children are the treasure and future of the society. Therefore, they deserve to be cared and protected to keep up and improve posterity. They shape the world's future and it is thus quiet natural that their welfare and rights are given special attention. It is through them, that inter-generational cycles of poverty, exclusion and discrimination can be broken. Denials of adequate opportunities for their development hamper the nation development.  

4) Sri Vijay Veena in his article entitled “Child Labour Need for Special Awareness” is of the opinion that Social Justice must begin with children. Unless tender plant is properly tended and nourished, it has little chance to growing into a strong and useful tree. So first priority in the scale of Social Justice shall be given to the welfare of children.  

5) Sri Dutta H. In the article titled “Child Labour in India” : Tracing the Root of the Problem says that a study conducted in urban Bangalore has found that the total number of hours spent on work increased progressively with age. The study demonstrates that a certain increase in family size, the number of respondents doing wage work increased. Further, the study stressed that over two-third of the

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girl children, whose brothers do not attend to work, “it was manifested that about 60% of girls did wage work along with their own domestic work.”

C) Reports

In order to protect the interest of the childrens there are certain reports, namely

1) The Gurupadaswamy Committee Report, 1979 reviews that there is hardly any product in India that has no child labour behind it. Carpet, bangles, brick, matchbox, crackers, wool and many other products have the invisible stamp of the toil put in by children caught in the web of poverty and an exploitation social system. Indeed, child labour in India comes cheap and easy.

2) The data used in this thesis is from The Indian Census Report of 2001, as the complete text of The Indian Census Report 2011 is not available.

Press Information Bureau Report dated 8th March 2010 reveals that a Working Group was set up to suggest amendments, if any, in the Child Labour (Prohibition & Regulation) Act, 1986. It was headed by Shri S.K. Srivastava, the then Joint Secretary in the Ministry of Labour & Employment. The Working Group has submitted its report and the major recommendations are as under:

i) The existing definition of child as a person who has not completed 14 years of age may continue.

ii) Setting up of special courts to trial child labour cases.

iii) To include education of child labour in addition to health and safety already provided under the Act.

iv) Specific provisions for offence of trafficking of children for labour.

v) Compounding of offences and enhancement of penalties.

vi) Provision of power to search and seize under the Act.

viii) Retention of proviso to Section 3 of the Act allowing children to work under the parental care.

These recommendations have still not been incorporated under the Act. Moreover, mere inclusion of changes into the Act will not make it an effective mechanism to handle child labour. The main reason for the failure of removal of child labour

Inspite of the existence of the Child Labour (Prohibition & Regulation) Act, 1986, is the absence of strict implementation of the provisions of the Act.

3) Reports of the Royal Commission on Labour, 1931
4) Report of the National Commission on Labour, 1969
7) Report of the Committee of the State Labour Ministers (Sanat Mehta Committee) Government of India, New Delhi, 1984
8) Report of the Committee on Child Labour, Government of Karnataka, Bangalore 1986
10) India Census Report 2001

*The Census Report of 2011 is not completely available so, all the data in this thesis is based on Census Report 2001

D) Conventions

1) The International Labour Organization has been playing an important role in process of gradual elimination of child labour and to protect from industrial exploitation.

It has focused five main issues:

1. Prohibition of child labour
2. Protection child labour at work
3. Attacking the basic causes of child labour
4. Helping children's to adapt to future work
5. Protecting the children of working parents

Till now the International Labour Organization in the interest of working children all over the world has adopted 18 Conventions and 16 Recommendations.

2) Universal Declaration of Human Rights (UDHR)

The UDHR provides-
1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be more generally available and higher education shall be equally accessible to all on the basis of merit.

3) The International Covenant on Economic Social and Cultural Rights (ICESCR)

The ICESCR contains the following provisions on the Right to Education:

The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

a) Primary education shall be compulsory and available free to all

b) Secondary education in its different forms, includes technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education.

c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;

4) Convention on the Rights of the Child (CRC)

CRC has some detailed provisions on the educational rights of the child They are States Parties should recognize the right of the child education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular;

a) Make primary education compulsory and available free to all;

b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;

Moreover, Article 32 of the UN Convention of the Right of the Child recognizes the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development etc.
These rights were further affirmed by the United Nations Organization (UNO) and have since received wider acceptance. The important milestones in the direction of their acceptance for universal adoption and observance have been as follows:

- Declaration of the Rights of the Child in 1959.
- Observation of International years of the Child in 1979.

Several other rights of the child including right to health, right to mid-day meal, right to participation society, right against child marriage, child remarriage etc can be best protected if the child is in the school and not at work place.

5. Work Done

The Researcher has done the following work in connection with her research work and visited libraries to collect literature required for her research work, such as

a) National Law School of India University Library, Bangalore
b) Central Library, University of Mysore, Mysore
c) JSS Law College Library, Mysore
d) Karnataka University Library, Dharwad
e) University College of Law, Bangalore
f) K.L.E.Society’s Law College, Library, Bangalore

The researcher has prepared questionnaire and interviewed the child labours working in different sectors like Hotels, Shops, Garages, Street Vendors, etc.

The children who participated in the survey are aged between 4 to 14 years of the age. These children belong to the unorganised sector that have been native or have migrated from various parts of India to Bangalore. The survey was conducted in and around Majestic
6. Conclusions and Action Plan for Eradication of Child Labor:

Compulsory education has historically been one of the most effective instruments for eliminating child labor in practice. It is evident that children in school are less likely to be in fulltime or close to full-time employment or work.

Conversely, who are not obliged to attend school or who realistically do not have access to education have little alternative to working or falling into begging, delinquency or worse.

Child labour policies and education policies have to be formulated and be operated in tandem and not independent of each other. The relation between education and child work is complex, however, and seemingly obvious solutions may not always work. Shortcomings in the public education system can and do actually encourage the flow of children into work place. At the very least, schools must be available, accessible and affordable and as far as possible free.

In the context of child labour it is important to emphasise that policies relating to population, education (primary and middle school education) investment, trade and labour productivity influence every aspect of economic growth as well as child labour. Therefore, adopts a more positive attitude towards child labour, parents do want their children to be educated and poverty as a limiting factor is highly over-rated. Recognise the fact that even today there are ‘poor' parents sending their children to school instead of work. Motivation and availability of infrastructure rather than poverty are the key factors.

To conclude, it is the duty of every educated person like us to create awareness about free education & Child Labour Act among people.

Rehabilitation of child labour:

The child labour should be released from work and admitted in National Child Labour project special schools in the districts where NCLP is functioning. In the non-NCLP districts the child labour should be admitted in the alternate schools proposed to run by the Education department under SARVA SHIKSHANA ABHIYANA SCHEME.

1.11 SCOPE AND LIMITATION OF THE STUDY

Due to availability of huge and vast material and as it is not only a problem of a particular society or nation, but also has become serious and almost has spread wise, so this social problem has been presented chapter wise.
Social problems are complex and their complete study remains partly an unachieved goal for researchers imposing limitations on the study. The present study also has certain limitations which are as follows. First child labour thrives in a variety of settings but voluntary action is limited only to the elimination of child labour in a few occupations. Although the organisations studied as part of this research covered voluntary action in the important occupations, there are still a number of employments which have not received the attention of the NGO’s. Thus the findings of the present study do not provide insights for the elimination of child labour in such employments. Second, it is very likely that there are more efforts being made to eliminate child labour at the micro level and the organisations selected by the researcher are by no means exhaustive of all the experiments taking place at the national level. Such efforts, however might have slipped the attention of this study on account of lack of publicity given to them as well as the practical constraints of the researcher including many organizations.

1.12 CHAPTERISATION

This research work entitled "A Critical Study of Child Labour laws and their Implementation with Special Reference to Bangalore city" is divided into nine chapters:

**First Chapter** deals with introduction, definition and meaning of child labour, Judicial Response to child labour in India, the problem, Hypothesis, the objective of the study, Importance of the study, Methodology adopted, Scheme of the study and presentation and limitations of the study as well as definitions of some terms.

**Second Chapter** is devoted to the meaning of the child labour, Nature and magnitude of the problem. It seeks to give conceptual retrospect of the child labour. Further this chapter highlights the problem of child labour and its reasons, the nature and extent of the child labour, as is prevalent in some countries of the world including India. Then the impact of child labour both in organized and unorganized sector and the role of the society in rooting out the child labour have been discussed elaborately.

**Third Chapter** Deals with International efforts in eradicating child labour. The United Nations Convention on the rights of the child 1989 to which India is a party and the resolutions of International Labour Organization which are binding upon India. The chapter also deals with India's compliance with International conventions and resolutions.
**Fourth Chapter** deals with existing legislative mechanism i.e., this chapter has been devoted exclusively to the role played by the legislature various legislative measures have been discussed in detail to see how for they are the earnest attempt to prompt the child labour welfare. The entire discussion has been divided into two heads, i.e. child labour welfare under Fundamental Rights, and the child labour under Directive Principles of State Policy. Besides it, efforts made by International Labour Organization. National Commission on Human Rights, National Policy on child labour for the eradication of the child labour has also been discussed.

**Fifth Chapter** Executive Policies framed by Central and Government of Karnataka for eradication of Child Labour

**Sixth Chapter** contain discussion on the Judicial response to the Child Labour Welfare, various landmark decisions have been discussed and analyzed. An earnest attempt has been made to assess the role of the Judiciary with an objective to see that, how far the Indian Judiciary has been successful in this direction.

**Seventh Chapter** deals with suggestions which are necessary to eradicate the problem of child labour along with role of NGOs and conclusion.

**Eight Chapter** deals with empirical study on Implementation of Child Labour Laws by the Executives.

**Ninth Chapter** deals with conclusion and suggestions which are necessary to eradicate the problem of child labour.