INTRODUCTION
PRELUDE

Childhood is an age of learning and enjoyment. It is the most important period of life when moulding and shaping take place; the behaviour, conduct and sentiments are developed and the child is entitled to all that makes for healthy living, sufficient recreation, schooling, adopted to his natural learning methods, intelligent home care and right to develop his abilities to the fullest extent. Thus, it is the best period for physical, mental and emotional development. The behaviour pattern, attitude and knowledge which are formed in the childhood are never lost.

A child is the future leader of a nation. The future and stability of a society depends upon the quality of its children and the quality of its children in turn depends upon the manner on which welfare is planned. A child as an important social unit has therefore to be taken care of as a whole instead of some isolated phase in his development and no one should forget the saying "let children be children".

THE PROBLEM

'Right to life' as enshrined in Article 21 of Indian Constitution is one of the most important rights that every citizen should enjoy and thus a child has also the same right which indirectly includes an environment favourable to his physical, mental, emotional and intellectual growth and development. Besides minimum basics, for a child, physical
exercise is also very important for his healthy growth and development. Though 'work' is a part of the physical exercise, but some times when it becomes a compulsion resulting into physical and mental exertion, it is harmful for the proper growth and development of the child. Long hours of work, night employment, continuous standing/sitting or use of single set of muscles during the work, emphasis on finer neuro-muscular co-ordination with attendant nervous strain, indoor confinement in noisy factories and dusty trades, carrying heavy loads/weights, pressure of speed in the performance etc. provide harmful conditions for the growing child resulting to certain deformation and disease and such type of 'work' in other words can be called as 'labour'.

The existence and perpetuation of child labour is a bolt on the conscience of the society. It is a slur on a modern welfare state which seeks to promote all round development of its citizens. Children are just like buds. Instead of taking proper care, to-day they are being nipped before they bloom. They are subject to work at a tender age when they require the utmost love, affection, care and proper education. They become victim of the existing exploitative set up and due to denial of minimum basics they are forced to join the labour force which thwarts their development from every aspect including the upliftment of the society as well. This problem has become so acute that despite all planned efforts, India stands in the top position for having highest number of child labourers in the
world. It is considered to be a major perennial social evil that is present in this country and no suitable remedy is traced out so far to curb the menace. Child labour has become a common scene and to-day it is not only a socio-economic problem, but also it challenges the judiciary at the same time. Before going to point out the evils of child labour, it will be better to become familiar with its definition and causes.

**DEFINITION OF 'CHILD LABOUR'**

Historically the terms 'work' and 'labour' have been used synonymously and inter-changeably as both 'work' and 'labour' require human effort i.e. an exercise of body and mind. Although work, as a direct fulfillment of the child's natural abilities and creative potentialities, is always conducive to his healthy growth, but when it is meant for the fulfillment of some other's needs, becomes enslaving in character and deleterious in its impact. When the basic attributes of work i.e. purpose, plan and freedom are conspicuously absent, it becomes labour.

Though the Indian labour legislations concerned with welfare of the children have defined the term 'child', but it is difficult to find a precise definition of the term 'child labour' in any of these enactments. However, the term has been defined by Homer Folks, the Chairman of the United States National Child Labour Committee, as ".......... any work by children that interferes with their full physical development, their opportunities for a desirable minimum education or their needed
recreation." According to World Labour Report " the term 'child labour' implies something different, where young people are being exploited or overworked or deprived of their rights to health or education or just to childhood".

But Dr.V.V.Giri has distinguished the term 'child labour' in two senses. First, as an economic practice and secondly, as a social evil. The first signifies employment of children in gainful occupations with a view to adding to the income of the family and the second, a broad aspect which takes into account the dangers to which the children are exposed which means the denial of opportunities of development.

Kulashrestha says that the term 'child labour' is at times used as a synonym for 'employed child' or 'working child' where as Gary Rodgers and Gay Standing have classified 'child labour' into four categories which includes (i) domestic work, (ii) non-domestic work and non-monetary work, (iii) bonded labour and (iv) wage labour.

1. Quoted in Stein, Emanuel and Davis, Jerome (Ed.): Labour Problems In America ; 1940, PP.112-113.
3. Giri, Dr. V.V. : Labour Problems In Indian Industry ; 1958, p.360.
'Child labour' generally means the employment of the child and the extraction of his productivity for the economic gain of another, with debilitating ramifications on the psychological and physical development of the child. But according to the New Encyclopaedia Britanica, Micropaedia, 'child labour' means the employment of children under a specified legal age. Also, it is the use of children to work in factories or other places of employment. So, 'child labour' is the work performed by children that either endangers their health or safety, interferes with or prevents their development. But it is defined more meaningfully by the United States Department of Labour as "the employment of boys and girls when they are too young to work for hire or when they are employed at jobs unsuitable or unsafe for children of their ages and under conditions injurious to their welfare. But it is true that children do not work always for wages. They are often found as unpaid workers. Children spend much of their time in household maintenance activities e.g. to help the parents or other adult members of the family in performing their traditional family occupation. As unpaid workers, they enter into these working

arrangements by their own will to learn something which may help them a lot to earn their livelihood as skilled workers in future. Thus "child labour is that segment of child population which participate in paid and unpaid work". Three things, therefore are necessary to include employment of a child within the notion of 'child labour'. First, employment of the child in any gainful occupation; second, the work to which the child is exposed must be harmful and lastly, the child's opportunity of development must be denied.

The term 'child labour', according to the researcher, may therefore be defined as "the 'employed child' or a 'working child' who works in any gainful occupation at such a tender age as a paid or unpaid worker, which is in contravention to the age limit prescribed under the existing statutory provisions and such employment or occupation is mostly dangerous to his health as well as frustrates the opportunities of development". For the empirical study of this research work, only those child labourers who work for wages i.e. paid workres are taken into account to know how far they are protected under the Constitution of India and different labour legislations meant for the welfare of the children.

CAUSES OF CHILD LABOUR

A child is not a born labourer. The social,

psychological and economic environment mostly compel him to resort to an act of earning in such a tender age. It has been officially accepted since 1954 that child labour is no longer a medium of economic exploitation, but is necessitated by economic necessity of the parents and in many cases that of the child himself. But it will be more useful to study some of the principal factors responsible for the child labour problem to have a better idea about this evil.

(A) Poverty

Poverty is no minor ailment in India. It refers to a degree of deprivation of worldly goods. It means the inability to secure the minimum consumption requirements for life, health and efficiency. As per the Government estimate, about 23.76 crore Indians, representing 29.9 percent of the population are living below the poverty line. Of these, 19.59 crores are living in rural areas while 4.17 crores are in the urban areas. This poverty is the principal factor which forces the poor parents to send their children to undertake employment. When the earnings of the adult members of the family/parents become insufficient to mitigate their daily livelihood, the only ultimate path before

them is the employment of their children for wages to supplement their family income. This condition helps the employers to exploit the child labourers by extracting labour for a longer hour against low wages despite existance of various legal safeguards. The report of the International Labour Organisation (ILO) states that this problem is not the problem of the child labourer himself, but it is the problem of the maintenance of the child and the living wage of the adult wage earners so that they should maintain their family at adequate standard.

It was revealed in the seminar organised by National Institute of Public Co-operation and Child Development (NIPCCD), New Delhi that in India millions of families were below the poverty line and they had to deploy their children in the labour market in order to eke out a bare subsistence.

Bonded labour, which takes birth from the indebtedness of the poverty striken people includes child labourers and it is mainly significant in the Indian villages since long.

(B) Lack of compulsory education

Education is a process through which power of body, mind and culture are strengthened. On the other hand, education at the primary and elementary level is the most effective tool for bringing about macro and micro economic changes in any society.

Constitution of India in its Directive Principles of State Policy provides for the free and compulsory education for all up to the age of 14 years. As observed by the National Commission on Labour (NCL), 1969, an artisan cannot afford to educate his wards though education is free. For him an uneducated child is an asset; desire to be educated becomes a double liability because of loss of earnings if the child does not work and expenditure on education, however small. Not only an artisan, but most of the poor parents where unable to provide minimum basics, even food to their children twice a day, it is not possible in their part to bear the other incidental costs although the education is free for the children. As such even after fifty years of independence neither this goal has been achieved nor the parents have so far understood their responsibility to achieve this objective by sending their children to schools which has led the percentage of drop outs highest in India and by the year 2000, 50 percent of the world's

illiterates would be in India.

Poverty is the main obstacle to the compulsory education and for this reason only children are motivated to work to meet their own/ family expenses before they can start their education. The parents of poor, illiterate and traditional families feel better to send their children to labour market than to school. According to them, the children should be part of the work force if circumstances demand it.

Though the children have the 'right to education' as enshrined in Article 45 of Indian Constitution, the main point of the failure of this provision is in absence of suitable schemes for compulsory education at state levels. The irregularity in the mid-day meal provision which was started with an aim to attract the children to come to the school; political antipathy; lack of proper infrastructure in schools etc. have failed to attract the children for education and thus lack of proper education is another major factor for producing child labourers which indirectly interprets that the total implementation of the provision of compulsory education provided by the Constitution will take another few years.


It has also been pointed out in the Asian Regional Tripartite Workshop held at Bankok in September, 1986 that illiteracy is one of the major causes for the existence of child labour problem and therefore suggested that "protection of young and most vulnerable children, for example, by prohibiting the employment of children below 12/13 years of age or below the age of completion of compulsory education, must be given."

(C) Population explosion

Population overgrowth is considered as one of the principal causes of child labour. The problem of child labour is prevalent extensively in the lower socio-economic groups as they have ordinarily large family size, acute poverty, illiteracy etc. which are definitely the indirect results of population overgrowth. Rapid population growth is an important factor which has posed a persistent challenge to the socio-economic development programmes adopted by the government. In fact, the whole quality of human life has been adversely affected as a consequence of the rapid population explosion. On the otherhand,


the parents of poor, illiterate families are not ready to accept the inner sense of population control policies and related laws. For them, extra children means extra income. Thus, children belonging to the lower socio-economic groups having large families are automatically deprived of their developmental facilities and rights. They have no choice but to join the labour force as their parents are not in a position to provide them even square meals a day.

(D) Employers' preference

In India, child labourers are easily available in the society. They are generally hard working and disciplined. Sometimes they do more work than adult workers without any protest to their employers. They are not liable to have trade unions under the Trade Unions Act, 1926, which weakens them to work for long hours with low wages under inhumane conditions. Employers prefer to employ child labourers in their establishments to get more profit over less investments. As the child lacks in experience, the cost of training the child is recovered by a proportionate cut in the child's earnings along with engaging them for long hours. As the children
constitute the cheaper source of labour, it indirectly helps a lot for the existence of this problem.

(E) Lack of foresight and legal unawareness

Lack of foresight of the parents, particularly of lower socio-economic groups is another principal cause of existence of child labour in Indian society. Due to their undeveloped outlook and thinking power, they never think of the future of their children. They believe in earnings of their children rather than their all round development. They ignore their children to become a respectable person in the society like others by not providing proper care and opportunity for education, vocational training etc.

The parents of this group do not send their children to the schools. They do not want to invest on education of their children. On the contrary, they want their children should work through which they can earn something and obviously the ignorant parents can only do this.

The people of this group are not at all aware of the legal safeguards meant for the protection of children against abuse and this is because of the inadequate implementation of the legislations for which child labour still exists in the society.

(F) Lack of proper implementation of the legal provisions

There are number of legislations in relation to child
labour, but it suffers from necessary machinery for proper implementation. The society is aware of the problem and lot of exercises in and outside the Parliament and legislature along with bureaucracy, NGOs etc. have created a lot of hue and cry through out the country. While the unorganised sectors are not covered by any of the labour legislations meant for the protection of child labourers, where most of the children are working, it does not serve the purpose in any way even if the legal provisions are properly implemented.

EVILS OF CHILD LABOUR

Child labour is a great social ill and a national waste under the economic necessity as the wage earner to support the family. This deprives the child of opportunity for education; wholesome play and recreation; stunts his physical growth; interferes with the normal development of his personality and thwarts his preparation for adult responsibility. To quote Singh, Kaura and Khan, "child labour thus assumes the character of a social problem in as much as it hinders, arrests or distorts the natural growth processes and prevents the child from attaining his full-blown man-hood."

The problem of child labour involves many far reaching socio-economic implications. Various types of occupational health

hazards are the first and most important effects which may sometimes cause certain kinds of deformities in the child labourers. Secondly, this problem gives birth to various other economic problems such as the use of labour at its lowest productivity implying thereby an inefficient utilization of labour power. It frequently precludes the most productive adulthood, thereby causing enormous economic loss to the society. There is an unfair competition created between the child labourers and adult workers by employing the children resulting to the extensive unemployment of the adults. The practice of employing children below the prescribed age interferes with their education and minimises the chances for their vocational training and hampers their intellectual development. The child labourers at their homes are regarded as adult members as soon as they become wage earners and thus tends to interfere with normal family life and encourage the breakdown to the social control which is largely depended upon to preserve the existing social order.

REVIEW OF STANDARD LITERATURE

Though the child labour problem is not new for India, only scanty literature are available for the earlier period i.e. before 1979. Some of the literature on the problem has come into existence after the declaration of the year 1979 as International Year of the Child. Further the year 1990 was celebrated as the SAARC (South Asian Association for Regional Co-operation) Year of the Girl Child in India with an intention to focus attention on
the plight of the girl child labourers. To ensure a decent life for the child labourers in general, several attempts have been made by various scholars, Government of India, Labour Bureau, ILO etc. on the problem and suggested various measures to tackle the problem. The researcher here attempts to review some of the important standard literature to know the past studies on the subject.

(A) Selected Books

The review may be started from J.C. Kulashrestha (1978) who has brought forth some vital aspects of child labour and its evil consequences in his work. According to him, labour is worship, no doubt, but it must be expected from and exacted upon those who are fit for it. Misplaced labour is dangerous to one who does it and to those who set the fruits out of it. He categorically pointed out that politically, socially and economically child is the seed of natural growth and recognising this fact, the government has taken various executive as well as legislative steps to protect them. But in law, much is to be desired. The employers take benefit of many a loopholes in the law and exploit children.

Though the fourth and fifth chapters of the book contain the steps taken by ILO and protective legal measures respectively, but a detailed study of the legal provisions with case laws on the problem as well as the role played by the judiciary in this regard are not dealt with anywhere. But Kulashrestha observed that existing provisions regarding working
conditions, medical, educational, housing and recreational facilities to the child labourers are inadequate.

Elias Mendelievich (1979) has very aptly observed that to a greater or lesser extent children in every type of human society have always taken part and will take part in those economic activities, which are necessary, if the group to which they belong is to survive. In the developing countries like India, the driving force behind the employment of children is poverty. Apart from this, the other causes are to assist their parents in the economic activity of the household, parent's attitudes, absence of earning members in the family etc. Child labour is also preferred as it is very cheap and readily available in the agricultural and rural sector. In most of the factories, where the children are employed, have to work in unhygienic conditions with little or no ventilation and light. In agricultural work, contact with pesticides and fertilizers lead to skin problems and poisoning. In the developing countries, he observed, it is the parents or relatives who first pushed their children to work, but they lack foresight to judge the harms caused by the early employment of the children.

According to Praveen Nangia (1987), apart from poverty, the low educational and occupational status of the parents and inadequacy of the legislative system as well as its insufficient enforcement are the reasons of child labour problem. Next to it, honesty, sincerity, efficiency and cheap labour of children are
the other factors behind the existence of the problem in the society. The author recognised that employing child labourers has some positive effects on the child as well as on the society since it accelerated the process of socialization. At the same time, it is also argued that the negative consequences overpowered the positive ones. The physical and mental health of the child labourer is naturally degenerated by the early employment and thus his/her earning capacity at the later age is reduced because of lack of education and formal training. Moreover, the child labourers most often suffer from the incidence of malnutrition and under-nourishment.

B. Dinesh (1988) has analysed that a rural family would prefer to have many children expecting each of them to work and add to the family income. Thus, high fertility is one of the major consequences of the economic activities of children, while another consequence of child labour is that it reduces adult wages. The work participation of children also encourage their siblings to participate in the labour force and by displacing the adults from the labour market, it further supports the unemployment problem indirectly. Early participation in hazardous activities shortens their life length and future earnings.

But B. Chakravarty (1989) has disclosed and discussed the inter-relationship between literacy and schooling on one hand and the gap between the idea of universalisation of literacy and of elementary education and reality on the other hand. He has
reviewed various policies and programmes in relation to universalisation of elementary education and of literacy in Andhra Pradesh. According to him, children who are not enrolled and drop-outs grow into adult illiterates and therefore examined the progress in literacy and the progress in elementary schooling at disaggregated level as a part of the mutually dependent effort of the total process. The use of child labour is also a constraint to universalisation of elementary education. But very few studies bring about the empirical dimensions of child labour in precised manner in which use of child labour is proved to be an obstacle to universalisation of elementary education. Mr. Chakravarty examined this problem in detail through depth studies in selected rural areas and urban slums. At the same time his work provides a critique of the national policy and suggests a need for a stronger policy thurst for achieving universal literacy within a given time frame.

Ivy George (1990) is of the opinion that children should not be part of the work force, but they should be allowed to work, not labour, in environments and conditions conducive to their growth and development and thus shows a conceptual distinction between 'work' and 'labour'. He suggested to re-examine the widely accepted view that children should not be part of the work force.

After reviewing the data collected during the field study, he concluded that it is not feasible to eradicate the problem at the present stage of economic development and
therefore attention has to be focussed on making the working conditions of child labourers better and more acceptable socially. The ultimate goal of abolition of child labour problem can only be achieved where there is sufficient improvement in the conditions of the families whose children are compelled to work. This work is totally from the socio-economic angle and does not deal with any legal provisions.

Dr. Amar Nath Singh (1990) has attempted to study various facets of child labour and confined his study to the carpet industries only. He defined 'children' as those in the age group of 6-15 years, working for wages in their family owned or non-family carpet weaving units. A further attempt has also been made by the author to find out their pre-work life and socio-educational life pattern; to locate factors leading them to accept employment; to identify their socio-economic and familial background; to delineate various positive and negative aspects of their working conditions and also to review the existing legal provisions in a nutshell and their implementation in the carpet weaving units. For this, a field study was done by the author in Sewapuri development block of Varanasi district and opined that the traditional system of employing children in family occupations and economic necessities are the major causes of child labour problem besides large family size and population, employer's preference, absence of compulsory education, illiteracy and ignorance of parents etc. He has mentioned the sorrow plight of the children employed in the carpet industries of the study area who are exploited to the maximum
possible extent and in reward how they suffer from head-ache, eye
problems, stomach-ache, joint pain and chest pain etc. At the same
time he suggested various measures for research as well as for
action as this study has clearly established that the practice of
child labour is due to economic necessity.

Though he deals with the child labour laws, but failed to
discuss and touch all the statutory and constitutional safeguards
and the author is totally silent about the judicial response on
the problem.

According to Ramesh Kanbargi (1991), "child labour has
the potential for exploitation that can have far reaching
consequences on the overall growth and development of the
children. Unfortunately, research in this area is scattered and
inadequate. Though the goal of governments in less developed
countries is to totally eradicate child labour, the existing
socio-economic and cultural factors along with conceptual,
definitional and measurement problems associated with child
labour, pose a serious hindrance in achieving these goals in a
reasonable time. So, till such time as the goals are achieved,
there is an imperative need to understand the problem and protect
interests of the working children".

The edited work of Kanbargi mainly aims at improving the
understanding of child labour – its incidence, correlates and
implications. He observed that child labour in rural India is not
considered as exploitative, but it is a process of socialisation
and the only means of acquiring the necessary skills required for
survival in the given environment. It rather develops the confidence, self respect and personality of the young workers.

Further, he pointed out that in India, although several attempts have been made by the government for the welfare of its children, unfortunately all these efforts seem to have had a very little impact on either achieving the universalisation of primary education or eliminating child labour.

Prof. Myron Weiner's (1991) work is mainly based on the child labour and education policy in Indian context. He has tried his best to explain the problem and reviewed the compulsory education policies and child labour problem and attempted to explain why India is a significant exception to the global trend towards the removal of children from the labour force and the establishment of compulsory, universal primary school education. Basing upon the scores of interviews with government officials, educationists, social activists and children, he has built a convincing case. He spoke to many education officials at all levels, but did not find a single one who advocated compulsory education.

In his work, he has only touched the legislative history of the child labour laws, but neither it is elaborately discussed nor any emphasis has been given on role of Indian judiciary on the problem.

Weiner contends that India's political culture, not its poverty is at the root of the problem. His work is fiercely critical of the Indian Government's unwillingness to make
education compulsory and its acceptance of child labour. Thus he argues that to tackle the problem of child labour, India should not have millions of illiterates. He says, in India, where primary education is neither compulsory nor child labour is illegal, it is obvious that it will encourage the children's work participation rate.

M. Sumangal and B.S. Nagarajan (1993) have done a microlevel study of the problem in a developing country like India with its avowed welfare outlook and discussed several aspects of the subject - economic, sociological and demographic. They found that there really exists a positive relationship between more number of children and practice of child labour and suggested for population education, compulsory enrollment of children in schools, effective implementation of non-formal educational programme package, easily adaptable birth control methods etc. as high fertility rate is one of the major causes of child labour. Further, they emphasized that child labour in unorganised sector too is to be viewed seriously for penal action and regular and innovative income generating employment programmes for parents should be conceived and implemented on a wider scale.

Mohd. Mustafa and Onkar Sharma (1996) said that the eradication of child labour can only be possible through two term policy; long term and short term. Though certain amendments in the legislative provisions, assistance to the families of child labourers, proper rehabilitation etc. are
included in the short term policy, but the authors stressed more in long term eradication like eradication of poverty, illiteracy etc. Because so long as these problems will exist in the society, it will help indirectly for existence of child labour. Though Chapter III and IV deal with the child labour laws and judgements on child labour, but a detailed discussion on all provisions of the legislations meant for the protection/welfare of child labourers is wanting.

The work of P.L. Mehta & S.S. Jaswal (1996) is based upon the constitutional philosophy of child labour welfare with special reference to tea stalls, sweet shops and dhabas in Shimla town. No doubt, the study is quite comprehensive, educative and informative. The problem of child labour has been examined quite seriously and various Acts, Rules and regulations have also been taken into consideration for dealing with the subject of the study. More specifically to say, the authors intended to find out the reasons of child labour, nature of their work, wage structure, working conditions etc. and reached at the conclusion that unorganised sector employs a large number of children below the prescribed age and they are deprived of their rights. It is argued by the authors that the children should be given adequate opportunity and facilities for developing themselves into a good citizen as they are the future of a nation. The study disclosed that children in India and elsewhere in the world have not been given proper attention and are being exploited by the people for the accomplishment of their selfish ends. They have been exploited more or less in all periods of time, though varied in its nature.
and dimension, depending on the existing socio-economic structure of society. The legal provisions and judicial response to child labour welfare are discussed to some extent in this book and certain amendments in the Child Labour (Prohibition and Regulation) Act, 1986 are advocated.


(E) Selected Research Articles

There also exists a number of research articles on the subject out of which few standard articles between the period of 1978 to 1997 have been selected by the researcher for the present work as it is not possible to review all the literature available on the subject.

Jan Vitek (1978) observed that children, even of seven years of age are brought from the country-side to the urban cities and are sold into services. In agriculture and related
activities, the children are largely employed in the rural areas, but in both the cases, they are exploited and humiliated to a great extent. In both cities and villages, a large number of economically active children are also found in small workshops, cottage industry as well as handicraft undertakings.

According to Kusum (1979), child labour has numerous demographic, social and economic implications. Demographically, economic contribution of children resulted in the demand for more children. Child labour further deprives children of education and hampers their physical and intellectual development and forced them to remain as unskilled labourers with low wages throughout their life.

But Nadeem Mohsin (1980) opined that child labour by and large is a product of unemployment and underemployment of the adult wage earner besides acute poverty and increasing demand for child labour. In ancient India they were exploited in form of child slaves. But their position is much more bad in Patna, where considering the physical capabilities of a child the work load is extremely high, as observed by the author while conducting a survey in Patna.

S. Kothari (1983) pointed out that illiteracy is the major factor that compels the children to join the labour force. In Sivakashi, children are induced to leave schools to support the family economically. According to the author, Sivakashi is the largest single construction of child labour in the world where the children between the age group of three and half years to fifteen years work for twelve hours a day in degrading and
hazardous working conditions and suffer from various health hazards.

According to Neera Burra (1986), poverty is considered to be one of the main reasons of child labour. She found that employer has a vested interest in the continuation of child labour as it is highly profitable. Child labour is preferred by a diverse set of social groups, from the urban middle class housewife to the rural household. In almost every sphere of economic life children are found working, exploited to an optimum level and deprived of their development and education. Particularly in the glass factories of Ferozabad, the child labourers are exposed to inhuman exploitation. The combination of heat, dust and intense noise leave severe repercussions on the health of the workers and thus, the net result is that tuberculosis is rampant and the life of a worker is cut short by 10 to 15 years.

According to M.A. Khan (1988), the number and types of occupation in which children are being employed are endless and include almost every aspect of human work and life. The industries which are really pits in exploiting child labour are the carpet, beedi, match, fire work and the glass and bangle industries. Children are also found working as pottery workers and in private mines. The other notorious occupations employing child labour are the precious stone industry of Moradabad and diamond polishing industry of Surat. According to him, "match factories of Sivakashi and Tamilnadu are supposed to have the highest concentration of child labour in India".
Bhagawan Prasad Singh (1990) opined that there is an urgent need for attitudinal change, social awareness and crusade against the scourge of child labour. The creation of human working conditions along with strict enforcement of Child Labour (Prohibition and Regulation) Act, 1986 and National Policy on Child Labour, 1987 coupled with improvement in the economic condition of parents would help in the elimination of the problem of child labour.

S. Srinivasan (1990) has discussed the problem from the angle of supply side and demand side by classifying the child labour into rural and urban area and concludes that if the child labour is eliminated, thousand of families will be affected. Instead of eliminating it, the child labour can be protected from exploitation by taking proper action against the employers and improving the standard of working conditions.

N. Sharma (1990) elaborates that Indian conditions do not permit to prohibit the child labour totally because it will be injurious rather than good in the absense of possible alternatives. It is, therefore, realised that children who are not able to take education are to be engaged in work so that they will be saved from being misguided.

Pawan Sharma (1994) is of the opinion that childhood is the most formative period of one's life; a time of learning and formation of habits. The issue of child labour, therefore requires attention of not only of legislature, executives and courts but also of the NGO's, social reformers, research
and academic institutes and all those who care for the growth and development of the nation. Until this problem is tackled at all fronts the child can not be protected from this abuse.

Dr. N. R. Madhava Menon (1995) gives much stress on the importance of the United Nation's Convention on the Rights of the Child, constitutional provisions, gaps and inadequacies in legislations concerning children and role of voluntary agencies in implementation of 'rights of the child'.

But Dr. M. A. A. Baig (1995) suggests that to abolish child labour, the first step will be to provide regular and meaningful employment to the adult members to assure a certain minimum income to the household. Only then the legislation against child labour can be respected, the employers monitored and the education system made meaningful.

Soumitra Kumar Chatterjee (1996) has examined how population overgrowth is the root cause of child labour through an empirical study in the Cuttack city and suggested for a social awareness against this evil and stressed on the role of NGOs in this regard.

D.P. Chaudhury (1997) deals with the incidence of child labour in India for the period 1961 to 1994. This paper mainly intends to highlight the historical perspectives, drivers of child labour and community effects, child labour in Indian states with sectoral allocation, urban and gender bias in education etc.
The author noted that the concentration of child labour in the age group of 10-14 are mainly in rural areas. Due to large gender bias in school education, proportion of children who are neither in schools nor in labour force (nowhere children) is almost fifty percent with preponderance of rural boys and girls. He further states that a very small subset of stifled children are only focussed by the international and national policy makers. In the interest of child development and India's participation in the global economy, urban and gender bias in school education needs to be confronted with utmost urgency. The Indian child labour, which is overwhelmingly rural, should be dealt with as an integral part of a co-ordinated strategy of child development.

Sukhjinder Singh Tiwana (1997) is of the opinion that India has failed to tackle the problem due to wrong policies adopted by successive Union Governments. Poverty, systematic destruction of rural life, menacing spread of urbanisation, commercialisation of education, callous attitude towards various poverty alleviation schemes, proper non-implementation of legislative provisions etc. are the main causative factors of child labour problem in India. The author therefore stressed much on improvement of the living and working conditions of the parents of working children. Further, it is the duty of the government to convert working children into productive and participative members of the society for which more attention has to be given towards rehabilitation measures, proper educational facilities and the involvement of NGOs, trade unions and grass root level workers of various political parties etc.
CHOICE OF THE TOPIC

As per 1981 Census, economically active population in the age group of 5-14 years was 13.6 million i.e. 5.5 percent of the total labour force in India where as 1991 Census figures (Provisional) reveals that approximately 18 million children have not experienced their childhood in the real sense and for them life is merely a struggle for earning their daily bread. In case of Orissa, according to 1981 Census data, there are around 5,15,000 child workers i.e. 5.97 percent of the total labour force working in different sectors of economy.

From the above standard literature, it is observed that except a few, most of the authors have not discussed the problem so intensively from the legal aspect. The cause of failure of the Acts, detailed discussion of the problem with decided case laws as well as the role of Indian judiciary are nowhere discussed thoroughly and thus the problem is viewed more from the socio-economic angle than socio-legal aspect. Moreover, most of the authors have mentioned that the problem of child labour exists mainly in the unorganised sector, but the research on the problem in this sector seems to be inadequate.

The present research work therefore attempts to assess the magnitude of the problem of child labour as well as to discuss various constitutional and legislative safeguards along with detailed case laws to have a intensive study on the problem from socio-legal angle and for it an empirical study has also been conducted by the researcher in the State of Orissa.
because it should always be kept in mind that law is an instrument of social control which originates and functions in a society and for the society. The need for a new law, a change in existing law and the difficulties that surround its implementation can not be studied in a better manner without the socio-legal enquiry.

OBJECTIVES

Keeping the above facts in view the following objectives have been formulated for the present research work:

(1) to explore and analyse the problem of child labour;
(2) to identify the factors which compel them to accept employment/work from such an early age as well as to know the opinions of the employers and parents of the employed children regarding the issue;
(3) to analyse the type of work they are doing including the working conditions and the extent of exploitation by the employers;
(4) to provide a brief review of international and national level provisions in relation to child labour;
(5) to examine the legal protections available to them;
(6) to provide an indepth study of the problem of child labour in some of the selected occupations of unorganised sector (where high incidence of child labour is found) in the state of Orissa; and
(7) to suggest various measures to tackle this problem.
HYPOTHESES

On the basis of the standard literature, personal observational studies, discussion with intellectuals and available reports on child labour, the following hypotheses are formulated to be tested by this study.

(1) The poverty, illiteracy and large family size are the main causes of the problem of child labour.

(2) The child labour is prevalent extensively in the lower socio-economic group.

(3) The percentage of working children in unorganised sector is more than in the organised sector where education, efficiency and specialisation are not required.

(4) Most of the child labourers are between 10-14 years of age.

(5) The child labourers are being exploited to a great extent by the employers.

(6) The working conditions in most of the occupations are unhealthy.

(7) Legislative measures to protect child labour are mere institutionalisations. Proper implementation and amendments of these noble provisions and social awareness is lacking in the society.
UNIVERSE OF THE STUDY

As this research work is concerned with the problem of child labour in Indian context with special reference to the state of Orissa, for the empirical part of this study, the universe taken are (i) hotels, restaurants and dhabas, (ii) garages, motor cycle and cycle repairing workshops, (iii) beedi making units, (iv) weaving units and (v) brick kilns of Orissa which are well known for employing a sizable number of child labourers in the unorganised sector of the state. The empirical study covered the above five categories of industries only because of shortage of time, finances, manpower and predetermined object of the study.

SAMPLING METHOD

Sampling is the process of drawing a small representative number of units from the whole of the universe for the reasons of economy in time, resource and manpower. In the present research work, it is quite purposive as the sole intention of the researcher is to select a true representative sample to cover the entire class of working children.

While drawing a sample of about 20 percent of the child workers from the list of 1248 employed children covered during the survey in the state of Orissa, every fifth child was selected and thus about one-fifth (i.e. 20 percent) of the child labourers were enrolled for interview for this work. Maximum care was also taken to interview one child from one family. As per the
objectives of the study, parents and employers too were selected using the same method to know their opinion as well as to cross examine the views of the interviewed child labourers and hence 82 employers and 50 parents were enlisted for the purpose.

DATA COLLECTION

(A) Tools

Suitable tools taken for the present study to collect necessary data are:

(1) Interview
(2) Schedule
(3) Observation
(4) Official documents, reports, Census data, standard literature etc.

(B) Sources

The data required for the completion of this work were obtained mainly from two sources: Primary and Secondary. Personal interviews, observational studies and by using a structured schedule data were collected from the primary sources. To get relevant informations for making the study a detail and successful one, high officials were contacted from the Department of Labour (Government of Orissa), State Labour Commissioner's Office, various voluntary organisations, some labour welfare officers, legal professionals and academicians. The final schedule was prepared after pretesting of the same with the help of 50 child labourers, 10 parents and 10 employers.
In addition to the primary sources, information from various other official documents like Census data, data of ILO, UNICEF, research groups and other standard literature etc. were also taken into account for the preparation of the critical part of this research work wherever necessary.

TABULATION AND DATA ANALYSIS

After the completion of the field study (for empirical part of the research work) the data collected by the researcher from the required number of respondents were classified into groups/categories on the basis of common factors. Then data were put in a tabular form so as to enable the researcher to find out the number of frequencies falling in each category and then the percentage was derived.

LIMITATIONS

The present piece of research work may not be claimed as completely perfect. Due to the scattered nature of the sampling units, the study was based on a smaller size of sample and hence its findings may not be generalised. Despite the best efforts made by the researcher to establish purposive rapport and requisite support, free and frank responses could not be fully available. Still, the field study conducted in the state of Orissa gives a sample picture of the problem in the aforesaid categories in the state.
SCHEME OF CHAPTERS

The present research work has been divided into five chapters excluding Introduction and Conclusion.

Introduction gives the introductory note on the problem, definition, causes and evils of child labour problem, review of standard literature including detailed methodology adopted for this study.

Chapter I deals with the retrospect, introspect and prospect of child labour in India. Here, an attempt has been made to have a close observation on statistical profile and place of work of the child labourers including occupational health hazards etc.

Chapter II describes the steps taken in international and national level to protect this evil which includes the efforts of international bodies like UN, ILO and UNICEF. Regarding the attempts made in national level, Five year Plans, National Policy on Child Labour and Education, steps taken by the government, role of NGOs etc are dealt with in this chapter.

Chapter III highlights the constitutional and statutory provisions meant for the protection of child labourers. Under statutory provisions, a comparative study of the Central Acts and Rules on child labour including the provisions of state (Orissa) Acts and Rules are mainly given.
In Chapter IV, the role of Indian judiciary for the protection of child labourers by referring the decided case laws have been discussed.

Chapter V provides the profile of child labour in the state of Orissa.

Lastly, Conclusion of this study contains a summary of the above chapters, conclusion and some suggestions to tackle the problem.