CHAPTER-3

INTERNATIONAL EFFORTS IN ERADICATING CHILD LABOUR
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3.1 INTRODUCTION

“The child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding. The child should be fully prepared to live an individual life in society... in the spirit of peace, dignity, tolerance, freedom, equality and solidarity.” – From the UN Convention on the Rights of the Child

Every child has a right to their childhood – a hopeful existence free of exploitation, violence, neglect and extreme poverty. Children need education, health services, consistent support systems as well as love, hope and encouragement; all these things are more required in order to experience childhood to the fullest, and to eventually develop into healthy, capable adults. Children cannot always be told what to do and what to think; they should be able affect decisions that concern them.

However, millions of young people around the world are exploited in different ways. Children are forced to work in factories, in backrooms, on the street, and in the sex trade. They can be sold as slaves or even drafted to fight in wars. The violation of children’s rights is pervasive throughout many countries and fuels struggling economies, but exploitation of children is not restricted to the public sphere. Alarmingly, children are too often the recipients of violence in their own home, where a high percentage of abuse- sexual, physical, emotional, and psychological- takes place.

Why does this occur? Conditions of constant conflict or poverty inevitably propagate societal ills. Further more, children are easy targets for exploitation because they are dependent on adults and social institutions for their development, usually unaware of their rights and unable to vote or voice their concerns formally.

There are people doing meaningful work to promote children’s rights. Human rights agencies and organizations, grassroots groups, media, educators, global leaders and youth groups. Some of the most influential and effective child advocacy groups are featured in the resources and organizations sections.

But much more needs to enforce children’s rights everywhere. The UN must monitor and enforce their conventions with concerted efforts and people everywhere need to learn and care about these violations.
Child rights are fundamental freedoms and the inherent rights of all human beings below age of 18. These rights apply to every child, irrespective of the child’s, parents/legal guardian’s race, colour, sex, creed or other status.

The essential message is equality of opportunity. Girls should be given the same opportunities as boys. All children should have the same rights and should be given the same opportunity to enjoy an adequate standard of living.

3.2 RIGHTS OF THE CHILD

3.2.1 What are child rights?- We focus on the 4 basic rights of children. In 1992, India ratified the United Nations Convention on Rights of the Child. The Charter of Child Rights (CRC) is built on the principle that “All children are born with fundamental freedoms and All human rights have some inherent rights”. The Charter confers the following basic rights on all children across the world:

- The right to survival - to life, health, nutrition, name and nationality
- The right to development – to education, care, leisure, recreation
- The right to protection - from exploitation, abuse, neglect
- The right to participation – to expression, information, thought and religion.

We believe that children are citizens in their own right, entitled to the full spectrum of human rights, our children will only attain these rights guaranteed to them if each one of us believes this should be so and exercises all the power at our command – as parents, neighbour, consumers, employees, business people, teachers, politicians, journalists, professionals, bureaucrats, activists and most importantly as citizens – to make this a reality.

Its role is to amplify the voice of India’s children to reach large numbers of people and enlist their support for this cause by speaking out, demanding, negotiating as required with the relevant State or citizen bodies for the rights of children.

3.2.2 Importance of child rights- Children are innocent, trusting and full of hope. Their childhood should be happy and loving. Their lives should mature gradually, as they gain new experiences. But for many children, the reality of childhood is altogether different. 2 million Indian babies die before they celebrate their first birthday. More girl children are killed at birth. 35 million children aged 6-14 years do not attend school. 17 million children in India work.
Right through history, children have been abused and exploited. They suffer from hunger and homelessness, work in harmful conditions, high infant mortality, deficient life. *Childhood can and must be preserved.* Children have the right to survive, develop, be protected and participate in decisions that impact their Lives.

3.3 **U. N. CONVENTION ON THE RIGHTS OF THE CHILD, 1989 (CRC)**

3.3.1 **Introduction**- The CRC is an international treaty that recognizes the human rights of children, defined as persons upto the age of 18 years. The Convention establishes in international law that States Parties must ensure that all children-without discrimination in any from-benefit form special protection measures and assistance; have access to services such as education and health care; can develop their personalities, abilities and talents to the fullest potential; grow up in an environment of happiness, love and understanding; and are informed about and participate in, achieving their rights in an accessible and active manner.

3.3.2 **International community monitor and support progress on the implementation of the Convention**- The Committee on the Rights of the Child, an internationally elected body of independent experts that sits in Geneva to monitor the Convention’s implementation, requires governments that have ratified the Convention to submit regular reports on the status of children’s rights in their countries. The committee reviews and comments on these reports and encourages States to take special measures and to develop special institutions for the promotion and protection of children’s rights. When necessary, the committee calls for international assistance from other governments and technical assistance from organizations like UNICEF.

3.3.3 **The new vision of the child in the Convention**- The convention provides a universal set of standards to be adhered to by all countries. It reflects a new vision of the child. Children are neither the property of their parents nor are they helpless objects of charity. They are human beings and are the subject of their own rights. The Convention offers a vision of the child as an individual and a member of a family and a community, with rights and responsibilities appropriate to his or her age and stage of development. Recognizing children’s rights in this way firmly sets a focus on the whole child. Previously seen as negotiable, the child’s needs have become legally binding rights. No longer the passive recipient of benefits, the child has become the subject or holder of rights.
3.3.4 **Impact of convention**- the impact of the convention can be described as follows, the convention

1) is the force in virtually the entire community of nations, thus providing a common ethical and legal framework to develop an agenda for children. At the same time, it constitutes a common reference against which progress may be assessed.

2) was the first time a formal commitment was made to ensure the realization of human rights and monitor progress on the situation of children.

3) indicates that children’s rights are human rights. Children’s rights are not special rights, but rather the fundamental rights inherent to the human dignity of all people, including children. Children’s rights can no longer be perceived as an option, as a question of favour or kindness to children or as an expression of charity. They generate obligations and responsibilities that we all must honour and respect.

4) was even accepted by non-state entities. The Sudan People’s Liberation Army (SPLA), a rebel movement in Southern Sudan, is one such example.

5) is a reference for many organizations working with and for children—including NGOs and organizations within the UN system.

6) reaffirms that all rights are important and essential for the full development of the child and that addressing each and every child is important.

7) reaffirms the notion of State accountability for the realization of human rights and the values of transparency and public scrutiny that are associated with it.

8) promotes an international system of solidarity designed to achieve the realization of children’s rights. Using the Convention’s reporting process as a reference, donor countries are required to provide assistance in areas where particular needs have been identified; recipient countries are required to direct overseas development assistance (ODA) to that end too.

9) highlights and defends the family’s role in children’s lives.

3.3.5 **Number of countries ratified the Convention on the Rights of the child**- More countries have ratified the Convention than any other human rights treaty in history – 192 countries had become State Parties to the Convention as of November 2005.

3.3.6 **Who has not ratified the Convention on the Rights of the Child and Why?** -The Convention on the Rights of the Child is the most widely and rapidly ratified human rights treaty in history. Only two countries, Somalia and the United States, have not ratified this celebrated agreement. Somalia is currently unable to proceed to
ratification as it has no recognized government. By signing the Convention, the United States has signaled its intention to ratify—but has yet to do so.

As in many other nations, the United States undertakes an extensive examination and scrutiny of treaties before proceeding to ratify. This examination, which includes an evaluation of the degree of compliance with existing law and practice in the country at State and federal levels, can take several years—or even longer if the treaty is portrayed as being controversial or if the process is politicized. Moreover, the US Government typically will consider only one human rights treaty at a time. Currently, the Convention on the Elimination of All Forms of Discrimination against Women is cited as the nation’s top priority among human rights treaties.

3.3.7 UNICEF using the Convention on the Rights of the Child- The Secretary – General of the United Nations has called for the mainstreaming of human rights in all areas of UN operations—for example, the Office of the United Nations High Commissioner for Refugees (UNHCR) in its mandate for refugee children, or the International Labour Organization (ILO) in its commitment to eliminate child labour. In the case of UNICEF, the Convention has become more than just a reference, but a systematic guide to work of the organization. As expressed in its Mission Statements, UNICEF is mandated to “advocate for the protection of children’s rights” and it “strives to establish children’s rights as enduring ethical principles and international standards of behaviour towards children.” UNICEF promotes the principles and provisions of the Convention and the mainstreaming of children’s rights in a systematic manner, in its advocacy, programming, monitoring and evaluation activities.

The Convention on the Rights of the Child provides UNICEF with guidance as to the areas to be assessed and addressed, and it is a tool against which UNICEF measures the progress achieved in those areas. Integrating a human rights approach in all UNICEF’s work is an ongoing learning process that includes broadening the framework for UNICEF’s development agenda. In addition to maintaining a focus on child survival and development, UNICEF must consider the situation of all children, better analyse the economic and social environment, develop partnerships to strengthen the response (including the participation of children themselves), and support interventions on the basis of non-discrimination and act in the best interests of the child.
3.3.8 Steps of the Convention on the Rights of the Child and the Committee on the Rights of the Child encourage governments to undertake through its reviews of country reports, the committee urges all levels of government to use the Convention as a guide in policy-making and implementation to:

1) Develop a comprehensive national agenda for children.
2) Develop permanent bodies or mechanisms to promote coordination, monitoring and evaluation of activities throughout all sectors of government.
3) Ensure that all legislation is fully compatible with the Convention.
4) Make children visible in policy development processes throughout government by introducing child impact assessments.
5) Carry out adequate budget analysis to determine the portion of public funds spent on children and ensure that these resources are being used effectively.
6) Ensure that sufficient data are controlled and used to improve the plight of all children in each jurisdiction.
7) Raise awareness and disseminate information on the Convention by providing training to all those involved in government policy-making and working with or for children.
8) Involve civil society –including children themselves –in the process of implementing and raising awareness of child rights.
9) Set up independent statutory offices –ombudspersons, commissions and other institutions –to promote children’s rights.

3.3.9 Work of UNICEF- In addition to support of country programmes, how does UNICEF assist governments in promoting children’s rights? UNICEF’s work involves advocacy, cooperation and technical assistance.

1) UNICEF undertakes advocacy –through publications, awareness campaigns and participation in major international
2) UNICEF cooperates with both donor governments and governments in the developing world. UNICEF – assisted programmes seek to ensure the social and economic rights of children by delivering essential services such as health and education and improving access to good nutrition and to care. UNICEF also focuses attention on national budget spending, encouraging governments to allocate 20 per cent of budgets to basic services. Further, UNICEF supports efforts to redress inequitable practices and discrimination, which are direct and underlying causes of children’s and women’s deprivation.
3) UNICEF cooperates with other international organizations – particularly those with in UN system, as the United Nations Development Assistance Framework (UNDAF) process illustrates – and international financial institutions.

4) UNICEF works to build partnerships with civil society organizations, involving children, families and other members of communities.

5) UNICEF provides technical support and assistance to the committee on the Rights of the Child.

6) UNICEF focuses on sustainable results and encourages ongoing monitoring and evaluation of programmes.

3.3.10 Some of the areas in which the Convention on the Rights of the Child has been most effective- The Convention has inspired a process of national implementation and social change in all regions of the world, including:

1) Incorporating human rights principles into legislation;
2) Establishing interdepartmental and multidisciplinary bodies.
3) Developing national agendas for children;
4) Widening partnerships for children;
5) Promoting ombudspersons for children or commissioners for children’s rights.
6) Assessing the impact of measures on children;
7) Restructuring of budgetary allocations;
8) Targeting child survival and development;
9) Implementing the principle of non-discrimination;
10) Listening to children’s voices; and
11) Developing justice systems for children.

3.4 UNIVERSAL DECLARATION OF HUMAN RIGHTS

3.4.1 Introduction-The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 General Assembly Resolution 217 A (III) as a common standard of achievements for all people and all nations. It sets out, for the first time, fundamental human rights to be universally protected.

This Declaration also contains certain provisions for the welfare of the children. They are as follows:
There shall be a right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development.\(^1\)

State parties recognize the rights of the child to education and with a view to achieve this right progressively and on the basis of equal opportunity, they shall, in particulars.\(^2\)

(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.
(c) Make higher education accessible to all on the basis of capacity by appropriate means.
(d) Make education and vocational information and guidance available and accessible to all children.
(e) Take measures to encourage regular attendance at schools and reduction of dropout rates.

States parties shall take all appropriate measures to ensure that school discipline is administrated in the manner consistence with the child’s human dignity and in conformity with the present convention.\(^3\)

State parties shall promote and encourage international co-operation in matter relating to education, in particular, with a view to contribute to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and of the needs of developing countries.\(^4\)

State parties shall recognize the right of the child of rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural rights and arts.\(^5\)

State parties recognize rights of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s

\(^1\) Article 27 of the UDHR
\(^2\) Article 28 of the UDHR
\(^3\) ibid
\(^4\) ibid
\(^5\) Article 31 of the UDHR
education, or to be harmful to the child’s health physical, mental, spiritual, moral and social development.  

State parties shall take legislative, administrative, social and educational measures to ensure the implementation of it. To this, having regard to the relevant provisions of other international instruments, State parties shall in particular:

(a) Provide for a minimum age and minimum ages for admission to employment.
(b) Provide for appropriate regulation of the hours and conditions of employment and
(c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement.

The State parties shall protect the child against all other forms of exploitation prejudicial to any aspect of the child’s welfare.

3.5 RIGHT OF THE CHILD UNDER VARIOUS CONVENTIONS

4. Minimum Age Convention, 1973
5. Worst Forms of Child Labour Convention, 1999

3.5.1 Convention on the Rights of the Child, 1989 - The State Parties to the present Convention, considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world. Bearing in mind that the peoples of the United Nations have, in the charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom., Recognizing that the United Nations has in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such

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6 Article 32 of the UDHR
7 ibid
8 Article 36 of the UDHR
as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Recalling that in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care assistance, convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be offered the necessary protection and assistance so that it can fully assume its responsibilities within the community, recognizing that the child, for the full harmonious development of his or her personality, should grow up in family environment, in an atmosphere of happiness, love and understanding, considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity. Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Economic, Social and Cultural Rights (in particular in Article 10) and in the Statutes and relevant instruments of specialized agencies and international organizations concerned with the Welfare of Children. Bearing in mind that, as indicated in the Declaration of the Rights of the Child, “the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth”, Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special reference to Foster Placement and Adoption Nationally and Internationally; the United Nations standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules); and the declaration on the protection of Women and Children in Emergency and Armed Conflict, recognises that, in all countries in the World, there are children living in exceptionally difficult conditions, and that such children need special consideration, Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child, the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries.
3.5.2 Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, 2000

The States Parties to the present Protocol, considering that, in order to further to achieve the purpose of the Convention on the Rights of the Child and the implementation of its provisions, especially Articles 1, 11, 21, 32, 33, 34, 35 and 36, it would be appropriate to extend the measures that States Parties should undertake in order to guarantee the protection of the child from the sale of children, child prostitution and child pornography. The Convention on the rights of the Child recognizes the rights of the child to be protected from Economic exploitation and from performing and work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development, Gravely concerned at the significant and increasing international traffic in children for the purpose of the sale of children, child prostitution and child pornography. Deeply concerned at the widespread and continuing practice of sex tourism, to which children are especially vulnerable, as it directly promotes the sale of children, child prostitution and child pornography, that a number of particularly vulnerable groups, including girl children, are at greater risk of sexual exploitation and that girl children are disproportionately represented among the sexually exploited. Concerned about the growing availability of child pornography on the internet and other evolving technologies, and recalling the International Conference on Combating Child Pornography on the Internet, held in Vienna in 1999, in particular its conclusion calling for the worldwide criminalization of the production, distribution, exportation, transmission, importation, international possession and advertising of child pornography, and stressing the importance of closer cooperation and partnership between Governments and the Internet industry, Believing that the elimination of the sale of children, child prostitution and child pornography will be facilitated by adopting a holistic approach, addressing the contributing factors, including underdevelopment, poverty, economic disparities, inequitable socio-economic structure, disfunctioning families, lack of education, urban-rural migration, gender discrimination, irresponsible adult sexual behaviour, harmful traditional practices, armed conflicts and trafficking in children. The efforts to raise public awareness are needed to reduce consumer demand for the sale of children, child prostitution and child pornography, and believing further in the importance of strengthening global partnership among all sectors and improving law enforcement at the national level. Noting the provisions of international legal instruments relevant to the protection of children, including the Hague Convention on protection of Children and co-operation in respect of Inter-country Adoption, the Hague Convention on the Civil Aspects of International Child Abduction, the Hague Convention on Jurisdiction,
Applicable Law, Recognition, enforcement and cooperation in Respect of Parental Responsibility and Measures for the Protection of Children, and International Labour Organization Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. Encouraged by the overwhelming support for the Convention on the Rights of the Child, demonstrating the widespread commitment that exists for the promotion and protection of the rights of the child, recognises the importance of the implementation of the provisions of the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and child pornography and the declaration and Agenda for Action adopted at the World Congress against Commercial Sexual Exploitation of Children, held in Stockholm from 27 to 31 August 1996, and the other relevant decisions and recommendations of pertinent international bodies.

3.5.3 Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, 2000

The States Parties to the present Protocol, encouraged by the overwhelming support for the Convention on the Rights of the Child, demonstrating the widespread commitment that exists to strive for the promotion and protection of the rights of the child, reaffirming that the rights of children require special protection, and calling for continuous improvement of the situation of children without distinction, as well as for their development and education in conditions of peace and security, disturbed by the harmful and widespread impact of armed conflict on children and the long-term consequences it has for durable peace, security and development. Condemning the targeting of children in situations of armed conflict and direct attacks on objects protected under international law, including places that generally have a significant presence of children, such as schools and hospitals, Noting the adoption of the Rome Statute of the International Criminal Court, in particular, the inclusion therein as a war crime, of conscripting or enlisting children under the age of 15 years or using them to participate actively in hostilities in both international and non-international armed conflict, Noting that article 1 of the Convention on the Rights of the Child specifies that, for the purposes of that Convention, a child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier, Convinced that an optional protocol to the Convention that raises the age of possible recruitment of persons into armed forces and their participation in hostilities will contribute effectively to the implementation of the principle that the best interests of the child are to be a primary consideration in all actions concerning children. The twenty-sixth International Conference of the Red Cross and Red Crescent in December 1995 recommended, inter alia, that parties to conflict take every feasible step to ensure that children below the age of 18 years do not take
part in hostilities. Welcoming the unanimous adoption, in June 1999 of International Labour Organization Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, which prohibits, inter alia, forced or compulsory recruitment of children use in armed conflict. Condemning with gravest concern the recruitment, training and use within and across national borders of children in hostilities by armed group distinct from the armed forces of a State, and recognizing the responsibility of those who recruit, train and use children in this regard, recalling the obligation of each party to an armed conflict to abide by the provisions of international humanitarian law, Stressing that the present Protocol is without prejudice to the purposes and principles contained in the Charter of the United Nations, including Article 51, and relevant norms of humanitarian law, Bearing in mind that conditions of peace and security based on full respect the purposes and principles contained in the Charter and observance of applicable human rights instruments are indispensable for the full protection of children, in particular during armed conflict and foreign occupation, Recognizing the special needs of those children who are particularly vulnerable to recruitment or use in hostilities contrary to the present Protocol owing to their economic or social status or gender, Mindful of the necessity of taking into consideration the economic, social and political root causes of the involvement of children in armed conflict. Convinced of the need to strengthen international co-operation in the implementation of the present Protocol, as well as the physical and psychological rehabilitation and social reintegration of children who are victims of armed conflict. Encouraging the participation of the community and, in particular, children and child victims in the dissemination of informational and educational programmes concerning the implementation of the Protocol.

3.5.4 Minimum Age Convention, 1973

The General Conference of the International Labour Organization, having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its fifty-eighth session on 6 June 1973, and having decided upon the adoption of certain proposals with regard to minimum age for admission to employment, which is the fourth item on the agenda of the session, and Noting the terms of the Minimum Age (Industry) Convention 1919, the Minimum Age (Sea) Convention, 1920, the Minimum Age (Agriculture) Convention, 1921, the Minimum Age (Trimmers and Stokers) Convention, 1921, the Minimum Age (Non-Industrial Employment) Convention, 1932, the Minimum Age (Sea) Convention (Revised), 1936, the Minimum Age (Industry) Convention (Revised), 1937, the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, the Minimum Age (Fishermen) Convention, 1959, and the Minimum Age (Underground Work)
Convention, 1965 and considering that the time has come to establish a general instrument on the subject, which would gradually replace the existing ones applicable to limited economic sectors, with a view to achieving the total abolition of the child labour, and it determined that these proposals shall take the form of an International Convention, adopts this twenty-sixth day of June of the year one thousand nine hundred and seventy-three the following Convention, which may be cited as the Minimum Age Convention, 1973.

3.5.5 **Worst Forms of Child Labour Convention, 1999**

The General Conference of the International Labour Organization, having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 87th Session on 1 June 1999, and considering the need to adopt new instruments for the prohibition and elimination of the worst forms of child labour, as the main priority for national and international action, including international cooperation and assistance, to complement the convention and the Recommendation concerning Minimum Age for Admission to Employment, 1973, which remain fundamental instruments on child labour, and considering that the effective elimination of the worst forms of child labour requires immediate and comprehensive action, taking into account the importance of free basic education and the need to remove the children concerned from all such work and to provide for their rehabilitation and social integration while addressing the needs of their families, and recalling the resolution concerning the elimination of child labour adopted by the International Labour Conference at its 83rd Session in 1996, and recognizing that child labour is to a great extent caused by poverty and that the long-term solution lies in sustained economic growth leading to social progress, in particular poverty alleviation and universal education, and Recalling the Convention on the Rights of the Child adopted by the United Nations General Assembly on 20 November 1989, and Recalling the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, adopted by the International Labour Conference at its 86th Session in 1998, and Recalling that some of the worst forms of child labour are covered by other international instruments, in particular the Forced Labour Convention, 1930, and the United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices similar to slavery, 1956 and having determined that these proposals shall take the form of an international Convention, Adopt this seventeenth day of June of the year one thousand nine hundred and ninety-nine the following Convention, which may be cited as the Worst Forms of Child Labour Convention, 1999.
3.5.6 Effect of Conventions:

The international community has fought the practice of child labour for the past four decades. National and international laws make the use of child labour a crime. Nonetheless, enforcement is elusive.

Adopted by the International Labour Organization (ILO) in 1973, C138 binds ratifying countries to pursue a national policy for the abolition of child labour and to progressively raise the minimum age for employment or work to a level consistent with the fullest physical and mental development of young persons. This minimum age should be 15 years, or the age reached by the completion of compulsory schooling. According to the convention, the minimum age for work that is likely to jeopardize the health, safety or morals of young persons is 18. To date 144 countries have ratified C138, including Nepal in 1997. India and Pakistan are yet to ratify Convention 138.9

The Convention on the Rights of the Child is the first legally binding international instrument to incorporate the full range of human rights for children, including civil and political rights as well as economic, social and cultural. Article 32 states that children have the rights to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development. The Convention is the most universally accepted human rights instrument in history and has been ratified by 192 countries – every country in the world except two, the United States and Somalia.10

On June 17, 1999, the ILO adopted Convention 182, which calls for immediate and effective measures to prohibit and eliminate the worst forms of child labour. “Child” applies to all persons under the age of 18. “The worst forms of child labour” refers to child slavery, forced labour, trafficking, debt bondage, prostitution, pornography and forms of work that harm the health, safety or morals of children. To date, 160 countries have ratified ILO Convention 182, including Nepal in 2002. India yet to ratify Convention 182.11

In the 1990s every country in the world except for Somalis and the United States became a signatory to the Convention on the Rights of the child, or CRS. However according to the United Nations Foundation Somalis signed the Convention in 2002, the delay of the signing was believed to been due to Somalia not having a government to sign the convention.

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10 Convention on Rights of Child [CRC, 1989]
11 Worst forms of Child Labour Convention 182, [c-182], 1999
3.5.7 Comparison with other countries relating to eradication of child labour - The principal means of action in the ILO is the setting up the International Labour Standards in the form of Conventions and Recommendations. Conventions are international treaties and are instruments, which create legally binding obligations on the countries that ratify them. Recommendations are non-binding and set out guidelines orienting national policies and actions. Pakistan (34), Japan (45), Australia (57), China (20), Malaysia (14), Sri Lanka (39) and USA (14).

The approach of India with regard to International Labour Standards has always been positive. The ILO instruments have provided guidelines and useful framework for the evolution of legislative and administrative measures for the protection and advancement of the interest of the labour. To that extent the influence of ILO Conventions as a standard for reference for labour legislation and practices in India, rather than as a legally binding norm, has been significant. Ratification of a Convention imposes legally binding obligations on the country concerned and, therefore India has been careful in ratifying Conventions. It has always been the practice in India that we ratify a Convention when we are fully satisfied that our laws and practices are in conformity with the relevant ILO Convention. It is now considered that a better course of action is to proceed with progressive implementation of the standards, leave the formal ratification for consideration at a later stage when it becomes practicable. We have so far ratified 39 Conventions of the ILO, which is much better than the position obtaining in many other countries. Even where for special reasons, India may not be in a position to ratify a Convention. India has generally voted in favour of the Conventions reserving its position as far as its future ratification is concerned.

3.5.8 Child Labour in USA - when child labour is brought on the table there is no exception to the rule. Even the world’s largest economies, USA have major concerns involving child labour. According to the United Farm Union around 8,00,000 in 2004-05 children aged between 5 to 14 are estimated to work on US farms alone. And not just the farms child labour is also found even in urban sweat shops and garment, where those innocent lives have lost their childhood and innocence under the nook of work, stress, cruelty and responsibility. 12

3.5.9 Child Labour in Africa- It analyzes the determinants of child labour in Africa as inferred from recent empirical studies. The empirical analysis is based on five country studies undertaken in three different African countries, namely, Cote d’Ivoire, Ghana, and Zambia. Some support is found for the popular belief of poverty as determinant of child labour;

however, other determinants are of similar importance. Among school costs, transportation costs have the greatest effect on child household composition generally find some support.

3.6 INTERNATIONAL LABOUR ORGANIZATION AND RIGHTS OF THE CHILD

**Introduction**-International Labour Organization is an association of States, united to work for lasting peace based on social justice. It was founded in 1919 as a part of peace settlement that followed the First World War. For many years it was association with League of Nations. In the year 1946 it become the first specialized agency associated with the United Nation. It deals with international labour and social problems. It is tripartite agency in which representatives of employers and workers as well as representatives of government take part in its work. Its motto is “Poverty anywhere, constitutes a danger prosperity everywhere”. Protecting the working people is the primary object of International Labour Organization through adopting international labour standards in the form of “Conventions” and “recommendation”. Child labour has been one of the key areas of concern for the International Labour Organization since its inception, and has always been an area of special concern. The Organization provides a world forum for the discussion of social and labour problems of concerns to governments, employers and workers in all member countries. India is one of the important member. The organization wrote a new chapter in international relations by launching its system of voluntary standards in the social and labour field. Since one of the main task of the organization is to set international labour standard, it is normally referred to as “World-Parliament of Labour”. Though it cannot legislate like Parliament, yet it performs a well defined Pre-legislative function, through its conventions and recommendations.

Conventions adopted by International Labour Conference is a legal instrument regulating some aspect of labour administration, social welfare and human rights. It creates obligation of bonding nature on countries who have ratified it. After ratification of the convention it requires complete compliance with all its provisions.

Apart from conventions, a recommendation contains provision which are generally in nature of guiding principles for action and it may be implemented progressively and in parts. On the issue of child labour ,the role of International Labour Organization may be visualized, that in the very first session, a convention was adopted fixing minimum age for the admission of children to industrial employment at fourteen years.

**Conventions adopted by ILO**-Since its inception various conventions and recommendation mainly in respect of children and adolescents indicate the approach of
International Labour Organization towards the elimination of child labour system. These conventions are

1) Minimum age convention.

2) Medical Examination Convention, and

3) Night work convention.

**ILO in India**- Virtually from the very beginning International Labour Organization is committed to work for elimination of child labour system gradually and for promotion of well being of the children working in the field. Even the Hon’ble Apex Court of India emphatically stated that the International Labour Organization has been playing an important role in the process of gradual elimination of child labour and to protect the child from industrial exploitation. The main focus has been:

1) Prohibition of child labour.

2) Protecting child labour at work.

3) Attacking the basic causes of child labour.

4) Helping children to adopt to future work.

5) Protecting the children of working parents.

**Three fold convention**- To combat this social evil of employment of child labour, the Director General Michel was motivated by three fold conviction, and expressed that:

1) Childhood is a period of life which should be devoted not to work but to education and training.

2) Child labour by its very nature and the working condition in which it is carried out, often compromises children’s potential to become productive and useful adult in society.

3) Finally the use of child labour is not inevitable and progress towards its elimination is possible whenever there is political will to oppose it with determination.

**Ten Principles of ILO**- International organizations have well recognized the problems of child labour, not only in India, but all over the world and accordingly tried to protect childhood by adopting various measures. The League of Nations in 1924 adopted “Geneva Declaration” on the rights of the child stating that measures should be taken against social evil of slavery, child labour and traffic and prostitution of minors. On 20th November, 1959
United Nations unanimously adopted resolution on the rights of the child and reaffirmed its faith in Fundamental Human Rights and in the dignity and worth of the human. It further says that the child, by reason of his physical and mental immaturity needs special safeguards and care, including appropriate protection, before, as well as after birth. The resolution evolved Ten principles for the parents, voluntary organizations, local authorities and governments to recognize the rights of the child and strive for their observance by legislative and other measures progressively. These are :-

1) Every child without any exception shall enjoy all the right.

2) The child shall enjoy special protection. He will be given opportunities and facilities by law and other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity.

3) The child shall be entitled from his birth a name and nationality.

4) The child shall enjoy the benefits of social security. Special protection and care shall be provided to him and his mother including adequate pre-natal and post-natal care. The child shall have the right to adequate nutrition, housing, recreation and medical services.

5) The child who is physically, mentally or socially handicapped shall be given the special treatment, education and care required by his particular condition.

6) The child needs love and understanding. He shall wherever possible, grow up in the care and under the responsibility of his parents and in any case in an atmosphere of affection and of moral and material security. A child of tender age shall not except exceptional circumstances, be separated from his mother. Society and public authorities shall have the duty to extend particular care to those without adequate means of support.

7) The child is entitled to receive free and compulsory primary education. He shall have full opportunity for play and recreation.

8) The child shall in all circumstances be among the first to receive protection.

9) The child shall be protected against all forms of neglect, cruelty and exploitation. He shall not be the subject of traffic in any form. Child shall not be admitted to employment before an appropriate minimum age. He shall in no case be caused and permitted to engage in any occupation or employment which would deprive him of education and health or interfere with his physical, mental or moral development.
10) The child shall be protected from practices which may foster racial, religious and other form of discrimination. He shall be brought up in a spirit of understanding, tolerance, friendship among people, peace and universal brotherhood and full consciousness that his energy and talents should be devoted to the service of the fellow men.

**International year of the Children and measures by UN**-To give the practical shape, the United Nation also declared the year 1979 as a “International year of the Children”. In response to resolution of United Nations, the International Labour Organization has also endorsed the declaration and appealed to its member States to act for elimination of child labour system, and till its complete elimination, the working conditions may be improved, regulated and humanized. Again in November, 1989 the General Assembly of the United Nations adopted Convention on the rights of the child as under :-

1) Everyone is entitled to all the rights freedom set forth therein without distinction of any kind such as race, colour, sex, language, religion

2) Region national or social origin, rich or poor birth or other status.

3) Childhood is entitled to special care and assistance.

4) The family as the fundamental group of society and the natural environment for the growth and dwell being of its members and particularly children should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community.

5) The child for full and harmonious development of his/her personality should grow up in a family environment, in an atmosphere of happiness, love and understanding.

6) The child should be fully prepared to live an individual life in society and brought up in the spirit of the ideals proclaimed in the United Nations Charter and in particular in the spirit of peace, dignity, tolerance, freedom equality and solidarity.

**Approach of India**-In view of the difficult conditions in which children are to live all over the world, the United Nations in its Convention on the right of the child has included forty two Articles covering various aspects of child right and welfare of the children. The Convention was adopted unanimously on 20th November, 1989 and was opened for signatures in September, 1990. this Convention affirms that children’s right requires special protection and it aims, not only to provide such protection, but also to ensure the continues improvement in the status of children, all over the world, as well as their development and education in conditions of peace and security. As such the convention protects the civil and political rights
of the child, and extends protection to economic, social, cultural and humanitarian rights of
the child. India has also signed the instrument and submitted to United Nations on 11th
December, 1992, which contains as following:-

“While fully subscribing to the objectives and purposes of the Convention realizing
that certain of the rights of the child, namely those pertaining to the economic, social and
cultural rights can only be progressively implemented in the developing countries, subject to
the extent of available resource and within the frame work of international co-operation,
recognizing that the child has to be protected from exploitation of all forms including
economic exploitation. Nothing that for several reasons children of different ages do work in
India having prescribed minimum ages for employment in hazardous occupations and in
certain other areas, having made regulatory provisions regarding hours and conditions of
employment, and being aware that it is not practical immediately to prescribe minimum age
for admission to each and every area of employment in India, the Government of India
undertakes to take measures to progressively implement the provisions of Article 32 of the
Convention particularly para-2 (a), in accordance with its national legislation and relevant
international instruments to which it is a State Policy”. Article 32 of the Convention reads as
below:-

1) State parties recognize 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 the child
education, or to be harmful to the child’s health or physical, mental, spiritual, moral or
social development.

2) State parties shall take legislative, administrative, social and educational measure to
ensure the implementation of the present Article. To this end having regard to the relevant
provisions of the international instruments, States Parties shall in particular,

a) Provide for a minimum age or minimum ages for admission to employment,

b) Provide for appropriate regulation of the hours and conditions of employment,

c) Provide for appropriate penalties or other sanctions to ensure the effective
enforcement of the present Article.”

International Program on Elimination of Child Labour-Motivated by manifold efforts
“International Program on Elimination of Child Labour” (IPEC) came into existence in the
year 1990, with the object to motivate regarding implementation of practical programs
connected with child labour and to provide technical advisory service and assistance to
member countries whenever asked for. The object of the program is based on the hope that
child labour system can be effectively combated and progressively eliminated with the help
and active participation of government, employers and workers organization, Non-governmental organizations, educationists, parents, social activists and reformers, and other institutions concerned with this social evil.

**Jurisdiction of IPEC**- A concerted effort may help to combat against the worst abuses of child labour like hazardous work, bonded child labour, forced child labour and problem of street children. The functional jurisdiction of “IPEC” is :-

1. To train the enforcement agency of Central and State Government.
2. To organize motivational seminars for Trade Unions and employer’s organization to motivate them for active participation in child welfare programmes and elimination of child labour system.
3. To organize nationwide major programmes to give awareness into common man through nongovernmental organization.
4. To organize various training programmes to educate the society regarding various evils and abuses of child labour system and generate sensitiveness against the social evil of employing child labour.

The International labour Organization and Government of India signed Memorandum of Undertaking (MOU) in 1992 and formally it was launched on 20th January, 1993 in India.