CHAPTER-I
INTRODUCTION

The question of child’s rights has emerged as one of the most vibrant issues for discussion in this new millennium. The fact remains that even today children are a part of the disadvantaged minority group so far as realization of human rights and social justice are concerned. The main reason for this lacuna is that children are still not a complete political entity in true sense of the term. Besides, they are generally physically, mentally and economically defenseless. In this rapidly changing age of globalization, taking care of child’s right at every stage has taken a back seat. This not only affects the whole value system, but also their present social and economic needs. No doubt that the future of humanity depends on children to a large extent, even then a very partial and parochial approach has been followed towards bringing them on the mainstream of social and political agenda.

This marginalization takes even a much worse turn when child is either orphan, loner, a destitute, a homeless, a child labour, a bonded labour, a domestic help, a street child, a physically or a mentally challenged child. In such circumstances, they remain mostly in uncared state and became highly vulnerable to crimes which are perpetrated against them. Violations of Child Rights are hooked to social wrong. It ranges from actual crimes to neglect by society and unsatisfactory parenting, innocence, inexperience, wrong exposure, improper care, lack of good guidance and non existence of good social security system are some of the major reasons for children’s continued vulnerability and exploitation.

The children are the greatest gift of God to man, our most precious and important assets. The welfare and development of any community depends largely on the health and well being of its children. It has been said ‘who hold
souls of the children holds the nation.\textsuperscript{1} The physical and mental health of a nation is determined largely in the manner in which it is shaped in early stages. Justice V.R. Krishna Iyer says that it is our obligation to the generation by opening up all opportunities for every child to unfold its personality and rise to its full stature physical, moral, mental and spiritual and it is the birth right of every child that cries for justice from the world as a whole.\textsuperscript{2} During World War-II Winston Churchill said “there is no finer investment for any community than putting milk into babies.” This appeal to the people everywhere, this fundamental faith in Juvenile Justice, this reorganization of the worth of the infants born and unborn, is the beginning of Juvenile Justice, says Justice Krishna Iyer.\textsuperscript{3} The needs and rights of children should not be attended as bye-product of progress. They should be attended as an end and means of progress. Unless this change is achieved all investments in food, production, community service and human resources development would remain less effective because children constitutes a significant proportion of the people and they will not be able to contribute fully to them nor benefited fully from them. We must not forget that the children are the ultimate goal for development. We must also realize that the efforts for advance in human conditions must start as early as possible beginning with the child and the mother well-being even before the child is born. Protecting the health and education of today’s children is not only the first and foremost right but also is the most basic and wisest of all investments in social and economic development of society.\textsuperscript{4}

The child of today cannot develop to be a responsible and productive member of tomorrow’s society unless an environment which is conducive to social and physical health is assured to him. Every nation, developed or developing, links its future with the states of the child. Children are the greatest

\textsuperscript{3}Ibid.
gift to the humanity. The parents themselves live for them. Parents regain peace and happiness in the company of the children. The children signify eternal optimism in the human being and always provide the potential for human development. If the children are better equipped with a broader human output, the society will feel happy with them. Neglecting the children means loss to the society as a whole. If children are deprived of their childhood - socially, economically, physically, mentally - the nations get deprived of the potential human resources for social progress, economic empowerment and peace and order, the social stability and good citizenry. It may be that the aforesaid appeal lies at the back of the saying that "child is the father of man". To enable fathering of a valiant and vibrant man, the child must be groomed well in the formative years of his life. He must receive education, acquire knowledge of man and materials and blossom in such an atmosphere that on reaching age, he is found to be a man with a mission, a man who matters so far as the society is concerned.

Childhood is a universal human experience and every society has a vital stake in it children. The future and stability of a society depend on the quality of its children. Infact, in every child the foundation of a nation is laid. The proper development of the child is, therefore, imperative for the proper growth of a nation. This applies to the international community also. Obviously Child Welfare is of supreme importance to the mankind. Child Welfare is an expression which means "the general well being of the child. In all ages this has depended principally on the social valuation of children and the care accorded to them. At the present time the child is considered as an important social unit and is held to be entitled to all that makes for healthy living, sufficient recreation, schooling adapted to his natural learning methods, intelligent home care and the right to develop his abilities to their fullest extent". The expression refers to "the total

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5 Bandhua Mukti Morcha etc. v. Union of India and others AIR 1997 SC 2218, p. 2220.
well-being of the child. It includes not only the care of maladjusted and delinquent children but also the development of child physical, mental, emotional and social faculties.\textsuperscript{8} In nutshell, it ‘emphasizes the need of continuously taking into account all aspects of the child’s well-being and dealing with ‘the whole child’, not some isolated phase of his development’.\textsuperscript{9} The intense realizations, that what the best and wisest parent wants for his own child, that must the community want for all its children.

Child care and welfare, traditionally the exclusive responsibility of family and kin, is now shared by the State in an increasing number of countries. Obligation for child’s care and welfare are being less left to traditional precept and custom, and increasingly placed under larger legal scrutiny and social legislation. This is shown by the ways in which nations have established norms and regulation for child welfare, without unduly encroaching upon the independence and privacy of individual and familial rights. The statement of objects and reasons appended to the Central Children Act, 1960 emphasize the importance and protection of children.\textsuperscript{10}

Children are the most vulnerable group in any population and in need of the greatest social care. On account of their vulnerability and dependence they can be exploited, ill-treated and directed into undesirable channels by anti-social element in the community. The state has the duty of according proper care and protection to children at all times.

It is needless to emphasize that children are a nation’s strength and most important assets. Every year since 1957, 14th November is being observed in India as Children’s Day. The day, coinciding with the birthday of India’s First Prime Minister Sh. Jawahar Lal Nehru, inspires us to focus our undivided

\textsuperscript{9} Ibid.
\textsuperscript{10} See, the object and Reasons appended to the Children Act, 1960. The Preamble to the Act of 1960 puts the same theme thus:

An Act to provide for the care, protection, maintenance, welfare, training education and rehabilitation of neglected or delinquent children.
attention towards the basic needs and rights of children, so that their well-being becomes our prime concern. India’s population of young comprises nearly 380 million children below the age of 14 years as per 2001 census.\textsuperscript{11} The status of children, who represent nearly 40\% of the ‘Human Capital’ of India, not only reflects the quality of life of people in the country, but also measures its Human Development Index. The Government considers the development of children as its key concern and firmly believes that in the ultimate analysis, it is childhood that holds potential and sets the limits for the future development of society. Today investing in the requirements and priorities of children is considered to be the sine qua non of a developed nation.

1.1 Research Hypothesis

The new era of globalization had further degraded the status of child. The economies in present era are becoming increasingly integrated. Multi national companies who seek new market and cheap production areas for their goods play major role in suppressing the rights of child and indirectly damaging the future of the society.\textsuperscript{12} The present hypothesis rests on the presumption that if this situation remained unchecked the repercussions of this silent problem shall be annihilating to the biological and social structure of the society. For that matter, a comprehensive socio-legal study of the society is required in order to strengthen the present legal control mechanism and plug the loopholes and also to modify the social norms and practices.

1.2 Objective of Study

Enacting of legislation and establishment of infrastructure for their enforcement is not sufficient to achieve the desired goal. Experience is the biggest educator. It is all the more essential to have a continuous monitoring and, evaluation of existing laws. It is with this view that the present research work was undertaken. The objective of study is to have comprehensive analysis of existing


\textsuperscript{12} Autumn-2000, is a programme hosted by stephe Midoskey where it was focused that branded sports gear and young people of developing countries who make the goods for a low wage example; production of foot balls in Pakistan; cigarette factories Bangladesh and clothing factories in India cited in <http://www.bbc.com>, accessed on 20\textsuperscript{th} January, 2004.
laws and Government policies and evaluation of effectiveness of both laws and policies.

1.3 Research Methodology

A purely theoretical study of Child Rights cannot prove very beneficial unless an empirical study is performed in order to identify the grass root deficiencies. Thus the empirical study was conducted to ascertain the lacunae in the implementation of the laws related to Child Rights. An important step in any research process is to select the method of data collection; the techniques which have been used in this research work to collect the data for analysis are the subjects from various strata of society, which are involved in any way with this problem. Following enlists the categories of subjects which are included:

- Data was collected from various labour Inspectors from Labour Department.
- Interviews were also conducted with the children working in different fields below the age of 14 years.
- To solicit the views of lawyers, discussion and interviews were arranged with them.
- Views of academicians have also been collected to know the grass root problem in this field.
- Views of students from legal and non-legal background were also collected to know their opinion about the existing laws relating to child labour.
- Interviews with the small-scale businessmen were conducted to know their view on the problem of child labour.

Questionnaires were designed in such a way that there were few questions which are known as class question. These questions are meant for special classes i.e. child workers, small-scale entrepreneurs. However, where the subjects are illiterate or not well versed with english language, the researcher has filled it by asking the questions orally. It was a self-administered
questionnaire, which reduces the chances of biasness to minimal. After the data was collected, it was arranged in spreadsheets and was analysed using MS-Excel. In most of instances it is expressed in form of percentage which is easy to understand and compare. Further to facilitate the comparison between various categories of subjects graphic representation is done.

1.4. Analysis of Literature

The literature resource for analysis is available in the form of number of books, newspaper, magazines, and internet sites, journals, articles, conventions. The literature relating to the rights of child, various tradition and custom, various support systems like constitutional, legislative, government programmes and policies and also the international conventions and conferences affecting the national scenario has been studied in detail. The internet had a substantial effect to research work, without which the research would have been much more difficult. All sources of information, digital or otherwise, have been cited in footnotes to the main text and these may serve as useful tools to guide those desiring to undertake in depth research in any of the areas that the work contains. One word of caution though: websites and URLs being rather transient in nature, sometimes links might have lapsed, the footnotes only tell of those sites that existed at the time of writing along with the date when they accessed.

1.5 Universe of Study

A lot has been said about rights of child in India, most of it emotional, some even poetic, but little of much practical significance. There is almost a concentrated lack of national will to deal with the rights of child. Commissions are appointed and directions made discussed heatedly and subsequently ignored. In this era of universal human rights, children are still victim of violence, abuse, hazardous employment, exploitation abduction or sale. Though the problem is not localized and knows no geographical limit, the study has been carried out in universal context due to the very nature of the subject yet with special focus on Chandigarh. Chandigarh being a capital of two states and a Union Territory, there is a significant growth in population which includes migrants also from other states. Due to these reasons and also due to the easy availability of the
resources and to ensure a close look at the problem at grass root level, the area of empirical study has been purposely confined to Chandigarh.

1.6 Plan of Study

The research has been presented schematically by dividing into eight chapters detailed as under:

Chapter-I: gives the introduction of the topic, its problem profile, object of study, research hypothesis, literature analysis and universe of study. Chapter-II: explains the conceptual framework of Child Rights. Initially the child care is treated to be duty of parents and family but now it has become a duty of State also. There are various forms of child exploitation i.e. child soldiers, child labour, child prostitution, sexual abuse of children, children working as domestic help and above all the children working in unorganized sector which has been elaborated in Chapter-III.

Chapter-IV: deals with rights of the children in the international scenario. In this chapter the role of United Nations and I.L.O has been discussed at length in context with the Child Rights. After discussing the international convention and declarations, the rights of child under Indian law as enumerated under Constitution of India and other legislations i.e. criminal laws, labour laws, commercial laws are analyzed in detail in Chapter-V.

Chapter-VI: explains the role of Government and policies initiated by the government from time to time in promoting the rights of child. It also deals with the role of non-governmental organization in this direction. The findings of the empirical study have been made part of Chapter-VII.

Finally based upon the research, the conclusion has been drawn and few suggestions have been given for implementation of Child Rights in Chapter-VIII.