INTRODUCTION

Children are gifts of God. They are blooming flowers of the garden. It is, therefore, a duty on the part of each member of society to protect those flowers from each and every kind of damaging effect. The energy, genius and mental faculty of every child should be properly channelized, trained and educated for the socio-economic and politico-cultural growth of the country. It is also the birthright of every child, who cries for justice from every nook and corners of the globe. Many studies have shown that help and assistance to the children in family trade, business and occupation, family, agricultural operations and domestic service has been the normal feature in a lower strata and weaker section of the Indian society. In lower and lower middle class, children are forced to join the jobs unsuited to their mental health and physique. Inspite of joining school and blooming in full they become vulnerable to low paid wage-earners, the child labour.

Child labour is a universal phenomenon. From time immemorial child labour has always existed under different names. Poverty, unemployment, under-employment, lack of social protection, large family, illiteracy and ignorance bad habits of a family’s bread earners, child as cheap labour, absence of compulsory schooling, illness, disablement or death of wage earner in the family are some of the causes and compulsions of child labour in India and in many other countries of the world.

The term ‘child labour’ is at times, used as a synonym for employing child or working child. The children, who are engaged in the employment at the age of 14 years or below the age of 14, deprived them the opportunities of development, are called child labour. Generally there are two kinds of child labour: traditionally to

assist in work done by their parents and works done by the children outside the family for kind or cash remuneration to raise the income of the family. According to V.V. Giri, "the term child labour is commonly interpreted in two different ways: First, as an economic practice and secondly, as a social evil."

The committee on child labour constituted under the chairmanship of Shri Gurupadaswamy observed that, "labour becomes an absolute evil in the case of the child when he is required to work beyond his physical capacity, when hours of employment interfere with his education, recreation and rest, when his wages are not commensurate with the quantum of work done and when the occupation in which he is engaged endangers his health and safety."

Still today we do not have any single definition of child labour acceptable to all sections of the society. Often 'child work' and 'child labour' are used interchangeably. This creates confusion in the analysis of the problem pertaining to 'child labour'. All work is not bad for children. "The work, which does not detract for other essential activities of children - such as leisure, play and education - is not child labour. 'Child Labour', therefore, is the work which involves some degree of exploitation, i.e. physical, mental, economic and social and therefore, impairs the health and development of children."

Encyclopedia of social science - "Where the business of wage earning or of participation in self or family supports conflicts directly or indirectly with the business of growth and education, the result is child labour."

According to ILO (1983), "Child labour includes children prematurely leading adulteries, working long hours for low wages under condition damaging to their health and to their physical and mental development, sometimes separated from

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1 Giri V.V., (1958), "Labour Problems in Indian Industries", Asia Publishing House, Bombay, P 360
3 Dr. Jain Mahaveer, (1994), "Perspectives on Child Labour in India", Award Digest, Vol XX, No. 7-12, July-December, P. 34-35.
their families frequently deprived of meaningful education and training opportunities that would open up for them a better future.”

Hence, child labour is any work within or outside the purview of the family that threatens the health and mental development of the child by denying him or her fundamental as well as non-fundamental rights.

In analyzing child labour it is essential to know who is a child. In the Universal Declaration of Human Rights, the Magna Carta of mankind, confer rights without discriminating on the basis of age, races, sex, religion, birth or other factors. It rightly stresses that childhood is entitled to special care and assistance. The constitution in Article 24 voicing the similar concern hold, “No child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment”.

Who Is a Child?

It is difficult to ascertain the meaning of the term ‘child’ precisely because the available literature on this subject indicates that the term ‘child’ is used variously for various purposes. In its general connotation, this term stand to mean the offspring of a male and female.

According to the Webster’s New World Dictionary child means an infant baby, an urban offspring, a boy or girl in the period before puberty, a son or a daughter, a descendant, one regarded as immature to childish, or a product.

In various enactment’s, the term ‘child’ is defined and referred to differently for different purposes so as to include there in a minor, adolescent, a young person below the given age not exceeding 18 years, person of (legal) disability, not

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3 Ibid, P. 2
adult, a still born child, a legitimate or adopted child etc. Under the important labour enactment like Child Labour (Prohibition and Regulation) Act 1986, a child means a person who has not completed his 14 year of age. Similar definition is given to the same term under the Dangerous Machinery (Regulation) Act, 1983, Minimum Wages Act, 1948, Motor Transport Act, 1961, Plantations Labour Act, 1951. A distinct definition is given in the Factories Act, according to which a child means a person who has not completed his 15th year of age. Some other labour enactment's though provide certain benefits and protection to the children are silent with regard to providing any definition to this term, thus, learning the issue for the inferences of the readers.

Before making a discussion on the subject of child labour and having studied about whom is a child, it is important to know as to what is 'Labour'. The term 'Labour' is not given any precise definition. It has various facts. In economic, it is one of the four factors of production. In its general sense, Labour means worker or work, carried on by a person and characterized largely by physical exertion whether or not for any award. This term also refers to the group of workers.

Thus, 'child labour' means, child worker or the work carried out by a child or group of children under the supervision and control of some body, most often than not, other than the parents, whether or not for any reward.

The significance and the importance of child lie in the fact that the child is the universe. If there was no child, there would be no humanity and there can't be a universe without humanity. Therefore, mankind owes to the child the best that it has to be given. If there is no proper growth of child today, the future of the country will be in dark. It is thus, an obligation of any generation to bring up children who will be citizen of tomorrow in a proper way. Today's children will be the leaders who will

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hold country’s banner and maintain prestige of the nation. If a child goes wrong for want of proper attention, training and guidance, it will indeed be a deficiency of the society and of government of the day. Every society must, therefore, devote full attention to ensure that children are properly cared for and brought up in a proper atmosphere where they would receive adequate training, education and guidance in order that they may be able to have their rightful place in society when they grew up.

Both at the national level and the international level great interest is being shown in the matter of welfare of children. Children need special protection because of their tender age, physique and mental facilities. They are important national assets, “and the future well being of the nation depends as to how children grow and develop. They need special law to protect them from exploitation and fraud, to save them from certain liabilities and to develop their personality in view of their weak position. A study team of social welfare has rightly stated: The importance of child welfare services lies in the consideration that the personality of man is built up in the formative years, and the physical and mental health of the nation is determined largely by the manner in which it is shaped in the early stages.

It is not an exaggeration to say that the children are the blooming flowers of the garden of society and so, it is our duty to protect these flowers from damaging effects of excessive exposure to heat, cold and rain. It is quite imperative to give vent to the thought of Hon. Mr. Justice Suba Rao who has rightly observed: “Social justice must begin with children. Unless tender plant is properly tended and nourished, it has little chance to grow into strong and useful tree. So, first priority in

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3 Gupta Samir Das, (1979),”Child Labour: A National Problem”, Yojna Vol. XXIII, No. 20, November 1, P. 25
the scale of social justice shall be given to the welfare of children\(^1\). Similarly, Gabrial, Mistral of Chile, Nobel Prize winning poet, has rightly highlighted:

"We are guilty of many errors and many faults but our worst crime is abandoning the children, neglecting the fountain of life. Many of the things we need can wait the child can not Right now is the time his bones are being formed, his blood is being made and his sense developed. To him, we can't answer, tomorrow His name is today"\(^2\).

Today there are two opinions that the children are the hope of parents and future of the nation and thus be given adequate opportunities and facilities developing themselves. The growth of the child into a mature and happy person with fully developed personality largely depends upon the support and attention he receives from the society. If a child neither does nor gets proper education, diet and other facilities, his very development into a self-sustaining human being is a dwarfed. The child because of his physical and mental immaturity needs special safeguards, it becomes, therefore, the duty of state to protect children's right by legislative and other means. The needs and requirements of the child, the primordial ground norm of this universe, the most innocent and helpless human being in capable of enforcing his legal rights, but to speak of demanding new rights obligate the state to secure him distributive justice. As distinguished form adults, children are peculiarly susceptible to certain harms. They can't raise their voice against those who injure them or deprive them of their rights. The peculiar position of the child arising from his physical and mental disability and position of dependence recognizes the need for the special provisions in may matters and the law should take care of all this in the interest and

\(^2\)Quoted by Krishna Ayer V. R. in 'Law and Life' (1979), P.9
general welfare, to be long and strong enough if distributive justice to the adults of tomorrow is to be secured\(^1\).

However, the reality lies in the fact that child still has not been given proper attention and is being exploited by the people who achieve their selfish ends. This is quite evident from Report of Director-General of International Labour Organization published in 1960, though the acute estimate of child labour, either from a qualitative point of view is not possible, yet the report discloses that:

"Children and youth make up a fifth to fourth or even a third of the total labour forces in many of the industrializing countries. Young people (between) 15-19 make up 20% of the labour force of the Egyptian Region of the United Arab Republic, and a higher percentage in many of less developed Asian and African countries, and it should be noted that in most of the less to enter the labour force by the time they are 12, 13, or 14, if they have not begun to work at a much earlier age.\(^2\)"

It is estimated that by 2000 A.D. 25% of the world's population will be children and 40% of the entire global labour force will be below the age of 15 years. In developing countries 40% of the total population less than 15 years and 75% are employed as child labour. International labour Organization in a study concluded that in Asian countries 70-80% of children are either working or "simply wasting their lives away." Employment of children has continued there to be a problem\(^3\).

Keeping in view, the social evil of child labour in our country, the present study throws light on the working condition of the child labourers in the country.

Meaning and Concept of Child Labour

According to Haks, the chairman of the U.S. National Child Labour Committee, the term ‘child labour’ is generally used to refer, “any work by children that interfere with their full physical and mental development, the opportunities for a desirable minimum of education and of their needed recreation.” It also is seen as, children prone to accidents, often fatal, at work sites, and children chained to looms in dark mills. Currently the term is used in a pejorative sense, suggesting hateful and exploitative.

In reality, children do a variety of work in widely divergent conditions. At one end of the continuum, the work is beneficial, providing or enhancing a child’s physical, mental, spiritual, moral or social development without interfering with schooling, vacation and rest. At the other end, it is palpably, destructive or exploitative. There are vast areas of activity between these two poles, including work that need not impact negatively on the child’s development.

Fyfe attempts to provide a distinction by differentiating between “child work” and “child labour”. The former is seen as permissible and the later as exploitative.

“Clearly, not all work is bad for children … there is little doubt that many children welcome the opportunity to work, seeing in it the site of passage to adulthood … Work, which does not detract from other essential activities for children, namely leisure, play and education, is not child labour. Child labour is work which immunizes the health and development of children.”

According to the convention of the Rights of the child (Article 32), the state party recognises the right of the child to be protected from economic exploitation

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2 Ibid. P. 23.
and from performing any work that is likely to be hazardous or harmful to the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral and social development.”

Child labour therefore is the work, which involves some degree of exploitation i.e. physical, mental, and economic. It denies the joy to children and access to social opportunities (like education), which eventually impairs the personality and creativity, the evolution and growth of full being and the health, and mental development of a child. The problem of child labour therefore, does not constitute the age of child, but its exploitation and abuse. The perception of what constitute exploitation, abuse can be very subjective as it is not easy to differentiate between the socialization aspects of a child’s activity and its exploitative aspects1.

The problem of defining exploitation would depend on every researcher or informers approach2. Exploitation will always be in the eyes of the beholder3. Child work in some form has existed from historical times. Children were employed to supplement the family income and to help family in their traditional crafts by acquiring necessary skills at a very early stage. The situation turned bad, with the advent of industrialization, when factory owner found it more profitable to employ children.

At the most destructive end the clear cases of child labour are super-exploitation i.e., children used as prostitutes4, bonded child labour5, (the term widely used for the virtual enslavement of children to repay debts incurred by their parents or

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family members) and children working in the industries or activities notorious for the dire health and safety hazards\(^1\). But to treat all work by children as equally unacceptable is to confuse and trivialise the issue and to make it more difficult to end the abuses. It is, therefore, important to distinguish between beneficial and intolerable work. Much child labour falls into a grey area between these two extremes.

**Defining Child Labour**

The historical perspective thus gives us an idea about the nature, character and extent of exploitation of child and also clarifies many points with regard to the status of child worker. Children of every family, social community and economic class do perform some work. However, mere work does not make a child worker. Conceptually, the working child is one, who before attaining certain specific age and physical and intellectual maturity, forced by vulnerable economic circumstances, engages himself/herself in work which jeopardises his/her mental and physical growth and development. This concept is, however, not very old. In the past, the concept of childhood was not given any importance because preparation of an individual child belonging to disadvantaged groups, for future responsibilities, in terms of education was not as complex as it is today. Nor the exploitation process received any critical threat because the sharp socio-economic divisions among peoples had virtually compartmentalized and sanctified it\(^2\).

There is no universally accepted definition of working children. Various agencies have defined child labour in terms of work-types and age criterion. In fact, age is a universally accepted criterion. Various act pasts by governments have defined child labour keeping minimum age criterion in consideration. But the minimum age criterion differed from Act to Act and from work to work\(^3\).

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\(^1\) The Child Labour Act, 1986.


A generally valid definition of child labour is presently not available either in the national or international context. Any definition turns upon the precise meaning we attach to two components of the term “Child Labour” i.e. “Child” in terms of his chronological age, and “labour” in terms of its nature, quantum and income generating capacity. However, child labour, can broadly be defined as that segment of the child population which participates in work either paid or unpaid.

A more comprehensive definition, taking into account the consequences of labour on children has been provided by the International Labour Organization, according to which:

"Child labour includes children prematurely leading adult lives working long hours for low wages under conditions damaging to their health and to their physical and mental development, sometimes separated from their families, frequently deprived of meaningful educational and training opportunities that could open up for them a better future."

Age is also regarded as an important criteria for distinguishing child labour from adult labour. The “Operation Research Group” based in Baroda, India defines Child Labour in the following way:

“A working child is one who was enumerated during the survey as a child falling with in the 5-15 age bracket and who, is at remunerative work, may be paid or unpaid, and busy in any hour of the day within or out side the family.”

It follows from the above definition those two major indicators; namely (a) exploitation and (b) age have been used to define child labour. In the context of exploitation UNICEF has given a comprehensive formulation in its attempt at defining child labour.

i. Starting full-time work at too early an age.

ii. Working too long within or outside of the family so those children are unable to attend school, where it is available or to make the most of school due to fatigue or lack of time. In some cases children still work 12-16 hours a day.

iii. Work resulting in excessive physical, social and psychological strains upon the child as in the case of sexual exploitation and pornography work in sweet shops, as well as such dangerous work as military service and mining.

iv. Work and life on the street in unhealthy and dangerous conditions.

v. Inadequate remuneration for working outside of the family as in the case of the child workers in carpet weaving who are paid three dollars (US) for sixty hours of works.

vi. Too much responsibility at too early an age as in the domestic situation where children under ten may have to look after young brothers and sisters for a whole day thereby preventing school attendance.

vii. Work that does not facilitate the psychological and social developments of the child as in dull and repetitive tasks associated with industries like handcraft.

viii. Work that inhibits the child’s self-esteem as in bonded labour and prostitution, and, in a less extreme case the negative perception of street children.

At this juncture, it is necessary to understand the two different concepts such as child work and child labour often found in the literatures on child labour; these concepts are being used synonymously. This creates confusion in the analysis of the problem of child labour and therefore affects the process of formulation and implementation of protective, legislative and action-oriented rehabilitation policies. But still all work is not bad for children because some light works properly structured

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and phased are not child labour. This implies that the work, which neither does nor detracts from other essential activities for children such as leisure, play and education, is not child labour. ‘Child Labour’, therefore, is the work which involves some degree of exploitation namely, physical, mental, economic and social and, therefore, impairs the health and development of children.

However, the use of ‘exploitation’ for identifying child labour creates practical problem because ‘exploitation as a concept can’t be given a precise objective meaning. This lies in the eyes of the investigator. The investigator can only identify the extreme limits of work done by children. Thus, child labour is a subset of child work, which implies that all child labour can be termed as child work but not the other way round. Another concept, which needs to be clarified here, is ‘Super-Exploitation’ of children in wage and quasi-wage employment.

This concept refers to exploitation over and above economic exploitation i.e. physical and mental exploitation, which ultimately threatens the health, and over all development of children.

The definition of child labour varies from one act to another depending upon the seriousness of the problems of children working in a particular employment. The precise age of what constitute child labour has not been laid down anywhere because of variations in the age of child as given under different legislative enactment’s. Section 82 of the Indian Penal Code reads: “Nothing is an offence which is done by a child under seven years of age.” Section 83 of the Indian Penal Code, 1860, provides, “Nothing is an offence which is done by a child above seven years and fewer than twelve who has not attained sufficient maturity of understanding to

3 Indian Penal Code, 1860, Sec 82.
judge the nature and consequence of his conduct on the occasion." Section 105 of Indian Evidence Act, 1872, lays down, "When a person is accused any offence, the burden of proving the existence of circumstances bringing the case with in any of the general or special exception including that of childhood of the Indian Penal court or any concerning law is upon him." Under the Indian Majority Act, 1874, "The age of majority has been fixed at 18 years. " Under the vaccination Act, 1880, children have been defined as person, "Who have not attained the age of fourteen years in case of boys and 18 years in case of girls." Under the Reformatory School Act, 1887, "Youth offenders" means boy who have been convicted of any offence punishable with imprisonment for life or death and who at the time of such condition was under the age of 15 years. The Child Marriage Restraint Act, 1929, (Sharda Act) defines child as "a male below 21 years and a female below 18 years of age." According to Employment of Children Act, 1938, "No child who has not completed his 15 years shall be employed or permitted to work in any occupation ..... No child who has completed his 15 years but has not completed his 17th year shall be employed or permitted to work in any occupation unless the period of work of each child for any day are so fixed as to allow an interval of rest for at least 7 consecutive hours between 10 p.m., and 7 a.m. As may be prescribed ..... No child who has not completed his 14th years shall be employed or permitted to work in any workshop within any of the process set forth in the schedule is carried on." Under the Motor Vehicles Act, 1939, child has been defined as a person under age of 18 years. According to the UP Children Act, 1951, "child" means a person under the age of 16 years. As per the

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1 Indian Penal Code, 1860, Sec 82.
2 Indian Evidence Act, (1872), Sec 105.
3 Indian Majority Act, 1874.
4 Vaccination Act, 1880.
5 Under the Reformatory School Act, 1887.
6 The Child Marriage Restraint Act, 1929.
7 Employment of Children, Act, 1938, Sec 3.
8 Motor Vehicles Act, 1939.
9 U.P Children Act, 1951, Sec 2 (d).
Plantation of Labour Act, 1951, “Child” means a person who has not completed his 15th years.” Section 24 of that Act lay down: “No Child who has not completed his 12th years shall be required or allowed to work in any plantation1. The young person as or a person under the age of 20 years2. Under the Suppression of Immoral traffic in Women and Girls Act, 1956, “girls” means of female who has not completed the age of 21 years3. “According to the Orphanages and Charitable Homes (Suppression and Control) Act, 1960, “Child” means a boy or girl who has not completed the age of 18 years4. In the Merchant Shipping Act, 1958, “employment of children below 15 years as seamen has ordinarily been prohibited.5” As per the provisions of the Children Act, 1960, “Child” means a boy who has attained the age of 16 years” or a girl who has not attained the age of 18 years6. “Persons below 18 years can’t be employed as trimmer and stokers. According to the Motor Transport Workers Act, 1961, “Child” means a person who has not completed his 15 years.7” Section 21 of the Act provides: “No child shall be required or allowed to work in any capacity in any motor transport under taking.” Section 22 lays down: ”No adolescent shall be required or allowed to work as motor transport workers in any motor transport undertaking unless (a) Certificate of fitness granted with reference to him ....... is in the custody of the employer, and (b) such adolescent carries with him which is at work, a taken giving a reference to such certificates, “Adolescent8, according to section 2 (a) of the Act, “means a person who has completed his 15th years but has not completed his 18th year. Under the Radiation Protection Rules, 1971, framed under the Atomic Energy Act, 1962, “A child has been defined as a person below 18 years

1 Plantation of Labour Act, 1951.
2 Young Persons, Harmful Publication Act, 1956.
3 Suppression of Immoral Traffic in Women and Girl’s Act, 1956.
4 Orphanage and Charitable Homes (Suppression and Control), Act, 1960
5 Merchant of Shipping Act, 1958.
6 Children Act, 1960, Sec. 2 (e).
7 Motor Transport Workers Act, 1961, Sec. (2)(c).
of age. According to section 2(2) of the UP Dookan Aur Vanijy Adhishthan Adhiniyam, 1962, “Child” means a person who has not completed his 14th year. Section one of the Acts clearly says: “No child shall be required or allowed to work in any shop or commercial establishment except as an apprentice in such employment as may be notified by the State Government, in the gazette. In shops and commercial establishment as Acts passed by other states and union territories, child has been defined as a person between 12 and 14 years. It is because of this variation in age of child in different laws but the child labour will have to be defined in the context of a vacation in which a child is employed. According to section 2 (b) of the Bidi and Cigar workers, (conditions of employment) Act, 1966, “Child means a person who has not completed 14th year of age.” Section 24 of the Act provides, “No child shall be required as allowed to work in any industrial premises.

The word “Child Labour” has been differently defined in various studies. According to the committee on child labour, “Child labour, however, can broadly be defined as that segment of the child population which participates in work either paid or unpaid. In the study of working children in Bombay, Singh, and other have held a view, “child labour means a working child who is in between 6 and 15 years of age”, is not attending school during the day, is working under an employer or is learning some trade as an apprentice.” In the study titled as working children in urban Delhi conducted by the Indian Council of Child Welfare, “Every child below 14 years, who contributed to the family income or was gainfully employed including those marginally working, was treated as a worker.” V.V. Giri has expressed the

1 Atomic Energy Act, 1962.
2 U.P. Dookan Aur Vanijya Adhishthan Adhiniyam, 1962
4 Bidi and Cigar Workers (Conditions of Employment), Act, 1966.
view, “The term” “child labour” is commonly interpreted in two different ways: First, as an economic practice and second as social evils. In the first context it signifies employment of children in gainful occupations with a view to adding to the total income of the family. It is now more generally used. In accessing the nature and the extent of social evil, it is necessary to take into account the character of the jobs on which children are engaged, the danger to which they are exposed and the opportunities of development of which they have been denied. Hommer folks, chairman of the United National Child Labour Committee, have defined child labour as “any work by children that interfere with their full physical development, their opportunities for a desirable level of education or their needed recreation.

Kulshrestha is of the view that “child labour in a restricted sense means the employment of child in gainful occupations which are dangerous to their health and deny them the opportunities of development, .... The term child labour not only applies to the children working in the industries but also to the children in all forms of non-industrial occupations which are injurious to their physical, mental, moral and social development.” According to Alakh Narain Sharma, “child labour means the employment of children in gainful occupation (in industrial as well as non-industrial occupations) which are injurious their physical, mental, moral, and social development. Thus, the term includes wage labour as well as self employed children working independently as well as in family enterprises.” Child labour therefore, can not be defined here as any work undertaken by children below 18 years in agriculture and allied works injurious to their health and harmful to their proper development.”

Section 27 of the code of Criminal Procedure, 1973, reads: “any offence not punishable with death or imprisonment for life, committed by any person who at the

3 Stein E. and Deavis J., (1940), ”Labour Problems in America”, P. 112-113.
date when he appeals or is brought before the court of a Chief Judicial Magistrate, or by any court especially empowered under the children Act, 1960 or any other law for the time being enforced providing for the treatment, training and rehabilitation of youthful offenders. In this regards an observation made by Mendelievich seems to be pertinent: “Agriculture is one of the most hazardous sector for the physical safety and health of workers for several reasons: The prevalence of dangerous modern machinery; prolonged exposure to heat, sunlight’s, dust, wind, and insects; the almost constant physical efforts that agricultural work demands; contact with various chemical products such as fertilizers and pesticides whose long term effects on man may be completely unknown and for the majority of which, in cases of poisoning, no specific antidotes exist. Children are particularly at risk from endemic and parasitic diseases, diseases of the respiratory tract, dermatosis and fatal accidents.”

Hence the definition of child labour takes into account the age factor to decide what constitute child labour but it has universally been accepted that those working under the age of 14 in hazardous employment constitute the child labour. It entails the working of children which does not tell upon their health and development.

Nature of the Problem of Child Labour

In the pre industrial agricultural society of India, children worked as helpers and learners' in hereditarily determined family occupation under the benign supervision of adult family members. Child labour is not a new phenomenon to our age. What is new, however, is its perception as a social problem the world over. There has been a distinct change in recent past in the values and attitudes of the legitimizing groups of society vis-à-vis child labour because of some new developments. The work place was an extention of the home and work was characterized by personal informal relationship. The tasks and technology that work involved were simple and non-

1 Code of Criminal Procedure, 1973, Sec. 27.
hazardous which the child could learn smoothly, almost unconsciously, over the years through association and limitation.\(^1\)

One of the major problems that need to be addressed is the distinction between child work and child labour. It has been suggested that the concept of work be used as a generic term and should refer to any kind of work in any type of employment relationship and that it could be an activity that may be beneficial to a child while the concept of labour should be restricted to production and services which interfere with the normative development of children as defined in the (CRC) Convention on Child Rights and that the nature of the labour relation is immaterial to the definition.\(^2\) However, not only is there a need to make a distinction between child work and child labour but the necessity of identifying the nature of this labour relation is also crucial if one has to work out feasible strategies of eliminating exploitative child labour.

The social scenario however, changed radically with the advent of industrialization and urbanization under the impact of the nearly generated centrifugal and centripetal forces; there was an unbroken stream of the rural poor migrating to urban centers in search of livelihood. The child had to work as an individual person either under an employer or independently. His work environment endangered his physical health and mental growth and led to his exploitation. The protection and welfare of these children, therefore, become an issue of paramount social significance.\(^3\)

Another sociological factor bearing on the problem of child labour was the emergence of welfare consciousness on a world scale. The industrial revolution in the west generated such vast demands for manpower that even children had to be

pressed into service. Contemporary writings reveal under what atrocious conditions these children had work in coal mines and textiles mills. However, once the west had built up its affluence and the baneful effects of child labour become outrageously manifest, the state took appropriate measures to meet evil. The welfare measures enunciated had a universal appeal to human conscience. In the more recent past they have being thoughtfully embodied in various resolution of the ILO and other organs of the United Nations. Countries of the less developed world, after their emancipation from colonial domination, also accept a number of these resolutions even though their social and economic infrastructure was still inadequate for fulfilling all the commitments. Free India has similarly embodied in its constitution many provisions establishing thereby the normative superiority of welfare considerations over the economic one and has endeavored to weed out the antagonism between child labour and child development.

Diffusion on this knowledge has created a new awareness in the major institution of society as to the relationship the child should have with his milieu, his need, objects and his work, etc. Yet another factor highlighting the evil aspect of child labour is the recent advances in various sciences having a bearing on the child. Today, scientific knowledge has revolutionized our outlook on the care of child and his developmental imperatives.

It can now be asserted on scientific grounds that work, as a direct fulfillment of the child’s natural abilities and creative potentialities is always conducive to his healthy growth. But work when taken up, as a means for the fulfillment of some other needs becomes enslaving in character and deleterious in its impact. Labour is work of the latter type irrespective of the degree of strain or

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exploitation involved in it. Labour in the case of child is especially harmful because
the energy that should have been expanded on the nutrition of his talent, power is
consumed for purposes of base survival. Child labour, of late, has evoked deep
concern. However we must make a distinction between child labour and exploitation
of child labour. Both are a problem though of different orders. Child labour as
distinguish from work experience has mostly negative attributes.\footnote{Mehta P.L. and Jaswal S.S., (1996), "Child Labour and the Law: Myth and Realities of Welfare
Measures", Deep and Deep Publications, New Delhi P. 6.}

Many NGO’s in India have articulated a viewpoint which undercuts the
approach that shocking poverty arising out of unequal access to productive resources
and assets; structurally in-built inequities and a pattern of development that intensifies
and exacerbates these factors, is the root cause for the prevalence of child labour
amongst the poor. The formulation that has emerged from this school of thinking
poverty is not the cause of child labour, child labour is the cause of poverty;
compulsory education is therefore, the only weapon to tackle the problem of child
labour. The fallacy in this formulation is that it focuses only on one dimension of the
phenomenon of child labour, i.e., the act that children in families where adults have
worked as child labourers also tend to work; but it glosses over the inextricable link
(particularly in the Indian context) between poverty and unequal and discriminatory
access to the basic resources and assets. From this it would seem that is possible to
tackle the problem of child labour without addressing the basic structural questions.
Such a viewpoint is gaining currency despite the fact that most studies on child
labour in different industries (matches and fire works, locks, the carpet, etc.) have
emphasize the need for a strategy which addresses the survival question of the family
along with a package of education and health measures. Besides, it is generally over
looked that the overwhelming majority of child labourers come from communities
and groups which belong to the lower rungs of the traditional, caste-based social
hierarchy, i.e. scheduled caste, scheduled tribes and other backward classes and minorities, particularly Muslims. These groups also constitute the bulk of the small and marginal peasantry, landless and agricultural labourers and artisans groups. In these groups, questions of livelihood, access to productive asset's and resources and services like health and education are part of an integral whole with the family providing the axis around which these question revolve. The Supreme Court’s landmark decision of June 1997 at least acknowledged the structural rots of the phenomenon of child labour and suggested solution which involved the family of the child labourers1.

Child labour is as much the cause as consequence of adult unemployment and under-employment. It at once supplements and depresses the family income. Child labour is not only a subsidy to industry but a direct inducement to the payment of low wages to adult workers. The entrance of the children into the labour market reduces the volume of employment for the adult and lowers the bargaining power of adult workers. Childhood employment results in a permanently weakened and damaged labour force. Child labour involves the use of labour as its point of lowest productivity. Hence, it is an inefficient utilization of labour power. The argument that employment of children increases the earning of the family and keeps children away from mischief is misleading. It glosses over the fact that child labour deprives children of educational opportunities minimizes their chances for vocational training, stunts their physical growth, hampers their intellectual development and, by forcing them into the army of unskilled labourers or blind alley jobs, condemns them to low wages all their lives2.

The strategy of compulsory education as the core of policy initiatives to end child labour obfuscates this complex social matrix within which child labour is embedded, reproduced and sustained. This matrix characterized by stagnation in agriculture and handicraft, fast-eroding control over the means of livelihood of the mass of peasantry, artisans, fisherfolk, etc, and a predatory commercialization of the entire economy, which wipes out the basic producers¹.

Compelled by the exigencies of situations children accept role which run them into both victims and involuntary accomplices of unjust situations. In many situations which are characterized by the fact that if one does not work, one has the option of either starving or adopting socially disproved means for one’s survival, children have no choice but to decide to take up jobs at an age at which they should have gone to school. Though at the fact of it, it appears that it is the children who take the decision to work but the fact remains that it is not the children but the society to which they belong which through its inability to provide adequate means of subsistence for their families decides at the time of their conception itself that they are destined to be forced to take up employment at an early age². Mendelievich has rightly maintained: “It is not the family that should carry the blame for the fact that the child has to work, since the causes of action open to the family are few in number. It is society as a whole i.e. at fault³.” It is not only the children who are harmed due to their involvement in various kinds of work at the tender age but the society also which has to suffer a great loss because of children being employed by employer who always make their best efforts to export minimum benefits with minimum investment. The employment of children adversely affects not only the employment opportunities of others forcing many to remain jobless in the present age but also considerably lowers the rate of their wages. “Mendelievich has correctly depicted the picture to

vicious circle that exists between child labour and poverty in the society”. There is in fact a vicious circle have on the one hand, child labour increases unemployment among adults and reduces their income, on the other, the employment and low wages of adults force them to put their children to work in order to boost the family income. Thus, child labour simultaneously increases and reduces the family income: but as is clear, it reduces rather than increases that income¹.

Magnitude of the Problem of Child Labour

The problem of child labour in India is of immense magnitude when one considers the number of children involved. According to the 1971 census, there were 10.74 million children working, representing 4.66% of total population and 5.95% of the total labour force. According to the 1981 census, workers in the age group below 14 years of age (excluding Assam) were 13.59 million. On the basis of the National Sample Survey (32nd Round) the number of child workers as on 1st march, 1983 was 17.36 million. The working children mainly belong to the age group 5-14 years. Nearly 93% of the total child labour force works in the rural areas and the rest in urban areas. A great majority of these children work in agriculture and the unorganized sector like small commercial establishment and shops are quasi-family undertakings. 79% are employed as cultivators or agricultural labourers, 8% in live stock, forestry, plantation, etc, 6% in household and other services, the rest in trade, commerce and transport².

Child labour issues have generated considerable attention during last one decade from government, non-governmental agencies and social workers. Each of them has elucidated their own views and subsequently formulated action programmes. However, the main actions; parents and working children have been excluded from

the whole debate. Unless the parents and working children are involved, the success of the programmes for elimination of child labour may not yield the desired results.

Various surveys conducted by the labour bureau reveal that children are employed to do light jobs, such as helping in the field, in factories for packing, pasting of labels, etc, and in match factories, tea factories, tea estates, bidi manufacturing, printing, publishing, etc. Unorganized sector employs a large number of children as domestic servants, works in hotels, restaurant, canteens, wayside shops, newspaper selling, coolies, shoe-shines boys, vendors, etc. Though Indian law does not prohibit the employment of children in cottage industries, family households, restaurants, or in agriculture yet it is quite evident that the working conditions of the children in these small organizations is far inferior to those of large factories.

In essence, the government’s approach continues to be oriented focusing on ameliorating the working conditions, of the employed. At the best government’s approach appears to eliminate child labour is the hazardous industries, which incidentally do not include family or household enterprises. The enactment of the child labour (Prohibition and Regulation) Act, 1986, has at best emphasized on regulation rather than prohibition of child labour. Similarly the National Policy on Education 1986 announced non-formal education for working boys and girls as a major thrust area. This constituted an expression of helplessness in the matter of confronting the issue of child labours and additionally gave legitimacy to the employment of children. It also force closed any further discussion on the issue of abolition of child labour and the provisions of compulsory education for some time to come. The only apology offered with respect to child labour was accepting its existence as a “harsh reality”. The exploitation of child labour was thus not addressed.

instead more ambiguous policies of Non-Formal Education (NFE) were designed to reach working children.

Officials and employers argue that children serve as apprentices, acquiring needed skills for adult employment. They contribute to the income of their families. They agree the small contribution of child’s income or assistance at home allows the parents to work and this makes the difference between hunger and a bare sufficiency. Children’s work is considered essential to maintain economic levels of the household. They further argue that the employment of children sustains India’s traditional craft industries and makes exports competitive.

According to the report prepared by the Indian Social Institute on child Labour, 80% of all child labourers belong to the scheduled castes and tribes that have been exploited and marginalised in India for centuries. A major consequence of this “is the deprival of the possibility of education and the consequent upward modality. Thus, child labour has become a mode of perpetuating an unjust social system and of ensuring the continued availability of subservient, unskilled, illiterate labourers who do not have the bargaining power to question the system that marginalised them and deprives them of their right to be human.

The manufacturers consider enactment of child labour act, 1986 as “conspiracy against poor” and further elaborate “Government enacted the child labour, which does not want the children of poor and down trodden to come up and whole heatedly devote themselves to the learning of technical and vocational crafts for bright future.

In the long list of dubious distinctions India is famous for child labour. The wholesale and unchecked exploitation of children of less than 14 years is a

punishable crime and the Indian law. But a selfish and immoral political leadership, corrupt bureaucracy, rampant poverty, growing unemployment and a society bereft of valued have all conspired to turn India into the “largest concentration of child labour in the world”. In India every third child is working child and every fourth child in the age group five to fifteen is employed. An estimate by the ILO puts the number of child workers in India at 44 million. But an unofficial survey estimates the number of working children at around 100 million. While 21% of the child workers are urban based, the rest are rural based.

There is hardly any product in India that has no child labour behind it. Lock, carpet, bangle, brick, match box, cracker, wood carrying or any other product has the invisible stamp of the tail put in by children caught in the web of poverty and an exploitative social system. Indeed child labour in India comes cheap and easy.

The government officials and manufacturers argue that expansion in export especially gems, brassware and carpets is made possible through the employment of children. Competition from neighbouring countries in these exports is used as a major nationalist’s argument. Exports become a matter of patriotism the human and social costs do not matter. The ‘Myth of nimble fingers’ is also put forward for the continuation of children in handicraft activities. Captains of industry argue that children can produce a greater number of knots in the weaving of carpets. They can carry molten near furnaces, under condition that adult would find intolerable. They can work better in polishing gems, tasks that need diligence, dexterity and speed. Without child labour it is agreed, carpets and handloom textiles might be replaced by machine made products. This would lead to more poverty. With

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2 Ibid, P. 4
these arguments government have accepted the continuation of child labour on economic compulsions and accepted it as a “harsh reality.”

This tendency to regard the issue as a matter of social justice i.e., the children of the poor be allowed to work or declaring the problem as a harsh reality” and a necessary evil in any underdeveloped economy” are points to the lack of concerted efforts to eradicate the menace of child labour. As a result the issue of eradication of child labour got clouded in an omnibus category of labour laws. It is essential to have a comprehensive change in mind-set, when viewing the problem associated with child labour. This basic approach of the government does not deal with the root of the problem i.e. compulsory primary education and exploitation of poverty. Hopefully the 83 amendment of the constitution declaring education as a fundamental right will be adopted soon to approach the problem of child labour effectively. As long as child is seen as an economic problem, there will be arguments supporting it and as a result, a lack of conviction on the part of policy makers and society to eradicate it. Child labour must be seen as less of phenomenon of poverty and more of social attitudes, exploitation, compulsions and sensibilities. This is evident from the experiences of developed countries as well as some developing countries that tackled this problem much before the economic advancement. Research conducted by the social scientists did not support the argument put forward by officials and manufacturers.

If employers were not prepared to exploit children, there would be no child labour. The parents of child labourers are often unemployed or underemployed, desperate to secure employment and income. Yet it is not they but their children, who are offered the job. Why? Because children can be paid less and they are more

malleable: they will do what they are told without questioning, its authority. They are less likely to organize against oppression and can be physically abused without striking back.

The studies of Burra, Bhatty, and Weiner, point that skills acquired by children in young age could be easily learned by older children and younger adults like, buffing machines, electroplating, spray painting, filing components, assembly and packaging. In fact entrance into the labour force has often shortened the working lives of young people, who, now adults are too ill to remain in the labour market. In many cases the hazardous condition results in accidents (some fatal) or health problem that make them unfit to continue working. As a result, they earn much less than what they could have earned, had they not been forced into working during their childhood.

Besides, the so-called skills learnt do not in any way augment their learning capacities, as most of the jobs done by them are highly monotonous, low skilled, tedious jobs, that condemns them for ever in low paying jobs. Clearly the earnings forgone in the adult life, due to disability, lack of training and education that could have been attained in childhood are for greater than what is earned as a child. Hence, a closer and sterner look the so-called ‘economies’ are not justified. Weiner observed that it, remains unclear, how much verse off the family would be, if the children were in school. Financial contribution by children to households income is often small. In majority of the cases the money earned by children are used for conspicuous consumption (Alcohol, family prestige like giving gifts, marriage

5 Ibid. P. 50.
6 Ibid. P. 50.
ceremonies etc.) child labour also kept girls out of school, as they are paid less than boys and are employed at younger ages. In the Siva Kasi match industry most of child workers are girls and their wages are will below the agricultural wages in the region\(^1\).

Moreover, the so-called advantages to the employers in wage front in the long run would caste them heavily in terms of efficiency and quality. True competitiveness can only be achieved through improvements in efficiency. Quality could be improved through modern technology and not by using child labour. Neera Burra\(^2\) has indicated low wage child labour as the major cause for less production in Firozabad Glass factory, compared to Thailand glass factory. With increasing globalization and integration with the world economy, India can’t afford to persist with low-grade technologies more so, with a predominantly illiterate, low skill labour force.

The social worker like Swami Agnivesh\(^3\) and Kailash Satyarthi\(^4\) have in fact argued that child labour perpetuates poverty rather that reduces it. They argued that child servitude is equally, if not solely, responsible for causing and perpetuating adult unemployment, poverty, population growth and mass illiteracy. They argue those socio-cultural factors, including abominable caste system, ethnic and gender discrimination, nexus between politicians and manufacturers, absence of compulsory primary education and profit motivating concerns are responsible for the perpetuating of the scourge of child labour.

Experience from several countries show that merely belonging to a low income country is not reason enough to be condoned for the use of child labour. Historical comparisons with Shri Lanka, Vietnam, Tanzania, Uganda, Zaire, Burma,
Kenya and China shows that even in developing countries, the principles of compulsory education (whether sponsored by state or a religious or a social group) can be successfully adopted, with corresponding decrease in child labour. Thus, the notion of economic well being acting as pre-cursor to the abolition of child labour may not be necessary. Instead the political will and strong commitment of the society to abolish the child labour can initiate the process of eradicating child labour. ILO has observed,

"There are absolute arising from the inherent dignity of the human persons and recognized in international covenants, which nations irrespective of their level of development, have accepted and therefore, should adhere to ... To invoke the pretext of poverty and underdevelopment for the transgression of universally accepted values is to accept the perpetuation of universally condemned abuses".

Review of the Literatures

Looking at child labour as a multidimensional social phenomenon as no single approach can catch hold the problem, various scholars, planners, researchers and technocrats have analysed it from different angle. (Dutta, 1985) and Park and Park (1985) studied the biological, social and cultural factors for child's pre and post birth medical problems; and its impact on health status due to malnutrition (Antony, 1984 and UNICEF, 1981). Childhood as the base to being a social animal and the impact of joint family on him (Soman, 1986) have been well analyzed. Besides this the prevalence of orthodox belief in the form of discrimination to female child (Poffenberger, 1978, Visaria and Visaria, 1981) which described as the culture of poverty (Lewis, 1970), child marriage by UNICEF, (1981), destitution of children (Goriawala, 1984), child begars (Chaudhry, 1983), child as an exploitative commodity by (Saha, 1986), child labour in agriculture (Kumar, 1983) and child labour as the

product of circumstances (Fernandes, 1989) have been widely discussed. Various reformative approaches also have raised by certain scholars like (Joshi, 1986) on education for child through TV and west sponsored child welfare Programme by (Antony, 1984). Above discussion tend to conclude that child below 15 years of age who gives Labour either interpreted as ‘economic practice’ in gainful occupation for adding labour income of the family or a ‘social evil’ bringing occupational hazards to physical, mental, moral and social developments for them can only be considered as child labour in analytical sense. With this the present chapter tries to highlight child labour as the most obnoxious problem, which has brought them to the street by not only treating them as a commodity but also depriving the child from the age old security and comfort of the family.

Child labourers in the rural areas of the less developed countries and its relationship with persisting higher fertility observed there has dominated research and debate among demographers during the last three decades. The theoretical formulations of (Leibenstein, 1954), (Beecker, 1960) and other economists and the empirical investigations conducted in the villages of the less developed countries viz. the study conducted in rural Punjab in India by (Mamadani, 1972), the research by Nag, Peet and white, 1978 in Nepal and Java, and Cane’s, 1977 work in Bangladesh were few that received wide attention. These studies improve our understanding of the roles played by children and led to a review of the once widely held view that having the large number of children that parents in the third world country had, and for whom could not adequately provide for, is economically and irrational behavior and a consideration of the vies that having a large number of children, particularly sons is economically a relational behavior.’ But several questions still remind unanswered. The study (Kan Bargi and Kulkarni, 1986) carried out in Karnataka has tried to answer some of these particularly the inter relations between child labour and child schooling and statistically establishing the fact of child labour on fertility at the macro
and micro level. For this, it was necessary to collect who were going to school and those who are not.

Michael Vlassoff has also looked at whether child labour motivates higher fertility in the less development countries and whether the poor peasants need child labour for their survival. Against a background of theoretical consideration, he has critically reviewed several empirical studies conducted in India, Bangladesh, Nepal, Indonesia, Tanzania, Mexico and Philippines. He concludes that the available evidence that emerges from these empirical investigations is inadequate to prove that children are not positive assets in the rural areas of less developed countries and, therefore, child labour has a positive effect of fertility. Before drawing any firm conclusions on the relations between child labour and fertility he argues that there is an urgent need to know more about the castes involved in raising children, the economic context (whether child labour results in adults becoming more productive), the role of education, the need to bring fertility in to the research design and solving the problem of the direction of the causality whether labour effect fertility or fertility affects child labour?

Kanbargi and Kulkarni have examined the interrelation between child work schooling and fertility in rural Karnataka. Their analysis is based on the data collected from any year round survey of 45 villages drawn from ten of the 19 district in the state.

The problem of schooling is more serious for girls where, even in youngest school going ages of 5-7 years, very few girls attend school. The census analysis presented in this volume has suggested that improving female education is very important. It not only helped to reduce the incidence of child labour but also has several far-reaching consequences on various variables (such as, infant and child morality); under the circumstances, it is distressing to note that in India, primary schooling is not getting priority it deserves it in terms of budgetary allocation and
other policy interventions. Most of the funds allocated for education are utilized to pay the salaries of the teachers, which make it increasingly difficult to bring about any improvements in the schooling environment. It is, therefore suggested that the community is involved in this gigantic task of improving and rebuilding the primary education system in order to reduce child labour effectively in the years to come.

It is also necessary to identify of child labour-intensive industries and crops in various parts of the country and study them in depth, taking in to consideration the social, economic and political system operating in the area. Such an exercise should aim at providing valuable insights for developing effective policy interventions. The NGO’s can provide a valuable organizational structure, which is absolutely necessary to carry out certain action Programme.

Several less developed have expressed their commitment to eradicate child totally. It is now apparent that this objective can not be achieved only by resorting to more and more legislation. Intensive research should be encourage as it can play a very important role in developing strategies for effective policies intervention in this direction it is to be noted that child labour attracted that attention of researchers only recently and it would take a long time to understand fully the determinates and consequences of child labour in these countries.

The hand knotted carpet industry is one of India’s leading export industries. Floor coverings are the countries third largest earner of foreign exchange and hand knotted carpets make up a large share of the market (International Labour Rights Funds 1996:3) carpets are produced on a large scale in three regions in the country: Rajasthan, Jammu & Kashmir, and in Bhadohi in Uttar Pradesh. The Mirzapur Bhadohi region accounts for about 85 % of Indian carpets exports (Child Labour in the Carpet Industry of India, The Hindu, July 16, 1996, P. 9). This region is often known as the ‘carpet belt’ since the carpet industry is the main industry and employs over 6 lacks persons (Gupta 1996:176)
Children are employed extensively in the production of hand knotted carpets, despite the fact that the Child Labour (Prohibition and Regulation) Act, 1986 forbids children (except those working as part of family labour) from being employed in any of the carpet production processes (GOI 1998:46). The reason often given by employers for hiring children is that their 'nimble fingers' enable them to weave better carpets than adults. However, there is strong evidence to suggest that this is merely an excuse for using child labour as studies have found that some of the best carpet those with the highest density of knots – have been woven by adults (Leyla Tegmo Reddy, 1997:165). According to Neera Burra, 1995, the author of 'Born to Work: Child Labour in India', children constitute 75% of the labour force in carpet making. While the Carpet Export Promotion Council (CEPC) and the Indian government consider these to be a grossly exaggerated estimate, other studies have revealed large numbers as well. A detailed sample survey of the Indian carpet industry in 1993 estimated child labourers to constitute 22% of a workforce of 60,000 weavers, amounting to about 13,000 children (Harvey, and Riggin, 1994).

Child labourers in the industry fall into four categories: migrant bonded child labourers, local bonded child labourers, wage earners and children who work as part of family labour. Migrant bonded child labourers are estimated to comprise about 10–20% of the child labour force in the industry (Human Rights Watch 1994:105). They are the most exploited all child labourers are usually trafficked into the carpet belt from regions in the neighboring state of Bihar or from the foothills of Nepal. Local bonded child labourers comprise another large category. They are usually children of landless agricultural labourers and small marginal farmers who sell their children to bondage after taking loans from loom owners. Illiterate parents are often cheated into having their children to work for several years for no wages in order to repay a very small loan. Conversation with farmers child labourers in a school in Sukara, U.P., revealed that more than half of the children in a school for former child labourers run by the Mirzapur- based Center for Rural Education Development Action
(CREDA) had toiled at the looms for over three years as repayment for loans of less than rupees 500.

A much smaller number of children are also hired and paid wages. However their plight is often not much better than that of local bonded child labourers as they are paid per carpet rather than a daily wage. Young and recently bonded children sometimes earn no wages for months during what the employer claims to be a training period. Lastly, there are some children who work as part of family labour as when to supplement their major incomes. The Child Labour (Prohibition and Regulation) Act allows children to work as part of family labour, and thus this last category of child labour is not illegal. However, this law is often of advantage since employers can easily claim any child working at their looms to belong to their family.

Object and Scope of the Present Study

The present work aims and study response of legislation on child labour. It explores whether any change in labour industry has come or not. The study takes into consideration the social, economic, cultural, educational and health factor in evaluating the operation of law in industry employing children. The present study seeks to analyze the conditions of child labour, work participation of child labour in various operations the structure of wage payment, monthly income of their family members.

It is important to understand the concept of childhood and labour, especially in the Indian context where childhood can be defined chronologically. However different societies may have different age thresholds for demarcating childhood and adulthood. Some societies may require the fulfillment of certain social roles and traditional obligation for this. In others, the integration of children into socio-economic life may begin early and the transition from childhood to adulthood may be so smooth and gradual that it would be difficult to identify the different life
faces. Thus, the concept of childhood would be different for different societies at
different societies¹.

Child work is often regarded as natural and is, therefore, accorded a low
priority within the government agencies as well as workers and employers
associations. A child labour is often illegal, there is a widespread attempt by parents,
employers and children themselves to conceal it. There is high degree of indifference
and ignorance about the consequence of child labour on children, the economy and
society at large².

Children are found to be working in all the three sectors of the
economy, the agrarian, industrial and services sectors. Each sector has its peculiar
features.

The agrarian sectors in India are characterized by poverty, illiteracy,
unemployment, highly skewed distribution of land-ownership, traditional modes of
production prevalence of old customs and traditions.

Several forms of child labour such as invisible, migrant, bonded etc,
emerged from this sector, which encompasses such time consuming activities for boys
as looking after animals, gathering wood and fodder, sowing and reaping, protecting
fields from pests, weeding, etc. For girls, the activities are milking animals, cooking
and looking after younger children. The rural child is a working child and work is a
fundamental part of his or her existence, irrespective of whether it is non-monetary. It
also, therefore, means that education is a casualty for such a child³.

Working at home or in working shops often in hazardous processes,
through long hours in unhealthy environments, makes children’s lives extremely
vulnerable. Even working as part of the family is no protection when the family itself

¹ Sekar, Helen. R. (1999), “Child Labour Legislation in India “, (A Study in Retrospective and
Prospective), V.V. Giri National Labour Institute, Publication, NOIDA, P. 11-12.
² Ibid.
is exploited as in plantation labour as craft manufacture and working outside the parental home, as apprentices, only increases their vulnerability.

One of the characteristic of industrial sector are growing level of urbanization as a result of migration form rural to urban areas and from smaller town to bigger cities, where industries are being setup. Another feature is the dispersal of industries into family based units, This again causes the emergence of various forms of child labour, such as invisible, wage based child labour working under conditions of acute exploitation in the industries, children of marginalised families working as self-employed children or under wage employment in the services sectors¹.

The services sectors actually have a certain overlap with the industrial sector. A majority of children in this sector are self-employed because its very nature provides relief from direct supervision. It also provides autonomy and freedom of control over resources. Such children are found to be working both in the urban as well as rural areas. In this sector child labour can take such forms as invisible, self-employed or under wage based employment, with children changing jobs at regular intervals. This is particularly true in urban areas².

UNICEF has classified child work in to three different categories:

1. **With the family**
   
   In which children are engaged without pay in domestic / households, tasks, agricultural, pastoral works, handy crafts/ cottage industries etc.

2. **With the family but outside the home**
   
   In which children do agricultural /pastoral work which consist of (several full-time) migrant labour, local agricultural work, domestic services,

¹ Sekar, Helen R. (1999), Opcit, P. 12.
² Ibid.
construction work and informal occupation e.g. Laundry / recycling of waste-employed by other and self-employed\textsuperscript{1}.

3. **Outside the Family**

In which children are employed by others in bonded works, apprenticeships, skilled trades (carpet, embroidery, brasses, copper work) industrial unskilled occupations/mines, domestic work, commercial work in shops and restaurants, begging, prostitutions and pornography\textsuperscript{2}.

Children are also engaged in self-employment, which consist of in formal sector work like shoe-shining, car washing, recycling of garbage, running errands selling newspaper, etc\textsuperscript{3}.

Invisible child labour belongs to the category of work in the unorganized or in formal sector. The children may be involved in industrial activities or even provide their services in other activities in wage based or self-employment. They may work independently or as part of family labour. Such children are generally, not within the purview of law even though they may work under the most hazardous condition. They are also not a part of the enumeration although they constitute a major part of the child labour force in the country. Almost all of these children are non-school going. They are also referred to as now here-children, i.e. children who are neither working nor going to school and are estimated to be 74.4 million, accounting for 34.8 % of the total child population of 5-14 years, according to an estimate for the year 1991\textsuperscript{4}.

Migrant child labours are children who migrate from rural to urban areas or from smaller towns to cities, alone or with their families. They migrate in search of better job opportunities or two escapes from family bondage. They are also

\textsuperscript{1} Sekar, Helen R. (1999), Opcit, P. 17.
\textsuperscript{2} Ibid. P. 12.
\textsuperscript{3} Ibid.
\textsuperscript{4} Ibid. P. 17.
picked up by agents and taken away to factories (as in Carpet weaving) where they are made to work under extremely exploitative conditions.

Bonded child labour, on the other hand are those who are pledged by their parents to employers in lieu of debts. Parents often take consumption loans from moneylenders who are generally employers or landlords. The rates of interests on such loans are various, with the amount to be repaid accumulating year upon year. In order to get this loan waived, parents pledge their children to the moneylender for specified periods of time. The system of child bondage still prevails largely in the agrarian sectors and some cottage industries in backward regions, particularly Bihar, U.P., Madhya Pradesh and Rajasthan.

The phenomenon of urban child labour stems from industrialization, which causes one of the most exploitative forms, the street children. Those children belong to three broad categories:

**Children on the street** are working children who have families but spend most of their time on the street. They earn for themselves and may or may not constitute to the family income.

Children off the street are working children who have left their families' in villages or smaller towns and migrated to the cities. As they have no place to live, they spend their nights at railway platforms, bus stations, public parks, etc. They live independently and spend whatever they earn in the day.

**Abandoned / orphaned children** are working children without families or whose families have abandoned them. They spend their lives on the street and have no one to provide and kind of support. They are the most exploited and abused.
Girl child workers face greater exploitation compared to their male counterparts. Most of the girls in the urban areas work as domestic workers where they are subjected to various forms of exploitation and abuse. Working as domestic servants, they become more vulnerable to sexual exploitation compared to male children¹.

The plight of girls in bigger cities is all the more alarming. According to a report published in The Hindustan Times on 1st January 1996, about 15% (300000) of India’s nearly two million prostitutes are believed to be children. A 1994 Report on child prostitution prepared by the Ministry of Human Resources Development, Government of India, revealed that about 30% of all prostitute in the majorities of Calcutta, Mumbai, Delhi, Chennai, Bangalore, and Hydrabad were under 20 years of age and that 39% of these entered prostitution before their 18 the birth day² ³.

Cooking, cleaning, child care and other domestic duties not termed as child labour are to be performed by a girl child because of whom she is unable to go school and deprived of recreational opportunities. Such domestic work is economically important because it freeze parents to go out and earn. In its more invidious from; girls end up in urban homes with so called relatives as “maids of all work”, on call virtually all day. Domestic work is not only an unrecognized form of economic contribution but also remains unappreciated as a form of child labour³.

A typical child labour family is characterized by a high level of poverty, illiteracy, large family size (high fertility), low asset base and marginal or no access to basic services like health, education, family welfare etc.

Such families in a state of marginalisation would number in millions in the country. It is for this family that child labour emergence.

² Ibid.
³ Ibid. P. 12.
The dividing line between socialization and exploration also reflects, with adequate provisions for schooling and education of children, a full range of social services, minimum age and wage laws, will perceive exploitation of children differently from a primarily agrarian society with large numbers of rural workers and urban slums, and shanty dwellers.

Present problem of Child Labour in India

The fact is that most of the activities where children are employed do not come under the purview of the Factories Act, for various reasons and hence are outside the purview of such restrictive legislation. But even with the new laws it has been a difficult exercise to contain the employment of the children for the sheer lack of popular will to prevent the oppression of the child workers in our society. Most of them are employed in the unorganized sector and in places difficult to reach. This is so because society still finds no voice to articulate the rights of the citizen and also their duties. And in caste based occupational pattern, it has been to the advantage of capital to consistently utilize the benefit of the carpet weavers or the glass makers or the large, abundant, surplus, pauperized agrarian landless in their ventures. To evade rules they have resorted to methods, such as, putting out to the households and other difficult to trace methods of organizing home based production. The problem also stems from the fact that the state is not operating on the role of welfare work for its citizenry, by providing its future generation with basic necessities to become a potential high skilled work force in the course of such training and education. Besides this, the fact that the child worker come from families that do not have much to say in the kind of life they provide to their offspring, owing to their fragile economic and social status adds to the vulnerability a large number of the poor living below the poverty line, making up for their much required budgeting of subsistence lives by employing the young ones in some unorganized and casual work. Besides the lack of will on the part of the state, it was found in the course of our engagement with labour rights, that labor officer in one of the industrial townships was housed in the landing
of a building. In such circumstances what can we hope from the enforcing agencies of the state who themselves are in such a power-less situation today? At the same time we are not saying they did things when they had the power and the resources to do so.

This is an era of social change. Social activists and social reformers are directing their attention towards mankind in the context of development and progress. The many evils that plague society is being questioned and reformation are being sought. Today the issue of child labour is gaining importance.

Child labour is not a new phenomenon in India. From ancient times, children were required to do some work either at home or in the field along with their parents. The problem of child labour could be seen in the form of child slavery that was owned by then rich class of people for doing low and ignoble works. The harsh reality of ancient India was that children of slaves were born as slaves, lived as slave and died also as slaves unless the master was pleased to monument them. The study of Sir Henry Maine reveals that child slaves could be purchased like commodity. The parents used to sell the services of their children to earn their livelihood. However, we find in Manu Smrits and Arthshashtra that kind made education to every child, boy or girl, compulsory and Kautilya prohibited the trade of children, who purchased and converted to slaves by some peoples.

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1 Shobhana, M.V. (1996), "History of Legislation on Child Labour in Colonial India", Social Action, Vol 46, P. 4-6
6 Prasad, Narendra Op. Cit, P. 350
Frankly admitting, the problem of child labour manifests itself on two different forms. Firstly, the child labour is used without any remuneration and secondly, it is paid mere subsistence wage. The children who work without wages are mainly those engaged in family farms and other family enterprises besides those who have been handed over to the unscrupulous exploiters in discharge of and obligation and those who had been separated from their parents owing to object poverty and destitution. The child workers have to work for 12-16 hours a day. All the reporters on child labour also indicated that the wages paid to the children are exploitatively low. As the child workers are paid extremely low wages it results in malnutrition on the one hand and hard physical labour on the other which subjects the child workers to constant detonation in the terms of health the shortens his life span in the long-run. Exploitatively low wages compel him to resort to social evils such as stealing, snatching and pick pocketing. However, today, the incidence of child labour has posed a serious threat to the world particularly to the nation. It has become a major perennial social evil of our country and no suitable remedy has been traced out so far to curb the menace. No doubt child labour is legally prohibited but in reality it is to see an occupation whose children are not employed¹.