CHAPTER – V

CHILD LABOUR – CAUSES AND REMEDIES

5.1 CAUSES OF CHILD LABOUR:

Child labour is a two fold problem. On one hand it is the outcome of parents or children's own compulsion due to poverty, lack of education, large family size etc. and on the other hand child labour is promoted by employers as it costs less to them and can be kept under control easily and more work may be taken from them.

The various causes of the child labour are discussed below:

(i) Chronic Poverty:

The root cause of the child labour is widespread poverty in developing countries. Poverty is an age-old common perennial feature, which is solely responsible for the deep seated social economic ills including child labour. Due to the poor income and poor standard of living, parents are not able to put their children to schools. The parents of poverty ridden population are faced with the bewildering question as to whether they should send their children to schools to learn or send them for the labour to increase the income of their starving families.

As Professor B. Juyal, a socialologist, says, “poor parents send away their children thinking that the carpet industry is manna for heaven, they think that their children will instantly grow very rich once they learn the skills.”
During the fieldwork it was observed that majority of the child workers belong to the low socio-economic section of the society. The sampled children reported that they are sent to work by their parents in order to supplement the family income. It was found that 70% of the respondents were having a monthly family income of less than Rs. 1,200/-, which is not sufficient to meet expenses. Therefore, the children are compelled to work so that they can earn and add to the family income.

(ii) Illiteracy of Parents and Children:

During the field work it was found that majority of the children working in the carpet industry (along with their parents) were illiterate which is one of the major reasons for presence of the child labour in carpet weaving industry of Kashmir. In most of the cases, illiteracy was attributed to the low income of the families and their consequent inability to send the children to school. Those who are literate had been to school upto the primary level. They attended the schools in the morning and worked at the looms in the afternoon and evening. During school vacations, the children devoted full time to the looms. School drop outs increase sharply after three years of the schooling or after the child attains the age of eight, which ever is earlier, as that is considered the crucial age to enter the industry. So, the parents of these working children who are also (majority of them i.e. +80%) illiterate are not aware of the fair and foul of the work. The parents are satisfied that their children are earning something and helping the family. So, the poor parents just think about present conditions. They never think of the future. Therefore, they believe in
earning of children rather than their all round development through school education and proper care.

(iii) Absence of Compulsory Education:

Absence of provision for compulsory education is another cause of child labour, because mostly children are not well off to find educational facilities at various places due to lack of unsound economy as well as educational scheme of Government. According to the 1981 census, 66% of the population of Srinagar District were still illiterate. While poverty compels them to enter the labour market, illiteracy keeps them an aware of the statutory provisions for the welfare of children.

In Europe, one country after another, Scotland, Prussia, Austria, and Sweden early, and France, England and Italy, later made education compulsory. At the end of the nineteenth century Japan became the first non-Western country to make elementary school education compulsory with a declaration by Meiji Government in 1982 and the promulgation of the Imperial prescript on education in 1980. Subsequently, non-western countries made education compulsory, most notably and the most successfully Korea and Taiwan. It should be noted that India is not among those countries that have made elementary education compulsory. Although there is a constitutional directive for universal free and compulsory education for all up to 14 years of age, even after 50 years of the Independence, neither the provision has been implemented nor parents have so far understood their responsibility to achieve this objective by sending their children to schools. On the contrary children are motivated to join the labour force to meet their own as well as family expenses. It is found that even in areas with educational facilities, parents of poor, illiterate and
traditional families send their children to labour market in the absence of a system of compulsory education.

(iv) Defective Education System and Bleak Employment Opportunities:

Some parents as well as the child workers reported that the education system is so defective, that it is unable to fulfill the needs. There is no vocational training for children in the schools, which can help them to take a job in future. The lack of teachers and other facilities in school is also a major factor for the presence of child labour. Parents of some child workers reported that now a days the schools generally remain closed due to hurdles and curfew. The unemployment of educated youth also deters the parents from sending their children to schools. They categorically state that, there is no value and use of the formal education, as a large number of the educated youths are unable to find any job. Now, these unemployed youths are at a point when they can not work as labourers. So, it is better to learn the craft in an early age, so that they can earn something through, a little wage. Besides the children gain proficiency in the craft they know that they have to work today as well as tomorrow. It was further stated by some of the parents that, due to prevailing situation in the valley, when schools remained closed most of the times, children who had joined schools earlier roam in the streets. So, it is better to put them to jobs so that, they may not roam aimlessly in the streets, and become vagabonds but can sit inside. They, on one hand, learn the craft, earn something and at the other hand remain safe too.

(v) Inadequate Income of Adult Earners of the Family:

Inadequate income of the adult earning members of the family leads to the employment of the children. In such inadequacy, children
are forced to work to supplement the family income. Employers who employ child workers get the benefits of more production at a cheaper rate.

In respect of the type of families who sent out their children for labour the greater load appeared to be on the shoulders of children belonging to nuclear families than those of the joint families. This may be due to the fact that the number of the adult earning hands are lesser in nuclear families who may find it difficult to meet the family needs. Thus, their children have to be sent out for earning additional income.

(vi) **Cheap labour:**

Children are preferred by the employers in the carpet industry due to cheapness. This is the main cause of the prevalence of the child labour in the carpet industry. Being paid low wages for long hours of work, child workers are a greater source of profit for they generate a larger surplus value for the employer. In the carpet industry adult is paid Rs. 30-35 per day and for the same amount of work a child is paid Rs. 12 to Rs. 16. It is further found that the children being uncomplained are preferred as they are made to work for more hours, and are in turn paid very low wages. The children are also preferred, as they have low bargaining powers. All this explains that children are liked more for jobs, as they can be exploited to any extent.

(vii) **Traditional occupation:**

Another reason for child labour is found to be a feeling that the craft should be transferred from one generation to another in the family. It is an age old tradition in some families that they engaged
their own children in the occupation, so that, craft secrets are not lost. But now upto some extent this tradition is loosing its importance.

(viii) **Absence of Schemes for Family Allowance:**

The prevalence of child labour is, by and large, a problem of the poor and destitute families. Economic distress of the people in the ‘Lower income group’ has been significantly responsible for the prevalence and perpetuation of child labour employment over the whole area of the history. The children of these families have got only two choices - either to work or to face starvation. Not only inadequately, poverty and destitution, but also the lukewarm trend of the Government to support such families, through any family allowance scheme, contributes to the high incidence of child labour. The absence of any sponsored scheme of family allowance enables poor parents to secure for their children an adequate and balanced diet. Living conditions has also forced them to join labour market. Today such type of allowances are given in a number of countries like Australia, America, Newzealand, U.K., France, Japan, Canada etc.

(xi) **Ineffective Legislations:**

The central Government as well as the State Government have passed a number of legislations concerning about the child labour and welfare measures or schemes to remove the child workers from hazardous occupations in India, but not enforced in proper or regular way and not taken stern steps against child labour as to what are the reasons of child labour in India and what measures are required to remove this evil. The labour inspectors and machinery concerning child labour do not follow the provisions of the acts and welfare legislative measures in the favour of child labour. Even labour
inspector, other concerning officers themselves are cause of child labour while taking hush money from employers and in own interest ignore exploitation of child labour.

Other Reasons:

The faults in the land distribution programmes in 1950s resulted in considerable decline in the acreage of irrigated land, due to the conversion of irrigated acreage into orchards, which were exempted in ceiling laws. This reduced the size of subsistence holding and the peasants had no alternative but to find alternative requirements.

Moreover, carpet industry though, facing rough weather these days, but had enjoyed peak periods since 1965 onwards (till last couple of years) as demand for Kashmiri carpets was increasing in both domestic and international markets. These increased demands resulted in mushrooming up carpet looms. Attractive/wages and shortage of labour, forced child labour to join the market.

5.2 A CHILD IS THE VICTIM OF CIRCUMSTANCES:

It is a universal fact that all children are considered to be innocent not only in the eyes of God but in the eyes of human beings also. But the irony is that, it is only the human being that exploits these innocent children in a variety of ways. None of the children loves to work but circumstances force them to opt for work. If we enquire from each child worker about their background it would be found that their stories are full of pity, tears, negligence, hatred enmity etc.

There are different reasons associated with each child, which forces him to be a child worker, though against his wishes. During the fieldwork, few children were contacted and an enquiry was made.
regarding their background and circumstances, which forced them to be a child worker. Here stories of few child workers are presented as narrated by them with an objective of understanding their plight of being a child worker.

1) **Mohd. Akbar and Mushtaq Ahmad**

*S/O Mr. Gul Shah  
R/O Shah Mohalla  
Tehsil Ganderbal.*

Both Mohd. Akbar and Mushtaq Ahmad are real brother. Akbar is the elder one. They lost their mother 3 years back. They are 14 and 8 years of age respectively. Employer as well as senior workers reported that Gul Shah (father of the children) was forced by his relatives to get married again and he did so. It was also reported that though stepmother of both Mohd. Akbar and Mushtaq is not bad, but had it been their real mother, she would have never sent her children in such a young age to work for meagre earning. They reported that Gul Shah, though religious person, is very idle man. He is a good Karigar of Kani Shawl, but he is not hard working. So the stepmother of the children decided to send these children to work so as to get some money to bring up the family. Both the brothers were new to this profession. Akbar left school when he was studying in 4th standard whereas Mushtaq in the 1st. Both reported that they want to continue their study provided their parents particularly the mother allows them to do so.
2) **Bashir Ahmad Kumar**  
*S/O Late Abdul Aziz Kumar  
R/O Kral Mohalla  
Padash, Srinagar.*

Abdul Aziz died in a cross firing in Srinagar. He left behind his wife, one son (Bashir) and three daughters. Bashir is elder one and is of 13 years of age. He works with his uncle (Abdul Rasheed Kumar) who is a factory owner and has installed loom in front of his house in a shed. Bashir’s sister Kulsum is also learning the craft and it was reported that she is also paid Rs. 15/- per day like Bashir, though, Bashir has acquired enough skill. So it is obvious here that it is economic compulsion which forces these children to work at an early age. Their uncle (Rasheed) sturdily showing his kindness reported that he was paying Kulsum well even when she was untrained.

3) **Gulshana Bano**  
*D/O Mr. Gulam Hassan  
Resident of Hanz Mohalla  
Tehsil, Ganderbal.*

Thirteen years old Gulshana Bano reported that she is working since last seven years and now being skilled enough is paid Rs. 25/- per day. She is hardly satisfied with her wage. She is having one elder brother and a younger one too. Her elder brother is handicapped and is unemployable while the younger one has been admitted to the school. He is studying in 3rd standard. She was sent to work by her parents to help them to pay for the schooling of her younger brother. While answering the questions asked by the researcher, the researcher analysed that she was not fed up of her daily schedule. She was quite
satisfied, laughing, making jokes and was enjoying with her comrades as well as with her work. Senior workers reported that she is a fast worker and a punctual girl as well.

4) **Tariq Ahmad Najar**  
*S/O Late Ali Mohd. Najar*  
*R/O Margund*  
*Tehsil Kangan*  

Tariq, the 14-year-old child, is working since last 6 years. He is having one elder brother (Nazir) who is first matriculate in their family and three younger sisters out of which two are working with him. He lost his father 3 years back. He was TB patient and was not working since last 5-6 years. They have their own loom in small premises of the house. Their father was also a carpet weaver. Tariq’s mother reported that he (Tariq) was admitted to the school, but in 2nd standard he left it, as he was not taking interest in his studies. She admitted that there was no benefit of educating children, as her Nazir (the eldest son) is Matric pass and still unemployed. She also reported that she approached Tehsil Dar Sahib and even D.C. (Deputy Commissioner) Sahib for the job of Nazir but they only made false promises. So, in her opinion, it was much better to work rather than study.

5) **Shameema Bano**  
*D/O Late Gulam Rasool Maqloo*  
*R/O Sora Anchar*  
*Tehsil Srinagar.*

Twelve year old Shameema Bano lost her father four years back. She is having 2 elder sisters (Naseema and Gulzarina Bano).
Naseema is middle pass and has joined ITI, where she is learning knitting whereas Gulzarina has never been to school and Shameema also could not get the opportunity to see the atmosphere of the school. Their mother told that Gulzarina was not interested in studies and though Naseema showed her willingness to continue her studies but when her father left his job of weaving, they were left with no option but to work on Kalbaf (carpet). She reported that her husband (late Ghulam Rasool) remained on bed for about three years. He was having throat problem and joint pain. He was not able to walk even. They were having their own loom inside the house and their father along with Gulzarina and Naseema used to work there. Her mother also helped them off and on. But after the death of their father these girls had to take the charge and are still working at their own loom. Shameema is quite anxious to go to school Even at present she is willing to join 1st standard and admitted that she will not feel shy if she gets the admission. While asking questions, these girls were frankly replying without any hesitation. All the three girls are shouldering the burden of their family. These girls have acquired some mannish character. They use to receive orders either from locals or from middlemen or contractors. When asked, their mother “why you are not going to send Shameema to school as she is willing to go to school”. She replied “Beta, Gulzarina and Naseema are mature and marriageable, so these girls are now like guests in this house. Within one or two years they will leave their home. So after that I am planning to bring my own sister’s son here and he will remain with us and Inshallah Shameema will be married to him”.

So in nutshell it is the economic compulsion again which deprived the child workers of every bliss of life. Like others Shameema is also a victim of poverty.
5.3 CHILD LABOUR LAWS – THEIR IMPLEMENTATION:

Every society has its own pattern of life suited to their livelihood. This pattern of life in old society was regulated through its norms. Social norms and values upheld by approved machinery of the society to regulate and maintain the social order. In a complex society, where social system is easily broken, it becomes much more difficult to maintain the social system. In such situation, formal law is helpful. The major functions of the legal systems are (Gandrade 1982):

1. Maintenance of public order
2. Upholding rights and duties
3. Facilitating co-operation
4. Confirming legitimacy
5. Communicating moral standards. Law is always helpful in protecting the poor and the needy.

In every society, old traditions, values and norms create difficulty in adopting new changes for development and growth of its members. Therefore, reformation is needed to change its old system to meet the needs for their welfare and development. Long ago, child labour was not a social problem, but with the change in social understanding, child labour needed legislative protection against their exploitation and for their proper growth and development.

To protect children from the adverse effects of employment especially on their physical and mental development there are several laws in India. These laws are either derived from the Indian constitution or from the International Labour Organisation (ILO) recommendations, or from the declaration of the rights of the Child

**International Labour Organisation (ILO) Efforts:**

Improvement of labour standards throughout the world is the basic aim of the ILO. It has paid particular attention to the protection of the employed children. It has sought to achieve objective of protecting children by adopting international standards in the form of 'conventions and recommendations'. A convention seeks to create obligations of binding nature and its ratification requires complete compliance with all its provisions. A recommendation, on the other hand, contains provisions, which are generally in the nature of guiding principles for action and may be implemented progressively and in parts. The ILO has so far adopted 18 conventions and 16 recommendation mainly in respect of children and young persons in connection with their minimum age for entry to employment, medical examination before employment and work during nights. India has been able to ratify 6 of the ILO conventions concerning the employment of children and young persons in industrial and non-industrial occupations.

The United Nations declaration says "the child by reason of his physical and mental immaturity needs special safeguards and care, including appropriate protection. The child shall enjoy the benefits of social security. He shall enjoy special protection and shall be given opportunities and facilities by law and by other means to enable him to develop in a healthy and normal manner and in conditions of freedom and dignity. In the enactment of laws for this purpose, the best interest of the child shall be the paramount considerations. The general assembly calls upon local authorities and national
governments to recognize these rights, without discrimination on account of national or social origin, property, birth or other status whether or himself of his family.

Constitutional And Legislative Provisions:

In our constitution, Articles 23 and 24 (i.e. Rights against Exploitation), which are under the heading ‘Fundamental Rights’ and Articles 39 clauses (e) and (f) and Articles 45, which are under the heading ‘Directive Principles of State Policy’ are relevant here for discussion on the rights of children, particularly of urban working children. According to clause (1) of Article 23, traffic in human beings and beggars and other similar forms of forced labour are prohibited and any violation of this provision shall be an offence punishable in accordance with law. This Article applies equally to all Indians and it, therefore, applies to every child also. Article 24 states that a child below the age of fourteen shall not be employed to work in any mine or engaged in hazardous employment. Clause (e) of Article 39 provides that the health and strength of workers, men and women and the tender age of children are not abused and the citizens are not forced by economic necessity to enter vocations unsuited to their age and strength. Similarly, clause (f) (42nd Amendment) of the same Article states that the State shall, in particular, direct its policy towards securing that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that children and youth are protected against exploitation and against moral and material abandonment. According to Article 45, the State shall endeavor to provide, within a period of ten years from the commencement of the constitution, for free and compulsory education for all children until they complete the age of fourteen.
Indian Statutory Provisions:

Statutory provisions regarding age for employment: Almost all states regulate employment of children. The minimum age for employment differs from state to state. The relevant statutory provisions are briefly produced below:

A. **Factory Act, 1948**: The act prohibits the employment of children below 14 years while ILO prescribes 15 years and above for employment in any factor using power and employing ten or more workers, and in a factory not using power and employing twenty or more workers on any date of the preceding 12 months. To safeguard the health of young persons between 14 to 18 years, the Act enjoins upon the employer to obtain a certificate of fitness from a surgeon and the certificate will be valid for a period of one year from the date of issue.

B. **Mines Act, 1952**: The minimum age of this Act for working in mines above ground is 15 years as recommended by ILO also. For underground employment, prescribed age limit is 16 years and above. In addition to this, a fitness certificate is also required from an authorized surgeon as in the Factory Act, 1948.

C. **Plantation Labour Act, 1951**: Under this Act, a child of 12 years and below (according to ILO 14 years) shall not be employed in plantation of tea, coffee, rubber or cinchona within an area of 10.117 hectares of more and employing thirty or more persons. A child above 12 years willing to work in plantation is required to obtain a
certificate of fitness which will be valid for the period of one year from the date of issue by certifying surgeon.

D. **Motor Transport Act, 1961** : Under this Act, minimum age prescribed for employment in every transport undertaking employing five or more workers is 15 years and above. The ILO also recommends the same.

E. **Beddi and cigarettes workers (condition of employment) Act, 1966** : Under this Act, no child who has not completed his 14 years, shall be required or allowed to work in any industrial premises where any manufacturing processes connected with making of beddi or cigar. Is carried on irrespective of the number of persons employed.

F. **Employment of Children Act 1938** : To prevent employment of children in hazardous and unhealthy occupations. The Act prohibits the employment of children below 15 years (as suggested by ILO) in any occupation connected with transport of passengers, goods or mails by railway, or a port authority within the limits of a port. The Act prohibits the employment of children in railway particularly in construction work, catering services, track and line work as well as cleaning and picking of ash pits and cinders. It also prohibits employment of children below 14 years in certain less hazardous occupations such as beedi-making, carpet weaving, cement manufacture, cloth printing, dyeing, and weaving, manufacture of matches, explosives and fire works, mica cutting and splitting, shellac manufacture,
soap manufacture and canning, etc. It may be mentioned that the Government of India has another bill to regulate employment of children.

G. **Merchant Shipping Act, 1958**: This Act prohibits the employment of children below 15 years of age in any capacity, on seagoing ships, except (a) in a school ship or training ship or (b) in a ship in which all persons employed are members of one family or (c) in home made ship of less than two hundred tonnes gross; or (d) where such person is to be employed on nominal wages and will be in charge of his father or other adult male relative.

H. **Inland Steam Vessels Act, 1917**: The Act applies to steam ships ordinarily playing in inland waters. The Act does not have any provision regulating employment of children. The reason for this omission seems to be that it is an old enactment when the community was not conscious of the need to have legislation for protection of children.

I. **Radiation Protection Rules, 1971**: Under this child below 18 years of age is not to employed at places where radiations take place.

J. **State Shops and Commercial Establishment Act**: For the implementation of this act, different states have their own rules regulating employment and working hours in shops and establishments, restaurants and hotels etc. to which the Factory Act does not apply. In Bihar, Gujarat, Jammu and Kashmir, Madhya Pradesh, Karnataka, Orissa, Rajasthan, Tripura, Uttar Pradesh, West Bengal, Goa
Daman and Diu and Manipur, minimum age for employment in shops and commercial establishment is 12 years. In Andhra Pradesh, Assam, Haryana, Himachal Pradesh, Kerala, Tamil Nadu, Punjab, Delhi, Chandigarh, Pondicherry and Meghalaya, it is 14 years while 15 years in Maharashtra. According to the ILO it is 15 years.

K. **The Children (Pledging of Labour) Act, 1933**: The Act prohibits any agreement written or oral pledge the labour of a child, whereby parents or guardians of such child undertakes to cause or allows the services of the child to be utilised for any employment in return for a payment received or to be received. A child under this Act is defined as a person who is under 15 years of age.

L. **The Apprentices Act, 1961**: Under this Act, a person shall not be qualified for being engaged as an apprentice to undergo apprenticeship training in any designated trade unless he has completed 14 years of age and fulfills the prescribed standard of education and physical fitness. The minimum educational qualification is 7th standard but for some jobs it is only 4th standard.

M. **The Contract Labour (Regulations and Abolition) Act, 1970**: Under this Act, the permissible age for the working as contract labour is 18 and above. The second important aspect of the statutory provisions for the employment of children is the number of working hours. Different Acts have mentioned different working hours.
The nature of these restrictions have been mentioned below:

1. **Hours of work**: Fours and a half hours per day have been prescribed for children under the Factory Act. Similarly, in Mines Act, for the adolescent who does not possess a fitness certificate from a surgeon working hours are 4 and a half per day. No limitations on daily working hours is prescribed under the Plantation Labour Act, 1951. Seven hours including rest period is prescribed in the employment of Children Act, 1938. Different working hours have been prescribed in different provinces for the shops and commercial establishments under the State Acts.

2. **Limitations on weekly hours of work**: No clear cut limitations have been prescribed for children under the Factory Act, 1948, the Mines Act, 1952 and the Railway (hours of employment) Rules while forty hours a week for an adolescent and a child is prescribed in the Plantation Labour Act, 1951.

3. **Regulations of Rest Intervals**: The provisions for the rest intervals has been prescribed under the Factory Act, 1948 and the Plantation Labour Act, 1951. This provision is also made under the employment of children Act, 1938, and State Shops and Commercial Establishments Acts.

4. **Night work**: The provision for restriction of night work by children in some cases even by young persons is available under the Factory Act, 1948. The Mines Act, 1952, the Plantation Act, 1951. Beedi and Cigar Workers (conditions of employment) Act, 1966 and the State
Shops and Commercial Establishments Acts. However, these provisions vary in respect of age and prohibit work during nights.

5. **Provision on shift relays and spreadover:** Under the Factory Act, 1948, it is prescribed that the period of work of children shall be confined to two shifts which shall not spread over for more than 5 hours a day. Further, children shall be permitted to work only in one shift which can be changed for not more than once in a period of 30 days provided previous permission is obtained from the Chief Inspector of the Factories.

6. **Double Employment:** Children are prohibited from working in more than one factory on any day under the Factory Act, 1948.

7. **Holidays:** Every working child under the Factory Act, 1948, Mines Act, 1952, Motor Transport Workers Act, 1961, and Beedi Workers, (conditions of employment) Act is entitled to a weekly holiday.

8. **Safety:** Under the Factory Act, children are not allowed to work on pressing cotton where cotton opener is at work. Further the Act disallows the young persons to clean, lubricate machinery while the prime mover or transmission machinery is in motion or to clean, lubricate or adjust any part of any machine if it is likely to expose her or him to risk or injury from the part.

9. **Leave:** The annual leave with wages is available to the working children who have worked for more than 240 days or more during a calendar year at the rate of one day for every 15 days of work performed by them under the

10. **Wages**: Wages of the child workers are governed by the Minimum Wages Act, 1948, and Payment of Wages Act, 1936.

11. **Penalties**: Under the Factory Act, the occupier or manager of the factory is liable to be punished if found guilty of contravention of the provisions with a sentence of imprisonment upto 3 months or a fine upto Rs. 500 or with both. The adolescents using false certificates and parents or guardians permitting double employment of a child are also liable to be punished. The employment of Children Act provides for punishment for contravention of the provisions of the act with simple imprisonment extending to one month or fine upto Rs. 500 or with both. Children (pledging of labour) Act, 1933 provides punishment to parents or guardians making an agreement to pledge labour of a child with a fine upto Rs. 50 and in the case of an employer with Rs. 200. Similarly, Beedi and Cigar Workers (conditions of employment) Act, 1966 provides for penalty of imprisonment upto 3 months and a fine upto Rs. 500 or both.

As can be seen from the above list of various Acts, the consciousness of the evils of child labour has been manifested in the legislative processes. However, it would be unrealistic to state that child labour can be completely and immediately abolished because it
would result in untold misery to the affected families. Even the ILO has realised this and in its recent publications advocates regularising child labour with improved working conditions as an interim measure before abolishing it. This does not mean that one overlooks the evils and the harm this does to the overall development of a child. The ultimate aim has to be the complete abolition of child labour as soon as possible. With this end in view, the new Bill on child labour called the “Child Labour (Prohibition and Regulation) Bill, 1986” was introduced and passed in parliament during its winter session in 1986. The aim of the Act is “prohibit the engagement of children in certain employment and to regulate the conditions of work of children in certain other employments. It will also obtain uniformity in the definition of “child” in the related laws. In the earlier Acts a child could be any person below the age of 12 to 16 years. From hence forth, “child” means a person who has not completed his fourteenth year of age. The main provisions of the new Bill are as follows:

The Child Labour (Prohibition And Regulation) Act 1986:

The Act states right in the beginning that its aim is to ‘prohibit the engagement of children in certain employments and to regulate the conditions of work of children in certain other employments.

According to this Act, the employment of Children Act, 1938 is repeated. All rules made in this Act will be in addition to the provisions of the Factories Act, 1948, the Plantation Labour Act, 1951 and the Mines Act, 1952.

1. According to this Act “child” means a person who has not completed his fourteenth year of age.

2. Again, family units and training centres are not included in the purview of the Act.
3. The Act provides for the setting up of “Child Labour Technical Advisory Committee” for the purpose of addition of occupations and processes to the schedule. A notice of at least three months will be given by the Central Government before adding any occupation or process to the schedule.

4. The Act clearly lays down that no child will be allowed to work for more than six hours per day with a rest period of one hour after three hours of work. Once a week he will be given a holiday.

5. No child will be allowed to work between 7 p.m. and 8 a.m. and no overtime will be permitted.

6. The Act clearly states that the Government can make rules for the health and safety of children who are permitted to work in any establishment. These rules can provide for matters such as cleanliness, ventilation, dust and fumes, lighting, drinking water, and sanitary facilities, etc. But there is no mention of nutrition or medical facilities.

7. The penalty for violation of the Act will range from three months to one year of imprisonment with a fine of Rs. 10,000 to Rs. 20,000.

8. If a person is found guilty he will be liable for punishment under the clauses given in section 14(1 and 2) and not under any of the previous Act.

9. Any person Police Officer or an inspector can file a complaint of an offence under this act in any court of competent jurisdiction.
THE SCHEDULE

PART (A)
(Occupations)

Any occupation connected with:

1. Transport of passengers, goods or mails by railway,
2. Cinder picking, clearing of an ash pit or building operation in the railway premises;
3. Work in a catering establishment at a railway station, involving the movement of a vendor or any other employee of the establishment from one platform to another or into or out of a moving train,
4. Work relating to the construction of a railway station or with any other work where such work is done in close proximity to or between the railway lines,
5. A port authority within the limits of any port,
6. Work relating to selling or crackers and fireworks in shops with temporary licenses and

PART (B)
(Processes)

1. Beedi making
2. Carpet-weaving
3. Cement manufacture, including bagging of cement
4. Cloth printing, dyeing and weaving
5. Manufacture of matches, explosives and fire-works
6. Mica-cutting and splitting
7. Shellac manufacture
8. Soap manufacture
9. Tanning
10. Wool cleaning
11. Building and construction industry
12. Manufacture of slate pencils (including packing)
13. Manufacture of products from agate
14. Manufacturing processes using toxic metals and substances such as lead, mercury manganese, chromium, cadmium, benzene pesticides and asbestos.
15. Hazardous processes "as defined in section 2(cb) and dangerous operations as notified in rules made under section 87 of the Factories Act, 1948 (63 of 1948).
17. Cashew and cashewnut descaling and processing.

SUPPLEMENT

Child Labour (Prohibition and Regulation) Act, 1986

In exercise of the powers conferred by section 4 of the child labour (prohibition and regulation) Act, 1986, the Central Government
hereby adds the following occupations and processes in the schedule to the said Act, namely:

1) In part A, after item (5) and the entry relating thereto, the following items and entry shall be inserted, namely:

"(6) Work relating to selling of crackers and fire works in shops with temporary licenses".

2) In part B, after item (II) and the entry relating thereto, the following items and entries shall be inserted, namely:

- (12) manufacture of slate pencils (including packing)
- (13) Manufacture of products from agate.
- (14) Manufacturing processes using toxic metals and substances such as lead, mercury, manganese, chromium, cadmium, benzene, pesticides and asbestos”.

**COMPARISON OF THE CHILD LABOUR ACTS OF 1986 AND 1938**

<table>
<thead>
<tr>
<th>Minimum Age</th>
<th>1986</th>
<th>1938</th>
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<tr>
<td>14 years for all employment</td>
<td>14 years for all employment</td>
<td>15 years employment in railways and ports.</td>
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<tr>
<td>Identifying hazardous industries</td>
<td>Technical advisory committee</td>
<td>14 years occupations and processes.</td>
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<tr>
<td>Hours of work</td>
<td>6 hours with 1 hour rest, 1</td>
<td>Not mentioned</td>
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holiday per week, no work between 10 p.m. to 7 a.m. and no overtime

Clearly specifies areas where such rules could be framed

Imprisonment – 3 months to one year and Fine Rs. 10000 to Rs. 20000

Any person can file complaint in any court of competent authority

Imprisonment – 3 months to one year and Fine Rs. 500 to Rs. 2000

Only Government Inspectors

**Implementation:**

India is a country where the largest number of child workers are employed. Its constitution gives the fundamental rights to children below 14 years of age not to be employed in any factory, any hazardous employment or mines. The constitution also requires a fundamental principle in the governing of the country that children of tender age are not forced by economic necessity to accept employments unsuited to their age, strength and that they are given opportunities and facilities to develop in a healthy manner in conditions of freedom and dignity and also that children and youth are protected against exploitation. Despite the constitutional commitment and statutory provisions the social service facilities like health, education, recreation are not fully available for the proper growth and development of the child. Majority of the population is below poverty line in various areas of the Tehsil Ganderbal, Kangan and some areas
of Srinagar Tehsil, like Ahmad Nagar, Umberhare, Pandash etc. where their minimum needs are not met. It is an established fact that poverty is the crux of the whole misery. During the field work almost everywhere it was reported by child workers, their parents and employers that it is poverty which forces children to work. Parents of child workers are not able to fulfill their responsibility to provide them with education, proper care and recreation etc. Sometimes children are bound to accept the work at the early age to meet their family expenses due to the loss of bread winner. Out of the 300 sampled child workers, 15 had lost their fathers. The general trend of the employers is to get more and more production at limited expenses. Due to varied reasons like abundance, cheaper wages, better output, lesser industrial relation problems, etc. employers prefer the employment of children over adults.

This phenomenon can be explained by one instance. Section 67-68 of the Factory Act, 1948 and Child Labour (prohibition and regulation) Act, 1986 prohibit the employment of children below the age of 14 years. To keep the units out of the purview of this act, many employers have divided their setup in small scale units. Irony is that the units which do not come under the purview of Act, have not (even a single unit) maintained records or registers of employment in connection with their attendance, salary paid, terms and conditions of employment.

Most of the employers in Tehsil Srinagar were aware of the child labour legislation. Where as in Ganderbal and in Kangan very few were aware about the same.

The provisions relating to hours of work are also violated. During the field survey, it was found that child workers use to work for 8 to 10 hours per day. Whereas Factory Act, 1948, provides for 5
working hours per day. Factory Act, 1948, also prohibits night and overtime work, and the child labour (prohibition and regulation) Act, 1986 clearly lays down that no child will be allowed to work for more than six hours per day with a rest period of one hour after three hours of work. Once a week he will be given a holiday. But it was reported during the field work by both child workers and employers that usually night work or overtime work on the loom is carried when the carpet is about to complete or during emergency or when fresh orders are received from customers. Employers told that to complete the under process carpet we need overtime and sometimes night work.

As far as welfare facilities are concerned, like weekly off day, overtime casual leave, earned leave, and medical leave and recreational, educational or any other welfare facilities, were not provided to these child workers. However, employers reported that they had provisions to give soft loan to their child workers for social or religious purposes or for family expenses as and when needed. Some employers reported that they had given to their employees advances, against their salary as per their needs but the fact is that the employers who gave soft loan to the child workers wanted to make them bound to work, till his/her loan is recovered. The Factory Act provides much more facilities to the child workers.

Out of the sampled 300 respondents, majority of them were in the age group of 7-12 years whereas Factory Act, 1948 prohibits the employment of children below 14 years and child labour (prohibition & regulation) Act, 1986, also prohibits the employment of children below 14 years of age. Majority of the respondents reported that they are threatened, beaten and scolded for any minor mistakes. Mistakes by the child are quite obvious. So it may be treated as a way of
learning. It was also reported that no compensation or medical aid is provided if during work children met with any accident.

The implementation of Child Labour Laws in our country is very ineffective. The main reasons for this are the lack of adequate enforcement machinery, lack of political will, deliberate attempt of employers to flout the legal provisions and the lack of consciousness within the minds of the parents themselves, who obtain false age and medical certificates to enable their children to work. The number of labour inspectors is pitifully low. They can barely visit all the factories in their jurisdiction. In any case, small unregistered units and the cottage industries do not come in their purview. The inspectors can easily be bribed by the bigger factory owners who issue false certificates and make false entries in their registers (if registers exist at all). When inspectors come, the children are hidden away or put into innocuous jobs.

By far the largest number of working children are in the agriculture sector where laws about minimum wages, hours of work, minimum age, etc. just, do not apply. It is no that laws do no exist but it would be impossible to enforce these laws because many more inspectors would be required who would have to travel vast distances to locate areas where the laws are being violated. This problem of enforcement exists in the entire wage earning activities in the rural areas. Similarly, children working in family undertakings and in the urban informal sector are excluded entirely from the coverage of the relevant legislation.
GOVERNMENT’S INITIATIVES

5.4 NATIONAL POLICY ON CHILD LABOUR:

The Government of India has been deeply concerned about the problem of child labour. Since independence, besides the constitutional provisions, there have been several laws and regulations prohibiting employment below a certain age and providing protection for working children. But it is well known that legislations alone can not bring an end to child labour. A national policy on child labour was therefore formulated in conjunction with the legal measures to address the socio-economic issues having a bearing on child labour and to provide a framework for a programme of action. The policy encompasses actions in the fields of education, health, nutrition, integrated child development and employment.

The Government of India adopted the National Policy for Children (NPC) in August 1974. This policy was also aimed to form part of the nation’s plan for human resource development. The NPC set out a policy framework and listed measures to provide the required service for children. It provided: “It shall be the policy of the state to provide adequate service to children both before and after birth and through the period of their growth, to ensure their full physical, mental and social development. The state shall progressively increase the scope of such services so that within a reasonable time, all children in the country enjoy optimum conditions for their balanced growth”. The policy does seem to admit that a child is entitled to enjoy his childhood through play, learning, getting parental emotions, love and nutritional and health care. Towards this end, the NPC envisaged this need for” free and compulsory education for all children up to the age of 14, provisions for health and nutritional
programmes and services, providing alternative forms of education for children unable to take full advantage of formal education for whatever reasons and measures for protecting children against neglect, cruelty and exploitation.

The government of India set up the Gurupadswamy Committee on child labour, 1979, which appeared to be impressed more by the “harsh reality” theory of child labour. The committee did not suggest the total abolition of employment of children in industrial establishments, but emphasised all-round development of the child including his education, health and employment in industries. The committee made a distinction between “child labour” and the “exploitation of child labour”, it felt that the two problems are of different dimensions. The Committee took the view 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 he is engaged endangers his health and safety”\(^2\). The Government’s Policy now laid emphasis on regulation child labour than concentrating on abolishing it altogether.

This national policy also includes provisions of free and compulsory education for all children upto the age of 14, alternative forms of education for children unable to take full advantage of formal school education for whatever reason, health and nutritional programmes and services for all children; and measures for protecting children against neglect, cruelty and exploitation. The national anti-poverty policies, the national educational policy and the national policy on health for all and on nutrition, are together expected to help
in realising the objectives of the national policy on child labour, 1987. This is clear in the following paragraph of the NPCL document.

The measures to promote employment oriented development schemes both in rural and urban areas, and the all round development and extension of adequate facilities for both formal and non-formal education, vocational education and training and in the coverage and extension of social security and family welfare measures would all go a long way to tackle the basic and root causes of child labour (NPCL, 1987:3)

The future action programme of this policy has been discussed under the following three heads:

1. The legislative action plan
2. The focussing of general development programmes for benefiting child labour whenever possible and
3. Project-based plan of action in areas of high concentration of child labour engaged in wage and quasi wage employment.

Under the legislative action plan of the Child Labour Act, 1986 a Child Labour Technical Advisory Committee has been setup to advise the Central Government on matters of implementation of this policy. It has made provisions of immediate enforcement of the Factories Act, 1948 and the Mines Act, 1951, particularly to ensure that children are not employed in hazardous occupations and to regulate their work where they are employed in non-hazardous occupations. The State and Central Government Departments and Undertakings are required to review the situation so as to ensure and if employed in non-hazardous occupations, the provisions set out for their health and safety, for the maintenance of registers and for
regulating the period and hours of work and overtime of weekly holidays and days of rest are enforced in all establishments.

The Government will also bring about changes in the Minimum Wages Act, 1948 to ensure equal wages to children and adults. Thus, it is expected, will remove the economic incentive to employ child labour at lower wages and also to remove other kinds of discrimination against child labour.

General development programmes or the benefit of child labour focus mainly on: (a) education (b) health (c) nutrition and (d) coverage by anti-poverty programmes.

The National Policy on Education, 1986 aims at universalizing primary and basic education by the year 2000 (the modified target through the expansion of formal and non-formal education sectors). In the policy document, special emphasis has been placed on covering of working children and minimization drop out rate, again of the children coming from disadvantaged families. Non-formal education centres are expected to play an important role in enrolling the retaining working children, particularly girls. These centres will also be used for imparting part time vocational courses, which will help in rehabilitating working children in both rural and urban areas. Incentive schemes have been introduced to attract children employed in wage and quasi-wage employment. There is provision for micro-planning for non-formal education centres for child labour. Especially in urban slums, non-formal programmes by the State Government and voluntary agencies will be promoted. Adequate funds would be used on a priority basis for creating the infrastructure for non-formal education centres catering to child labour. Also, efforts will be made to link the non-formal education with the open
schools and with the formal educational system to enable working children enrolled in these centres to continue their education.

State Governments are responsible for implementation of health programmes and therefore, these Governments will be persuaded to carry out their responsibilities sincerely and effectively. This will be done through a continuous dialogue, other efforts and persuasion. This programme also proposes to arrange for health screening at non-formal education centres for child labour. The Child Labour Act further states that voluntary organisations particularly in the Integrated Child Development Services will be increasingly involved in implementing nutritional and other welfare programmes for child labour. Moreover, in order to improve a number of other poverty alleviation programmes will be undertaken to raise the economic status of the families of such children.

Under the project - based plan of action, specific sectors of employment where the incidence of child labour is high have been identified. These are:

1. the match industry in Sivakasi, Tamil Nadu,
2. the diamond polishing industry in Surat, Gujarat,
3. the precious stone polishing industry in Jaipur, Rajasthan,
4. the glass industry in Ferozabad, U.P.,
5. the brassware industry in Moradabad, U.P.,
6. the handmade carpet industry in Mirzapur Bhadoi, U.P.,
7. the lock making industry in Aligarh, U.P.,
8. the handmade carpet industry in Jammu and Kashmir,
9. the slate industry in Mandsaur in Madhya Pradesh and
10. the slate industry in Markapur in Andhra Pradesh.
In each of these project areas strategies will be involved to tackle the specific problems of employment of child labour. However, this project based plan of action does not cover some other areas where the incidence of child labour is also very high and the working conditions are not conducive for mental and physical development of children. These sectors are

(1) The carpet industry of Rajasthan in Jaipur,
(2) Handlooms in Kanchipuram in the Chingleput district and Chinalemapatti in Madurai district,
(3) Powerlooms in Bhiwandi, Bombay,
(4) Zari work in Delhi and Lucknow,
(5) Hoisery in Tripur in the Coimbatore district of Tamil Nadu,
(6) The pottery industry in Khurja, Bulandshahar, Uttar Pradesh and
(7) The beedi industry in Tamil Nadu and Murshidabad and Malda in West Bengal.

The above review clearly reveals that many new and improved legislative measures and action plans have been incorporated in the Latest Child Labour Act. Still, the question which comes up here is that will the Child Labour Act, 1986 help in improving the existing material, physical and mental conditions of working children... let alone help in abolishing child labour in hazardous sectors of employment? This should be seen against the back drop of the long history of enactment and implementation of various Acts and formulations; the strategy of implementation of different policies to protect children from employment in hazardous occupations; the believe system and the callous behavior of the bureaucracy add the
grassroots level authorities and low level of social consciousness of the general public.

Furthermore, to minimise the child labour, the Government of India constituted the Central Advisory Board on child labour on 4.3.1981. The following were the terms of references of the Board:

1. Review the implementation of the existing legislation administered by the Central Government.
2. Suggests legislative measures as well as welfare of working children.
3. Review the progress of welfare measures for working children.
4. Recommend the industries and areas where there must be a progressive elimination of child labour.

It was reconstituted last on 2.11.1994 that the Union Labour Minister is the Chairman of the board. The other members of the board include representatives from the various sister ministers, members of parliament, non-government organisations representatives of the major trade unions and employers organisation. Under section 5 of the child labour (P & R) Act, 1986, the central Government is empowered to constitute a Child Labour Technical Advisory Committee for the purpose of addition of occupation and processes in the schedule to the Act. The committee consists of a Chairman and members not exceeding 10. The committee has been reconstituted on 5.2.1996 under the chairmanship of Director General of Indian Council of Medical Research.

A major activity undertaken under the NCLP is the establishment of special schools to provide non-formal education, vocational training, supplementary nutrition etc. to children withdrawn from employment under the project based action plan of
the policy. 12 NCLPs were started in Andhra Pradesh, Bihar, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Tamil Nadu and Uttar Pradesh. A major programme was launched on August 15, 1994 for withdrawing child labour working in hazardous occupations and rehabilitating them through special schools under the programme a total of two million children sought to be brought out of work and put in special schools where they will be provided with non-formal education, vocational training, stipend, nutrition and health check. As a follow up a high-powered body, the National Authority for the Elimination of Child Labour (NAECL) was constituted on September 26, 1994 under the Chairmanship of Labour Minister. The functions of NAECL are:

1. To lay down policies and programmes for elimination of child labour, particularly in hazardous employments.
2. To monitor the progress of implementation of
3. To coordinate implementation of child labour related projects of various sister ministers of the Government of India.

So far 76 child labour projects under the National Child Labour Project Scheme (NCLP) have been sanctioned for covering 1.5 lakh children. As per the available information, around 1.05 lakh children are already enrolled in the special schools. Under the Government-in-Aid Scheme, voluntary organisations are being financially assisted to the extent of 75% of the project cost for taking up welfare project for working children where they are provided with non-formal education supplementary nutrition, health care and vocational/skill training. A plan provisioning of Rs. 15 crore were made for child labour elimination programme during the VIII plan (1992-93 to 1996-97). The budgetary allocation was substantially stepped up after the
launching of programme for rehabilitation of child labour working in hazardous occupations in August 1994. During the year 1995-96, out of the budget allocation of Rs. 34.40 crore was incurred on child labour related programmed. The allocation for 1996-97 was Rs. 56 crore.

**Common Minimum Programme (CPM):**

The common minimum programme by the Government seeks to eliminate child labour from all occupations and industries and making free and compulsory elementary education a fundamental right. While the minister of labour can continue to be responsible for elimination and rehabilitation of about two million children working in hazardous occupations, the responsibility for providing compulsory education to children working in other occupations would have to be of the Department of Education. Keeping in view the policy of the Government as indicated in CPM, widespread consultations have been initiated for amendment to child labour (P & R) Act, 1986. The details of which are as follows:

a) The issue of amendment of child labour (P & R) Act, was discussed in the meeting of the National Human Rights Commission held on 12.9.1996. The commission was of the view that it will appropriate for the ministry of labour to carry out amendment to the existing law to make it more practical functional and implementable while simultaneously planning for total abolition of child labour through enactment of a new legislation.

b) Secretary (labour) has addressed letters to the secretary, department of labour, of all the states, UT Government on seeking their considered views on the amendment to the child
labour (P & R) Act, 1996, keeping in view the policy announced by the Government in CPM.

c) The State Governments were requested to express their views and make suggestions regarding the amendments to the child labour (abolition and regulation) Act in regional labour minister's conference held on 16.10.1996 at Calcutta, 31.10.1996 at Chennai and 30.12.1996 at New Delhi. The labour minister, Tamil Nadu suggested that a seminar should be organised by the Ministry of labour to consider the proposed amendments to child labour (P & R) Act, 1986.

The Supreme Court of India, in its judgement dated December 10, 1996, in writ petition (civil) No. 465/1986 has given certain directions regarding the manner in which the children working in the hazardous occupations are to be withdrawn from work and rehabilitated as also the manner in which the working conditions of the children working in the non-hazardous occupations are to be regulated and improved upon. The important directions given in the judgement December 1996, include payment of compensations amounting to Rs. 20,000 by the offending employer to every child employed in contravention of the provision of the Act, constitution of the child labour rehabilitation-cum-welfare fund, giving alternative employment to an adult member of the family in place of the child withdrawn from the hazardous occupations or payment of an amount of Rs. 5000 to each child employed in hazardous employment by the appropriate Government, completion of the survey of children working in hazardous employment within a period of six months (i.e. by June 10, 1997), payment of interest of the corpus of Rs. 2,5000 (20,000 to be paid by the employer and Rs. 5000 to be contributed by the
appropriate Government) to the family of the child withdrawn from
work. Provisions of education in a suitable institution for child
withdrawn from work and constitution of a separate cell in the labour
Department of the appropriate Government for the purpose of
monitoring.

5.5 FLAWS IN COUNTRY’S CHILD LABOUR PROGRAMMES:
Child labour is a widespread phenomenon but it has assumed
serious dimensions in developing countries. India, Pakistan, Sri
Lanka, Nepal, Bangladesh, Brazil etc. account for the highest
percentage of child labour in the world. Nearly 25% of the world
working children are in India. An I.L.O report has cited Pakistan as
the worst case of child slavery, especially in the carpet and bricklin
Industries.\(^5\) India has acquired the above shameful distinction mainly
on account of Pro-rise Policies. Persuaded by the successive
Governments’ Systematic destruction of rural life, menacing spread of
urbanization, commercialisation of education and the drastic cut in the
budgetary allocations towards various poverty alleviation schemes,
etc. are the causative factors behind the Alarming spread of child
labour, forced labour and bonded labour. According to census report
released by Govt. of India, the total number of child labour in India
was estimated as 13.6 million in 1981. Estimates vary about the
number of child labour employed in India. According to operation
research group, the number is 55 million and by the turn of the
century it will lead to more than 70 millions\(^6\).

Indian economy has been giving importance to privatization and
liberalization since the 1980s. Relaxation of administrative controls
relating to labour legislation is likely to further worsen the incidence
of child labour. The growth of the informal sector and short-term job opportunities of a casual nature may further worsen the situation.\textsuperscript{7}

The Government of India has adopted National Policy on Child Labour in 1974, 1986 and again 1987. The main component of the Policy is that “children shall be protected against neglect, cruelty and exploitation and that no child under 14 years shall be permitted to be engaged in on hazardous occupations or be made to undertake heavy work”. The policy does not relate to the varying set of reasons like the lack of basic infrastructures poor quality of education and problems pertaining to the basic conditions of the community, why the family has to depend on child labour as a survival strategy.\textsuperscript{8}

The Government is not taking the non-governmental organisation and independent experts into confidence while chalking out the latest programmes, limiting their role to these of mere delivery agents. The most obvious flaws in the country’s child labour programmes is that the adults act as self appointed. Children are made partner in the process of development and denied participation in it, an effective and realistic policy to do away with child labour will never take shop. In India, there is actually no low which prohibit children participation in jobs. There is no constitution provision for eliminating child labour. Article 24 of the Indian constitution states that no child below the age of 14 year will be engaged in any factory or mines or any hazardous employment. It says nothing about the elimination of child labour. Although Article 45 makes provisions for free and compulsory provisions to all the children upto the age of 14 years, yet the ground realities are a sad reflection on the Indian polity that during the 50 years of independence nearly 50% children in the age group of 6-14 years (90 million out of a total of 179 million) are
out of school. Almost all these 90 million children are working children in one way or the other.\textsuperscript{9}

Moreover, legislation to control and regulate child labour has been in effect for more than a century. The first attempt was made as early as in 1881 by the Factories Act, till now 14 major legislations have been passed including recent child labour (P & R) Act, 1986. This is a principle central law relating to employment of child labour which repeated the earlier employment of children Act, 1938 as far as abolition of child labour is concerned.

The comparison reveals that no fundamental changes have been incorporated in the new bill. The 1986 child labour bill seeks to protect working children in the unorganised sector and in certain kinds of occupations such as Beedi making, carpet weaving, match and fireworks industry etc. But occupation were later on also added such as building and construction, manufacturing of Slate pencil (including packing). But labour minister has not found it necessary to include balloon factory and glass industry in the schedule, where children are forced to work with the fire and dangerous chemicals. It is also silent on children working in Agriculture sector which constitute 80\% of child employment.

Section 3 of the child labour Act, 1986 says that a child can work forbidden occupations provided he is a part of family labour, needs to be deleted. There is a new section in the Act, which regulates work and hours of children on working in shops, establishments, hotels, restaurants etc. It is also stipulated that children will not be allowed to work between 7 p.m. And 8 a.m. or allowed to work over time etc. unless they are part of family labour, does this means that a child can work for his family round the clock?
The word 'hazardous' is not clearly defined in this act, and it is left to technical advisory committee to define hazardous occupations and processes. Also there is no provision in the act asking committee to prohibit child labour in an occupation or a process even if the request is backed up by relevant data and no fixed time to respond to such request by the committee. Therefore it is necessary that Central Government takes up the task of revisions of the occupations' and process' for the purpose of making additions in the schedule in a time bound and planned manner.

With modernisation and rapid industrialisation added to tremendous strides in electronics, can one precisely define what is hazardous and what is not within definite time frames? More and more hazardous job for children will make the scene with time. Some jobs that are not hazardous today will become hazardous tomorrow.

Watler Fernandes has rightly observed that the present act legalizes the entry of children in the hazardous occupations by regulating their deployment in the industries that are of course non hazardous for adults but are hazardous for children. So child labour (P & R) Act, 1986 could not make any significant impact in combating the problem of child labour. It is need of the hour to see the loopholes in the existing law and to make arrangements accordingly.

In nutshell legislation are not itself sufficient means to achieve this goal. They are only 'Tools' otherwise How would one explain the presence of 20 million working children if one goes by the official figure despite various regulations and statutes prohibiting employment of children of minors in factories and work places?
REFERENCES


