4.1 CHILD LABOUR- HISTORICAL PERSPECTIVES

The study of child labour in historical perspective discloses to us that the child labour was prevalent even in ancient period even before 321 B.C. (Tripathy, 1985). Mostly, children were engaged in different occupations by the rich landlords to carry out activities directly or indirectly related to agriculture and domestic services. In fact, in many instances, it was commonly believed that children of slaves were born as a slaves, lived as slaves and died also as slaves unless the master was pleased to manumit them. According to Kautilya, a slave’s child could be purchased and sold like a commodity and parents could sell the services of their children to earn their livelihood. Kautilya, during the regime of the Mauryas (321 BC-185 BC) codified some rules in a spirit of abolition of child slavery. Four important codes were as follows:-

- Children under eight year’s of age were banned from carrying out low and ignoble works.
- Purchase and sale of children below eight years of age was prohibited.
- Provisions were made to relieve oneself from slavery either by paying the dues or other wise.
- Wages were to be paid according to time, work and / or according to the contacts made. Wage of labourers including the child labourers were to be settled upon the work was actually done (Kautilya cited in Hazarika, 2004).

India, through its medieval period (during the regime of Mughal Kings, 1200-1700 AD) was no exception to this social evil and it remained in existence in large scale. Although, due to sweeping socio-cultural and political changes the practice of child labour and child slavery had a declining trend during the post Maurya era. The
continuing, increasing pressure on land compelled the poor parents to use their children to contribute to the household’s earning.

The practice of employing children for work was prevalent during medieval period mainly due to i) increasing human population pressure ii) recurrence of famines, iii) the fact that the rulers did nothing for the improvement of the condition of common people and those of child labourers, in particular. Child labour was found in the form of child slavery and the rulers did not endeavour to weed out this practice and hence the result was that the child continued to be exploited during this period.

During the British Period (1757-1947 A.D.), under the patronage of the East India Company, certain specific industrial organizations grew in the 18th and 19th centuries and they involved the employment of large number of artisans especially in weaving, carpentry, silk and other sectors. The new sets of industrial organizations replaced the earlier family based farm economy and opened up opportunity for wage paid employment, formation of labour unions, labour markets and a new socio-economic order. But prolonged scarcity of food and extreme poverty caused by famines, lack of education and absence of compulsion for education of children as also, large scale unemployment of adult workers resulted in the introduction of children into the labour market. In the 19th century, employment of children in jute and cotton mills, mines, factories work grew without any consideration of age bar, working hours and gender. Due to lack of adequate regulations regarding wages, working hours and age limit, the child labourers suffered limitless abuse and exploitation by their employers.

During the British period, some changes occurred with regard to the phenomenon of child labour. The new economic forces unleashed by capitalism and the uneven development of industrialization brought a change in the socioeconomic order. This destroyed the family-based economy and a large number of labourers were displaced due to mechanization of agriculture. The farmers were alienated from their home based work place and they became wage earning labourers. Extreme poverty made possible a situation in which the child had to be introduced in the labour market. Under the new order of things, the work-place was separated from the family environment and work exposed the child to unhealthy environment. The hours of
working started from morning to night but the earnings remained quite meagre. As a result, the child’s ability to grow and develop into a mentally and physically sound adult was severely restricted. The employers’ monopoly to bargain freely with the child labourers produced an environment of exploitation.

The phenomenon drew the attention of the public leaders, philosophers and the social activists who shared their views with the British government in India. The factory workers too, for the first time united together in 1875 for securing better working conditions in factories and consolidated a trade union movement opposing dangerous working condition in factories, specially for women workers and children. As a result of these developments, several laws were introduced by the British government in India regulating the employment of children (Hazaria, 2004). These took the shape of a few protective legislations for the child labour in India. The Indian Factories Act, 1881, Mines Act, 1901, Factories Act, 1911, Factories (Amendment) Act, 1922, Indian Factories Act, 1931, Children (Pledging of labour) Act, 1933, Indian Mines (Amendment) Act, 1935, and Employment of Children Act, 1938 were enacted with a view to forbid the employment of children in factories carrying out hazardous work.

These legislations endeavoured to improve the working conditions of child labourers in the factories. However, it was seen that these legislations could not make any significant improvement in the working conditions of the child labourers. The result of this was that the child labour continued to exist as a means of providing cheap labour. The Labour Investigating Committee, in its report in 1946 has pointed out that the main cause of this was the inadequacy of the inspecting staff to enforce the provisions of those welfare legislations.

### 4.2 LEGISLATIONS BEFORE INDEPENDENCE

The movement to prevent child labour started in India while it was still a part of the British Crown. The first legislation restricting child labour was the Indian **Factories Act 1881**. The Act prohibited the employment of children below the age of seven years and limited the working hours to nine hours a day. It also provided four holidays in a month and banned the employment of children in two separate factories on the same day.
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The Factories Act (1881) had to be modified several times till 1948 on the basis of the recommendations made by the Factory Commission 1884, the Freer Smith Committee 1906, the Factory Labour Commission, 1907 and the Royal Commission on Labour (1929-1931).

The major amendments affecting child labour, which were incorporated in the Factories Act, 1881 till the year 1947 were as follows:

- By its amendments in 1922, the minimum age for employment of a child in factories was raised to 12 years in order to give effect to the ILO (1919) Convention.
- Under the modified Factories Act (1922), a child was defined as a person who has not completed 15 years of age.
- By its 1911 and 1922 amendments, an employer was required to submit age and fitness certificate of the child labourers employed in her/his factories.
- By the amendment in 1923, working of children at night was banned and employment of women below 18 years of age in certain processes was also prohibited.
- By its amendment in 1926 and 1931 certain penalties were imposed on parents and guardians for allowing their children to work in two separate factories on the same day.
- Under the amendment of the Factories Act, 1934, the maximum working hours for a child labour in the age group of 12-15 years were fixed at five hours in a day. The Act was further amended in 1935, 1936, 1940, 1941, 1944, 1945, 1946 and 1947. In the post independence period this Act was again amended in 1948.

After two decades, the Mines Act 1901 was passed, which prohibited the employment of children less than 12 years of age and employment dangerous to their health and safety. The subsequent amendments to the Mines Act (1901) brought about the following improvements:

- The Mines Act was first amended in 1923. Under this amendment the minimum age for employment of a child in a mine was raised from 12 to 14 years.
• The working hours were fixed at 60 and 54 hours a week for the over ground and the under-ground child labourers respectively.

• The working days were limited to six days a week.

• Another amendment to this Act was made in 1925 in order to improve the working conditions of the labourers and the safety in the mines. The other amendments of the Mines Act were made in 1928, 1929, 1935, 1936, and 1937 and after independence in 1952.

• Through its amendment in 1955, the age of child labourers in mines was further raised to 15 years. The concept of “Young Person” was introduced and such young persons were allowed to work who possessed the usual fitness certificate. (Vaid, 1970).

Reporting in 1929, the Royal Commission on Labour, under the chairmanship of John Henry Whitley, had a significant impact on the recognition and legislative treatment of the child labour. It reported widespread prevalence of child labour in a range of industries including carpet, bidi, textile, match, and plantations. A series of laws followed.

The Indian Ports Act of 1931 set twelve years as the minimum age for handling goods in ports. The Tea Districts Emigrant Labour Act of 1932 provided that no child below sixteen years be employed, or allowed to migrate, unless accompanied by parents or close relatives (Ramanathan, 2009).

The Children (Pledging of Labour) Act, passed in 1933, is the first acknowledgment of the problem of child bondage. In 1929, the Royal Commission on Labour in India was constituted as an attempt to survey and report the existing labour conditions in the country. One of the main concerns of the Royal Commission was that of the pledging of children to employers in return for small sums of money. Based on the recommendations of the report, the Children Pledging of Labour Act, 1933, which prohibited parents or guardians from the “pledging of children to employers in return for small sums of money,” was passed. The other legal provision made on the basis of the report was the Employment of Children Act of 1938. This was also followed from the twenty-third session of the International Labour
Conference, held in 1937, which adopted a special article exclusively on India, recommending that children below thirteen years be prohibited from work in certain categories of employment. The objective of this Act was to prevent the evils of child employment in workshops and factories not covered by the Factories Act. The Employment of Children Act (1938) was amended in 1939 and 1942. The 1938 act set the minimum age of employment in certain industries at fifteen and in the transport of goods on dock and wharves at fourteen.

In spite of various legislations, the child labour laws regulating and prohibiting the employment of children in various economic activities failed to achieve their cherished goals. According to the Labour Investigation Committee Report (1946) the main reasons of it, interalia, were the inadequate machineries, inspecting staff and their inefficiency to ensure the implementation of the provisions of the laws. (Saxena and Saxena, 1992).

The British introduced legislation restricting the employment of children in pre-independent India. The major thrust of these laws was on regulating the conditions and hours of work of children. Moreover, these laws were mainly confined to factories and mines. Also, there was no effective process of verification and strict enforcement rules. It is also important to note that no unified attempt was made by the British to prohibit child labour as such. The large number of unregulated factories and the informal sector did not come under the purview of the Factories Act of the country and others (Hazaria, 2004).

4.3 LEGISLATIONS AFTER INDEPENDENCE

India gained independence in 1947 and the Indian Constitution came into existence on November 26, 1949. Provisions were made within the Constitution to protect children from exploitation and early employment. Various articles intended for the welfare of children, protecting their freedom and dignity against exploitation, were also included in the Constitution.

The prevalence and problems of child labour was made a focal point of government policy after independence. The Preamble of Constitution unequivocally stated that social, economic, and political justice, liberty of thought, expression, belief, faith and
worship, equality of status and opportunities and fraternity, assuring the dignity of individual and unity and integrity of nation will be secured to all citizens. Further, it recognized the need for the granting special protection to children. It was intended by the founding fathers of the Constitution that children should have their distributive justice free India.

4.3.1 Child Labour Welfare under Fundamental Rights

Keeping in view the intentions of the founding fathers of the Indian Constitution, numerous provisions ensuring justice to children have been envisaged in Part-III and Part-IV of our Constitution.

Part III of the Constitution contains a long list of fundamental rights which are equally applicable to children also. The children enjoy all the fundamental rights which are granted to the citizens of India under Articles 14-18, 19, 21 and so on. Besides, there are also some fundamental rights exclusively provided for children. These are:

- Article 15(3) enables the state to make special provisions in its law to give favourable treatment to children. Preferential treatment is expected on the consideration of inherent weakness of children.
- The State shall provide free and compulsory education to all children of the age 6 to 14 years (Article 21 (A)).
- Article 23 of the Constitution prohibits the traffic in human beings, beggar and other similar forms of forced labour and exploitation.
- Similarly, Article 24 prohibits the employment of children below the age of 14 years in factories, mines or hazardous employment.

4.3.2 Child Labour Welfare Philosophy under Directive Principles of State Policy

Part IV of the Indian Constitution provides certain principles for state policy. Though these directives are not enforceable by court, yet these have been declared fundamental in the governance of the country. It is the obligation of the state to apply these principles in making child welfare legislations.
Article 39(e) and (f) direct the state to evolve a policy eliminating the abuse of tender age and to free children from the circumstances forcing them to enter into avocations unsuited to their age of strength. The state has also been directed to create social and economic conditions and infrastructure for the healthy development of children and to provide facilities and climate for the exercise of freedom and maintenance of dignity. The state is further directed to protect the children against exploitation and moral and material abandonment.

Under Article 45, a duty is imposed upon the state to provide free and compulsory education within a period of ten years of the commencement of the Constitution for all the children until they complete the age of 14 years.

Article 46 provides that the state shall promote with special care, the educational and economic interests of the weaker section of the people, and in particular of the Schedule Castes and the Schedule tribes, and shall protect them from social injustice and all forms of exploitation. The implementation of this principle, while promoting the economic and educational interests of the weaker section of the people, particularly those of Schedule Castes and Schedule Tribes, will indirectly promote the welfare of the children of these sections of the society.

Keeping in view the constitutional philosophy pertaining to child labour, many legislations have been enacted by both the central and the state governments, laying special emphasis on the responsibility of nation for the physical, mental, moral and social development of children. Some of the enactments like The Factories Act, 1948, The Minimum Wage Act, 1948, The Merchant Shipping Act, 1958, The Motor Transport Workers Act, 1966, The Plantations Labour Act, 1951, Beedi and Cigar Workers (Condition of Employment) Act, 1966 and Child Labour (Prohibition and Regulation) Act, 1986 have been enacted in line with the progressive outlook of the state for improving the working conditions of the child labourers. The main objective behind these legislations is to eradicate the evil of child labour to the extent possible and to improve their working conditions so as to allow them to develop into meaningful citizens. The basic aim of all these enactments is also to prohibit the employment of children in certain employments and regulate the conduct of the employers of child labourers in such a way that they are not exploited.
To uphold the provisions made in the Constitution, several legislations were enacted in the years following independence. These have focused on regulating the various aspects of child labour. Several committees, sub-committees and commissions have also been appointed from time to time by the government to find out ways and means to prevent child labour. Similarly, more than twenty acts enacted in this regard have provisions for safeguarding the rights of child labourers.

Besides that, the government had also appointed a 'Task Force on Child Labour' which was set up on the recommendation of the Central Advisory Board on Child Labour. On the recommendations of this Task Force, the government formulated the National Policy on Child Labour in 1987. Also the Supreme Court passed orders on December 10 1996, banning the employment of children in hazardous occupations with action to be taken against those employing children. All these efforts were directed towards the well-being and proper development of children.

As mentioned earlier, the first step in restricting child labour in the post independent era was made in 1948 by the passing of the Factories Act. The Factories Act, 1948 prohibited the employment of children below the age of 14 years. An adolescent aged between 15 and 18 years can be employed in a factory only if he obtains a certificate of fitness from an authorized medical doctor. The Act also prescribes four and a half hours of work per day for children aged between 14 and 18 years and prohibits their working during night hours. Even with the latest amendment to the Factories Act in 1987, the Indian Factories Act, 1881 has not undergone any substantial changes in its character.

The Minimum Wages Act, passed in 1948, specified that the expression "adult", "adolescent" and "child" had meaning assigned to them. It defined "child" as a person who has not completed his 15th year. However, this definition did not have any particular significance since the Act did not contain any important regulatory or prohibitory provision applicable only to child labour, except that it provided the fixing or revising minimum rates of wages, for adults, adolescents, children and apprentices (Kulshreshtha, 1978.). This act of 1948 was a landmark in the domain of child labour legislation in the country for it recognized that wages can not be left to be determined entirely by the market forces. The wages of the children working in various
sectors/activity came to be regulated by the Minimum Wages Act, 1948. The Act empowered the union and the state governments to fix minimum rate of wages payable to the employees, including the child labourers (Singh, 1998).

The Amendment to the Employment of Children Act (1938) was done in 1949 introducing a few new provisions in it. The amended provisions were:

- The minimum age for employment in workshops was raised from 12 to 15 years.
- The Act also prevented the employment of children below 15 years of age in hazardous and unhealthy occupations connected with transport of passengers and goods by railways and/or port authority.
- Children between 15-17 years of age had been permitted to work/employed; if they were allowed 12 hours rest at night and in case of railways and ports, their authorities had to maintain a register showing their names, rest intervals and date of birth of the children employed.
- The labour inspector was empowered to refer the matter to the prescribed medical authority for verification of age in case of dispute arising between the employer and the labour inspector.
- The provision of the Act were extended to cover all the factories employing young persons but not covered by the factories act.

The Plantation Labour Act was enacted in 1951. The employment of children between the ages of 12 years was prohibited under the Act. However, the act permitted the employment of child between the ages 12 years and 18 only on a fitness certificate from the appointed surgeon. The Act also prohibited night work for children. After the repeal of the Tea Districts Immigration Act (1932) in 1970, the scope of the Plantation Labour Act was broadened by amending the Plantation Labour Act in 1981.

The Mines Amendment Act, 1952 states that no child shall be employed in any mines nor shall any child be allowed to be present in any part of mine, which is below ground, or in any open cast working in which any mining operations being carried on. The Act was also further amended in 1984.
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The Merchant Shipping Act, 1958 prohibits employment of children below the age of 14 years in a ship except a training ship, home ship or a ship where other family members work. It also prohibits employment of young persons below the age of 18 as trimmers and stokers except under certain specific conditions.

The Shops and Establishment Act, 1954 defines a child as a person below 12 years (in some states the minimum age is 14 years) and prohibits their employment in shops, commercial establishments, restaurants, hotels etc. The hours of work are 7 per day in Andhra Pradesh, Bihar, Tamilnadu, Tripura, Pondicherry and West Bengal, 6 per day in Gujarat, Maharashtra, Jammu and Kashmir, Uttar Pradesh and Delhi, 5 hours per day in Himachal Pradesh, Madhya Pradesh, Karnataka, Orissa and Punjab, 3 hours per day in Rajasthan. Night work for children is also prohibited under the state laws relating to shops and commercial establishments. It varies from 6 a.m. to 7 a.m. in the morning up to 7 p.m. to 9 p.m. at night. The various State Governments have passed the Shops and Establishment Acts which are applicable within their states. The Act has often been amended to suit the given situation.

The Motor Transport Workers Act of 1961 prohibits employment of children below fifteen “in any capacity in any motor transport undertaking.”

The Apprentices Act, 1961 come into existence after repealing the original act of 1850. The Act states that no person shall be qualified for being engaged as an apprentice to undergo apprenticeship training in any trade, commercial, industrial, private or government establishment unless he is 14 years of age and satisfied such standards of education and physical fitness as may be prescribed. The Act also provides severe penalties with imprisonment up to six months, or with fine up to Rs.500 or with both for violating the provision of the Act. But the Act has been found to be self defeating for it permits apprenticeship training under section-4, if guardians/parents of the children enter into a contract for apprenticeship with the employer.

The tobacco industry, where child labour has been rampant and the handling and inhalation of tobacco have been recognized as hazardous, was drawn into the law in 1966, in the Beedi and Cigar Workers (Conditions of Employment) Act. The Act prohibits the employment of children under fourteen in any industrial premises, and “young persons” between fourteen and eighteen years were not to be engaged in work except between 6 A.M. and 7 P.M. A significant exception placed “self-employed
persons in private dwelling houses” outside the purview of the Act. This provision expressly allowed the “assistance of the members of his family living with him in such dwelling house and dependent on him.” This provision, along with the practice of subcontracting to “out-workers” who are paid piece rates for the finished product, has kept a space open for children to be engaged in bidi manufacture.

The Mines Act of 1952, the Merchant Shipping Act of 1958, the Motor Transport Workers Act of 1961, the Apprentices Act of 1961, and the Beedi & Cigar Workers Act of 1966 were concerning child labour in specific occupations. They were aimed at addressing the different sectors of the economy where child labour existed.

The Bonded Labour (Abolition) Act of 1976 was a response to a customary system of usury under which a debtor or his descendants or dependents have to work for little or no wages in order to extinguish the debt. The 1976 Act abolished the bonded labour system and extinguished the liability to repay bonded debt. Identification, release, and rehabilitation of the bonded labourers’ form the nucleus of the 1976 Act.

The Child Labour (Prohibition and Regulation) Act (CLPRA) of 1986 prohibits employment of children in a scheduled list of occupations and a scheduled list of processes. The Child Labour (Prohibition & Regulation) Act 1986 was the culmination of efforts and ideas that emerged from the deliberations and recommendations of various committees on child labour. Significant among them are the National Commission on Labour (1966-69), Gurupadaswamy Committee on Child Labour (1979), and the Sanat Mehta Committee (1984). A Child Labour Technical Advisory Committee has been tasked with advising the central government on additions to the list of prohibited occupations and processes. When enacted in 1986, the schedule concentrated on occupations and processes considered hazardous. The list grew from five to fifteen occupations and from eleven to fifty-seven processes so far. The Child Labour (Prohibition and Regulation) Act, 1986 stipulates the following:

- Bans the employment of children i.e. those who have not completed their 14th year, in specified occupations and processes.
- Lays down a procedure to decide modifications to the schedule of banned occupations or processes;
• Regulates the conditions of work of children in employment in violation of the provisions of this act, and other acts which forbid the employment of children;

• Lays down enhanced penalties for the employment of children in violation of the provisions of this act, and other acts which forbid the employment of children; and

• Brings about uniformity in the definition of the child in related laws.

Through a notification dated 26.5.1993, the working conditions of children have been regulated in all employments, which were not prohibited under the Child Labour (Prohibition and Regulation) Act, 1986. In another notification dated 10.5.2000, child labour has been banned in six more processes, thereby bringing the total to 13 occupations and 57 processes. On 10th July, 2006, two more occupations have been added, thereby bringing the total to 15 occupations. The two sections which were added in 2006 had banned the employment of children in dhabas (road side eateries), restaurants, hotels, motels, teashops, resorts, spas and other recreational centers. It purports to regulate the hours and the conditions of child labourers and to prohibit child labourers in certain enumerated hazardous industries. The 1986 Act aimed to achieve uniformity in the definition of child labour, prescribing a uniform age of fourteen years in the definition of a child. In pursuing the objective of uniformity, the 1986 Act actually reduced the minimum age for employment in merchant shipping and motor transport from fifteen to fourteen years. Further, the Act repealed the prohibition of child labour on plantations. In 2001, the Act was amended to restore the minimum age of fifteen in merchant shipping and motor transport and to restore the prohibition of child labour on plantations.

An analysis of the aforementioned legislations reveals that they focus on a number of aspects as follows.

• Ban/prohibition of work in certain employments/sectors/dangerous processes.

• Prohibition of work for children below certain stipulated ages.

• Regulation of working hours/working conditions

• Provision of rest hours, medical facilities, entertainment hours, schedule of weekly, monthly and yearly holidays, minimum wages, mode of payment and other related aspects.
The following table summarizes the child labour legislations in India starting from 1881.

**Table 4.1: History of Legislation Relating to Child Labour in India**

<table>
<thead>
<tr>
<th>Year</th>
<th>Legislation</th>
<th>Age that regulations apply</th>
<th>What it says</th>
</tr>
</thead>
<tbody>
<tr>
<td>1881</td>
<td>The Factories Act</td>
<td>7</td>
<td>Working hours limited to 9 hours</td>
</tr>
<tr>
<td>1891</td>
<td>The Factories Act</td>
<td>9</td>
<td>Working hours limited to 7 hours</td>
</tr>
<tr>
<td>1901</td>
<td>The Mines Act</td>
<td>12</td>
<td>Specifically for mines</td>
</tr>
<tr>
<td>1911</td>
<td>The Factories Act</td>
<td>9</td>
<td>Work in certain dangerous processes Prohibited</td>
</tr>
<tr>
<td>1922</td>
<td>The Factories (Amendment) Act</td>
<td>15</td>
<td>Working hours limited to 6 hours</td>
</tr>
<tr>
<td>1923</td>
<td>The Indian Mines Act</td>
<td>13</td>
<td>Raised the age to 13 years</td>
</tr>
<tr>
<td>1926</td>
<td>The Factories (Amendment) Act</td>
<td>15</td>
<td>Working in two separate factories on same day prohibited</td>
</tr>
<tr>
<td>1931</td>
<td>The Indian Ports Act</td>
<td>12</td>
<td>Related to child labour handling goods At ports</td>
</tr>
<tr>
<td>1932</td>
<td>The Tea District’s (Emigrant Labour) Act</td>
<td>16</td>
<td>Migration was prohibited without Parents</td>
</tr>
<tr>
<td>1933</td>
<td>The Children (Pledging of Labour) Act</td>
<td>15</td>
<td>First law against bonded labour</td>
</tr>
<tr>
<td>1934</td>
<td>The Factories (Amendment) Act</td>
<td>12-15</td>
<td>Employment prohibited in certain areas And employment hours restricted to 5 hrs.</td>
</tr>
<tr>
<td>1935</td>
<td>The Mines Amendment Act</td>
<td>15</td>
<td>Working hours regulated to 10 hours Above ground and 9 hours below</td>
</tr>
<tr>
<td>1938</td>
<td>The Employment of Children Act</td>
<td>13</td>
<td>Handling of goods allowed for 12-14 age</td>
</tr>
<tr>
<td>1948</td>
<td>The Factories Act</td>
<td>14</td>
<td>Concerning employment in government Establishments</td>
</tr>
<tr>
<td>1951</td>
<td>Employment of Children (Amendment) Act</td>
<td>17</td>
<td>Prohibited working for 15-17 at ports And railways</td>
</tr>
<tr>
<td>1951</td>
<td>The Plantations Labour Act</td>
<td>12</td>
<td>Prohibited working of children under 12</td>
</tr>
<tr>
<td>1952</td>
<td>The Mines Act</td>
<td>15</td>
<td>Required medical certificate for Underground work</td>
</tr>
<tr>
<td>1954</td>
<td>The Factories (Amendment) Act</td>
<td>17</td>
<td>Prohibited work at nights</td>
</tr>
<tr>
<td>1954</td>
<td>The shops and Establishment Act</td>
<td>14</td>
<td>Prohibits employments in shops, establishments</td>
</tr>
<tr>
<td>1958</td>
<td>The Merchant Shipping Act</td>
<td>15</td>
<td>Prohibits work on ship except in certain Areas</td>
</tr>
<tr>
<td>1961</td>
<td>The Motor Transport Worker Act</td>
<td>15</td>
<td>Prohibits working in any motor transport Undertaking</td>
</tr>
<tr>
<td>1961</td>
<td>The Apprentices Act</td>
<td>14</td>
<td>Prohibits apprenticeship/training</td>
</tr>
<tr>
<td>1966</td>
<td>The Beedi and Cigar Workers (Conditions of Employment) Act</td>
<td>14</td>
<td>Prohibits working in tobacco factories</td>
</tr>
<tr>
<td>1978</td>
<td>Employment of Children (Amendment) Act</td>
<td>15</td>
<td>Prohibits working on and near railway Premises</td>
</tr>
<tr>
<td>1986</td>
<td>The Child Labour (Prohibition and Regulation) Act</td>
<td>14</td>
<td>Most comprehensive Bans employment in specified industries Regulates the working condition where Not prohibited Uniformity on definition of child in Related laws</td>
</tr>
</tbody>
</table>
4.3.3 Limitations of the Child Labour Legislations

It is an irony that, despite the number of acts that have been enacted for protecting the rights of the children, the problem of child labour continues to grow alarmingly in India. A plethora of additional protective legislations have been put in place. There are distinct laws governing child labour in factories, in commercial establishments, on plantations and in apprenticeships. The acts aim to minimize the exploitation of this most vulnerable group of society. There are various legislations which have regulated and prohibited the employment of children below the age of 14 years in factories, mines and hazardous employments and have intended to regulate the working conditions of children in other employments. However, experience shows that the employers without any fear flout the provisions of these legislations and therefore, it is only on very seldom occasions that they have been punished for the violation of these provisions.

It is noteworthy that despite the fact that laws exist to regulate and prohibit employment of children in hazardous employments there is neither blanket prohibition on the use of child labour, nor is there any universal minimum age that has been set for child labourers. This provides avenues for employment of child labour. Therefore it would not be fallacious to say that inadequate legislation, as well as insufficient enforcement, is responsible for the continuation and perpetuation of the phenomenon of child labour.

As a consequence, despite the various measures undertaken by the Government to tackle the exploitation of children, India has the dubious distinction of having the largest child labour force in the world.

A major criticisms of the legislation on child labour is the lack of uniformity. The various acts define child differently. These legislations do not conform to a single agreed minimum age. The minimum age differs from Act to Act, state to state and industry to industry. This is not only true of the definition of minimum age, but also of the working hours, rest periods, night employment and even where legislations apply, the employers do not employ them. There is also hardly any case of government taking employers to courts for disregarding the various stipulations. Even
if they were caught violating the provisions of the child labour laws, the judicial punishment to them is limited and is most often nominal. As a result, the legislation does not act as a deterrent and the tendency to employ children continues. Besides, the administrative authorities have no powers to suspend licenses of a factory violating law. This conveniently ensures that no effective steps are taken to alleviate the presence of child labour.

Another major defect of child labour related laws is that they prohibit employment of children only in hazardous occupations. However, a large number of working children do not come under the term "hazardous labour" as they work in unorganized sectors like agriculture, cottage industries etc. All these are in inferior conditions and are unsuited to their physical development (Weiner, 1996). The legislation also fails to include new hazardous occupations and are unclear about the criteria that shall be used for defining what is hazardous (Burra, 1986; Fernandes, 1986).

The Child Labour (Prohibition and Regulation Act, 1986) represents a half hearted attempt by the Government of India to deal with the massive problem-its aim is not to abolish child labour but only to prohibit its use in hazardous industries. Numerous investigations make it clear that, in fact all employment is hazardous for children, and that they are regularly maimed, tortured or killed by accident or ill-treatment, even in supposedly non hazardous occupations such as garment manufacturing, food production and domestic labour (Hensman 2001). The Child Labour (Prohibition and Regulation) Act of 1986 emphasizes regulation rather than prohibition of child labour. The legislation bans the employment of children in factories, but children are otherwise permitted to enter the labour force at any age. They can be legally employed in small workshops. They are free to work in numerous fields. For example, rag picking is not classified as hazardous, though thousands of children collecting scraps of iron, glass, paper and rags often pick up bits of food to eat and are prone to tetanus and skin diseases. It is important to note that the legislation for child labour in the so called 'non-hazardous' occupations without regard for age is a violation of Articles 24, 39 and 45 of the Indian Constitution, which ban child labour and call for compulsory schooling. Incidentally, in the Unnikrishnan and others Vs the State of
Andhra Pradesh (1993) case, the Supreme Court has argued that free and compulsory education should be considered as a Fundamental Right.

Again Section II of the 1986 legislation stipulates that a register must be maintained of all children employed in the establishment and this register should be scrutinized by inspectors. But the stipulation only applies to children employed on regular basis. Since 70 per cent of child labourers are employed on casual basis, these children do not show up in the official registers. Also, the provisions do not apply to any establishment wherein any process is carried on by the occupier with the aid of his family' and this somewhat subjective phrase provides a convenient loophole.

Again a major chunk of the girl child labourers do not come under the definition of child labour because according to these laws there must be an identifiable employee and an identifiable employer. But most of the girl child labourers are mainly confined to domestic sphere and this is normally invisible. And also children working as part of the family labour do not come under the purview of Child Labour (Prohibition and Regulation) Act.

Additionally, the governmental machinery to implement these laws is inadequate. Inspectorate system does not work at all and partly as a result of this, children are often not aware of their rights. For example, under section 12 of the 1986 legislation, every establishment where children are employed is supposed to prominently display some of the provisions of 1986 legislation through notice, both in the local language and in English. Virtually no establishment complies with this provision. To add to it, the employers are not punished, as inspectors never turn up. This jurisdiction of individual inspectors is also too extensive for them to keep a regular watch on activities within their purview. The labour inspector, whenever he gets a chance to book any violation, has difficulties in collecting evidence for proper prosecution.

The parents of child labourers are opposed to enforcing such laws when poverty forces them to send their children to work in hazardous industries and when the alternative to hazardous employment is hunger and malnutrition. In spite of the Constitutional directives and multiplicity of enacted laws, millions of children have been working in India in a variety of occupations, the laws remaining placidly in bound volumes without a sign of implementation (Sundarajan, 1993).
The government in the act of 1986 gives itself the timeframe of ten years in which, it claims that it will abolish the serious problem of child labour. The government has had enough power to deal firmly with employers violating the provision of the Children Act of 1938, Factories Act of 1948, Minimum Wages Act, etc. for the past forty years, and yet this abhorrent exploitation continues. The enforcement of the new legislation has again been left in the hands of inspectors who have proved rather ineffective through all these years (Shandilya and Khan, 2003).

The new act does not specify how the welfare, health and safety of working children is to be protected. The government has taken upon itself the task of providing all welfare measures, leaving the employers rather free of this responsibility.

4.3.4 Committees and Commissions on Child Labour

Along with legislations, a series of committees and commissions have been appointed by the Government of India, either specifically on the question of child labour or on labour conditions in general to enquire into the causes or consequences of the problem and to suggest measures to reduce the incidence of child labour and to ameliorate the conditions of the child labourers. These are the Royal Commission on Labour, 1929, the Labour Investigation Committee, 1944, The National Commission on Labour, 1966, Gurupadaswamy Committee on Child Labour, 1966 and Santa Mehta Committee 1986 which deserves special attention.

The Royal Commission on Labour (1930) also known as Whitley Commission observed that the employment of children continued to be a problem since the early days of industrialization and in many cities large number of young boys were employed for long hours and the employers imposed corporal punishment and other disciplinary measures of reprehensible kind even against the small children in order to compel them to do work in their establishments. (GOI, 1936). In the comprehensive report of the Commission, it was observed, interalia that the most noteworthy effect of the 1922 Act was that the employment of children in the mills, cotton spinning and weaving industry had reduced. In its occasional references about the working conditions of children, the report mentions, “Children usually work for five hours a day without any intervals.
The Labour Investigation Committee was appointed by the Government of India under the chairmanship of Mr. D.V. Rege to collect data relating to wages and earning, employment, housing and social conditions of labour in India, and to investigate the risks which bring about insecurity, the need of labour to meet much risks and the methods suitable to meet them and the housing and factory conditions (Nongia, 1987).

The Labour Investigation Committee 1946, submitted in its report in the year 1946, observed that in various industries, especially smaller industries, the statutory prohibition of employment of children was not seriously enforced and the employment of children continued.

The Committee suggested to simultaneously adopting positive measures to wean away child labour from industrial employment. It also suggested enforcing the legal provisions through proper inspection and the provision of educational and other facilities.

The National Commission on Labour was appointed in 1966 by the Ministry of Labour, Employment and Rehabilitation under the chairmanship of Dr. P.B. Gajendragadkar and suggested measures for the improvement of the child labourers. According to the National Commission on Labour, “the employment of children is non-existent in organized industries. It persists in varying degrees in the unorganized sector. The employment of children below the prescribed age was also reported to be continuing in far off places in rural areas where the enforcement of statutory provisions was more difficult. It brought to notice that, quite often it is the feeling of sympathy rather than the desire to exploit, which weigh with employers in employing child labourers. Ironically, it is the same feeling, which makes the inspecting officers take a lenient view of breaches of the legal provisions in this respect”. In the context of employment of children, the Commission was of the view that it was indeed more of an economic problem than anything else and it amounted to denial of opportunity to children for their proper physical development and education. The National Labour Commission in its report submitted to the Union Government in 1969 recommended combination of work with education and flexible employment hours which would not inhibit education.(Tiwana, 2000).
The Guruprasadswamy Committee was appointed in 1979 by the Ministry of Labour under the chairmanship of M.S. Guruprasadswamy to look into detail, the causes leading to end the problems arising out of employment of children in India. The Gurupadaswamy Committee, in its 1979 report, identified the sectors of the economy with substantial number of working children. The report highlighted that it was a common fact that children at the age of 7 or 8 years work in various unorganized industries at meager wage, these children work for prolonged hours and develop many physical problems. These children also handle dangerous chemicals and are also employed on machines with sharp edge and blades. The Committee “summarizes the situation of children in India as one of continuing drift,” The Committee also emphasized that a minimum age of 15 years should be laid down for the employment of children for the sake of uniformity. It also stated that enactment of the statute is not the only consideration to prevent exploitation of child labour and the purpose will not be served if there is no effective administrative machinery to enforce those statutory provisions. The Committee nonetheless urged the government to strengthen its enforcement machinery and to make use of voluntary organizations and trade unions. Indeed, the Committee pressed for the enforcement of minimum wage laws for adults. Though the Committee supported primary education for children it also stressed that the present system of education does not prepare children for future occupations. Therefore, the educational curriculum must be geared to bring the maximum of skill and competence in the child. Also, the Committee called for a strengthening of non-formal education facilities for the child labourers. The Committee examined in detail the anomalies in various legislations that deal with children and recommended a single model legislation of child labour in India (Kothari, 1983).

The Committee in its report recommended:

- Setting of child labour advisory boards
- Fixation of minimum age of entry to any establishment
- Strengthening of enforcement machinery
- Formulation of effective educational policy with emphasis on integration of educational equipment with local crafts.
The Child Labour Cell was set up in 1979 is now a part of the Ministry of Labour. It formulates, and coordinates and implements policies and Programmes for the welfare of child labour. It provides grants to voluntary organizations which run action oriented projects for child labour as such as non-formal education, health care and supplementary nutrition. Grants are also released to conduct seminars and research to identity future areas for taking appropriate action.

Following the recommendations of the Gurupadswamy Committee on Child Labour, the Government of India established a special Central Child Labour Advisory Board in March, 1981 with the following objectives.

- Review the implementation of existing laws
- Suggest legislative and administrative measures for child labourers
- Review progress of welfare measures
- Recommend industries where child labour should be eliminated

During the 1980s the Government of India initiated several action oriented programmes to withdraw children from work and prevent them entering the labour market. Towards this objective, several projects have been sanctioned both by the Ministry of Labour and the Ministry of Welfare, Government of India at the grass roots level (Jains, 1996). The most significant step in this direction was the adoption of National Child Labour Policy, 1987.

The Report on Child Labour in Indian Industries, 1981 was the result of a rapid survey conducted by the Labour Bureau in certain organized and unorganized sectors of Indian industries. The report presents an account of the various aspect of child labour e.g. employment, wages and earning, working conditions, welfare facilities etc. The report found that in most factories the hours of work, as prescribed under the act were not being strictly adhered to. The report therefore emphasized the need to strengthen the enforcement machinery to make the employers fully conscious of their obligations towards child employees. The report also revealed that children of very tender age more found working in certain industries, such as match box, handloom, bidi, fishing, hotels and restaurants, repair shops etc. The wages paid to children
varied from state to state and from industry to industry, from less than one rupee in plantations and match and fire work units to a maximum of five rupees in cashew processing and textile manufacturing units. In most of the cases, the payment was on piece rate basis. The report stated that the majority of child labourers come from poor families to supplement their family income. They were compelled to discontinue their studies as there was no provision of night schools for those who wanted to continue studies. The report emphasized the need to strengthen the enforcement machinery to make the employers fully conscious of their obligations towards child labourers.

4.3.5 National Child Labour Policy

It was realized that legislation alone cannot bring an end to child labour. The main reasons for this are lack of adequate enforcement machinery, lack of political will, deliberate attempt by employers to flout the legal provisions and lack of consciousness within the minds of parents themselves who obtain false age and medical certificates to enable their children to work in different undertakings. The number of labour inspectors as enforcement officers is far from satisfactory. They can barely visit all the factories in their jurisdiction. Keeping in view the pitiable condition of child labour in India, the Government of India implemented the National Policy on Child Labour (Das, 2011). The National Policy on Child Labour was formulated in conjunction with the legal measures to address the socio economic issues and to provide a framework for a concrete programme of action. The policy encompasses action in the field of education, health, nutrition, integrated child development and employment (Bequele, 1988). The National Child Labour Policy aimed at successfully rehabilitating child labour withdrawn from employment and at reducing the incidence of child labour.

The action plan under the National Child Labour Policy comprises;

- A legislative action plan
- Focusing of general development programmes for benefitting children wherever possible, and
- Projection based action plans in areas of high concentration of child labour engaged in wage and quasi wage employment.
Within the framework of the National Child Labour Policy, some concrete steps have been taken to implement the project based plan of action through National Child Labour Projects. The projects were launched for the first time in 1988. The project envisaged a large number of activities. The major activity undertaken under the NCLP is the establishment of special schools to provide non formal education, vocational training, supplementary nutrition, stipend, health care etc. to children withdrawn from employment. The actual implementation of various schemes under the projects is being carried out by the local non governmental organizations.

Considering the complexity and the magnitude of the issue, the National Policy on Child Labour announced in 1987 emphasized the need for strict enforcement measures in areas of high child labour concentration. In order to translate the above policy into action, the Government of India initiated the National Child Labour Project Scheme in 1988 to rehabilitate the child labourers starting with 12 child labour endemic districts of the country. Under the Scheme, child labourers were identified through child labour survey, withdrawn from work and put into the special schools, so as to provide them with enabling environment to join mainstream education system. In these Special Schools, besides formal education, they were provided a stipend @ Rs.100/- per month, nutrition, vocational training and regular health check-ups. In addition, efforts were also made to target the families of these children so as to cover them under various developmental and income/employment generation programmes of the Government. The Scheme also envisaged awareness generation campaigns against the evils of child labour and enforcement of child labour laws. The NCLP Scheme was implemented through a district level Project Society, headed by the District Collector. This Project Society included prominent Non Governmental Organizations and Trade Unions of the district, in addition to the State Government officials from Education, Health, Rural Development, Labour, Social Welfare and Women & Child Development Departments, etc. The involvement of different departments in the Project Society was to ensure better convergence with these Departments for implementation of the Scheme. As far as possible, running of special schools for child labour was entrusted to NGOs. It could, however, be taken up by the Project Society itself, if competent and experienced NGOs were not
available in the district for this purpose. The funds under the Scheme were sanctioned by the Ministry directly to the District Collector, who in turn, disbursed them amongst the NGOs for running these Special Schools for child labourers. The funds were also provided under the Scheme for conducting regular child labour surveys, awareness generation programmes and training of instructors/teachers, etc. The coverage of the NCLP programme, which started with 12 districts, has been thereafter progressively increased to cover much larger number of districts in the country. In fact, major thrust to the programme came with the landmark judgment of the Hon’ble Supreme Court in December 1996 in the case of M.C. Mehta Vs. State of Tamilnadu. The Hon’ble Supreme Court gave certain directions regarding the manner in which the children working in the hazardous occupations were to be withdrawn from work and rehabilitated, as also the manner in which the working conditions of the children employed in non-hazardous occupations were to be regulated and improved upon. The Hon’ble Court specifically ordered withdrawal of children working in hazardous industries and ensuring their education in appropriate institutions. It also prescribed employment of at least one adult member of the family of the child so withdrawn from work, a contribution of Rs.20,000/- per child was ordered to be paid by the offending employer into a corpus of fund set up for the welfare of child labour & their families. Failing which, the State Government to contribute to this Welfare Fund Rs.5,000/- per child. The interest earnings of this corpus were to be used for providing financial assistance to the families of these children. The Hon’ble Court also ordered regulation of working hours for the children engaged in non-hazardous occupations, so that their working hours did not exceed 5-6 hours per day and that at least two hours of education was ensured. It further directed that the entire expenditure on education of these children be borne by their employers.

In pursuance with the directions of the Hon’ble Court, fresh child labour surveys were conducted in child labour endemic districts of the country and the States were directed to step up enforcement measures. The Hon’ble Supreme Court is monitoring the directions issued in this judgment continuously since then. Based upon the reports received from the State/U.T. Governments, the Ministry of Labour & Employment has been regularly filing Affidavits to apprise the Hon’ble Court of the progress in
this regard. The progress of implementation of the NCLP Scheme is monitored in the Ministry through the prescribed periodical reports & regular visits from the officials of the Ministry, State Government and audit departments. A Central Monitoring Committee on Child Labour headed by the Union Secretary (Labour & Employment) and consisting of State Labour Secretaries and representatives from various Ministries connected with the implementation of the project has been set up to look into the important issues faced in implementing the Scheme. The Central Monitoring Committee had recommended setting up of State Monitoring Committees for monitoring the implementation of the Scheme at the State level, which is yet to be set up in most of the States. However, as per the directions of Hon’ble Supreme Court in 1996, in the case of M.C. Mehta vs. State of Tamil Nadu, a Child Labour Cell has been formed in most of the States to implement the directions of the Hon’ble Supreme Court. This Cell has also been instrumental in monitoring the scheme.

In a related judgment on 7th May, 1997, the Supreme Court in Writ Petition Civil No.12125/84 and 11643/85- Bandhwa Mukti Morcha, etc. (Petitioner) V/s UOI & Ors. (Respondents) has also given a number of directions on the identification, release and rehabilitation of child labour. The Court, inter alia, directed Government of India to convene a meeting with the State Governments to evolve principles/policies for progressive elimination of employment of children below 14 years in all the employments consistent with the scheme laid down in Civil Writ Petition No.465/86. These directions were given by the Court in the context of employment of children in the carpet industries in the State of Uttar Pradesh. In this case, the Court issued the following directions to the Government of Uttar Pradesh:

- Investigate into the conditions of employment of children.
- Issue such welfare directions as are appropriate for total prohibition of employment below 14 years of age.
- Provide facilities like education, health, sanitation, nutritious food, etc.
The implementation of the directions of Supreme Court is being monitored by the Ministry of Labour and compliance of the direction reported to the Hon'ble Court on the basis of information received from the State/UT Governments from time to time.

An assessment of the projects revealed that no suitable mechanisms have been evolved for monitoring the implementation of the project either at the district level or at the state level. Also a number of defects were found at the implementation of the project. The task of progressively eliminating child labour calls for an effective mechanism. Setting up a Child Labour Cell in the V.V.Giri National Labour Institute in 1990 made a modest beginning in this regard with the assistance of Government of India and UNICEF. Later the cell was upgraded to the National Resource Centre on Child Labour (NRCCL). The NRCCL was set up in March, 1993 with financial support of Ministry of Labour and UNICEF. The NRCCL has established a network with various NGOs and is assisting them in various ways in implementing child labour programmes.

4.3.6 Indus Child Labour Project (INDUS)

INDUS is a technical cooperation project jointly funded by the Government of India and the Government of the United States of America. It was developed within the framework of the Joint Statement on Enhanced Indo-US Cooperation on Elimination of Child Labour signed between the two governments on 31 August 2000. The project is a collaborative effort to provide programme support in a coordinated manner to ongoing efforts undertaken by the Government of India, through the NCLPs, towards a progressively child labour free country. The project focuses on selected districts within the states of Uttar Pradesh, Madhya Pradesh, Maharashtra and Tamil Nadu, and targets 80,000 children at risk of hazardous employment in the following sectors: brick manufacturing, stone quarrying, bidi manufacturing, footwear manufacturing, fireworks manufacturing, manufacturing of matches, silk manufacturing, lock making, brassware and glassware production. The selected states have some of the highest rates of child labour, as well as a high proportion of children working in these sectors. The project also addresses the employment generation and skills development needs of 10,000 parents. The overall approach of the project is to create an enabling
environment where children will be motivated to enroll in schools, induced to refrain from working, and households provided with income generation alternatives that will not make it necessary for them to send their children to work. It seeks to work with two major programmes of the Government of India: the NCLPs and the Sarva Shiksha Abhiyan. The intervention strategy of the project consists of developing a comprehensive child labour elimination model for India by integrating four components. These are:

- strengthening public education as a measure to prevent child labour;
- providing vocational skills training to adolescents in the age group of 14-17 years;
- Monitoring the impact of child labour elimination efforts by tracking each beneficiary on the one hand and developing a child labour monitoring system on the other, to capture the shifts in child labour across different sectors;
- Providing income generating opportunities to the families of child labour. In addition, it seeks to support various initiatives aimed at ending child labour through social mobilization and awareness raising. This is combined with the building of capacities and training of government agencies and civil society partners. The project seeks to develop this model by working in partnership with the NCLP scheme of the Government of India. Several initiatives are being implemented to develop a model which can be replicated in all the NCLP districts.

The child labour program in India is national in character and involves the Government of India, the Governments of the States and the Union Territories of India, as well as such tripartite for as the Indian Labour Conference and the Standing Labour Committee. A massive national and regional media campaign has been launched to sensitize society against child labour. Funds have been allocated to districts identified as child-labour endemic for surveys to identify child labour, and for awareness generation programs among employers, parents and the child labourers themselves.
4.3.7 Contribution by National Institutions

A number of national institutions such as the V.V. Giri National Labour Institute (VVGNLI) and the National Institute of Rural Development (NIRD) and some state level institutes have played an important role in the areas of training and capacity building of government functionaries, factory inspectors, and officials of panchayati raj institutions, NCLP project directors, and heads of NGOs. These institutions have also made a significant contribution in the areas of research and surveys, awareness raising and sensitization, thus bringing the discussions on this issue to the forefront.

4.4 INTERNATIONAL LABOUR ORGANIZATION (ILO) AND CHILD LABOUR

Besides the various legislations and welfare programmes for the welfare of children, India had also ratified the Conventions which put focus on three main issues (a) minimum age of employment, (b) medical examination of the working children, (c) prohibition of night work done by children.

The international instruments on child labour may be divided into the following parts:

- International Convention and Recommendations adopted by the International Labour conference and ratified by member states.

The following table summarizes the details of ILO Conventions.

India has also ratified on December 2, 1992, the Convention on the Rights of the Child which came into force in 1990. This ratification implies that India will ensure wide awareness about issues relating to children among government agencies, implementing agencies, the media, the judiciary, the public and children themselves. The Government's endeavor is to meet the goals of the Convention and to amend all legislation, policies and schemes to meet the standards set in the Convention.
## Table 4.2: ILO Conventions

<table>
<thead>
<tr>
<th>Sl. No</th>
<th>Title of the Convention</th>
<th>Aim</th>
<th>Status of Ratification by India</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>Convention no.5: Minimum age (Industry) 1919</td>
<td>To prohibit employment of children under the age of 14 in any public or private industrial undertaking</td>
<td>Ratified on 9.9.55.</td>
</tr>
<tr>
<td>II</td>
<td>Convention no.10: Minimum age (Agriculture) 1921</td>
<td>To provide that children under the age of 14 may not be employed or work in any public or private organizational undertaking or any branch thereof, save outside the hours fixed for school attendance.</td>
<td>Not ratified</td>
</tr>
<tr>
<td>III</td>
<td>Convention no.33: Minimum age (Non-industrial employment) 1932</td>
<td>To provide that children under 14 or those over 14 years who are still required by national laws or regulation to attend primary school shall not be employed in any employment to which this convention applies.</td>
<td>Not ratified</td>
</tr>
<tr>
<td>IV</td>
<td>Convention no.59: Minimum age (industry) (revised) 1937</td>
<td>To prohibit employment of children under the age of 15 in any public or private industrial undertaking.</td>
<td>Not ratified</td>
</tr>
<tr>
<td>V</td>
<td>Convention no.60: Minimum age (Non-industrial employment) (Revised) 1937</td>
<td>To provide that children under 15 years or children over 15 years who are still required by national laws or regulations to attend primary school shall not be employed in any employment to which this convention applies.</td>
<td>Not ratified</td>
</tr>
<tr>
<td>VI</td>
<td>Convention no.123: Minimum age (Underground work) 1965</td>
<td>To provide that person under 16 years of age shall not be employed or work under ground in mines.</td>
<td>Ratified on 20.3.75.</td>
</tr>
<tr>
<td>VII</td>
<td>Convention no.138: Minimum age 1973</td>
<td>The convention relates to the abolition of child labour. The minimum age for admission to employment or work shall be not less than the age of completion of compulsory schooling (normally not less than 15 years). Developing countries may, however, initially specify a minimum age of 14 years.</td>
<td>Not ratified</td>
</tr>
<tr>
<td>I</td>
<td>Night Work Convention no.6: Night work for young person (Industry) 1919</td>
<td>Abolition of night work for young person in any public or private industrial undertaking. The provisions of the convention have been modified for India.</td>
<td>Ratified on 14.7.21.</td>
</tr>
<tr>
<td>II</td>
<td>Convention no.79: Night work for young persons (Non-industrial) 1966</td>
<td>To provide that children under 14 years of age who are admissible for full time or part time employment and those over 14 who are still subject to full time compulsory school attendance shall not be employed nor work at night during a period of at least 14 consecutive hours including an interval between 8 p.m. and 8 a.m.</td>
<td>Not ratified</td>
</tr>
<tr>
<td>Sl. No</td>
<td>Title of the Convention</td>
<td>Aim</td>
<td>Status of Ratification by India</td>
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<tr>
<td>III</td>
<td>Convention no.124: Medical examination of young person (Underground work) 1965. Seafarers conditions for admission for employment.</td>
<td>To provide that a thorough medical examination and periodic reexamination at intervals of not more than one year for fitness for employment shall required for the employment or work in underground mines of persons under 21 years of age.</td>
<td>Not ratified</td>
</tr>
<tr>
<td>I</td>
<td>Convention no.15: Minimum age (Trimmers stokers) Convention 1921.</td>
<td>To prohibit employment of young person of below 18 years as trimmers and stokers in port. If persons of over 18 years are not available then young persons between 16 and 18 can be employed. Trimmers/stokers below 16 years can be employed, subject to medical fitness, in the coastal trade of India.</td>
<td>Ratified on 20.11.22</td>
</tr>
<tr>
<td>II</td>
<td>Convention no.16: Medical examination of young persons (Sea) Convention 1921.</td>
<td>Young persons under 18 years of age can be employed on any vessel on the production of a medical certificate attesting fitness for such work.</td>
<td>Ratified on 20.11.22.</td>
</tr>
</tbody>
</table>

India is also a signatory to the World Declaration on the Survival, Protection and Development of Children. In pursuance of the commitment made at the World Summit, the Department of Women and Child Development under the Ministry of Human Resource Development has formulated a National Plan of Action for Children. Most of the recommendations of the World Summit Action Plan are reflected in India's National Plan of Action.

### 4.4.1 Limitations of ILO efforts

Most of the conventions and recommendations of ILO shows that though a few of them are relating to agricultural and non-industrial occupations, they are mainly concerned with industrial employment. In other words, they are more relevant to industrial employment. In a country like India where the bulk of the work force is in agriculture their relevance is limited. It may not be wrong to say that these conventions and recommendations have been framed and adopted with reference to
the condition prevalent in the industrialized countries and not much thought have been given to the needs of child labour in non industrialized countries.

Moreover, the mere adoption of recommendations does not mean that these are enforced in all the member countries. These conventions can come into force only after their ratification by the concerned national governments. A state may enforce them fully or partly or may not enforce them all. The Indian Government has not adopted and ratified all the conventions of ILO, which is also one of the important reasons for the unbridled growth of child labour in India.