CHAPTER-VII

CONCLUSION AND SUGGESTIONS
A. BRIEF SUMMARY

The present research work discloses that the children in India have not been given proper attention as a result they are being exploited by the exploitation-prone society. This is continuing from the time immemorial though varied in its nature and dimension. Chapter II depicts their sorry plight starting from ancient times to modern era and points out that they are working in unhealthy conditions, even in various hazardous processes for a nominal wage. The problem is rampant in the unorganized and agricultural sectors, but there is inadequacy of law to protect them. During the discussion of prospect of child labour in India, the researcher is hopeful that, may be in late, this problem can be minimised through a systematic planned effort, strict implementation of the legal provisions and by changing the attitudes of the parents, employers and the people in general.

The observation in Chapter III reveals that the attempts of national and international bodies have not yet achieved tangible results to eradicate the problems of child labour. ILO has adopted three main conventions on the issues of minimum age, medical examination and night work of the children. UN has declared the basic human
rights for children. Being a member of the UN and ILO, India is trying to put curbs on this problem as per the guidelines suggested by these international bodies.

In Chapter IV, the legislative provisions, constitutional mandates and local Acts and Rules of Orissa have been examined and it has been observed that various loopholes, in the existing laws, lack of proper implementation, inadequate and inherent contradictory provisions have provided wide room for existence of child labour in the Indian society. There is inadequacy of the proper definition of child labour in legislations including the Child Labour (Prohibition and Regulation) Act of 1986. The Act of 1986 has approved the child labour in certain occupations, as such total eradication of child labour seems to be bleak in Indian context.

From the case analysis of the Courts in Chapter V, it is evident that the Indian judiciary has played role in minimising this social evil by delivering social justice through proper interpretation of noble ideas behind the provisions of the legislations meant for the protection of children. Indian judiciary has always favoured for a welfare state where one can be given his due rights and live with decency and human dignity.
The empirical study on the problem in the state of Orissa has been discussed in Chapter VI. It shows that the children working for wages are in a deplorable condition in the state where the employers are violating the legal and constitutional provisions to exploit them for fulfilling their own interest. The children engaged in the unorganised sectors are not protected by any existing labour laws as such the employers are escaping easily even by committing continuous offences prohibited by the Act of 1986.

CONCLUSION

On the basis of the discussion, analysis and findings in the preceding chapters, it is observed that the child labour has been legalised in India and Indian socio-economic conditions do not permit to prohibit the child labour system, totally as it would be injurious rather than good in the absence of possible, easier and suitable alternatives. It is thus evident that the fundamental rights prohibiting the child labour as enshrined in the Indian Constitution and the Directive Principles of State Policy have not been translated in its true spirit and action, This research work has proved that poverty and illiteracy are the main causative factors behind the problem besides others and this evil is
prevalent in the lower socio-economic group residing mainly in slum areas and rural areas. The percentage of boys is higher in slum areas where as the percentage of girls is much more than boys in rural Orissa as revealed through the empirical study of this research work. Further, it has also been proved that, most of the child labourers are engaged in the unorganised sector and in the state of Orissa, the children falling within the age group of 10 to 14 years constitutes the major working group which is most likely for the better substitution of adult workers. The exploitation of child labour as envisaged in the present research work reveals that most of the child labourers are working 10 to 12 hours a day. In reward, they earn maximum of Rs. 401 to Rs. 600 only in case of boys and Rs. 200 to Rs. 400 only in case of girls per month. They are very often scolded, beaten and physically assessed by their employers for minor mistakes. They are restricted in availing leaves and holidays and in most of the cases compensation for accident are not given by the employers. There is also lack of drinking water facility, fresh air, sufficient last and various health problems are common due to the healthy atmosphere of the work sitee. In course of investigation it was observed that most of the children (95.60 percent) engaged in different works are not aware at all about the legal provisions. Due to
various weakness and proper non-implementation of the legal provisions the problem of child labour still exists in the society.

SUGGESTIONS

Many things that we need can wait but children can not. This is the time their bones are being framed, their mood is being made and their senses are being developed. To them we can not answer tomorrow as their name is today. Therefore. Following few points are suggested to minimise this social evil as it is very difficult to root out the problem in Indian society.

1. Though the existing laws have defined the term child but it is practically difficult to find the definition of child labour in any of these Acts. A proper definition of the term child labour should, therefore, be included in the Act of 1986 in order to avoid confusions of the term.

2. There should be unanimity regarding the minimum age of the child for entry into any employment and thus a uniform definition of the term child should be provided which should be below 14
years of age. All the labour laws relating to child labour need amendment accordingly.

3. The child Labour (Prohibition and Regulation) Act, 1986 aims at achieving two contradictory goals like prohibition and regulation at the same time. It prohibits the employment of children in certain occupation/processes with some regulation. While child labour has been legally approved by the said Act, then it is definitely impossible to abolish child labour from the Indian society completely. Therefore either a new legislation on child labour with an object of its prohibition/total abolition in any occupation/process prohibition/total abolition in any occupation/process irrespective of the nature should be passed and no relaxationShould be allowed statutorily (as it is provided by the said Act) or the present Act should be amended accordingly for abolition of child labour system from the society.

4. The Child Labour (Prohibition and Regulation) Act, 1986 concentrates only on hazardous occupations and processes, where as according the gravity of this evil, the scope of the said
Act should be expanded to include all types of works whether it is hazardous or non-hazardous in nature, where the children are working. There is need to take proper steps to identify the hazardous and non-hazardous employments and a list of it should be included as an annexure of the Act of 1986.

5. The Child Labour (Prohibition and Regulation) Act, 1986 is silent on medical fitness certificate of the child to be employed in any permitted occupation/process which provision should be included in the Act as it allows child labour.

6. The appropriate government has failed to make rules under section 18 of the Act of 1986 regarding health and safety of the employed children. The periodical medical examination of child labourers has not been provided under the said rules. It is therefore suggested that the child labourer should have access to periodical medical check-ups and treatment through their employers. As there has not been any specific law in respect of medical examination of the child labourers, therefore either a specific
legislation on medical examination of the child labourers or amendment of the existing labour laws is suggested. And this medical examination facility should be provided up to the age of 21 years as per the convention and recommendation of ILO. Regular medical check-ups will definitely help in detecting the occupational diseases at an early stage and it will become easy to cure them.

7. The child labourers should be allowed to enjoy the national and festival holidays and leaves with wages. Where the children are working continuously since last 240 days in an establishment the annual earned leave facility as provided by the Factories Act, 1948 should strictly be applicable.

8. The provision of compensation should be made compulsory for the working children and at the same time the employers of the child labourers should provide compulsory insurance schemes for them taking into account the nature of their work. This insured amount must not be below rupees one lakh in any case which may bring reduction in child employment.
9. So long child labour exists in India the social security benefits like payment of bonus, employees state insurance, employee's provident fund and workmen's compensation should also be made available to employed children as they are deprived of these benefits. The concerned Acts must be suitably amended to extend the provisions of the said laws to provide maximum benefits to such children specifically.

10. The penal provisions regarding violation of the provisions of the child labour (Prohibition and Regulation) Act, 1986 by the employers is not deterrent. This provision may be amended to provide heavy penalty with imprisonment instead of fine or imprisonment. Moreover, the establishments employing child labourers should be closed down.

11. There should be a new comprehensive legislation on working hours, holidays and leaves, health, safety and welfare measures of the child labourers which should be made by keeping in mind the practical difficulties faced by the children.
Is the existing labour laws are not applicable to home workers or dhaba it is practically difficult to identify the child labourers employed in these units due to want of proper records and its registration. Thus, it indirectly helps the employers to exploite the children deliberately in these units and therefore a compulsory registration of all these units/workshops, are required and at the same time the registers/proper records be maintained by the employers regarding child labourers, failing which they must be punished severely.

The judiciary shall have to be more active on the child labour problem by issuing directions to the state Governments requiring them to abide strictly by the constitutional mandates and all the legal provisions available in this regard.

The legal provisions meant for the well being of the employed children are quite openly violeted by the employers due to lack of sufficient inspecting staff also. The another cause is that the Inpsectors are entrusted with enforcement of most of the labour laws in general and usually over burdened with their daily routine matters
like payment of wages, observance of safety regulations etc. and therefore do not have much time to devote on child labour problem specifically. It is therefore suggested to strengthen the law enforcement machinery be empowered for necessary implementation of the child labour laws.

15. There should be a special 'child Labour Cell' with advisory committees and sub-committees in the ministry of labour to keep watch on the said social evil, to examine the existing laws related to it, their adequacy, implementation and to suggest better alternatives for the protection and abolition of child labour from Indian society.

16. As poverty is the root cause of this problem, its eradication is therefore badly required. Child labour problem can not be eliminated so long as poverty exists in the society. The upliftment of the standard of living of unfortunate poor people of this country is the task of the government and thus Proper poverty elimination schemes should be established and implemented strictly.
17. Illiteracy causes a great danger to the prospective life of a child next to poverty. Access to education is not only a basic human right recognised in the international instruments, but is a key factor for social progress also. Constitutional obligation of providing free and compulsory education to all children up to the age of 14 years must be fulfilled. The appropriate steps should be taken by the government in this regard and the school curriculum should be made realistic and vocationalised as well as the study environment should be made attractive and interesting. Those parents interested in involving their children in work are required to be educated through adult education programme to understand and realise the significance of education and the bad effect of illiteracy on their children's life. The children who are not interested in studies there should be apprenticeship programmes through vocational training.

18. Child labour is an offshoot of population explosion. So, strict implementation of family planning laws/provisions must be followed, particularly in case of the labour class people
or alike, illiterate and poor people etc. who have no power to infer the consequences of population explosion/big size of their families, so that they may release its evil effects and have Limited number of children which would otherwise help them to provide their children at least the required basic needs within their limited means.

19. Children doing the same work as adults be given same wages to minimise the problem.

20. There should be ban through legislation on the products of the child labourers and the onus of proof shall remain on the employer only, that such product is not prepared by the child labourers employed in his unit/establishment.

21. Child labourers having no parents or any other adult earning members in the family should be provided with the scope of rehabilitation and financial assistance so that they shall not be compelled again to work at least to fill their tinny bellies.
22. All grants, loans, incentives etc. if any, to
the institutions, organisations, industries or
establishments which employ children should
be stopped immediately.

23. The role of the government and the mass media is
very important for eradication of child labour.
Through a wide periodical publicity by these
authorities various attempts should be made
regularly to educate the public about the
sorrow plight of these unfortunate children as
well as to motivate them to extend their
co-operation for the better implementation of
the government policies successfully to
eradicate this evil.

24. Regular seminars, workshops and such other
forums where the valuable views could be
exchanged by the researchers academicians,volu-
unteers, government officials, employers, child
labourers, legislators, legal persons, etc. are
suggested by which the actual need of the
child could be inferred and realised and thereby
effective steps for the betterment of the child
labourers would be possible. This should be kept
in mind that all the views expressed and
prescribed policies must not be on pen and paper only, but should be reviewed by the government immediately for taking further steps.

25. A complete research on each and every occupation/process of different sectors in different parts of the country is badly required to identify, establish and catalogue the nature and extent of child labour in India and also to throw light on their problems, needs and working conditions.

26. The NGOs may be associated closely with the implementing authorities for effective implementation of the law. They should also be more active to create public awareness regarding the said evil.

Mere institutionalisation of legislations is not sufficient to bring a social change. For it, proper internalisation of the provisions by the general mass of the country is required. So long as the public are not aware of this acute problem; so long as we have not changed our attitudes towards our children; so long as children are not provided with their minimum basic human rights it
is practically impossible to think about total eradication of child labour problem from the Indian society. Although the child labour has not been banned totally by the Act of 1986, it is hoped that the foregoing suggestions would be helpful to minimise this problem to a remarkable extent.