Chapter -7

Children and the State-II

The primary responsibility to bring up children is that of parents and family. However, some responsibility also came onto the state in 'particular situations' and more so, when the children moved into the world outside the family unit, in society. During the colonial period, the State tried to restructure the life of children outside the family circle, through legislation to 'protect' them. These efforts were geared to education and employment of children, and also dealt with their conduct in society. The present chapter focuses on such legislations which directly influenced the child in the 'outside world'. The first section deals with the *Apprentice Act 1850* passed in order to provide training and livelihood to the poor and orphan children, and the *Reformatory Schools Act 1897* which was passed in order to enable juvenile delinquents, to get back on to track. Improvement of the workplace environment of children, and creating some age barriers for labour were taken care of in the *Indian Factory Acts; 1881, 1891,1911,1922,1934* and *The Children Fledging of Labour Act II of 1933* and *Employment of Children Act XXVI of 1938* are discussed in the second section. In the third section *Compulsory Education Schemes 1919, 1940* are assessed. The last section sums up the impact of these legislations passed for children in this context.

I

Children are a specific group for the reason of their dependence. Moreover, if they are orphans, poor or vagrants, it becomes the duty of the state to rehabilitate them. Both the Hindu and Muslim laws had provisions for the maintenance of children. Charity for the care of poor and destitute has been a noble cause under both Hindu and Muslim laws and indirectly provided for the care of children in the case of failure.
of the family to do so. Muslim law makes it compulsory for a person who finds an abandoned child to take its charge, if he has reason to believe that it may otherwise perish.¹ Differential treatment given to children is maintained in the Dharma Shastras as well. Cursory study of the Manusmriti and The Hedaya show different punishments to children for certain offences. For example, under the Hindu law, a child throwing filth on a public road was not liable for punishment but only to admonition and made to clean it, while an adult in similar circumstances was to pay a fine and made to clean the filth.² In the colonial period some further steps were taken for adjusting these children in society through enactments.

In 1850 the colonial government passed the Apprentice Act, which was made for the purpose of helping the poor and orphans.³ This Act empowered the Magistrate to commit children between 10 years to 18 years as apprentices to employees and provided to control the relations between the employees and apprentices and provide for vocational training as part of the rehabilitation process.⁴ This Act was related to children who were brought up by public charity, and were required to learn trades, crafts and employment, by which, when they came to full age, they may gain a livelihood. Especially designed for the poor and orphans, this Act however, was for the children in general, between the ages from 10 to 18. Any child, above the age of ten, and under the age of eighteen years, could be bound as apprentice by his or her father or

---

² Manu Smriti Shloka 283. 390. Quoted in S.D. Sharma. Administration of Justice in Ancient India. 1988.61-2 A young boy having sex with a consenting adult woman under the muslim law was not punishable. The Hedaya.187. Cited in S.D. Sharma. Administration of Justice in Ancient India. The provisions show the adoption of the principle of lesser culpability of children for their criminal Activities and the purpose of punishment is correction. Ved Kumari. The Juvenile Justice System in India. 203
⁴ Section 1&2 of Apprentices Act No. XIX of 1850.
guardian to learn any fit trade, craft or employment. The term of apprenticeship was decided in the contract of apprenticeship and was not to exceed seven years, so that it was not to be prolonged beyond that time. When such an apprentice child comes of full age of twenty-one years, or, in the case of a female, beyond the time of her marriage this period was ended. Any Magistrate or Justice of the Peace could Act with all the powers of a guardian under the Act, on behalf of any orphan, or poor child abandoned by its parents, or of any child convicted before him, or any other Magistrate of vagrancy, or the commission of any petty offence. Orphan or poor child, could also be brought up, or apprenticed by the governors, directors or managers for public charity, as his or her guardians. These boys could be apprenticed in the ships of the East India Company, but later on this provision was repealed by the Repealing Act of 1870, apprenticing of such boy in sea service, and who to be agent of master of an apprentice serving in ship, these clauses were repealed by Act XXI of 1923. This Act empowered Magistrate to commit children between 10 years to 18 years as apprentices to employees and provided to control the relations between the employees and apprentices also for children between ages of 10-18 convicted in courts.

Every contract of apprenticeship was in writing and the form and contents of the contract of apprenticeship were specified. Every such contract was also signed by the person to whom the apprentice was bound, and by the apprentice, when he was of the age of fourteen years or more at the time of binding. However, when the apprentice was bound by the governors, directors or managers of a public charity, the signature of two of them, or of their secretary or officer were to be sufficient on

---

5 Section 1&2 of Apprentices Act No. XIX of 1850. The age set forth in the contracts shall be evidence of the age of the child, in all questions which arise as the right of the master to the continuance of the service.

6 Section 4. Ibid

7 Section 6 & 9. Ibid.

8 Ibid.
behalf of the persons binding the apprentice.\textsuperscript{9} Apprentices Act was valid only if it was executed in this manner or until it has been deposited in the office of the Chief Magistrate of the place or district where it had been executed. Each of the parties kept the copies of the contract.\textsuperscript{10}

The terms of service could be changed at any time during the apprenticeship, provided that the changes agreed to or the termination of the contract was to be expressed in writing on the original contract, with the signature of the parties. In fact, the apprentice could even be transferred to another ‘master’. The ‘master’ of any apprentice bound under this Act could, with the consent of the person by whom he was bound, and with the consent of the apprentice if he was above the age of fourteen years, assign such apprentice to any other person, who was willing to take him. Every such assignment was to be certified on the office copies of the contract under the hand of the Magistrate.\textsuperscript{11}

In the case of any complaint made to a Magistrate in the said territories, by or on behalf of any apprentice bound under this Act, where the person to whom the apprentice was bound refused or neglected to provide for him, or to teach him according to the contract of apprenticeship or of cruelty, or other ill-treatment by the master, the Magistrate might summon the master or his agent, to respond to the complaint, proof emerged might cancel the contract of apprenticeship, and take action against the offender. However, no contract of apprenticeship was to be cancelled, nor any master or his agent was liable to any criminal proceeding, on account of such moderate chastisement for misbehavior given to any apprentice by his master or the agent of his master, as might lawfully be given by the father to his child. On the contrary, if the complaint was filed by the master for any kind of misbehavior of such apprentice, or if such apprentice had

\textsuperscript{9} Section. 8 & 9. Ibid.
\textsuperscript{10} Section. 10. Ibid.
\textsuperscript{11} Section. 10. Ibid.
absconded, the Magistrate could issue a warrant for apprehending such an apprentice, in case of misbehavior, he or she might be given some moderate punishments. In the event of repeated misbehavior and on the demand of the master, the Magistrate might order the contract of apprenticeship cancelled.\textsuperscript{12}

If the master of any apprentice died before the end of the apprenticeship term, the unexpired portion of any premium was to be returned by the executors or administration out of the estate of the deceased or within three months from the death of the late master. The representative of the master could offer to continue with the apprentice and again was to be certified by the executors.\textsuperscript{13} Any apprentice bound under this Act, whose master died during the apprenticeship, would be entitled to maintenance for three months from and after the death of his master, out of the assets left by him, provided that during such three months such apprentice continued to live with, and serve as an apprentice to the executors or administrators of such master, or such person as they appoint.\textsuperscript{14} This Act was applicable to all British subjects, wherever or of whatever parents born, as well as other persons in the territories under the Government of India, it was applicable in Punjab and North-West.\textsuperscript{15}

The Apprentice Act 1850 was limited in scope as the Act did not cover the all-round development of the child, rather it was a legal framework to deal with children, whom the colonial government considered its responsibility and was adapted within the already existing system. The Act was not pro-child as the master had full authority of chastisement, his cruelty or misbehavior was not seriously taken to, whereas on the event of misbehavior on the part of apprentice, his apprenticeship could be cancelled. Apart from poor and orphans this Act

\begin{itemize}
\item \textsuperscript{12} Apprentices Act No. XIX of 1850. Section 13. Ibid
\item \textsuperscript{13} Section 19. Ibid
\item \textsuperscript{14} Section 21. Ibid
\item \textsuperscript{15} Ibid.
\end{itemize}
included children in general and at a very tender age, they could start living outside home, they could even be sent to the ships of the East India Company till 1870. It was not in fact concerned with the protection and well being of the child. It was designed as an alternative for the state to deal with orphans as a part of their 'welfare' programme. Its intentions are however suspect as it was extended to cover all children of a certain young age group, and provide practically free labour to 'masters'. The Apprentice Act XIX of 1850 does mark the beginning of the juvenile justice machinery. There were children who had been convicted of vagrancy or the commission of any petty offence in this system, however, this Act was transplanted by the Reformatory Schools Act, 1897.

The Indian Penal code (1860) had recognized the separate status of children. It was presumed that children below 7 years cannot have criminal intent and hence, cannot be held responsible or accountable for their actions. Section 82 of the IPC (1860) presumed the innocence of children below 7 years of age and bars them from being convicted of any offence. According to the section 83, a child between 7 years and 12 years may be convicted of an offence only if he has attained sufficient maturity of understanding to judge the nature and consequence of his conduct of that occasion.

In the Juvenile Justice system in India, juvenile delinquents and reformatories were among the issues connected with jail management on which some legislative action was called for. Many members of the Indian Jail Committee believed that if education was offered through

---

16 Information from *Minute by the Governor General*, 3.3.1864.3. quoted by Ved Kumari. *The Juvenile Justice System in India*, 136.
18 The United Nations define “child” as an individual below twenty-one years of age. Juvenile delinquency then deals with children, minor or youth below twenty-one years of age who breaks laws or fails to do what law require. The child and youth welfare code, presidential decree No. 603 defines youthful offender as “one who is over nine years but under twenty one years of age at the time of the commission of the Offence. Information from Internet.
reformatories in India, there was a great danger of unworthy parents urging their children to commit crimes to obtain government education. The idea of a Reformatory School for delinquent children was in the air for long in view of the poor prison conditions and the need for segregating delinquent children from adult offenders.\textsuperscript{19} The immediate impetus for enacting the Reformatory Schools Act was provided by the Government of Bengal's contemplation. In, 1874 Sir Richard Temple, the then Lt. Governor of Bengal, had observed that imprisoned juvenile offenders were actually growing up in vice and ignorance.\textsuperscript{20} It had been recognized that in order to protect juveniles from the deleterious influences of adult offenders they should be kept separate. The period from 1773-1850 saw a beginning of the establishment of separate homes for juvenile offenders after being convinced by arguments against sending juveniles to prison.\textsuperscript{21} But this could not take formal shape in the form of enactment till the end of 19th century.

The Reformatory Schools Act, 1897 was introduced the era for separate institutions for juveniles but was limited to only those juvenile offenders who were sentenced to term of imprisonment and were in the opinion of the Magistrate, 'fit to be sent to a Reformatory School'. This Act defined a juvenile delinquent as, any boy who had been convicted of any offence punishable with transportation or imprisonment and who, at the time of such conviction, was under the age of fifteen years.\textsuperscript{22} If a youthful offender appeared to be a proper person to be an inmate of a Reformatory School, he shall be sent to a Reformatory School, and there detained for a period which shall be subject to the same limitation.\textsuperscript{23} No person could be detained in a Reformatory School after attaining the age

\textsuperscript{19} Ved Kumari. The Juvenile Justice System in India. 146.
\textsuperscript{21} Treatise on the Juveniles Justice Act 1986.82.
\textsuperscript{22} Section.4 (a) Chapter.1 The Reformatory Schools Act, 1897 Act No.8 of 1897.
\textsuperscript{23} Section. 10 Ibid.
of eighteen years.24

Every school intended to be established or used as a Reformatory School was to be inspected by the Inspector General, and if he found that the requirements were adequate for the reception of such youthful offenders he deemed it to be a Reformatory School.25 The Governments of any two provinces could after mutual agreement, generally or specially, notify in their respective official Gazettes for the removal or transfer of the youthful offenders accordingly.26

On attaining the age of fourteen years, a license could be issued to the juvenile delinquent to live under the charge of any trustworthy and respectable person named in the license, being an employer of labour or some trade, or occupation.27 The superintendent of a Reformatory School was deemed to be the guardian of every youthful offender detained to such school. This license could be cancelled at the desire of the employer named in the license, following his death or if he ceased from business or the employ labour. If the employer had ill-treated the youthful offender, or had not adequately provided for his lodging and maintenance the license could be revoked.28 If it appeared to the Superintendent of a Reformatory School that any youthful offender had behaved well during one or more periods of his license, the Superintendent could, with the sanction of the committee, apprentice him under the provision of the said Act, and on such apprentice the right to detain such youthful offender in a Reformatory would be cancelled.29 “Every youthful offender sent to a Reformatory School who was found to be 11 years of age or more at the time of his conviction by the Magistrate was sent to the school for a period till his attaining the age of eighteen and for seven years under

25 Section. 7 (1).
26 Section. 15 Chapter. III The Reformatory Schools Act, 1897 Act No. 8 of 1897.
27 Section. 18 Ibid.
28 Section. 22. Clause 1. Ibid.
29 Section. 22. Clause 2. Ibid.
Reformatory Schools Act of 1897. Such youthful offender under the provision of the whipping Act VI of 1864 30 or under section 31 of Reformatory Schools Act VIII of 1897, such youthful offenders would, in accordance with, came under the provisions of the Act been sent to Reformatory School. 31 The State Government could make rules for regulating the periods for which juvenile delinquent that were sent to such schools according to their ages or other consideration. Any juvenile delinquent could be sent to a Reformatory School under the order of the Local government. Every juvenile delinquent sent to a Reformatory School who was found by the Magistrate to be 13 years of age or more at the time of his conviction was sent to the school for a period of five years i.e, till the age of 18. Every boy if a member of criminal tribe proclaimed in the Punjab or elsewhere under the criminal tribes Act XXVIII 1871 and of 11 years of age or under at the time of conviction was sent to a Reformatory School for 7 years.32

No youthful offender was to be sent to the reformatory if he was totally blind, insane, idiot, leper, or affected by tuberculosis, epilepsy or suffering from any permanent physical incapacity for industrial employment or he had not twice previously been convicted and sentenced for any offence, not undergone detention in jail for a period or periods amounting to three months in all. It was wholly, the District Magistrate’s opinion, whether a boy brought before him under section 10 of the Act is sent to the reformatory or not.33 In addition the officer incharge of a prison was given the powers to send the youthful offender to a Reformatory School even if he had attained the age of fifteen.

30 In addition to the punishment described in section 53 of the Indian Penal Code, offenders were also liable to the punishment of whipping. (a thrashing administrated especially as punishment
33 Ibid.
The main content of the Act exclude the girl offender, however there is mention in the chapter five of the Reformatory Schools Act, 1897, the girl offenders would be delivered to her nearest adult relatives, on such parent, guardian or relative who took responsibility for executing a bond, with or without sureties, as if the Court required, for the good behaviour of the youthful offender for any period not exceeding twelve months.34

For the control and management of every Reformatory School, the State government had a Committee of Visitors and Board of Management which had to visit the school, hear complaints, examine the punishment-book and bring any special cases to the notice of the Inspector-General. If any member of the Committee of Visitors so appointed failed or neglected his duty, he would cease to be a member of the Committee.35

This Act extended to the whole of India.36 The Lieutenant-Governor of Punjab extended section 3 to 32 both inclusive of the said Act to the Punjab from the 1st October 1903. He established a building at Delhi which previously was used as a Lunatic Asylum, together with all lands and building as a Reformatory School.37

There was a fixation of general rules for the Reformatory School at Delhi including opening or closing up the dormitories, early morning meal, midday meal and evening meal. There was a medical officer who ordinarily, visited the school once every working day, treated the sick, inspected the diet and clothing, and was responsible for the medical and sanitary arrangements. In order to encourage good behaviour, the boys were awarded good conduct badges for which monetary rewards were given. Two indifferent entries reckoned as one ‘Bad’ entry and involve forfeiture of 2 marks. Everyday 6 marks were given for cleanliness and

---

34 Section 1. The Reformatory Schools Act, 1897 Act No.8 of 1897
35 Section. 23&24. Ibid
36 Section. 31 Clause 1, 2. Ibid.
tidiness of clothing and bedding and general good conduct. It was thus possible for a boy to earn 42 marks weekly. These 42 marks had money value - 1st month-1 anā per week, 2nd and 6th month, 2 anā per week, 7th and 12th month-3 anā per week, 1 to 2 years-4 anā per week, 2 to 3 years-5 anā per week, 3 to 4 years-6 anā per week, 4 to 5 years-7 anā per week. 38

Monitors and assistant monitors received 2 anā and 1 anā respectively per week. In order to inculcate habits of carefulness, each boy was on admission and thereafter every six months, be credited with sum 6/ Rs. to cover the cost of the clothing issued to him, the value of articles issued to him being debited to his account. 39

Boys were given industrial training in the fields of agriculture and gardening, blacksmith and tinsmith’s work, carpentry, instrumental music, leather working, pottery, printing and book-binding, tailoring and weaving. Physical drill and gymnastics was also taught to all boys in accordance with the course of Punjab Education Department. 40 There was accommodation for 140 boys in the school. The average number of boys on the rolls of the Reformatory School in Delhi, for the years 1936 to 1940 was 112. 41

The Reformatory system was extended to Lahore and Montgomery jails for the mental and physical training of juveniles. 42 In addition to it, there was one Reformatory School for children of so called Criminal Tribes at Amritsar and at Palampur which provided vocational training to the criminal tribe boys to enable them to earn their livelihood. 43

38 P.G.C.S. A. Proceedings. Revision of Certain Rules and regulations of Reformatory School Delhi, 1910
39 Ibid.
40 Ibid
43 P.G.C.S. A Proceeding June. 1906.
On discharge each boy was given a certificate for the allowance for the 6th month. His thumb impression was impressed on the certificate for the purpose of identification. He was to present these coupons to the District Inspector of Schools of the district in which he was residing for the payment of his allowances. At the end of six months, if his behaviour had been satisfactory, he was provided with coupons for the allowance for the next two quarter's was awarded to him, and so on every six months till the whole of the amount to his credit had been paid to him.44

Despite, the existence of a large and well equipped Reformatory School in the province the sending of juveniles to jails continued in the province. The admission into jails of male juvenile offenders continued unduly high. In many cases this sentence was due to short terms of imprisonment. This was also no doubt due to the fact that the rules regulating admission to the Reformatory school was framed with undue stringency. There should have been no reason for the committal of boys to jail except in the very rare instances when the crime committed have been exceptionally heinous or was of a nature which would make the offender a probable source of contamination to the fellows at the Reformatory School.45 This could be explained that in many cases by the fact that the Magistrate’s estimate of the convict’s age differed from that of the jail authorities. Another point which the Inspector General of Prisons perhaps overlooked was that – when a Magistrate found necessary to call upon a juvenile to furnish security under section 107,

44 P.G.C.S. A. Proceedings. 1910 If during any period for which allowance are payable to a boy information is received that he was not conducting himself properly, the superintendent and the committee of visitors were authorized to depute any member of the Reformatory staff to visit the place where the boy was residing and to make enquiries about him.

109, or 110 code of criminal procedure and security was not forthcoming, the Magistrate would not have avoided sending the boy to jail.46

The Indian Jails Committee which gave its report in 1919-1920 pointed out eleven issues on which the government was desired to take action. The views regarding the recommendations of the Indian Jails Committee in Chapter XV of the report were the creation of Children’s Courts as being distinctly desirable. The Punjab Government was also asked for its opinion. In reply the home secretary to the Government of Punjab made clear that ‘in the Punjab the problem was not very serious except among criminal tribes. Large places like the presidency towns were no doubt congenial to the growth of the class of criminals, whereas there were no urban areas in the province comparable in size or importance to presidency towns. 47 Hence, the number of children accused of offences in any one place of the Punjab was not sufficient to justify the appointment of a special Magistrate to deal with children’s case. Only the Governor in Council considered that each District Magistrate should be left to select one of the Magistrates subordinate to him, whether honorary or stipendiary before whom all cases concerning children should be brought, and that the trial of children should be held, if possible, at a different place from the court, in which other cases generally were heard.48

Children Acts were passed for this purpose by some major provinces, namely Madras Act IV of 1920, Bengal Act II of 1922, the Bombay Act of 1924.49 Children Act in the Punjab became a reality only

in 1949 as the East Punjab Children Act was passed after the independence of the country.

Legislation on ‘offending’ children in India was initiated with the apprenticeship of poor and orphans with the Apprentice Act 1850, which required that children between the ages of 10-18, largely from poor families or orphaned, would be imparted vocational training as part of their rehabilitation process. This Act was substituted by the Reformatory Schools Act 1897. The Reformatory Schools Act, 1897 introduced separate institutions for juveniles but was limited only to those juvenile offenders who were sentenced to term of imprisonment and were in the opinion of the Magistrate, fit to be sent to a Reformatory School. The youthful offender convicted with any offence punishable with transportation or imprisonment and under the age of fifteen years was to be sent to these Reformatory Schools. The officer incharge of the prison could recommend any youthful offender to the Reformatory School even above the age of fifteen. Every youthful offender sent to a Reformatory School who was 13 years of age or more at the time of his conviction was also sent to school for a period till his attaining the age of 18, i.e., for five years. Every such offender who was a member of criminal tribe proclaimed in the Punjab elsewhere under the Criminal Tribes Act XXVIII 1871 of 11 years of age or under at the time of conviction was sent to a Reformatory School for 7 years, till attaining eighteen years of age. Such youthful offenders could be also licensed for apprenticeship, and the Superintendent could, with the sanction of the committee, apprentice him under the provision of the said Act, and on account of his good behaviour such apprentice the right to detain such youthful offender in a Reformatory would be cancelled. There were some limitations for sending youthful offender to Reformatory School in the case he was physically unfit or otherwise not ineligibility due to the technicalities of the administration. The main content of the Act excluded girls and any girl offenders were to be delivered to her nearest adult relative, on such
parent, guardian or relative had to execute a bond, with or without sureties, if the Court so required taking responsibility for her satisfactory behaviour for a year.

The Acts, Apprentice Act as well as the Reformatory Schools Act were so designed to meet the needs of the colonial regime and coincidentally met with the traditional ideas in society. Although, the colonial state took the responsibility of such children, but in the true sense childhood was denied to them. The second Act merely replaced the former and gave increased powers to the government to deal with juvenile delinquents, neither was geared to meet the needs of children and protect them.

II

The traditional concept in most societies is that children should be socialized in such a way that they contribute to the maintenance of the family. Early in life children began the process of entering adulthood through a participation in work or apprenticeship. Children, below the ages of fifteen, had for a long time, been contributing to the world economy in some form or the other. The main reasons for employing children were the latter’s easy availability on lower wages, poor economic conditions, absence of any protection for unemployed adult labour, and the lack of educational facilities which collectively pushed parents to send their children to work or include them in family labour at a very early age.50

The province of the Punjab was largely an agricultural region, where the family was the basic unit of production. The place of work being close to the home, men, women and children all participated in the production process. A large number of children worked in the agricultural sector, though, the actual proportion of child workers in the

50 K.Srinivasan P.C. Saxena. and Tara Kantikar (eds.) Demographic and Socio Economic Aspects of the Child in India. 199
<table>
<thead>
<tr>
<th>Year</th>
<th>Number of adult</th>
<th>Number of children</th>
<th>Male</th>
<th>Female</th>
</tr>
</thead>
<tbody>
<tr>
<td>1911</td>
<td>24668</td>
<td>506</td>
<td>485</td>
<td>21</td>
</tr>
<tr>
<td>1912</td>
<td>26290</td>
<td>703</td>
<td>633</td>
<td>70</td>
</tr>
<tr>
<td>1913</td>
<td>27053</td>
<td>792</td>
<td>725</td>
<td>67</td>
</tr>
<tr>
<td>1914</td>
<td>26362</td>
<td>1132</td>
<td>940</td>
<td>192</td>
</tr>
<tr>
<td>1915</td>
<td>25518</td>
<td>1104</td>
<td>931</td>
<td>173</td>
</tr>
<tr>
<td>1916</td>
<td>27149</td>
<td>1064</td>
<td>968</td>
<td>96</td>
</tr>
<tr>
<td>1917</td>
<td>27818</td>
<td>935</td>
<td>857</td>
<td>78</td>
</tr>
<tr>
<td>1918</td>
<td>33758</td>
<td>900</td>
<td>759</td>
<td>141</td>
</tr>
<tr>
<td>1919</td>
<td>32579</td>
<td>1236</td>
<td>1033</td>
<td>203</td>
</tr>
<tr>
<td>1920</td>
<td>36370</td>
<td>1231</td>
<td>1093</td>
<td>138</td>
</tr>
<tr>
<td>1921</td>
<td>33758</td>
<td>1030</td>
<td>975</td>
<td>55</td>
</tr>
<tr>
<td>1922</td>
<td>36370</td>
<td>1639</td>
<td>1473</td>
<td>166</td>
</tr>
<tr>
<td>1923</td>
<td>-</td>
<td>1564</td>
<td>1467</td>
<td>97</td>
</tr>
<tr>
<td>1924</td>
<td>-</td>
<td>981</td>
<td>926</td>
<td>55</td>
</tr>
<tr>
<td>1925</td>
<td>-</td>
<td>1176</td>
<td>1072</td>
<td>104</td>
</tr>
<tr>
<td>1926</td>
<td>-</td>
<td>1044</td>
<td>872</td>
<td>172</td>
</tr>
<tr>
<td>1927</td>
<td>-</td>
<td>761</td>
<td>726</td>
<td>41</td>
</tr>
<tr>
<td>1928</td>
<td>-</td>
<td>783</td>
<td>736</td>
<td>47</td>
</tr>
<tr>
<td>1929</td>
<td>-</td>
<td>788</td>
<td>758</td>
<td>30</td>
</tr>
<tr>
<td>1930</td>
<td>-</td>
<td>805</td>
<td>778</td>
<td>27</td>
</tr>
<tr>
<td>1931</td>
<td>-</td>
<td>738</td>
<td>717</td>
<td>21</td>
</tr>
<tr>
<td>1932</td>
<td>-</td>
<td>516</td>
<td>497</td>
<td>19</td>
</tr>
<tr>
<td>1933</td>
<td>-</td>
<td>529</td>
<td>492</td>
<td>37</td>
</tr>
<tr>
<td>1934</td>
<td>-</td>
<td>515</td>
<td>489</td>
<td>26</td>
</tr>
<tr>
<td>1935</td>
<td>-</td>
<td>733</td>
<td>711</td>
<td>22</td>
</tr>
<tr>
<td>1936</td>
<td>-</td>
<td>992</td>
<td>917</td>
<td>75</td>
</tr>
<tr>
<td>1937</td>
<td>-</td>
<td>724</td>
<td>690</td>
<td>34</td>
</tr>
<tr>
<td>1938</td>
<td>-</td>
<td>835</td>
<td>792</td>
<td>43</td>
</tr>
<tr>
<td>1939</td>
<td>-</td>
<td>909</td>
<td>902</td>
<td>7</td>
</tr>
<tr>
<td>1940</td>
<td>-</td>
<td>659</td>
<td>656</td>
<td>3</td>
</tr>
</tbody>
</table>

*Computed from Punjab Government Annual Reports on the working of the Factories Act.*
cultivation in the province cannot be determined. However, the setting up
of Zamindari schools in 1886 to educate the rural working children,
points towards the somewhat, universal existence of children as workers
in the agricultural sphere. The government specified that these children
had to be placed on the half-time system, each boy being required to
attend one school meeting either in the morning or in the evening; except
during the time of harvest, underlining clearly that they helped their
parents in agricultural operations in the rural areas. Children as
workers in the agricultural sphere would be participating in all processes
of agricultural activity from an early age in rural areas. This type of work
was not considered 'exploitation'.

In the non-agricultural sector too, children worked in shops,
hotels, restaurants, theatres and film studios. On the street they worked
as messengers, newspaper vendors or distributed advertising matters,
polished shoes or 'boot-black', sold goods, sang or performed
for 'profit'. Children served in bars, sold and delivered intoxicants,
some children were employed in billiard rooms, racing stables, in
sanatoria or baths. In hospitals, in driving vehicles and were employed
in 'houses of ill-fame' and occupation prejudicial to morals. Besides this,
children served as helpers and punkah- pullers. In the initial phase of
industrial development, most industries continued the traditional pattern
of family participation and employed a considerable number of women
and also children, as recorded in government reports.

Children were employed in a variety of factories of the Punjab like,
flour rice husking and oil mills, (Gujranwala, Shiekhupura, Jhang,
Shahpur, Hoshiarpur, Ferozpur and Hissar); sugar mills (Sonepat); brick

---

51 Report on the status of woman in India, 149
52 Ibid.
53 Proceedings Revenue/Industries. Age of admission of children in non-agricultural
occupations. 1932
54 Ibid.
London. 1904. 28
56 Report on the Status of Woman in India, 149
kilns (Lyalpur); saltpetre factories, (Sialkot), furniture making. Brass factories (Lahore, Rawalpindi, Batala, Delhi and Amritsar); cotton bailing presssing and ginning (Lahore); glass factory (Ambala); lime and tobacco grinding (Amristar); tent and rope making (Rawalpindi); petroleum refinery (Amristar); breweries (Rawalpindi); tea estates (Kangra); wooden works (Shahpur), threadmaking (Delhi and Dhariwal); making of sport goods (Multan, Lahore), leather tanneries (Sheikhupura, Sialkot), saw mills (Jhelum), match making (Shahdara). Apart from this the children were even employed in Government offices and printing offices, railways workshops (Lahore, Rawalpindi), arsenals (Rawalpindi) other governmental organizations and municipal water works (Ludhiana).57

The Punjab district gazetteers also reported that in 1901 the maximum number of children was employed in the Lahore district 282, followed by Delhi 146 and Bhawalpur 62. These figures swelled to 300 for Lahore and 176 for Bhawalpur by 1905. The report on the Working of Factories Act 1908 numbered working children in the district of Lahore at 288, Ferozpur 154 and Delhi 147. The largest proportions of children worked in the cotton cleaning, bailing, ginning, weaving, spinning and thread making activities. According to the district gazetteers in 1901, over 54 percent of the working children were in these occupations and 45 percent in 1931. The several major areas of work in factory were in the public sports, rice and flour mills, survey apparatus, railway workshop and repair shops. Of the total 10 percent of children were working in public sports and about 2 percent in rice and flour mills by 1901-02. In 1930-31 about 13 percent were in public sports and 10 percent in rice and flour mills rest being the others. About 19 percent of the total children were in government industry in 1901 (arsenal railway workshop and survey apparatus etc.), which rose to 27 percent in 1925-26.58

57 Punjab District Gazeteers, 1901-31.
58 Collected from Punjab district Gazetteers, 1901-31.
Marginal number of children was however employed in the factories in Punjab as the annual reports on the working of the factories Act suggests.\textsuperscript{59}

The conditions under which children were working was however, dismal, in fact deplorable, especially in spinning mills and carpet making. Mr. O.F. Lumsden, Financial secretary of Punjab in a letter to the Deputy Commissioner of Punjab pointed out.\textsuperscript{60}

“\textit{The comparison between factory children and those of the same age working similar hours in various vernacular and industrial schools differed remarkably, while the latter were bright alert, interested in their work and of good physique, the former were thin, weak looking, tired, restless and poorly developed. To allow tiny children of nine years of age to be put on to hard work, in the stuffy atmosphere and din of a spinning mill, is only sowing the seeds weak generations.”} Mr. Taffs (Revenue Secretary, Punjab) remarked “it is disappointing to learn that Indian employers still show marked indifference to the well being of their employees as evidenced by the refusal to allow the proper rest interval, the deliberate disregard of the weekly holidays, the sweating of women and children and the squalid and unsanitary nature of the housing accommodation provided.”\textsuperscript{61}

The condition of children in the rug factory was so pathetic and is described by an eyewitness, Miss Campbell in a letter to the editor Civil & Military Gazette.

\textsuperscript{59} See Table 7.1.
\textsuperscript{60} Administrative proceeding. Commerce and Industry. 1906. 15-1 and Report on Working of Factory Act in the Punjab During the year 1916. 6.
\textsuperscript{61} Ibid.
Sir, I had occasioned to visit one of India’s most famous rug Factory in Amritsar, two evenings ago. Friends in the homeland wanted some learning about prices. After walking from one of the long work rooms of the factory, I came away with a sad heart. The rugs were all that could be desired in pattern, in texture, and in design. Hundreds of them were being woven in the looms, but it was the workers that brought sorrow to my heart. In almost every case I found one man and five or six boys working at a loom. Boys of ten and twelve years of age were working away most industriously. I inquired about their lives. It seemed inexpressibly sad that boys as young as these, who already show traces of the hard lives, they have to lead, should have to work from dawn till dusk, day in and day out. They were all exceedingly thin and pale.62

The age of children employed in industries was from 5 a.m. onwards. They woke up or were dragged from their bed early. At 7o’ a.m. every morning and worked at the loom till 12’ O clock, after for a break they again worked till dusk. Though they were not given physical punishment but they were threatened and frightened by words. There were other instances of abuse in connection with child labour, for example, an alleged practice of impersonation, where by children obviously over fourteen were sent before the certifying doctor by which trick a younger child later become a certified full timer. Another problem was that the surgeon who had to certify whether the child was a minor or not often entered younger children as over fourteen later by the provisions of the factories Act. They might be totally unfitted for factory

labour under the law that was no concern of his, he had merely to certify regarding their age by 'guestimate'. 63

Mr. Golvin, who introduced the first Factory Bill on October 17, 1879, pointed out that the hours of labour were not limited by any government regulations, the working day was fatiguing, while women and children were largely employed and without any periodically recurring day for rest, like Sundays. 64 The object of the Bill was to provide security of life and limb from accident and to protect children and young persons who had not attained an age at which they could be considered free agents. 65

The Indian Factory Act XV of 1881 applied to establishments using mechanical power and employing 100 or more persons. Besides the Act provided that no child was to be employed below the age of seven and the maximum number of hours of work fixed for them was nine. Four compulsory holidays were also provided per month. The fencing of dangerous machinery was laid down as also the reporting of accidents. 66

There were only few factories in the Punjab in 1881 which used mechanical power and which employed 100 or more persons in their establishment and more so child workers. The Act XV of 1881 being applicable to only such establishment could not be put to much use here. The Act had not made any provision for the inspectorial staff, so it

63 In England no child was allowed to be employed at all under the age of eleven years, and workers from thirteen to eighteen years of age were largely known as young persons can only be employed for a prescribed number of hours daily. : Administrative proceedings. 1906. 15-16.
64 Helen R. Sekar. Child Labour Legislation in India A Study in Retrospect and Prospect. V.V. Giri National Labour Institute. Noida. U.P.

287
remained a dead letter owing to inadequate inspectorial staff.\textsuperscript{67} The Act had failed to provide any protection for the children. The working of this Act can be judged from an account of an English Journal

“They commence in this hot weather at 5.30 and work till 6-30, 13 hours probably and 13 ½ hours. They have to walk three miles back to their homes in the evening, and three miles back in the morning. So that 15 to 15 ½ hours were daily consumed in work and the remaining 8 ½ to 9 hours at home not in sleep, for the morning meals has to be cooked before they leave and evening meals after their return.” \textsuperscript{68}

The failure of the Act of 1881 to provide protection to children and women labour prepared the ground for the amendment of the Act. A British factory inspector inquired into the matter in 1882 and the International Labour Conference at Berlin (1890) also recommended the regulation of women and child labour. In 1890 another factory commission was appointed on the recommendations of which was passed the Indian Factory Amendment Act of 1891.\textsuperscript{69}

The Factory Act of 1891 was applicable to the premises in which 50 or more persons.\textsuperscript{70} The local government was empowered to extend the Act to premises employing 50 or more persons and using mechanical power. The other provisions were compulsory recess of half an hour in the middle of the day. Fixation of the age of children for employment from 9 to 14 years, limitation of their working hours to 7 and prohibition of their employment in dangerous jobs, provision of a weekly holiday and restriction of the employment of women and children workers between 8

\textsuperscript{67} Only the district Officers were expected to enforce the Act and its regulations without any addition to their staff. Iqbal Nath. Social Legislation in Punjab Since Annexation. 133

\textsuperscript{68} Punjab Government. Home Department (General Proceedings). October. 1888. Quoted by Ibid. 133


\textsuperscript{70} Helen R. Sekar. Child Labour Legislation in India A Study in Retrospect and Prospect. 39
P.M. and 5 A.M. The Act also empowered the provincial government to make rules for sanitation and ventilation in the factory and made provision for inspection and imposition of fine on defaulters.

In the factories Act 1891, the scope was widened as the Act was now applicable to premises employing 50 persons; a clause was added for the prohibition of children in dangerous jobs, age of children was fixed at 9-14 years and the hours of work shortened to 7 hours per day. This Act came into force on 1, January, 1892 and was operative till the Act of 1911 came into force.

By 1911 there was a spurt in the number of factories by more than 6 times and the proportion of factory workers increased by about four times in the Punjab. This was largely because of the introduction of electricity in the factories in the last decade of the 19th century. Industrial activity had consequently greatly increased. The plague which broke out in 1898 created a great shortage of labour and consequently the working hours were increased and more children sought as labour. The Act of 1891 naturally became inadequate. In December 1906 the Government of India appointed a small committee known a Freer Smith Committee to conduct a preliminary inquiry into the condition of factory labour in the country.71 A Factory Commission was also appointed in 1907. Mr. Harvey on 30th of July 1909 introduced a bill to consolidate and amend the laws regulating labour in Factory in the Viceroy's Legislative Council. This bill was based on the recommendations made by the Freer Smith Committee 1906 and the Factory Commission of 1907. After the usual procedure the bill was finally passed on 21 March. 1911.72

71 Government of India Statement Exhibiting the moral and material progress and condition of India, year 1905-06. 179. Quoted by Iqbal Nath, Social Legislation in the Punjab Since Annexation.
72 Jose P. Verghese. A. Documentation on Law relating to employment of children, National Centre for Human Settlement and Environment. New Delhi. 37
The main provisions of the Act of 1911 were prohibition of employment of children at night in the Factories, reduction of the working hours of children to 6 in textile sector, provision of compulsory rest intervals and the Act was also extended to all factories employing 50 hands or more in any part of the year and could by the order of the Provincial Government be extended to factories employing 20 hands or more also. The Factories Act of 1911 did not bring any major change as far as children were concerned, except that it was extended to the premises employing 50-20 persons.

The condition of the factory workers was still not satisfactory. The following paragraph from a Government report of 1913 supports this view.

“......early morning surprise visit soon disclosed the fact that the majority of ginning factories in the Punjab were working not only excessively long hours (in some case 16 hours) without any recess period being given whatever ... Large number of small children were found working illegal hours without having been previously certified or entered in the factory register.”73

Child labour thus, had actually extended and worsened in the factories of the Punjab despite Factory Acts and legal structures as these were not implemented on the ground.

In the meantime the International Labour Organization was established as a part of the League of Nations under the Treaty of Versailles in 1919. Its first meeting was held in Washington in the same year 1919 which adopted among other thing resolutions on hours of work, minimum age, night hours for woman and young persons which was ratified by the Government of India in 1921.74 The Indian Factory

73 Punjab Government Annual Report on the working of The Indian Factory Act, 1911 in the Punjab year, 1913. Lahore. 3
Act of 1911 was consequently amended in 1922, making a complete revision in the factory law. The Factory Amendment Act of 1922 was applicable to all factories using machinery and water or electric power, being worked by no less than 20 people. The local government could extend the provision by notification to any premise employing 10 or more persons with or without power as well. Prohibition of the employment of children below the age of 12, the employment of children between 12 and 15 year for more than 6 hours daily, and prohibition of employment of the children between 7.0 P.M and 5:30 a.m. was laid down. Medical examination of the age and physical fitness before admission to employment in factory was directed. Children were required to undergo re-examination for continuing work if considered necessary by an inspector.\textsuperscript{75}

In the Factories Act 1922, there were some major breakthroughs since 1911, the provisions of the Act were applicable to the premises employing more than 20 persons, the age limit for the entry of children to factories raised to 12 years, and they could work for only six hours a day. In addition to it a scheme for medical examination of the age and physical fitness before admission to employment in factories was introduced.

In 1929, the Royal Commission on Labour was appointed in response to the continuous agitation of the workers with Mr. John Henry Whitley as President to inquire into and report on the existing conditions of labour in industrial undertakings and plantations in British India on the health, efficiency and standard of living of the workers and on the relations between employers and employed and to make recommendations.\textsuperscript{76}

\textsuperscript{75} Moral and Material progress report, 1923-24.
\textsuperscript{76} Iqbal Nath. Social Legislation in Punjab Since Annexation, 208
A bill was brought forward by the Government of India which ultimately became the Factory Act XXV of 1934. The first thing that the Act accomplished was the reduction of the number of working hours to a reasonable limit. The labour of children between 7 p.m. and 6 a.m. was prohibited. The Act brought within its scope all the workers and allowed work in a factory for 54 hours in a week; where the factory was a seasonal one; no children between the ages of 12 and 15 were to work for more than 5 hours a day with a spread over limit of 7 ½ hours. The Act brought within its scope all the concerns employing 20 workers or more where manufacturing process was carried on with the aid of power.

However, there were no major changes since the Factories Act 1922.

Various enactments before the Royal Commission on labour did provide for the prohibition of child labour below a certain age but such provisions in the factory laws were seldom strictly enforced. The Royal Commission on Labour explained the situation as under:

"The paramount matter for concern in a number of areas, particularly carpet making Factory at Amritsar is as follows:- in the Carpet Factory of Amritsar these children are employed not directly by the factory owner but by the weaving masters, who are responsible both for engaging them and for paying their wages. There is for the most part no limitation on the children's hours other than those imposed by the exigencies of day light and the need of rest.
intervals, for the most part boys start at 9 years of age, though in some cases it might be as low as six years...the duration of the contract which is some time set out in a formal document, would appear to be determined by the repayment of the loan. It was clear from the evidence that these children were in the position of being obliged to work any number of hours per day required by them by their master. They were without the protection of the law as regards their physical fitness, to labour the number of hours they might be required to work without any interval or indeed any other of the more elementary protection afforded by the Factory Act in respect of child workers and they were subjected to in some cases to corporal punishment yet the bulk of such children was two to five years below the statutory working age in respect of the child workers' employment under the Factory Act ..." 81 Regarding the carpet factory at Amritsar the Royal Commission on Labour in their report observed that..... “we are convinced that here as in the biri factory, official regulation is required primarily in the interest of the child worker”.82

The Children Pledging of Labour Act II of 1933 was directly the result of Royal Commission on Labour related to children who were being put to strenuous work and were forced to become an economic asset to their parents. The child who had perforce to obey the parent or guardian was thus given no protection from adult work as the labour of the child was pledged, sometimes even by a bond to the employers by the parents or guardians themselves.

On the recommendation of the Royal Commission on Labour 1929 Sir Frank Noyce the then Industries and Labour Minister in the Governor

82 Ibid. 348.
General 's Executive Council, introduced the Children Pledging of Labour bill on 5 September 1932. The bill was referred to the select committee on 12 September, 1932. The report of the select committee was taken into consideration on 19, September 1932, and was finally passed by the house on 6 February 1933 and by the Governor General Legislative Assembly debate, dated 5 September 1932-1933. Which was finally passed on 6 February 1933. Under the Children Pledging of Labour Act II of 1933, punishment was prescribed for an agreement which was made for the pledging the labour of a child. The major shortcoming of this Act was that the agreement was generally oral and so no proof of the agreement was generally available. Even if the agreement was written, unless the employer and the guardian of the child had quarrel with each other on the issue of services or on monetary matters the matter could not come to limelight. Penalty for parent or guardian making agreement to pledge the labour of a child under the Act could extend to fine of Rs.50/- and the penalty for making with a parent or guardian as agreement to pledge the labour of a child could extend to fine of Rupees. 200/. failed to secure the written agreement. Since the penalty was laid down in the Act for both the employer and the guardian, the documents never came to the surface. Moreover, the judicial interpretation of the Act was also defective. The agreement clause was interpreted to mean that where the labour pledged was not to be expended till after the time by which the child became fifteen years old, the agreement was not one to pledge the labour of child under fifteen. This was clearly against the spirit of the law.

83 Governor General's Legislative Assembly Debates, 5.9.1932-33
84 A child under the Act means a person who is under the age of 15 years “Children pledging of Labour Act II of 1933, sec.2.
85 Act II of 1933, Section 3
86 Act II of 1933, Section 4.
87 Ibid. Section 5
88 All India Reporter 1939, Rangoon. 359 Quoted by Iqbal Nath. Social Legislation in Punjab Since Annexation.
Another Act directly related to child labour was the Employment of Children Act XXVI of 1938. The Act provided that no child who had not completed his fifteenth year could be employed or permitted to work in any occupation connected with the transport of goods.\footnote{Indian Act XXVI of 1938 section 3(1).} No child under twelve year could be allowed to work in any factory set forth in the schedule of the Act. Dispute regarding the age of the particular child was to be referred to the prescribed medical authority referred to by the Inspector of Factories.\footnote{Indian Act XXVI of 1938.} Whosoever employed a child under the age of 15 years for heavy work was punishable with fine which could extend to five hundred rupees. No prosecution could be lodged under the Act except by the previous sanction of the Inspector appointed under the Act.\footnote{Ibid. Section 5 (1)}

Besides, these enactments, the Indian mines Act in 1923, increased the minimum age to 13 years and restricted the weekly hours of work for children to 54 under ground and 60 above ground.\footnote{Jose P. Veghese. A Documentation on Law relating to Employment of Children. 38} Among the variety of legislation resulted from the report of the Royal Commission on Labour. The Indian Ports Act of 1931 prescribed 12 years as the minimum age for handling goods in ports. In 1932, the tea District Emigrants Labour Act passed to check the migration of Labourers and provided that no child under 16 be employed or allowed to migrate unless the child was accompanied by the parents as adults on when the child was dependent.\footnote{Helen R. Sekar. Child Labour Legislation in India A Study in Retrospect and Prospect. 39.}

Thus in the First Factory Act 1881, the age limit from which a child could start working was seven, in 1891 it was raised to nine years, it was further raised to 12 years in factories Act 1922 and 1938 employment of children’s Act provided twelve year for normal work and fifteen years for heavy work, (like transportation of goods). The Factories Act 1881 lowered the working hours of children to nine. In the Factories
The Factory Acts of 1881, 1891, 1911, 1922 and 1934 were passed in succession mainly to remove the shortcomings in the preceding Acts. Factory Act XXV of 1934 brought within its scope the entire working hours which were allowed to be for 54 hours in a week; where the factory was a seasonal one, no children between the ages of 12 and 15 were to work for more than 5 hours a day with a spread over limit of 7½ hours. The Acts brought within their scope all the concerns employing 20 workers or more where manufacturing process was carried on with the aid of power and could also be extended to those having less than 10 workers; by the local authorities.

The sincerity on paper on the part of the legislation cannot be questioned; but the enforcement was strictly lacking. The major limitation was in the extension of the Act to all factories, cases of impersonation in physical fitness, and inherent inaction while detecting wrongdoing. As in the case of Children Pledging of Labour Act II of 1933, there were flaws in the Act which could not properly set the things right, such as it was not easy to apprehend either a guardian or the employer with the help of the provisions of Act. Moreover, by 1940, child workers in factories were less than 1 percent of the total workers. 94 Implementation of factories Act, for children in the Punjab region was not that much important as the Punjab economy was largely based on agriculture and child’s labour was basically used for agriculture purposes, therefore these enactments were not relevant to give relief to these children. As for the industrial labour, in the Punjab, child workers was not of a considerable proportion i.e., 1 percent of the total workers. A

94 See Table 7.1 on Page.19
large number of children who were providing their labour in agriculture work there was no legal provision to protect them. The government did not show much concern about them. More so the Zamindari Schools and rural school were so designed to promote their participation in the agriculture work, even the introduction scheme of compulsory education, did little to restrain their participation in agricultural works.

III

The State made some effort to give legal support to extend education which would benefit the category of children through regulations and Acts. The fact that education became a provincial subject from 1919 imparted these Acts. Initially, the colonial government had introduced new educational pattern for its own requirements; in addition to the efforts of Christian missionaries’ as well as those of social reform movements to provide education to the people. Woods Dispatch of 1854 discarded the ‘downward filtration theory’ and set the goal to educate the masses. Indian Education Commission 1882 gave considerable attention to primary education. The aim of primary education was understood as - primary education be regarded as the instruction of the masses through the Vernacular in such subject as deemed fit them for their position in life, and be not necessarily regarded as a portion of instruction leading up to the University.95 Children in the ages from 6 to 11 year were expected to be in the schools.96

When the machinery of the State decided to enact a law to coerce the people for compulsory education it may then be called involuntary compulsion. Voluntary compulsion was first suggested by Sh. Gopal Krishan Gokhale as in his view an alien government could ill afford to enforce coercive measures on the people of this land. The suggestion that came from him was that a general law should be passed and the areas

95 Bhatt and Aggarwal. Educational Document in India. 1813-1968. 15
which wanted compulsion could enforce it on themselves, i.e., but the initiative for compulsion should be left to the municipalities and local bodies which were representatives of the people. Hence, the voluntary compulsion was to be carried out and enforced by the local bodies themselves. This was precisely the principles which were incorporated in the Punjab Education Acts of 1919 and 1940.97

The policy of the government with regard to education after 1854 was to bring primary education, within the reach of all. Higher education however, aimed at attaining proficiency to those, who were ready to bear a fair share of its cost.98 In 1906, a scheme had been devised for the abolition of fees in all primary schools, the children of the agriculturists, and village Kamins were exempted from the payment of fees, by article 234 of the Punjab Education Code. Article 235 authorised exemption up to a limit of ten percent of the total number of rolls, in the case of boys whose parents were too poor to pay fees.99 A further step in this direction was taken in 1913-14, when exemption from payment of fees, on account of poverty, was increased to 25 percent of the total number.100 The scheme of free education was further enlarged by providing free education to children of all the Indian soldiers who had been on the active list between August 4, 1914 and November 1918 and were in indigent circumstance.101 Government regulations thus, had attempted to provide basic education to the poor masses.

In this province, as in many others in India, educational legislation embraced the compulsory primary education at the primary level and is

97 Iqbal Nath. Social Legislation in the Punjab Since Annexation. 209
99 The Government of India considered in 1906 a scheme for the abolition of fees in all primary schools, which were neither under public management nor a receipt of grants from public funds and the view of the local government on this government of India : Home education proceeding number 78A for December, 1901.
100 In 1912 it was calculated that about 2/3 of peoples in primary schools did not pay any fees ; B.S. Saini. Social and Economic History of Punjab 1901-1939. 140.
the embodiment of the principle of voluntary compulsion. The Punjab enacted a law in that direction in the form of the Primary Education Act 1919. For twenty years this Act remained in force and was to be replaced by the Punjab Primary Education Act in 1940. The initiative in this system Primary Education Act 1919 & Punjab Primary Education Act of 1940 was left with the areas concerned and they could enforce compulsion on themselves.

A majority of 2/3rd of the members of the local authority could impose compulsion on the whole or part of the entire area under Act VII of 1919. 102 The local authority, after the resolution was published locally, could invite any objection which could be filed within 30 days of the date of publication of the resolution. After that date the local authority was to consider the objections at a meeting specially convened for the purpose. 103 After taking decisions on the objections, the local authority was then to submit its proposals together with the objections received to the local government for approval. 104 Government could then sanction, or refuse to sanction, or return the proposals. The local authority could enforce compulsory education only after the sanction of the local government was published locally and notified in the Punjab Gazette. 105 The local government could after reference to the local authority, by notification 'suspend or cancel' the operation of the Act from any area. The power of enforcement had been left to local hands. The local attendance committee or committees under the Act of 1919 could be appointed by the local authority. 106

The Act authorized the school attendance committees whenever they had any reason to believe that the parents or the employers were

102 The local authority was defined as 'A district Board, municipal Committee, cantonment Committee or a Committee of a small town or notified area'. Punjab Act VII of 1919. Section 2. Clause 2 & Sec.3. Clause 3.

103 Act VII of 1919, Sec.3. Clause 4

104 The Punjab Primary Education Act 1919. Part I. Section 2.

105 The Punjab Primary Education Act 1919. Part I Section 3. Clause 7

106 The Punjab Primary Education Act 1919. Part I. Section 6
causing the boy not to attend the school, to warn the parents or employers 'to cause the boy to attend school or to discontinue the employment of the boy ... within one week after the receipt of such warning.'

The Act of 1919 had specifically laid down that

"no court was to take cognizance of any offence...except on complaint made by the school attendance committee and unless a warning... had been given to and not complied with."

The power of enforcement of primary education in the Punjab had by policy remained with the local authority. This situation was full of various defects. The local area did not issue notices of warning against their own kin or friend or acquaintances. The school attendance committee could not indicate a man straight away, but a long and complicated procedure was prescribed as a precautionary measure and almost every law-breaker could get away under cover of this complicated procedure. The law thus, largely remained in abeyance.

In the Primary Education Act of 1919 it was the duty and responsibility of the parent to send the boy to the school. The Act of 1919 further stated: "any parent who shall neglect to comply with the provisions...shall on conviction by any Magistrate be punishable with a fine not exceeding five rupees."

It also stated that the employer of a boy of a school-going age was to be punished on conviction with a fine of not more than rupees twenty five. The imposition of fine was to be made only in the last resort. The usual understanding was that he would be warned and let off on the first offence, that small and nominal fine would be imposed for the earlier offences and that the maximum fine allowed under the Act would be imposed only in case of persistent and willful defiance of attendance orders.

The Primary Education Act of 1919 was

107 Act VII of 1919, sec.16
108 Ibid. Section 17.
109 Ibid. Act VII of 1919 Section 18
110 Act VII of 1919 Section 9. The word “parent” included the guardian and every person who is liable to maintain or had the Actual custody of any body.
111 Ibid section.13
112 The Punjab Primary Education Act 1919. Section 14
113 Saiyidan & Naik. Compulsory Education in India. UNESCO. 1952. 29.
applicable to boys only. The age limit for boys for compulsion was from 6-11 years. It could be raised to 7-12 if the local authorities so chose.  

The provisions of the Act thus negated its intent. It covered only half the population of children i.e., boys; introduced no compulsory basic education except where local authority wished through elaborate procedure which was unlikely. Further, even when initiated by local bodies implementation was ineffectual and punishment mild. This made the Act ineffective and largely unutilized.

Any scheme without sound financial resources to back it, is also doomed to failure. Here in India and the Punjab, primary education was dependant on the support of five different kinds of financial sources; federal funds, state funds, local funds, fees and donation etc. The local cess specially provided for in the Acts of 1919 the imposition of additional taxation for financing of compulsory education and the law covered only the local cess sources of financing. The Act provided for the imposition of the additional taxation by the local government “towards meeting the cost of providing primary education for boys residing in such area.” It was also laid down in section 7 of the Act of 1919 that the local government could by notification “reduce or discontinue the additional taxation imposed under section 4”. According to section 15 of the Act of 1919 “all fines levied by any Magistrate in respect of any offence against the provisions of this Act shall be credited to the funds of the local authority”. These, however were a very small number of cases that were brought to book explains the working of the

115 Punjab Act of 1878 section 8. The Primary Education Act VII of 1919. In the Punjab one percent educational cess was enforced and it was unpopular. The principle was also incorporated in a statute of the Punjab Government known as the Punjab Local Rates Act XX of 1871. This Act was repealed by Act V of 1878 which provided for some more provision. The main purpose of this enactment was to provide for the local funds for the construction and repair of school-houses, the maintenance and training of teacher and the establishment of scholarship, laid down a definite plan for financing compulsory education the Punjab Education inspection of schools. Saiyidan& Naik, Compulsory Education in India, 70.
Act. In addition to it, had the Act been properly enforced there is no reason to believe that funds could have been wanting.

The imposition of local cess and taxation did not prove very beneficial and could not meet the needs of the time even half way. The demand for education was growing, and the tax or cess on land revenue remained almost the same. The state grants which had always been the biggest source of income available for the purpose of enforcing compulsion were lacking. After the passing of the Act of 1919, the Government undertook to contribute in the case of municipalities, small towns and notified area committee half the additional cost subject to a maximum grant of rupees, 5/- per annum.¹¹⁷

The obvious defect in this provision has been, after such a complicated procedure, punishment on conviction has remained inadequate. As the Hon'ble Minister of Education has remarked the punishment under the Act of 1919 as very meager, referring to the working of the Act of 1919, Mian Abdul Haye said,

“There have been very few prosecutions. The average member of a local body is not willing to take his voter to the courts and whatever prosecutions have been launched the punishments awarded have been very meager and I should say, absolutely inadequate”. ¹¹⁸

The nominal punishment and its maintenance seem, therefore, to a willful gesture. It was due to this inadequate punishment that seriously enough. The law thus failed to carry any weight of authority with it. In states like Bombay, Madhya Pardesh and Mysore the number of penal cases were larger than in other state though it bears no proportion to the probable number of defaulters. ¹¹⁹

A village near Bhalwal was visited on December, 1930 by Mr. M.L.Darling who wrote, “...... in about 150 small areas education for

¹¹⁷ Saiyidan & Naik. Compulsory Education in India, 70.
¹¹⁸ See Table 7.3 cases concerning conviction under the Acts.
¹¹⁹ Saiyidan & Naik. Compulsory Education in India, Paris. 70.
them is compulsory. Yet even in these areas over a third do not go to school.” The next years report placed the admission at 70 to 100 percent and for the first time in the Rawalpindi division alone about 2,000 prosecutions were carried out in the quinquenium.\textsuperscript{120} In the beginning the compulsory education, therefore, made good strides. After the great economic depression, came a set back in the educational sphere. The position regarding compulsory education by the year 1933 was that there were 60 urban and 3,013 rural areas under compulsion. In 1934 the figures stood at 57 urban and 2908 rural. The percentage of attendance also grew from 70 to 100 in 1931-32 to 40 to 60 in 1933-34.\textsuperscript{121} In was due either to lack of funds or the insufficient number of boys that many schools closed.\textsuperscript{122} Again, a somewhat vigorous campaign seems to have been started because the lists of the boys of the school-going age were revised and brought up-to-date. Percentage of attendance rose from 60 to 80. Notices were issued to the defaulting parents and prosecution was carried out. For example in the Ambala division alone notices were issued to 11,795 parents, cases were instituted against 3,324 of whom only 974 were convicted and the total fines realised were Rs. 1,272.\textsuperscript{123} However, the average fine per convicted person comes to less than Rupees 1.8 was a ridiculously low sum to give any value to primary education and highlight its importance.

At this juncture the problem before the authorities was of finding out a method to improve matters with the help of persuasion in the first instance and permeation or coercion in the second view point. Compulsion in a few places had been enforced rigidly; while, compulsion in all areas with mild coercion. The first alternative was favoured by the District Inspector of Gujranwala. He in 1936-37 reported

“compulsion has not so far been a success. To enforce it rigidly by instituting cases is again considered not very desirable since

\textsuperscript{121} Report on the Progress of Education in the Punjab. 1933-34, Chapter on Compulsion.
\textsuperscript{122} Ibid.
\textsuperscript{123} Report on the Progress of Education in the Punjab. 1936-37. Chapter on Compulsion
this is bound to alienate the sympathies of the villagers and make them hate a useful thing like education as they did in the case of Vaccination”

He, therefore, preferred persuasion to coercion.\textsuperscript{124} The Inspector of Schools, Multan, was the chief supporter of the second point of view. ‘the best results ’ according to him had been achieved in Montgomery’ where whole-time attendance officers have vigorously enforced compulsion, by filing 1331 cases and having 1215 offenders convicted in one year and realizing fines amounting to Rs.2066/- \textsuperscript{125} The same inspector in the same District the next year, got 2221 cases instituted and 2158 persons convicted. The fines he could realize amounted to Rupees 3544 according to him “the utility of coercion”, ‘could not be denied’ and he complained that “fines imposed are not deterrent enough especially in cases of obstinate parents who persist in refusing to send their children to school in spite of repeated convictions.\textsuperscript{126}

Another suggestion came from the Inspector of Schools, Lahore division who was of the view that ‘compulsion should be withdrawn from the areas where its success thus been in doubt and that it should be allowed to exist only in a limited number of areas where it has been attended to with success and worked with thoroughness and vigour.\textsuperscript{127} the idea also received favour from the Royal Commission on Agriculture in India 1929, it suggested

‘in recommending that compulsion should be introduced as rapidly as possible, we do not contemplate the creation of an army of attendance officers. The mere presence of an Act upon the statute book and its application to a particular area go far to ensure obedience to its provision we are inclined to favour the view adopted in the Punjab, that compulsion should be

\textsuperscript{124} Ibid. It may be mentioned here that vaccination law was enforce here without much of propaganda. The result was that the people began to hate it and retaliated by trying to be hostile to it.
\textsuperscript{125} Report on the Progress of Education in the Punjab. Chapter on Compulsion 1937-38
\textsuperscript{126} Ibid.
\textsuperscript{127} Ibid.
used more to keep at school boys already sent there, than to bring in the last boy in the village'.

Another suggestion of keeping status quo with slight amendments came from the Inspector of Schools, Ambala. The amendments suggested by him were two fold i.e. birth and death register to be entrusted to the school master and free book and writing material to be provided to poor boys.

Following the enactment of the Punjab Primary Education Act 1919, in 1921-22, 2 urban areas came under compulsion. Initially, this Act was applied to urban areas only. By 1923-24, it was applied to 59 rural areas and 7 urban areas. Its growth to urban as well rural areas doubled that of the previous year by 1925-26. Gradually, the provisions of the Act were applied to some other rural areas. By 1945-46, nearly 11007 rural areas and 68 urban areas were under compulsion. However, by 1946-47 this Act remained applied to half the area previously under compulsory education.

In 1935 Smt. Lekh Vati Jain introduced a separate bill for the purpose of the education of girls, but failed. She put forth that teachings girls, the women of tomorrow in 3 R's would be able to use their vote intelligently and bring woman on par with men. Therefore, they should be educated. The demand became more vocal gradually and the Act of 1940 incorporated a provision for the education of girls.

---

128 Royal Commission on Agriculture in India 1929. Quoted by Iqbal Nath. Social Legislation in Punjab Since Annexation.
130 See Table. 7.2
131 The general prejudice in India against female education results from their social position only too well-known. It was also feared that if the girls were educated they would be able to write to their friends. The difficulties regarding the education of girls were manifold. The report of the Royal Commission on Agriculture in India pointed out the difficulties as follows: “The inertia of conservatives and prejudice, reinforced by the purdah system and the custom of early marriage, the lack of qualified teachers, the difficulty of making arrangements which will be considered satisfactory by the parents for the transit of the girl to and from school and difficulty of providing suitable accommodation for women teachers in the smaller villages are all formidable obstacle to rapid expansion”. Even the officers of the education department were always cautious in dealing with cases relating to the education of girls. M.L. Darling, Wisdom and Waste in the Punjab Villages. 32.
Table 7.2:- Number of Urban Area where Compulsion was in force

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Urban Area where Compulsion was in force</th>
<th>Number of Rural Areas where Compulsion was in force</th>
</tr>
</thead>
<tbody>
<tr>
<td>1921-22</td>
<td>02</td>
<td>---</td>
</tr>
<tr>
<td>1922-23</td>
<td>07</td>
<td>59</td>
</tr>
<tr>
<td>1923-24</td>
<td>10</td>
<td>124</td>
</tr>
<tr>
<td>1924-25</td>
<td>24</td>
<td>290</td>
</tr>
<tr>
<td>1925-26</td>
<td>42</td>
<td>451</td>
</tr>
<tr>
<td>1926-27</td>
<td>57</td>
<td>1449</td>
</tr>
<tr>
<td>1927-28</td>
<td>47</td>
<td>1892</td>
</tr>
<tr>
<td>1928-29</td>
<td>42</td>
<td>2040</td>
</tr>
<tr>
<td>1929-30</td>
<td>46</td>
<td>2449</td>
</tr>
<tr>
<td>1930-31</td>
<td>50</td>
<td>2578</td>
</tr>
<tr>
<td>1931-32</td>
<td>54</td>
<td>2624</td>
</tr>
<tr>
<td>1932-33</td>
<td>60</td>
<td>3013</td>
</tr>
<tr>
<td>1933-34</td>
<td>57</td>
<td>2908</td>
</tr>
<tr>
<td>1934-35</td>
<td>62</td>
<td>2908</td>
</tr>
<tr>
<td>1935-36</td>
<td>61</td>
<td>2986</td>
</tr>
<tr>
<td>1936-37</td>
<td>63</td>
<td>2981</td>
</tr>
<tr>
<td>1937-38</td>
<td>63</td>
<td>2947</td>
</tr>
<tr>
<td>1938-39</td>
<td>65</td>
<td>2947</td>
</tr>
<tr>
<td>1939-40</td>
<td>65</td>
<td>1851</td>
</tr>
<tr>
<td>1940-41</td>
<td>66</td>
<td>2908</td>
</tr>
<tr>
<td>1941-42</td>
<td>63</td>
<td>2917</td>
</tr>
<tr>
<td>1942-43</td>
<td>67</td>
<td>2913</td>
</tr>
<tr>
<td>1943-44</td>
<td>67</td>
<td>2951</td>
</tr>
<tr>
<td>1944-45</td>
<td>68</td>
<td>2987</td>
</tr>
<tr>
<td>1945-46</td>
<td>68</td>
<td>11007</td>
</tr>
<tr>
<td>1946-47</td>
<td>35</td>
<td>4984</td>
</tr>
</tbody>
</table>

The Act of 1940 provided for the education of girls in almost the same way as that of the boys and punishments etc. Under the Act were also to be the same section 16 for example, placed the responsibility of sending the girls of school-going age to school by the guardian. Section 18 and 19 laid down the penalty for neglect by the guardian and for the unlawful employment of girls respectively.

Mian Abdul Haye the minister for education in 1940 said, Whereas in the Act of 1919 the power to take initiative in the matter of compulsion was given to the local bodies alone, we have in such areas where a certain local body is prepared to perform its part of the duty, allowed that local body to function. On the other hand if the exigencies of the matter demanded the government would be in a position to take the first step itself without any recommendations of a local body similarly, in the matter of control. In the matter of compulsion, the powers of local bodies are being retained; similar powers are being vested in the Government".132

The Act of 1940 contained an additional clause which laid down that the government could at anytime direct the enforcement of compulsion in any area under the jurisdiction of the Act or even suspend certain areas from the operation of the Act.133 With the only difference that section 12 and 13 of the Punjab Primary Education Act of 1940 pertained to boys whereas section 17 and 18 pertain to girls. The Punjab Primary Education Act of 1940 also provided for the appointment of the school attendance authority and the Act laid down that the costs so incurred were to be charged on the funds of such local authority.134 The rest of the provisions regarding the enforcement by the local bodies in the Acts of 1919 and 1940 remained the same, except that the word “guardian” was substituted in the Act of 1940 for the word “parent” in the Act of 1919. Another fact about enforcement was (section 12,13,18 and 19 of the Act) a fine of rupees 15/- for the guardian and rupees 25/-

132 Speech of the honorable Mian Abdual Haye, the then minister for Education, Punjab Govt. Debates of the Punjab legislative Assembly. Dated March 10, 1938.
133 Punjab Act XVII of 1940, Section 4.
134 Ibid. Section14
for the employer as punishment. These provisions were applicable only when due warning has already been received by the guardian or the employer. The Act of 1940 Punjab Primary Education Act was applicable to both boys and girls. The Act defined school-going age as meaning “in the case of boys, an age which is not under 6 years and not over 12 years and in the case of girls a age which is not over 11 years.”

The limitations in this regard were that there were no deterrent provisions laid down in the Act for non-compliance. The policy of the framers of these enactments had not been the education of the individual from the cradle to the youth but to subject him or her to literacy course of only 4 years. There were reasonable excuses for attendance when there is no recognized school within a distance of two miles from the residence of the child by the nearest route or if religious sentiment stood in the way of his attending a particular school or if he was already receiving instruction in some other satisfactory manner or the boy has been granted temporary leave from school due to continued illness etc. or if he has certain physical or mental infirmity or when he has already completed the primary course. The Act of 1940 added another clause and that was that if the boy was already over eleven years of age and a girl over 10 years they would not be compelled to join school. The object of this clause was that even if they were compelled to join the school they would not be able to complete the course.

These ‘reasonable’ excuses were the most glaring flaws in the enactment. Compulsion was generally introduced without the number of schools being adequately proportionate to the total number of pupils. The clause concerning the distance of two miles, therefore stood in the effective working of the enactment and even when there was school accessible absence could be excused on religious ground, since there

The idea of voluntary compulsion failed chiefly due to the reason

135 The Punjab Act XVIII of 1940, clause 2, sec. h.
136 Punjab Act VII of 1919, section 10
137 Punjab Act XVIII of 1940 section 9
that the local bodies were backward and would not enforce compulsion on the masses. Even when they decided to enforce it, they contended themselves with passing resolutions by 2/3rd majority and then sleeping over them. The Government should have accepted the proposals of the local bodies only. Compulsion of education for girls did not succeed at all. In 1946-47, for example, there was no area, urban or rural, under compulsion for girls and enrolment of girls in the compulsory areas was minimal. Even if a few guardians or employer had been brought to book for the offence of not sending their children to school, the punishments were only a few government schools imparting secular education. Again, a parent on being served with a notice could put the child under private tuition for a short time and the child could thus be granted exemption from attending the school. The system of the local option did not work smoothly. The local committee contended themselves by passing a resolution by majority of 2/3rd and after their recommendations were considered and approved, nominal compulsion was enforced. In fact, it appears that the local option system was enforced only in name, probably under the pressure of local officer.\textsuperscript{138} The initiative was given to the local bodies whose members were too ignorant to know the significance of responsibility arising out of the passing of the resolution. What was lacking was the spirit, the enthusiasm and awareness which is essential before voluntary compulsion can be enforced.\textsuperscript{139} Mr. M. L. Darling wrote on January 20, 1931 about a village Bhakna Kalian between Attari to Kawel as "Although there has been a primary school here for over 50 years, 60 percent of the boys of the school going age do not go to school at all. Recent visit from an important official led to the signing of a petition for compulsory education, but our talk today made me doubt whether this was inspired more than a desire to placate


\textsuperscript{139} Ibid. 423-24.
Table 7.3:- Conviction under the Compulsory Primary Education

<table>
<thead>
<tr>
<th>Year</th>
<th>No. of cases. Offences reported (including pending) from previous years</th>
<th>Brought to trial (including pending)</th>
<th>Convicted</th>
</tr>
</thead>
<tbody>
<tr>
<td>1924</td>
<td>69</td>
<td>69</td>
<td>25</td>
</tr>
<tr>
<td>1925</td>
<td>104</td>
<td>93</td>
<td>60</td>
</tr>
<tr>
<td>1926</td>
<td>143</td>
<td>139</td>
<td>69</td>
</tr>
<tr>
<td>1927</td>
<td>121</td>
<td>108</td>
<td>55</td>
</tr>
<tr>
<td>1928</td>
<td>465</td>
<td>413</td>
<td>316</td>
</tr>
<tr>
<td>1929</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1930</td>
<td>826</td>
<td>733</td>
<td>329</td>
</tr>
<tr>
<td>1931</td>
<td>2273</td>
<td>2046</td>
<td>983</td>
</tr>
<tr>
<td>1932</td>
<td>4879</td>
<td>4485</td>
<td>1435</td>
</tr>
<tr>
<td>1933</td>
<td>N.A.</td>
<td>N.A.</td>
<td>N.A.</td>
</tr>
<tr>
<td>1934</td>
<td>10941</td>
<td>9885</td>
<td>4713</td>
</tr>
<tr>
<td>1935</td>
<td>10331</td>
<td>9349</td>
<td>4676</td>
</tr>
<tr>
<td>1936</td>
<td>7622</td>
<td>6984</td>
<td>4149</td>
</tr>
<tr>
<td>1937</td>
<td>8242</td>
<td>7922</td>
<td>5809</td>
</tr>
<tr>
<td>1938</td>
<td>7179</td>
<td>6370</td>
<td>4690</td>
</tr>
<tr>
<td>1939</td>
<td>8446</td>
<td>7697</td>
<td>6249</td>
</tr>
<tr>
<td>1940</td>
<td>9640</td>
<td>9117</td>
<td>7457</td>
</tr>
<tr>
<td>1941</td>
<td>11625</td>
<td>11099</td>
<td>9273</td>
</tr>
<tr>
<td>1942</td>
<td>10932</td>
<td>10498</td>
<td>8968</td>
</tr>
<tr>
<td>1943</td>
<td>12305</td>
<td>11809</td>
<td>10629</td>
</tr>
<tr>
<td>1944</td>
<td>7997</td>
<td>7523</td>
<td>6386</td>
</tr>
<tr>
<td>1945</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1946</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1947</td>
<td>1095</td>
<td>1069</td>
<td>1101</td>
</tr>
</tbody>
</table>

Compiled from the Punjab Government Reports entitled ‘note on the administration of the Criminal Justice in the Punjab. Lahore and Simla."
Things remained where they were in the years 1939 to 1947. In 1939-1940 the total urban and rural areas under compulsion were only 66 and 2908 respectively. By 1941-42 its application was removed from 3 urban and 64 rural areas. The position in these three years therefore, remained almost stationary and the further expansion of education through compulsory methods seemed to have come to a stand-still. By 1945-46, 11007 rural Areas were under compulsion i.e., about 5 times since 1928-29. The Education Department report of 1941-42, also stated ‘the returns for compulsion are not at all discouraging but it cannot be said with any degree of certainty that compulsion is making headway in the province. However, it was followed more than the 1919 Act. The 1943-44 report also admitted that continuous efforts were not being concentrated on bringing all children of school-going age.

What was desirable that hundred percent literacy through hundred percent enrolments. The aim of compulsion should not be the attainment of hundred percent enrolments; it should rather be the achievement of the utmost regularity in attendance, the retention of pupils for the primary course and consequently the acquisition of permanent literacy. A person who has passed a complete course of primary education may be said to have attained a working knowledge. If a child left the school before he completed the primary course, his education became more or less wastage. The cause of this kind of wastage was mostly economic, though sometimes repeated failures in examinations on the part of the student or early marriage may also be responsible for this. Figures are not lacking to support the view that the wastage in the primary classes were enormous and that it is approximately fifty percent.

---

141 See Table 7.2.
142 Ibid.
143 Report on the Progress of Education in Punjab, K.W. file no. 38/16-49-c. officer of the D.P.I. Chapter entitled Primary Education Year. 1948-49 and see
being so many and so spasmodically scattered that the problem of the school buildings was both important and urgent.

The failure of compulsory education appeared always to be impending as about 2/3rd of the children were justifiably and by law given exceptions, there being no school within a distance of two miles for them. The education of the masses here received a set back mostly due to the paucity of funds. The funds available for the purpose were insufficient, and without this no institution could possibly hope to work well. Fines imposed on the defaulting parents or guardians were not sufficiently heavy to make them realize the gravity of the offence. The Members of the school attendance committee were appointed by government for a certain local area, generally belonging to that local area. They were, mostly, illiterate people, and did not know much about the responsibility they were shouldering. These local people did not, moreover, want to earn the displeasure of their friends and relatives who also belonged to that local area. Once literacy was acquired by a child of school-going age, the changing environments generally make him out of touch with education and he lapsed into illiteracy in the course of time. The legislation failed to instruct the educational authorities to provide for rural libraries and reading rooms. Lastly, both the Acts of 1919 and 1940 were silent about the problem of the children belonging to depressed classes. No separate schools for depressed classes were known to have been opened in the areas in which compulsion was enforced.

IV

The legislation of the state to improve the position of children in society was unable to bring about any major change. A ground reality was that these legal measures were, partial, half-hearted and seriously lacked in implementation on the ground. The Apprentice Act and Reformatory Schools Act were framed in theory to help orphans and

---

*A comparative statement of enrolment in all the four classes at the Primary stage is given in chapter of *Education of children*. 

312
vagrants, but in actual fact, extended to larger number of children between the ages of 10-18. The Act allowed the government to utilize the labour of children in the name of apprenticeship. Instead of protecting the poor and orphans it cared for the interest of the master. The substitution of apprentice Act to the Reformatory Schools Act did not bring about the much difference since most ‘offending’ children continued to be sent to jails. These Acts therefore, were paper Acts and meant the requirements of the colonial authorities rather than children. It is obvious that these two Acts, were not legislated for children.

The second sphere of government legislation related to child labour, in the context of factory laws. In 1881, the Act provided that no child under the age of seven could work. It thus placed limitation on the age of the child worker. It also, lay down, that child workers would be given four holidays a month and would not work in excess of 9 hours a day. The Act also underlined the importance of protecting children in the factory from the changes of machines. The provisions were intended for those establishments which had over100 workers, which in the Punjab were almost non-existent. The Act therefore, did not improve the status of child workers for lack of implementation.

In 1891 the Factory Act was extended to factories of 50 persons but implementation was still far from reality. It did however, raised the age of child workers to nine and decreased work hours to 7 per day in theory only. Subsequent Acts in the first half of the 20th century did not permit child workers at night, reduced working hours to 6 per day, provided for proper rest and raised the age of children working in factories to 12 years. In 1922, these provisions were extended to all factories with 10 employees and introduced medical examination of children before and after joining work in factories. These regulations however, were not implemented in full and therefore, were unable to bring about a difference in the situation of child workers.
In fact, the later Acts of Pledging of Labour Act 1933 which was a disguised form of 'bonded' labour and employment of children Act could not do much to improve the same. State legislation thus, was again unconcerned with the issue of child workers and neglected to take any measures for their protection.

These legislative measures in actual fact related to less than 1 percent of child workers, the factory labour. A larger proportion of children worked as a part of their family labour, in the agriculture sector. These did not come under the purview of labour legislation as the application of labour law was initially to factories employing 100 persons which came down to 20 persons by 1934. Thus, effectiveness of these Acts was limited as well having inherent defects, especially in the case of the Children Pledging of Labour Act. No legislation was passed for the considerable number of child workers in the rural areas. The state took no legal measures in connection with this issue of the problem of child labour.

A similar position was seen in the education sphere as well. Since the State had bifurcated responsibility and handed over education to the provinces in 1919 each province took its own steps to provide basic education but was bogged down by several obstacles, such as resources and the debate on 'compulsion' and the local bodies who were given the charge of introducing mass, education, who were neither equipped nor competent to deliver the same.

The specific needs of children both within and outside the family were not addressed by the state. Some partial measures brought about minor improvements – such as the Vaccination Act, health services, Prohibition of infanticide and restraining child marriages, and to some extent in the conditions of child labour and education of children. The failure in implementation of these legislation, however, did not allow any scope for the much needed change.