Chapter 6

APPRAISAL, CONCLUDING OBSERVATIONS AND SUGGESTIONS

6:1 Appraisal:

This study reveals certain realities of child labour abuses with traces across regional barriers but at different stages of history in India it might be significantly high as far as slavery and servitude is concerned while the recent study of a Child Abuse: India 2007 (MWCD:2007) indicated that India has the highest number of child labourer and largest number of sexually abused children in the world.

At this end whatsoever being done so far, more particularly along the post independence era at limited efforts in this vast country, could only address the problem in a minuscule, as child labour could not be banned strictly in absolute terms nor the notoriety of the most hidden and unacceptable dimensions of child labour in its worst forms makes it easy to detect apart from uncongenial factors at certain pockets provide a grim picture of child labour abuses.

It is also revealed in this study that the criminal vice in child labour flourishes in many parts of this country despite several legislative steps and measure on the issue of child labour. The victims mostly belong to the children of backward families including scheduled caste and scheduled tribe, but girls are exposed to the worst crime when pushed into hidden practices of flesh trade.

In any case, priority in achieving social justice must begin with welfare of children. Delays could result in faults, victimising the children. In child
labour, the children of neglected lot are mercilessly abused/victimised regularly at the behest of adult perpetrators. These children are also entrapped in criminal activities of serious exploitation led by helpless situation in family or outside.

The Gurupadaswamy Committee report on child labour stated, "Child labour is economically unsound, psychologically disastrous and physically and morally harmful". Encyclopedia of Social Sciences interpreted ‘Child labour as a social evil’. This Committee on Child Labour (1979) has reported recommending ‘greater consciousness in respect of evils of child labour’ stated it as 'an absolute evil' in terms 'when exploited'.


In a belated effort of a symbolic recognition to such problem the Prevention of Offences Against the Child Bill, 2009 however came into being with a limited feature, excerpt of which is noted in Annexure-VI but could not be enacted so far.

As a part of concern, stated (Arunima Barua:2003) that: “There is world wide awareness and laws have been enacted to prohibit children from being employed. Illegal employment of children still continues. There is also great scope for exploitation and abuse of child on the difficulty of getting proper empirically verified research data on the nature, causes and conditions of child labour.....”. Besides, child labour, both visible and invisible, found to exist as a social evil and both an economic and social problems (Rajkumar Sen & Asis Dasgupta:2003).

The National Policy for Children (1974) recognized that 'nation's
children are a supremely important asset'; on the other hand, noted jurist Upendra Baxi has indicated, 'as against the Constitution adopts a fundamentalist strategy of outlawing child labour' the official position is 'characterizing it as a necessary evil'; while the Union Minister of Planning & Development (1983) quoted saying that "Banning child labour is not feasible due to the prevailing socio-economic constraints and exigencies". The Ministry of Labour in its Annual Report, 1983-84 accepting child labour as 'harsh reality' denied as saying it 'neither feasible nor opportune to prevent children from working in the present stage of economic development' (quoted, Thomas Paul:2008). The Union Labour Minister in the meeting of Committee on Child Labour (1979), stated that 'wide spread use of child labour not only cerates situation of acute exploitations but also create other problems for society as a whole' indicated 'two sets of problems' on 'immediate legal ban on employment of child labour' for firstly, 'economic problems' due to 'that flowing from the problems of poverty' and the other one is 'administrative problems' (quoted, Usha Sarma:2006).

Hon'ble Justice A.S. Anand also took serious note as per Human Development Report, 2005 that, 250 crore people which is about 40% of world's population live less than 2 US dollar a day and the same figure account for less than 5% of world's income – a cost of 300 billion US dollar for lifting 100 crore people above the extreme poverty line represents only 1.6% income of the richest 10% world’s population; and as per UNDP Report 2003, Indian society is highly inequitable when the richest 10% consumes 33.5% of resources and the poorest 10% gets only 3.5% resource, around 233 million people are chronically hungry; officially, 26% people living below poverty line and based on NSSO survey, as per the Alternate Economic Survey 2000-2001 people below poverty line in rural areas increased from 35% in 1990 to 45.3% in 1998 – he maintained saying 'poverty, itself is the biggest violation of human rights'. If hunger persists, peace cannot prevail and also stated 'systematic denial of economic, social and cultural rights,
like right to food, health, education etc. are caustic factors of conflict and
even terrorism' (Dr Hon’ble Justice A.S. Anand: Journal of NHRC, Vol-5,
‘Attacking Poverty’ very succinctly has stated that ‘The world has deep poverty
amid plenty’ indicating “of the world’s 6 billion people, 2.8 billion, almost
half live on less than 2US dollar a day....” pointing an extreme situation,
Nobel Laureate, Amaratya Sen, observed that “the ultimate form of economic
depression-famine-does not occur in functioning democracies....” and he
indicated that “accountability faced by democratic leaders provides a strong
incentive to avoid such calamities as famines. Systematic corruption makes
poverty reduction impossible. Democratic countries like India are much
better placed in fighting corruption because democratic leaders are
accountable to people” (quoted, Dr. S. A. Pande: Journal of the Institute of

It could be a strong case that ‘child labour belongs to family below
poverty line’ (Dr. Gaya Pandey: Journal of the Institute of Human Rights,
Vol-VII, No.1, June-2004) but absolute poverty as the ‘single major cause
to child labour is a myth than reality’ (Helen R., Sekar, VVGNLI, 2007). In
fact poverty and child labour reinforce each other or vice versa – a cause
and consequence. In criminology poverty is also explained as relative
deprivation for economic inequality but affect of lower class culture is
dangerous.

The US Department of Labour (2007) reported on India that ‘Overall
enforcement of child labour laws is inadequate due to insufficient resources,
poorly trained inspectors, low inspectors’ salaries and social acceptance of
child labour’ has also noted that ‘enforcement of child labour and forced
labour laws is primarily the responsibility of the state and local governments,
with Ministry of Labour and Employment providing oversight and co-
ordination’.

The ILO-IPU (2002) stated that: ‘Engaging children in work that exposes
them to serious hazards and to unacceptable forms of abuse and exploitation is morally wrong and a criminal offence, punishable by law and the Worst Forms of Child Labour is stated to be 'some particularly odious forms of organised crime'.

Significantly in a context, as per the statistics provided by WGNLI, 1998 (quoted, Ministry of Labour, New Delhi) between 1987 to 1992 the total conviction under Child Labour (Prohibition and Regulation) Act, 1986 shown at 414 against total prosecution of 3204 cases and under the Factories Act, 1948 the total conviction shown as 2688 against total prosecution of 5435 cases indicating percentage of convictions to prosecutions at 12.92 percent and 49.45 percent respectively during this period; again in between 1992-93 to 1996-97, the total conviction under Child Labour (Prohibition and Regulation) Act, 1986 shown at 451 against total prosecution of 4345 cases and under Factories Act, 1948 the total conviction shown as 1128 against total prosecution of 1986 cases, amidst non availability of some data, during this period (Child Labour – An Overview, WGNLI, 1998).

The US Department of Labour in a report (2005) on Indian Context indicated: “From 1999 through November 2004, state governments uncovered 21,246 violations of Child Labour Act, leading to 12,348 prosecutions and 6,305 convictions” and further added “enforcement of child labour laws is inadequate, however, due to insufficient resources, poorly trained inspectors, social acceptance of child labour, and the lack of primary education...organized crime, police corruption, and complicated procedures reportedly weaken the enforcement of laws related to human trafficking and the commercial exploitation of children”. The US Department of Labour in the report (2007) also indicated on India part that the vast majority of bonded laborer are from scheduled castes and tribal groups; the commercial sexual exploitation is a problem in India; girls as young as 7 years are exploited in brothels in major urban centers, also included boys in prostitution & sex tourism; India is a source, transit, and destination
country for minors trafficked for commercial sexual exploitation, domestic servitude, sweet shops, agricultural labourer and activities such as, begging, driving auto rickshaws, and hotel services; as alleged, children are recruited to work as soldiers by armed opposition groups in zones where armed conflict is occurring; and also children living in conflict areas, such as the north-eastern states, are especially vulnerable to trafficking; in 2007, charges were brought against over 1400 traffickers in the state of Andhra Pradesh, Bihar, Goa, Tamil Nadu and West Bengal, 27 of whom were convicted". This Report (2007) has also indicated 'the rates of investigation, prosecution and conviction of forced labour crimes are extremely low, due in part to official corruption, and that enforcement of trafficking laws inadequate due to poorly trained prosecutors and judges, lack of effective co-ordination among state authorities, and corruption".

It may be mentioned here that Hon’ble Justice K. T. Thomas made the remark saying: "In my experience a committed judge, if assisted by a dynamic public prosecutor, can prevent unmerited acquittals even in case of organized crime". (Justice K.T. Thomas: Journal of the NHRC, Vol-5, 2006).

In a widened parameter, it is also difficult to ascertain and separate out child labour other than those formally called worst forms of child labour under ILO, Convention No.182 from a complex of working children, in many cases, when employed in the work setting outside family to which the US Department of Labour (2006) stated 'they remain inseparable and hidden'. More pertinently, when this present study was taken up for empirical investigation of children working in the roadside hotels, restaurants etc. of food stalls in Bodoland Territorial Areas District (BTAD) of Assam in 2005, such workers were not covered under the list of hazardous employment under Child Labour (Prohibition and Regulation) Act, 1986 but brought under the list subsequently (notified on 10th July, 2006 and came in action 10th October, 2006) however, the difference of situation could be seen hardly convincing in this area.
Several aspects of child labour have been incorporated in this study, of which abuses of child labour at the workplace setting condition focused on many critical facets of the problem in the light of socio-legal concern. It is again a matter of important coincidence that the world report on the Violence Against Children by the UN Secretary General in 2006 and the Study on Child Abuse: India 2007, MWCD, Government of India have made appealing break through for countries to protect children from violence and to focus the issue of child abuse in the national agenda in India respectively, at least recognizing abuse of child labour, more serious at workplace situation, that is perhaps officially stands acknowledged in this country.

And most significantly, it is a matter of serious concern that in many cases of child exploitation they might also be used in criminal activities making such children crimeless victims of violence and abuse as well as perpetrator for ‘instrumental use’ in criminal activities (Eileen Skinnider, 2002) which is also seriously noted Dr. Hira Singh (Social Defence Vision 2020: National Institute of Social Defence). The UN Congress (Havana: 1990) has categorically pointed out in ‘child exploitation’ of many cases ‘children are entrapped in criminal activities at an early age’ even by agents in ‘organised crime’; for these children there is also social risk of criminogenic influence of early exposure to violence creating a ‘vicious cycle of violence’. The UN study on Violence Against Children (2006) expressed violence against children in terms of abuse also. The US Juvenile Justice Bulletin (July, 2001) stated that “Maltreated children are significantly more likely than non-maltreated children’s to become involved in delinquent or criminal behaviour”. Ensuring the link between child abuse and child maltreatment, the WHO report (1999) used ‘child abuse or maltreatment’ at a common parlance in defining ‘child abuse’ however, the study on Child Abuse: India, 2007, MWCD, Government of India (2007) clearly stated that “A universal definition of child abuse in the Indian context does not exist and has yet to be defined”. It is therefore; also difficult to give exactly concise forms of
abuse however attempted in the present study more on phenomenal perception of hard reality.

In this context, it is pertinent to mention here, Hon'ble Justice V. R. Krishna Iyer, observed (quoted, Dr. N. V. Paranjapee:2007) that “....noxious surroundings, neglect of basic needs, bad company and other abuses and temptations would spoil the child and likely to turn him a delinquent”.

Many of the situations of victimization and abuse of children also correspond to abuse of child labour as 'crime against children' as per National Crime Records Bureau (NCRB) perception of crime, however there are other possible areas outside the ambit of NCRB and many more forms are yet to be covered.

It is also rightly observed that 'Employers employ children not for altruistic or charitable considerations, but to minimize labour cost and to maximize their profits. Some element of exploitation is inherent in such a relationship. Therefore, the only way to protect the children from exploitation is to prohibit child labour' according to Hon'ble Justice Krishna Iyar (quoted, Thomas Paul:2008). In such a situation, while in a dubious distinction, 'India has the largest contingent of child labour and juvenile illiterates in the world then, how can child education and child labour, except the few listed areas of work where prohibited, go together?'

Among various interventions at national and international levels, ILO Convention No.182 and the supplementary ILO Recommendation No.190 pertinently needed ratification and strict compliance beside few others of urgent attention more specifically because the term 'hazardous' is used largely in a relative sense under Child Labour (Prohibition and Regulation) Act, 1986 incomprehensive to the spirit of Article 24 of the Constitution but ironically this country is not yet found positioned to ratify the ILO Convention No.138, although ratified UNCRC in 1992 with two other Optional Protocols on this in 2005 respectively.

In an attempt under this study and exploring certain theories of
criminology, excluding biological theory, the element of crime in child labour abuse, more particularly involved in exploitation of children, gets focused in some acute risk situation that has been explained as to how contributes to this crime and simultaneously how these children are exposed to delinquency in the work place situation, for criminogenic influences, however studying juvenile delinquency explicitly is beyond the scope. Such a heart-breaking phenomenon mostly remains hidden and securely untraceable for appropriate action from a complex of child labour system in an insufficient safety net protection of social defence with regard to human rights and child rights regime. Again the chances and scope of vulnerability is horrible in conflict situations like ethnic violence, insurgency and terrorism revealed in empirical investigation that leads to a logical inference that employment of children in establishments highly criminogenic at least for factors endemic to this focused area.

Thus in an endeavour in this study, Chapter 1 reveals that the problem of child labour historically persisted across regional barriers in the world seen to be a global concern only in the 20th century. In India, child labour exists since early stages of history, in one form or the other. The first legislation enacted was the Indian Factories Act, 1881. The 21st century has also inherited abuse of child labour in several forms, which in reality exploited by people who achieve their selfish ends. There are also several perplexities in the way of understanding the problem while element of crime involved in abuse of child labour noticed as similar to worst forms of child labour however hidden in many situations. Apart from the historical background and inadequacies in the definitions and estimation of child labour in respect of its nature, dimensions, causes and implications in a paradox of a sort of intense denial to protection of childhood responsibility in the practice of child labour has been discussed as relevant, and some notable recommendations of commissions and committees in India also added mainly to know the perception of child labour in India with an
emphasis of its abuses considering some valuable remarks, steps taken at various levels studied in a limited parameter to understand the problem of a real challenge before the country since long. At the same time intricacies persist in dealing with the problem of child labour although it involves large scale child abuse.

In Chapter 2, an attempt is made primarily to draw up certain conceptual linkages between child labour and child abuse through interpretation of several related terminologies that revealed crime involved in abuses of child labour more specifically in their exploitation, in other words, child labour is viewed as a manifestation of child abuse that requires protection against this crime in a wider sense of the term for which certain analysis of child abuse study in India (MWCD), Government of India, 2007, some interpretations and resourceful observations in the global study on Violence Against Children by the UN in 2006 as well as NCRB’s perception of crime against children specifically among such other efforts are also highlighted with a glance to India Country Report, 2005 on Violence Against Children. To this end, an attempt is also made to re-look and consider definitions of child abuse and its various forms – physical, emotional, sexual and instrumental, more in the necessity of protecting children from child labour exploitation and abuse in which some global and national concerns are also noted. It is found more clear when child labourer are subjected to abuse and victimization particularly at the work place situation revealing some crucial factors of abuse of child labour in the work place setting condition. The rationale in this context obviously noted in certain explanations of crime, criminal behaviour and juvenile delinquency to describe inherent criminogenic influences at work place and setting how can this contribute to make child workers as victims of abuse for adult criminality. At the same time this study reveals about factors perpetuating and exposing to situations of generating delinquency among working children, within the limited parameter while aspects relating to juvenile delinquency
in particular provides scope for further study. In this regard, certain theories of criminology are essentially found innovative and much help in exploring the situation of child labour exploitation being incorporated in this Chapter.

The problem of child labour abuses indispensably needs much stronger protection in order to ultimately prevent and prohibit child labour. As such in Chapter 3 certain international instruments on child protection more relevant to child labour taken into account especially under the initiatives of the United Nations Organization (UNO) and the International Labour Organization (ILO) considering some serious violations of human rights and child rights in the system of child labour practices.

In an overview of national tools in combating the problem of child labour abuses, Chapter 4 is dedicated to focus on the constitutional obligations of the country with reference to the 'Preamble' along with the State's responsibility under Part III & Part IV apart from few other provisions and international obligations under the Constitution of India. Relevant provisions of central statutes including Child Labour (Prohibition and Regulation) Act, 1986, the Juvenile Justice (Care and Protection of Children) Act, 2000 etc. including the Indian Penal Code, 1860 attracting penal provisions are also noted with the latest enactment of the Commissions for the Protection of Child Right Act, 2005 that provides for children's court under section 25 of it and certain provisions of the Assam Shops and Establishments Act, 1971 as exists in the state of Assam is also added in the light of a provincial enactment. However, as an irony the Prevention of Offences Against the Child Bill, 2009, as a stringent piece of legislative step consolidating different offences against children is yet to be enacted. Judicial responses having the force of law pertaining to the problem in some landmark decisions of higher judiciary most importantly in the Supreme Court of India, as the Apex Court of the country along with decisions of a few High Courts are also highlighted in view of some added concern in the Supreme Court's intervention in M. C. Mehta's case decided in 1996 and few other
relevant cases in India of immense gravity are indicated in this Chapter. Besides, some relevant policy measures since 1974 onwards including a few programmes, scheme, projects like NCLP etc. requiring vigilant administrative steps are especially incorporated in this Chapter more or less for a compact insight into national instruments.

The case study made in Chapter 5 in the locations of some bordering pockets of the recently created BTAD in Assam following the Sixth Schedule amendment to the Constitution in 2003 soon after the Memorandum of Understanding (MOU) signed between the militant group Bodo Liberation Tigers (BLT) with the Governments of India and Assam. This empirical study is also covered with a background study of significant stages in the history of this particular region of people in this part of Assam, now dominated by Bodos or Boros referring also to some original works by noted cultural historian S. K. Chatterjee from the Journal of the Royal Asiatic Society and few others about the origin and at subsequent stages followed by armed struggle of insurgency, militancy and terrorism culminating into ethnic clashes, large scale displacement, socio-political unrest and violent acts of killing, extortion, threats etc. of criminal vices from the standpoint of criminology indicating some facts of on going tensions as also those languishing in several relief camps in thousands in deplorable condition for more than a decade, and that contributing to some serious plight of child abuse, and specifically in the incidence of some worst forms of invisible child labour. However, the problem of 'conflict induced displacement' remains a critical area and NHRC recommends that "the Rehabilitation and Resettlement Bill, 2007 must explicitly cover persons displaced due to violence as also due to natural or other man-made disasters" however this Bill in its original form "does not explicitly cover persons displaced due to violence as also due to natural or other man-made disasters".

In order to understand the situation of child labour abuses in certain harder pockets of this difficult area for disturbances, an empirical
investigation has been carried out in some food stalls to a crude sample of 206 number child labourer upto 14 years of age comprising 34.44% of total workers in 100 establishments in all 10 sub-divisions within all 4 districts of BTAD in Assam, in the North-East region of this country. The baseline data collected in this study since December, 2005 reveals a painful scenario of child abuse and worst state of child labour in particular in this area, however, child labour in such establishments prohibited after October 10, 2006 but with no significant changes visualized in course of field survey.

Either or multiple forms of abuses affecting child labourer reported of physical, emotional, sexual abuse including instrumental abuse conceptualized for instrumental use of children in criminal activities, for the selfish gain of the perpetrators. Annexure II provides in detail findings of the field survey results in relation to questionnaire in Annexure I of this part of study. This survey has also indicated that child labour laws are neither adhered to nor the owners/employers care for protection and welfare of these working children.

It may further be noted in the part of empirical investigation of this study that: findings on various forms of abuses of working children are shown in Tables 3:1 to 3:13 of which indicators in Table 3:1 shows extent of physical abuse; emotional abuse in this different forms are shown in Tables 3:2 to 3:11 using several indicators; sexual abuse is shown in Table 3:12 as per few indicators; and instrumental abuse is shown against certain indicators in Table 3:13.

Situations of criminogenic influences to the cause of abuse and exposure to delinquency at the same time in course of exploitation of child labourer at work place setting studied and shown as: acquisitive tendencies of employers on several factors using some indicators as in Tables 4:1 to 4:5; criminogenic working environment on certain factors against indicators in Tables 4:6 to 4:13; and propensity of criminogenic sub-culture in the area on several factors noted as per indicators used in Tables 4:14 to 4:16.
In a part of the background profile of working children denotes characteristics as victims of crime/abuse and that also contribute to the risk of criminogenic influences outside work place setting and leading situations compelling towards incidence of child labour as a social crime or social evil, shown in: poverty situation in certain factors as identified across indicators in Tables 2:1 to 2:5; impact of ethnic and non-ethnic violence in the area noted in Tables 2:6 to 2:9 in certain factors across certain indicators; broken family background in selected factors across indicators noted in Tables 2:10 to 2:12; neglected school education in selected factors across few indicators in Table 2:13; and affected personality among child workers is mentioned in few selected factors against certain indicators in Table 2:14.

In another part of the profile in preliminary outlines in the Table 1:1 shows the composition of child workers across establishments in the area and in the background characteristics of working children that supplements the earlier part is revealed in Tables 1:2 to 1:12 introducing with a sketch of some basic areas of risk situation for an extensive investigation.

**6:2 Concluding observations:**

It is a matter of serious concern that child labour still persists alarmingly even amidst violence and abuse more particularly at work place situation. Co-relating Articles 21A, 23, 24, 39(e) & 39(f) of the Constitution of India against child labour practices and in the light of Article 21 of the Constitution are also focused on protecting child rights and human rights. Thus, any approach falling short of the abolition of child labour, like vexatious prohibition of certain occupations only, regulating certain others in the name of the relative concept of hazardous/non-hazardous occupation under Child Labour (Prohibition and Regulation) Act, 1986 many other occupation and employment still continues uncovered while child labour also can exist in disguise, invisible and hidden making it difficult to detect providing ample opportunity to deceive vulnerable children and their families for engaging in child labour in occupations different from their use. So in a pragmatic
approach this study is primarily recognizing the fact that there is abuse and victimisation of children with every possibility of experiencing violence and involving children in criminal activities at work place, whether seemingly legal or illegal, more strictly when they are employed or engaged isolating from family attachment in occupations or establishments that might be also criminogenic for working children, for selfish gain of employers at the cost of the national assets i.e. our children.

Every welfare effort in policies, programmes, schemes, projects etc. for these toiling children should ensure in providing them a well protected childhood with welfare measures to grow up into a healthy citizen in a healthy condition, as the first charge of the nation for child labourer are children first, and labourer by deprivation that could obviously account for and reinforce criminogenic influences on many counts and as a result those abused children might also be exposed to situation of delinquency.

Again the problem of insurgency and terrorism in places of disturbance and displacement might contribute almost to a state of anomie and in certain way provide a ground to organized crime in which working children might be dangerously exploited and abused. At the same time rackets of organized criminals also operate indiscriminately in a wide network transmitting to places in which chances become favorable even for younger children of rural and remote areas falling prey to the hands of perpetrators through pimps, middle-man etc. against meager amount of money or forced under circumstances to join in some worst forms of child labour and even children are indicated to have been induced for engaging in hostilities and conflicts by armed outfits and extremists. However, the Prevention of Offences Against the Child Bill, 2009 is a step to partially recognising the problem but mysteriously not yet enacted. Further, the Rehabilitation and Resettlement Bill, 2007 accommodating NHRC’s recommendation on the Bill to explicitly cover persons displaced due to violence is yet to be finalized and enacted.

Clearly enough, children and adolescents are engaged in worst forms
of work, visible or invisible more peculiar in informal settings and also within the purview of law with hardly any full proof mechanism of social defence to rest assure that the occupation or employment in the circumstance or situation is free from abuse and without their risks to health, safety and morals. Child labour is a 'social evil' and therefore a crime in social terms.

Realizing the substance of banning child labour in a mounting international instruments and worldwide concern along with the 'fundamentalist' basis of the Constitution of India of 'outlawing child labour' any argument to continue with this social evil in either way, on the plea of impossibility to implement the law or to lend excuses to social culture encouraging child labour stand contrary to social justice, public policy and also harmful. Absolute poverty which is primarily a function of 'relative deprivation' can not also be the justification to avoid making and implementing strict laws for the purpose of curbing the problem at least if could not be extinguished instantly – rather it might be a conspiracy that obviously follow the accountability for the world's largest democracy for over looking steep abuses of child labourer in this country.

Among the wide range of measures needed for a key concern to achieve zero tolerance to violence and abuse against child labour at various situation in violation of human rights and child rights need to address child protection and welfare for the best interest of children as a matter of urgency. Such a situation is seriously appalling at work place setting condition under employer and attracts proactive steps to provide adequate support services to families for livelihood, care, protection and facilities with meaningful education for children including other aspects of child rights and law enforcement, more particularly for those at deprivation of vulnerable situation and affected by social, economic, demographic and extreme political upheaval or tension, social disorder or disturbance wherever taking place.

As a matter of concern for violence and abuse against working children
within or outside legal parameters, in organized or unorganized sectors, require greater attention to warn and apprehend perpetrators exercising strongest possible measure under concerted effort with exemplary action without leniency while all children and adolescents to be brought on record wherever employed, even if legal, for compulsory identification and continuous tracking. The underage working children must leave work. They are to be provided with education and support through withdrawal and rehabilitation in a time bound manner, in order to assist in improving their life chances.

Undoubtedly, the problem of child labour is not an isolated phenomenon being a part and parcel of the issue of child protection associated to some serious underlying criminogenic influences. Therefore the overarching responsibility is of the state to address crime against children in a wider sense with a view as crime against humanity, instead of legitimizing child labour (The Economic Times: 1992). There is no escape but to ensure and maintain a protective environment, taking into confidence of all concerned with a concerted effort for an effective social control for the safety and well being of children to prevent them being exposed to vulnerable and exploitative situations. This obviously requires stiffer 'legislation to check child abuse' (Deccan Harald: 1991) but the worst of it still persists as child labour.

It is also pertinent that some international programmes of joint co-operation like the International Programme on the Elimination of Child Labour (IPEC) of ILO with which the Government of India signed a Memorandum of Understanding in 1992, the INDUS child labour project signed between the Government of India by the Ministry of Labour and the Department of Education with the United States Department of Labour (USDOL) under Indo-US co-operation in 2000 and the Country Programme Action Plan (CPAP) 2008-2012 agreed between the UNICEF and the Government of India with an objective of fulfillment of the Convention on the Rights of
the Child are also to be encouraged to extensively cover vulnerable areas and situations spreading across remote areas of this country.

In specific cases, it is urgently necessary for tracking of missing children under most difficult and abusive situation when engaged for domestic work, beggary, scavenging, rag picking, commercial sexual exploitation or other forced labour including those involved in criminal activities for perpetrators extending from family, community or in work places. These children need a variety of support services and professional help like trauma counseling, medical help, police intervention, legal services and aids, emergency child-line help for rescue, rehabilitation, repatriation and reintegration in society in the best interest of the child against abuse, exploitation under difficult circumstances.

Apart from the effect of migration due to urbanization, large scale migration and displacement taking place for internal violence, conflict, insurgency and terrorism, communal clashes as a result of which children go missing, become vulnerable to worst situation and exploitative engagement even under threats in engaging children in the acts of armed conflict and hostilities by armed militia and extremists needing proactive step to prevent such abuses. Besides children are made to break family attachment and devoid of proper care, helplessly victimized also in deplorable relief camps or transit points for long and easily exposed to perpetuating delinquency against meager amount of money or forced under circumstances can easily be trapped by pimps, middlemen etc. and therefore, need to be provided outreach services of basic facilities and protection of rights apart from the NHRC's recommendations in regard to relief and rehabilitation of displaced persons is to be seriously incorporated.

6:3 Suggestions:

In an effort under this study, few suggestions are being extended as follows:

1. It is imperative in the policy, law and practice that the inherent hazard
or risk of abuse/victimisation or violence in child labour system is to be denounced in absolute terms of social evil and social crime recognising the chances of routine abuse of children should be brought to public attention.

2. India having ratified few landmark international instruments on child protection, inevitably ratify ILO Conventions No.138 and No.182 and supplementing recommendations No.146 and No.190 respectively without further delay for strict implementation in view of tackling the alarming situation of child labour abuses and to achieve international standards in respect of the welfare and protection of child rights.

3. The Constitution of India providing distributive justice for children and in the spirit of Articles 14, 15, 21, 21-A, 23, 24, 39(e), 39(f) special attention is urgently needed for child welfare and protection from special risk situation of abuse in child labour strengthening social defence measure.

4. There should be a clear national legislation to deal with the situation of child abuse with special emphasis on protection of working children in all settings in family, community and work place from abuse as a result of their exploitation until total elimination of already engaged child labourer in a time bound manner and strictly prohibiting fresh recruitment in child labour in any occupation, particularly in the light of guarantees provided for child education under Article 21A of the Constitution and the Right of Children to Free and Compulsory Education Act, 2009 for children between 6-14 years, however, requires to be covered at least for those below 18 years.

5. There should be the uniform age of child to cover those below 18 years in the national legislations while the blurred and relative concept of hazardous/non-hazardous occupation under Child Labour (Prohibition and Regulation) Act, 1986 is to be clarified and standardised in the true spirit of Article 24 of the Constitution and the
international instruments of prohibiting worst forms of child labour.

6. There should be uniform procedure for filing complaint at par with Section 16(1) of the Child Labour (Prohibition and Regulation) Act, 1986 in all central and state Acts relating to child labour to attract criminal prosecution against perpetrators of abuse/violence with penal action for offence as under Section 14 of this Act considering the gravity, within the period of employment till withdrawal and rehabilitation.

7. It is also necessary in clubbing the scope under the Juvenile Justice (Care and Protection of Children) Act, 2000 for children below 18 years with Child Labour (Prohibition and Regulation) Act, 1986 along with other penal laws pertaining to crime against children to prevent abuse and chance of delinquency among children at work in terms of the background characteristics of children in need of care and protection and also those in conflict with law, for extending statutory schemes for victims of child labour abuses under strict and adequate services of care, protection, rescue and rehabilitation for social reintegration to cater to healthy life expectation in all respects.

8. In a partial approach the attempt made in the Prevention of Offences Against the Child Bill, 2009 of course, needs to cover an extensive area of situation and clarify conceptual cleavage of offence in abuse of child labour, is to be enacted soon.

9. Pertinently the country wide movement in the Public Interest Litigation (PIL) is to be encouraged to protect child rights and precisely human rights of children with an understanding of the true intent of judicial activism to prohibit child labour in this country.

10. Criminal sanctions against perpetrators of abuse/violence against child labourer need to be vigorously enforced ensuring vigilant and motivated, accountable inspectorate to bring about exemplary punishment and penal actions against violation of child law.

11. There should be a clear National Child Protection Policy re-looking
some fundamental objectives in the National Policy on Children 1974, the National Child Labour Policy 1987, the National Plan of Action for Children 2005 also taking account of commitments in the National Charter for Children, 2004 emphasizing on protection from child labour abuses, protecting child rights, prevent victimisation and also protect from exposure to helplessly perpetuating delinquency for exploitation mostly at workplace situation. As a part of action based steps, the National Child Labour Project (NCLP) must strictly be reviewed for total withdrawal/rehabilitation and social reintegration of working children by way of stronger convergence until total elimination, extending uniformly to cover children below 18 years and the implementation of the Integrated Child Protection Scheme (ICPS) is to be urgently expedited.

12. In certain pockets at highly vulnerable locations and also of strategic importance need more vigilant social defence steps that is being affected by problems like insurgency, militancy and terrorism, ethnic violence and clashes, displacement etc. through a well regulated and entrusted security exercises and also prohibiting employment of children in the establishments as revealed in the findings on empirical investigation in the food stalls in the districts of Bodoland Territorial Areas District (BTAD) in Assam employing children upto 14 years as highly criminogenic. This requires to supplement with an urgent step to provide adequate protection and services in all respects with effective relief and rehabilitation of affected people in this area displaced due to violence and conflict, as also to enact and implement the Rehabilitation and Resettlement Bill, 2007 seriously accommodating the NHRC's recommendations to explicitly cover persons displaced due to violence in this bill to meet exigencies at violence hit areas. Besides appropriate action and sustainable effort is needed to bring about social order and peace in this area.
13. Advocacy and mass awareness should be encouraged more on the damaging effect of child labour and its abuses in various spheres of activities involving the role non-governmental organisations (NGOs), voluntary organisations (VOs), trade unions, corporate sector and media for wider sensitization towards a positive step to prevent and eliminate child labour.

14. Information and data base might be a serious challenge needed to be updated with latest position for baseline information and to gear up child protection services in tackling may situations of child labour abuses for a knowledge base as well and interventions to be disseminated including lessons from some good practices.