CHAPTER – 1

INTRODUCTION
“In a world in which so many adults are denied the opportunity to participate fully in society women for example is encouraging participation for children a step too far? At a time when 150 million children in developing countries are still malnourished, when there are still 120 million primary school age children out of school, when 6,000 young people become infected with Human Immuno Virus (HIV) each day, when children are suffering in war or working in hazardous conditions. Why is it so vital to listen to the voices and opinion of children?”

- Boutros-Boutros-Ghali – United Nations Secretary General

The social, economic and political development and well being of democracy, education is considered as the fundamental element. Without education, a man is not able to succeed in any sphere of life. Thus, education is essential for any one whether he / she may be a labourer, peasant, women, children, etc. To be a literate, a man can
develop his self contribute in the social development and reconstruction of society and social change.

The people are swept up in a tide of global change. Political and economic polarities are giving way to a common sense of shared purpose. Economic reforms have generated high expectations of a secure future for all people. It is a time envisioned by the historian Arnold Toynbee who said: “Ours is the generation in all of history that can seriously think of bringing the benefits of civilization to all mankind.”² The future bright and hopeful at last belongs everywhere to children. It is only reasonable that children should become the focus of all development.

India has long displayed its remarkable potential to achieve what it set out to do self-sufficiency in poor production and the end of famines in a land noted previously for hunger, a system of higher education second to none and a flourishing a re-discovery of ancient culture. Once a proliferating display of the arts, dance, music and literature. The great Indian economist Amartya Sen’s words remain us “you reap what you sow and you don’t reap what you don’t sow”³ Now is the time to sow properly the future of this great nation by investing in its children.
The child cannot develop into a full-blown human being unless constructive and congenial environment is assured for his / her development. He / she is to be provide planned care and adequate socialization opportunities in order to enable him / her to attain human status.

The constitutional obligations of the state towards the child has made his/her a national concern transcending all segments of poverty, illiteracy, exploitation of childhood and deprivation of education. The status of the child has been evaluated and he / she come to be viewed at “supreme assert of nation.” In spite of the efforts undertaken by government and other schemes, programmes, a sizeable proportion of child population is still working as a wage labourers both rural and urban areas in very deplorable and inhuman conditions.

The prevalence of child labour is not a recent phenomenon. Even in ancient times the child labourers were involved in agricultural activities such as grazing of cattles, collection of grass and fuel working in the fields etc., which were tedious and time consuming.

The problematic aspects of child labour became more pronounced with the advent of industrial era. Being in the labour children are denied educational opportunities, thereby leading to clear violation of human rights of child labourers. During the early days of industrial
development in India and other countries in the west, children were employed with intention of earning large profits as child labour was cheaper than adult labour.

The employment of working children particularly in the unorganized industries attracted attention of many Commissions and Committees i.e., The Factory Commission (1975), The Royal Commission on Labour (1931), National Commission on Child Labour (1979), Sanat Mehta Committee on Child Labour (1986). Reports of some of these Commissions / Committees were highlighted the problem of child labour.

Normatively, child labour has serious consequences and implication for children, parents and families and as such it has been recognized as a social evil.

**DEFINITION OF CHILD / CHILD LABOUR**

The framers of Constitution of India, and law, and other International Conventions on children have defined child / child labour under different age groups as criteria. There is no uniform definitions of child age.
According to the United Nations Convention on child “a child means every human being below the age of 18 years unless, under the law applicable to the child majority is attained earlier.”

### Various definitions of a Child according to the Acts

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<th>Act/Convention</th>
<th>Definition</th>
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<tr>
<td>Criminal Law, Indian Penal Code 1860</td>
<td>Nothing is an offence which is done by a child under 7 years of age (Section 82)</td>
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<tr>
<td>Juvenile Law, The Juvenile Justice Act, 1986</td>
<td>Juvenile is a boy who has not attained the age of 16 years and a girl who has not attained the age of 18 years.</td>
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<tr>
<td>Family Law, Child Marriage Restraint Act, 1929</td>
<td>Child means “a person who, if a male has not completed 21 years of age, and if a female has not completed 18 years of age”.</td>
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<td>Labour Laws Apprentices Act, 1951</td>
<td>A person shall not be qualified to be engaged as an apprentice – unless he is not less than 14 years of age.</td>
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<tr>
<td>Factories Act, 1948</td>
<td>No child who has not completed his 14 years shall be required or allowed to work in any factory.</td>
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<tr>
<td>Mines (Amendment) Act, 1983</td>
<td>No person below 18 years of age shall be allowed to work in any mine.</td>
</tr>
<tr>
<td>The Child Labour (Prohibition and Regulation) Act, 1986</td>
<td>Child means “a person who has not completed his 14 year of age”.</td>
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### Who is a Child?

The legal conception of a child varies depending upon the purpose whether it is for imposing legal disabilities (e.g., the political rights sphere), for spelling out duties and obligations (e.g., in juvenile
justice systems) for affording protection (e.g., from exploitative or hazardous employment), or for establishing eligibility to receive benefits or special services (e.g. health, education and maintenance benefits). Underlying these alternative definitions are also very different conceptions of the child. These include viewing children as a burden which invoke rights to maintenance and support, regarding children as undergoing temporary disabilities makes for rights to special treatment and special discrimination, treating children as specially vulnerable for ensuring rights of protection, and recognizing children as resources for the country's development giving rise to rights of nurturing and advancement under different economic and socio-cultural circumstance, the child has also been regarded as a commodity, as an insurance, as a source of labour, and as a social burden.

In India too, the definition of a child varies with the purpose. The Census of India treats persons below the age of 14 as “children”. While making use of standard demographic data, social scientists include females in the age group of 15 to 19 years under the category of the “girl child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment” (Article 23). The legal definition of a “child” depends very much upon the specific legislation.
How Old is a Child?

All culture share the view that the younger the children, the more vulnerable they are physically and psychologically and the less they are able to find for themselves. Age limits are a formal reflection of society's judgement about evolution of children's capacities and responsibilities.

Almost everywhere, age limits formally regulate children's activities when they can leave school? where they can marry?, when they can vote? when they can be treated as adults by the criminal justice system? when they can join the armed forces? and when they can work? But age limits differ from activity to activity and from Country to Country. In some of the countries, the legal minimum age for all work in Egypt is 12 years, the Philippines 14 years, Hongkong 15 years. The International Labour Organisation (ILO) minimum age convention also broadly adopts this approach, allowing light work at age 12 years or 13 years, but hazardous work not before 18 years.

What is Child Labour?

It is time to define terms, the phrase 'child labour' conjures up a particular image. We see children chained to looms in dark mills and sweetshops as if in a long and nightmarish line running from Sivakasi in 1970's right through to South Asia of the 1990's.
According to the Article 32 of The United Nations Convention on children states that “State parties recognized the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child, education or to be harmful to the child’s health or physical, mental, spiritual, moral or social development.”

In reality, children do a variety of work in widely divergent conditions. Their work takes places along a continuum. At one end of the continuum, the work is beneficial, promoting as enhancing a child’s physical, mental spiritual, moral or social development without interfering with schooling, recreation and rest.

In 1995, United Nations International Childrens’ Emergency Fund (UNICEF) determined that child labour is exploitative if it involves:

1. Full time work at too early an age, too many hours spending working, work that exerts undue physical, social or psychological stress, work and life on the streets in bad conditions.

2. Inadequate pay

3. Too much responsibility
4. Work that hampers access to education work that undermines children's dignity and self-esteem, such as slavery or bonded labour and sexual exploitation, and

5. Work that is detrimental to full social and psychological development

The impact of work on a child's development is the key to determining when such work becomes a problem. Work that is harmless to adults can be extremely harmful to children. Among the aspects of a children's development that can be endangered by work are:

**Physical development**: including overall health, coordinating, strength, vision and hearing.

**Cognitive development**: including literacy, numeracy and the acquisition of knowledge necessary to normal life.

**Emotional development**: including adequate self-esteem, family attachment, feeling of love and acceptance, and

**Social and moral development**: including sense of group identity, the ability to co-operate with others and the capacity to distinguish right from wrong.⁶
The physical harm is, of course the easiest to see, carrying heavy loads or settings for long periods in unnatural positions can permanently disable growing bodies. Hard physical labour over a period of years can stunt children’s physical stature by up to 30 per cent of their biological potential, as they expend stores of stamina that should last into adulthood.7

Children are also vulnerable psychologically. They can suffer devastating psychological damage from being in an environment in which they are demeaned or oppressed self-esteem is as important for children as it is for adults.

Education is one of the keys that will unlock the prison cell of hazardous labour in which so many children are confined. It is almost impossible to overemphasize the point.

Education helps a child development cognitively emotionally and socially and it is an area often gravely jeopardized by child labour. Work can interfere with education in the following ways:

1. It frequently absorbs so much time that school attendance is impossible, it often leaves children so exhausted that they lack of the energy to attend school or cannot study effectively when in class.
2. Some occupations, especially seasonal agricultural work, cause children to miss too many days of class even though they are enrolled in school.

3. The social environment of work sometimes undermines the value children place on education. Something to which street children are particularly vulnerable, and

4. Children mistreated in the work place may be so traumatized that they cannot concentrate in school work or rejected by teachers as disruptive.

**Nature of Child Work**

A majority of the working children is concentrated in the rural areas. About 60 per cent of them are below the age of 10 years. Business and trade absorbs 23 per cent while working households covers 36 per cent. The number of children in urban households cover 36 per cent. The number of children in urban areas who work in canteens and restaurants or those engaged in picking rags and hawking goods is vast but recorded.

Among the more unfortunates are those who are employed in hazardous industries. For instance, the fireworks and match box units in Sivakasi in Ramanthapuram district in Tamil Nadu employ 45,000 children. In the slate industry of Markapur in Andhra Pradesh. Out of
state pencil industry about 3,750 child workers are involved in a total work force of 15,000 workers. The lock making industry of Aligarh in Uttar Pradesh employs 10,000 children below the age of 14 years. In the glass industry of Firozabad in Uttar Pradesh 50,000 children are working with a total workforce of 2 lakh workers.

In Kashmir, Mizapur, Bhadohi areas nearly 30 per cent of working force are child labourers. Mumbai has the largest number of child labourers. Even in the State capital of Delhi 60,000 children work in dhabas, tea-stalls, mines and restaurants on a daily wage of Rs.8 to 10.

Child labour is inextricably linked to bonded labour. In Andhra Pradesh, 21 per cent of the bonded labourers are under 16 years. In Karnataka, 10.3 per cent and in Tamil Nadu 8.7 per cent belong to this age group. Many studies shows that at the time of entering bondage, many labourers are as young as 5 years old. In several parts of the country, bonded fathers over 40 years old free themselves by deputing their sons and daughters into bondage.

In the tea gardens of Assam where employment of children below 12 years is prohibited, girls who bring food to their working mothers are encouraged to stay back and help with the work. Children, mostly boys have an important role to play in mining operations. Children below 12
years are preferred in organised and unorganized sector because here it is relatively easy for factory inspections during inspection. Their ages are raised arbitrarily to make them eligible for employment.

The Problem of Child Labour

Child labourers are exploited, exposed to hazardous work conditions and paid a pittance for their long hours of work. Forced to forego education shouldering responsibilities for beyond their years becoming world-wide when their peers have yet to leave the cocoons of parental protection. These child never know what childhood is.

The Indian Constitution enshrines that, according to Article 24,

"No child below the age of 14 years shall be employed to work in any factory or in any hazardous employment" and Article 39(1) states that, "Childhood and youth are to be protected against exploitation and against moral and material abandonment."

According to Article 45 of the Indian Constitution "The state shall endeavour to provide within a period of 10 years from the commencement of the Constitution free and compulsory education for all children until."
How many Children work?

Nobody knows for sure. International Labour Organisation (ILO), one authority on the subject considered the existing statistics vastly inadequate and unreliable and the process of data collection, Fraught with complication. A recent International Labour Organisation (ILO) survey which indicates that 173 million of the world children are employed equivalent 13 per cent of those aged 10 to 14. In India also that would add some 90 million children, most of them are girls to the total are child labour. It is very difficult to estimate those working in domestic works as child labourers mainly girls who invisible workers where for their own families or as servants.

CHILD LABOUR – RIGHT TO EDUCATION

In a country like India where over 40 per cent of the population is living in conditions of extreme poverty. Child labour is a complex issue. Children work out of necessity and without their earning the standard of living families would decline further. The social scientists said that main cause of child labour is poverty so they denied the right to education.

Human Rights: Right to Education and Child Labour

Studies on “Human Rights” at the global, national and regional level gained momentum in recent decades especially after the General Assembly of United Nations Organisation proclaimed the period of
1995-2004 as "United Nations Decade for Human Rights Education". It is a tool for elimination of Human Rights Violations of all the studies reveal the day-to-day life of mankind, human rights have been a matter of serious concern all over the world particularly in developing countries like India. In fact, the Universal Declaration of Human Rights of 1948 recognised the inherence of a wide set of rights for every human being the world over.

There is no doubt, the human rights are fundamental or essential for human existence and programme. They have been regarded as not only basic to the development of human personality but also as an indispensable condition for the peaceful progress of the world and essential for a stable international society.

No doubt, the Constitution, the legislative laws, the administrative measures, the universal declaration of human rights and various international covenants and conventions provide legal context to human rights out of which individual rights are derived and by which these are safeguarded their violation assessed, their grievances redressed, the aggressions punished and the victims compensated. But in practice they are not properly protected. The human rights are possible only in the context of sustainable development, which is non-exploitative of both people and environment.
Human beings are rational beings. They by virtue of their being human possess on certain basic and inclinable rights which are commonly known as human rights. Since these rights belongs to them became their very existence. They become operative with their birth. Human rights being the birth right, one therefore, inherent the individually irrespective of their caste, creed, religion, sex and nationality. These rights are essential for all the individuals as they were unconstant with their freedom and dignity and conductive to physical, moral, social and spiritual welfare. Human rights sometime referred to fundamental rights, basic rights, inherent rights, natural rights and birth rights.

**Definitions of Human Rights**

It is difficult to define the expression of human rights mainly because of differences in cultural background, legal systems, ideology and various conditions of different states. All these rights which are essential for the maintenance of human dignity maybe called as human rights.

D.D.Basu defines, “human rights as the minimum rights which every individual must have against the state or other public authority by virtue of his being as member of human family irrespective of any other considerations.”"
The world conference on Human Rights held in 1993 in Vienna state in the Declaration that, “the human rights derive from the dignity and worth inherent in the human person, and that human person in the central subject of human rights and fundamental freedom.”

Human rights being essential for all round development of the personality of the individuals in the society, be narrates protected and be made available to all the individuals. The need for the protection has arisen because of inevitable increase in the control over men's action by the governments which by no means can be regarded as desirable. The consciousness on the part of the human beings as their rights has also necessitated the protection by the states. It has been realized that the functions of all the laws whether they are rules of municipal law or that should be to protect them in the interest of the humanity.

Dimensions of Human Rights

Human Rights are generally defined as those rights and freedoms, which belong to all human beings. They are often called fundamental and universal. They are fundamental because these rights are inalienable and, thus, cannot be taken away in any circumstances. They are universal because they are to be enjoyed by all the people irrespective of cultural differences. In contrary to 'divine rights of kings' and other such conceptions of privilege, in theory, human rights extend to every
person on earth without discrimination. Human rights, in sum, include rights enjoyed by every individual irrespective of class, gender and cultures.

Moreover, human rights refer to claims against persons and institutions who impede realization of such rights. Human rights are believed to represent individual and group demands for shaping and sharing of power, wealth and enlightenment. Thus, human rights are not absolute. In sum, human rights are understood to represent those basic rights which every individual must possess against the states or any individual authority by virtue of his/her being the member of a human family. Human rights are fundamental, universal, inalienable and indivisible, and, therefore, these are necessary prerequisites for individual and collective well-being.

Developing the Concept of Human Rights

The origin of the contemporary conception of human rights can be traced back to the period of renaissance and enlightenment. The expression ‘human rights’ became part of the popular discourse since World War II and the founding of the United Nations in 1945. The two most important declarations which inspired revolutionary movements the world over were – the American Declaration of Independence, 1776, the French Declaration of the Rights of Man and Citizen of 1789. The
French Revolution, in particular, had a greater universal appeal with its goal for achievement of liberty, equality and fraternity. These two movements were significant for the ending of despotic rule, establishment of democratic politics and the protection of the liberties of the individual. Despite the declaration of human rights, women continued to be debarred from enjoying political rights for long even after such declarations. From these declarations are derived what we call the ‘first generation’ of civil and political rights. These rights are drawn from the political philosophy of liberal individualism and the economic and social doctrine of laissez-faire. Articles 2-21 of the Universal Declaration of Human Rights (UDHR) constitute such rights.

A new and the most significant dimension of the concept of human rights was added by the Bolshevik Revolution of 1917 with its stress on the abolition of class rule and the establishment of social and economic equality. With this is associated ‘the second generation’ of social, economic and cultural rights. It puts obligation on the state to intervene rather than abstain for ensuring equality and justice. Such rights are incorporated in Articles 22-27 of the Universal Declaration.

The 20th Century witnessed two World Wars threatening the very existence of human race. Many states realized the need for mechanisms for protection and promotion of human rights. The most important
initiative in this direction has been the United Nations Charter of 1945 and the Universal Declaration of Human Rights of 1948. The Universal Declaration, on the other hand, provides an elaborate list of human rights having 30 articles dealing with political, economic, social, cultural and development rights intended to be universally applicable. With the emergence of new Nations in the 50s and 60s in the continents of Asia and Africa added a new dimension to the meaning and the concept of human rights. It led to the demand for a global redistribution of power and wealth, the right to political, economic, social and cultural self-determination, the right to economic and social development, the right to participate in and benefit from the 'common heritage of mankind' like earth and space resources, and progress in the science and technology and the right to a healthy and balanced environment. With this evolved concept of 'collective rights', commonly referred to as 'the third generation' rights, Article 25 of Universal Declaration of Human Rights illustrates this fact.

**Universal Declaration of Human Rights (UDHR) and the Indian Constitution**

A comparison of Universal Declaration of Human Rights and the Indian Constitution reveals that these rights have been included in our Constitution in part III and part IV in the form of Fundamental Rights and Directive Principles of the State Policy. In fact, the preamble of the
Indian Constitution, Fundamental Rights and Directive Principles of State Policy together reflect the basic principles of Universal Declaration of Human Rights and the covenants on civil and political rights, and social and economic rights. The fundamental rights envisaged in our Constitution in Part-III, are indicative of the acceptance of the basic principles of Universal Declaration of Human Rights.

Therefore, freedom and welfare seems to be the essence of human rights provisions of the Indian Constitution. Actualizing social justice seems to be basic ethos of the Indian Constitution. Consequently the fundamental rights are subjected to reasonable restrictions imposed, by the state for promoting welfare of the society and maintaining the public order. The Directive Principles of State Policy laid down in Part IV of the Constitution supplement the Charter of human rights in Part III of the Indian Constitution. Though non-justifiable in nature, these are fundamental in the governance of the country. The most significant aspect is the right to constitutional remedies provided under Art.32 and 226, which enables a person to directly approach the High Courts and Supreme Court for judicial rectification if his/her rights have been violated. Reaffirming its faith on protection of human rights, a National Human Rights Commission (NHRC) was set up in the country through an Act of Parliament known as the Protection of Human Rights Act of
1993. The Commission is vested with all powers of civil court and whole country comes under its jurisdiction. Besides many states like Andhra Pradesh, West Bengal, Himachal Pradesh and Madhya Pradesh etc., have their State Human Rights Commissions (SHRC). Uttar Pradesh, Delhi and Jammu and Kashmir etc., have Human Rights Cell. These Commissions and cells handle cases of violation of human rights.

**Violation of Human Rights in India**

In India, in spite of various Constitutional safeguards, violation of human rights takes place every day in a variety of forms. These violations include breach of civil and political rights, discrimination against minority, women and weaker sections of society like scheduled castes and scheduled tribes, arbitrary arrest, torture and death of suspected culprits in police custody, female infanticide, killing of suspected militants in police custody, religious violence, child labour, ethnic killings, and kidnapping for ransom, etc. There are innumerate instances in the country of the infringement of civil and political rights. In a multicultural and multilingual society like ours conflicts and discriminations have become a day-to-day affair. Political violence is on the rise inhibiting the smooth functioning of democracy.
Plight of the Children

As with women, large number of children in our country are also exploited, abused and deprived of their basic rights though the Constitution has provided safeguards for children through Articles 24 and 25.

Every child of the country has a right to have a family of his/her own, and is also entitled to love and affection and to grow up in care and protection of its parents, get free education, have proper housing, food and medical care, have name and nationality and become useful member of the society. The Indian Constitution proclaims that the state shall endeavour to provide free and compulsory education for all children until they complete the age of 14 years (Art.45). No child below the age of 14 years shall be employed to work in any factory or in any hazardous employment (Art.24); childhood and youth to be protected against exploitation and against moral and material abandonment Art. 39(f), etc. A number of legislative measures have also been taken by the Government to safeguard the interest of children such as the Child Labour Act (1938), prohibits employment of children below 14 years of age, the Factory Act (1948) has provisions to safeguard the interest of child labourers. But in spite of all these preventive measures children continue to be employed abused, harassed. There has been sharp
increase in crime against children during recent years. Based on a study of street children in Mumbai, Delhi and Chennai, the Human Rights watch opined that the Indian street children are routinely detained, illegally beaten and tortured and some times killed. Child labour continues to be rampant in especially carpet, bangle, and fire work industries. According to an estimate, between 20 million and 100 million children are engaged in variety of vocations including the hazardous vocations. More than 15 million children of the country are child labour. One estimate puts number of working children in our country more than 45 million. Thousands of children are engaged in Mirzapur carpet industry, zari industry of Lucknow, lock industry of Aligarh, brass industry of Moradabad and bangle industry of Ferozabad. These children are exposed to hazardous work.

Constitution of India and Human Rights

The French Declaration of the "Human Rights" of man and citizen, 1789 which is an invaluable contribution in the global struggle for "Human Rights", covenants of League of Nations, 1919, Universal Declaration of Human Rights, 1948 and its related charters were added to Human Rights jurisprudence only after tremendous struggle. The history of "Human Rights" movement is also a history of the challenges
faced by it. It is also scripted with prognosis for the ailment which people suffer i.e., “Human Rights” violations.

It is very difficult to define “Human Rights” in an objective manner. The Universal Declaration of Human Rights, 1948 enumerated at least 27 such broad rights which are necessary for the establishment of social and international order in which the rights and freedoms can be realized. Parts III and IV of the Constitution of India contain number of rights which are guaranteed “Human Rights”. Section 2(A) of the protection of Human Rights Act, 1993 defines “Human Right” as: “Human Rights means the rights relating to life, liberty, equality, and dignity of the individual guaranteed by the Constitution or embodied in the International covenants and enforceable by courts of India.”

In National Human Rights Commission Vs State of Arunachal Pradesh (AIR 1996 SC 1234) the observations of the Supreme Court be relevant in this context.

“Our Constitution confers right on every human being and certain other rights on citizens. Every person is entitled to equality before law and equal protection of the laws. So also no person can be deprived of his right of personal liberty except according to procedure established bylaw. Thus the State is bound to protect the life and liberty of every human being be the citizen or otherwise.”
BASIC EDUCATION

The broad understanding is that every child has a fundamental right to education and it has to be realized with a great deal of urgency. The main reason for the inefficient and inadequate implementation and enforcement of the law has been dilution of the law itself. In place of compulsion to achieve literacy among children of school-going age, persuasion is always sought for universalizing primary education. This is evident from the provisions of various incentive systems time and again to bring the children to schools. Further dilution lies in the policy itself which provides for non-formal supplementary education programmes for non-school going and working children.

The reason propounded is mainly that of poverty and economic compulsions, which make child labour reality and has to be accepted. It then necessarily follows that the implementation of the Act must wait until there is significant amelioration of poverty. On the other hand, there are evidences indicating school rather due to least priority to education.

Looking to the international scenario on literacy rate we can have much evidence that with less spending of Gross National Product (GNP) on education it is possible to experience speculative increase in literacy rates. There is no clear relationship between literacy and per capita
income because there are so many Asian countries which achieved higher literacy rates even before their rapid economic growth. India was devoting 4.1 per cent of its GNP to education (1999-2001), Burma spends 1.6 per cent, China 2.7 per cent, USA 6 per cent, Indonesia 2 per cent, and Sri Lanka 3.5 per cent. But all these countries have literacy rates than India. Countries like China, Vietnam, Taiwan, and South Korea, even Sri Lanka can establish compulsory education when their per capita income is no different from that of India.

Even one of the Indian States, Kerala has a literacy rate of about 100 per cent despite the fact that its per capita income is not higher than that of the rest of the country. In contrast, Punjab having more than double the per capita income or Kerala, has a literacy rate of 58 per cent. These experiences demonstrate that poverty of national income is no barrier to the spread of basic education.

**Education in the United Progressive Alliance (UPA) Government – Common Minimum Programme**

First, one of the most promises refers to spending at least 6 per cent of Gross Domestic Product (GDP) on education. The share of education in national income is the standard indicator of national efforts on the development of education in a society. This reflects the relative priority being accorded to education in the national economy. On the recommendation of the Educational Commission, the Government of
India quantitatively fixed a target of investing 6 per cent of national income on education by the public exchequer by 1986. The goal remains elusive nearly 20 years after the target date. As a result, the goal first set down in the 1992 National Policy on Education was reiterated in the 1986-1992 National Policy statements, in every subsequent Five-Year Plan and was announced even from the ramparts of the Red Fort. This is one of the glaring promises that continue to remain a goal repeatedly postponed, unfulfilled and often reiterated.

According to the Human Development Report 2004, India ranks 78th with respect to share of the public expenditure on education in GDP, among the 137 countries on which such data are available. The goal earlier set for accomplishment by the end of the 10th Five Year Plan, is according to the Common Minimum Programme (CMP), to “to done in an phased manner” and no clear date is fixed. An interesting point is that while the recent years, attempts have been made by the government to interpret the goal to refer to total expenditure, the Common Minimum Programme makes it clear that it will be ‘public spending’. Secondly, international statistics like those of United Nations Educational, Scientific and Cultural Organization (UNESCO) and United Nations Development Programme refer to the indicator as a proportion of Gross National Product and not Gross Domestic Product.
Right to Education

Equality before law is a basic right guaranteed under Article 14 of Constitution of India referring to ‘equality of treatment’. The National Policy on Education opportunity by attending the specific needs of those who have been denied of the same so far. If any one look at the education profiles of various groups, it becomes clear that still there are glaring inequalities in education between various social groups defined by region, area, caste, sex, class, disabilities and so on. Such disparities have also increased and most desired objective of equalization of educational opportunities has been eluding the grasp.

All these educational disparities in the field of education are indicative of government’s failure to deal with the problem of ‘right to education’. The wastage of human resources even after 50 years of declaration of human rights appears to be the greatest human tragedy in our country. From the human rights perspective, there is no need to go beyond reaffirmation of intent to focus action and implementation and convert policy to action.

Human Rights Education: Policies and Actions

The University Grants Commission (UGC) Standing Committee on Human Rights in its meeting held on 13th March, 1997 constituted a Sub-Committee for drafting an ‘approach paper’ for the UGC initiatives
and to define strategies for IX Plan to promote human rights education in higher education. The plan approach was approved by the Commission in its meeting held on 21st May, 1998. The core of the approach was that respect and realization of human rights require evolving a culture that is more sensitive to the basic needs of every human being. Of course, this goal of ushering in human rights had been incorporated in constitutional scheme, the culture has still remained a reality.

The expression ‘Human Rights’ was used for the first time in the declaration by the United Nations signed on 1st January, 1942 by 26 Nations during wartime. The Declaration of Human Rights basically means that mankind still lives in many kinds of slaveries. At the national level the response to the issue of Human Rights varies according to the kind of society, the stage of national development that relates to the system of Human Rights. The 86th Constitutional Amendment, added a new clause 21A to the right to life and guaranteed education up to the elementary stage as a fundamental right.

Due to lack of awareness and education about the human rights rural people are not in a position to know their fundamental rights and still they are in the clutches of landlords and continuing their life as bonded labourers for lower wages, with the low income levels the
purchasing power is gradually decreasing, so to increase their earnings the rural people are sending their children to labour work for both agriculture and industrial sectors.

**Human Rights of the Children**

Right implies duties or obligations. Rights also imply goals, zeals, however, do not imply rights. A goal is necessary but not sufficient condition for a right.

This means the human development goals including the educational goals, rights of children can be achieved without any rights.

Human rights have been defined as a rights which all persons equally have simply in so far as they are human.

According to Gewirth (1984), defines human rights as “personally oriented, normative necessary moral requirements.”

Human rights are primarily chain rights, because they imply correlative obligations to other persons or groups. Eide et.al., (1991) define those different aspects in the implementation of human rights: 1) to respect, 2) to protect and 3) to fulfill they also suggest human rights need to be implemented at different levels of society, from individual household to international level. This approach is used by Johnson
(1993) to operationalise the implementation of nutrition and education as human rights.

Human rights articulations represent human hope in a brutal and brutalizing the World. They provide awareness for the struggle for just national and international order in relation to the child for state and society which is callous to the rights of the child can never aspire to be a just society.

According to Upendra Baxi, “Giving children a voice and a forum may accelerate the adult world’s face of progress.”

The conversion of the rights of the child, The World Summit plan of action, as well as the formation World Conference Education for all mark triumphant inaugural articulation of human rights. Human rights of course in some where or the after have tacitly included children’s rights.

The Vienna declaration on human rights (1993) accelerates in so many ways the dynamics of international movement for the promotion of “respect for the rights of the child to survival, protection, development and participation of the Child Right Convention by 1995 and argues states to protect the rights. As Akin Gonen points out “Today there is a very different approach to the child. It is accepted in principle
that the child has the right its state his or her opinion freely and that this opinion should be properly considered in decisions concerning the child."\textsuperscript{15}

Withdraw reservations to convention which are contrary to the international law.

The declaration insists that all states, with international cooperation should continue on these lines.\textsuperscript{16}

1. Combat "exploitation and abuse of children by addressing their root causes"

2. Devise effective measures against female infanticide, harmful child labour, sale of children, child prostitution, as well as other form of sexual abuse, and

3. Organise "means of improving the protection of children in armed conflicts" and programmes of "aftercare and rehabilitation of children in war zones" as well as those in especially difficult circumstances.

It needs to be acknowledged and develop linkages between the rights of the child and other instruments of human rights. Awareness and advocacy of such linkages will enable us to advance research analysis on the action on child rights.
Human rights instruments on children’s rights stress participation as a core, value along with “survival” “protection” and “development.” What strategy should be devised to encourage participation by children in designing policies for survival, protection and development is indeed amount critical question.

Over 250 million children, in rich and poor countries of the World, work and many of them at great risk from hazardous and exploitative labour. Their lives are in jeopardy as they are denied basic education, and trapped in poverty that cripples upliftment of the children.

Child labour is a controversial and emotional issue which requires a suitable solution as it is becoming a challenging task. The thoughtful and comprehensive approaches required must be guided by the interests of child and a commitment to children’s human rights as enshrined in the convention on the rights of the child. The statement need to examine various factors affecting the human rights deprivation of children in India particularly with reference to Anantapur district.

In perspective of Human Rights and Child Labour

The system of child labour is not confined only to India. It is visible all over the world. But in case of Indian subcontinent, many of the children are being employed in manufacturing glass industries,
jewellery processing units, crockeries units, brick industry, carpentry industries, polishing units and mines etc., that causing irreparable health damage of children. They are also being employed in agricultural operation activities which deprive their childhood. In case of urban areas, children are being involved in hotels, boot polishing, construction works, street vendors, servant maids in the house. In fact, childhood of the labourers is being exploited by callous people in society may paying them not even minimal wages that reflect inadequacies of human life.

About 250 million child labourers are being forced into this exploitative condition all over the World. Due to illiteracy and poverty of their parents, children are undertaking unavoidable responsibilities of their families irrespective of their age. This results in evaporation of their childhood.

CHILD LABOURERS

According to the International Labour Organisation (ILO) Statistics, India occupies the plan of having maximize child labourers. India has nearly 45 million child labourers of which 20 per cent living in urban areas whereas rest of the 25 per cent living in rural areas. The official reports put at all as 163 million which is not up to the beliefs of the people.
According to The Asian Labour Monitor Reports, every house in India is having a single child labour. Child labour system is calculated from 1981 to 2004 as shown in the below Table 1.1. As per the data the estimation of child labour increases since 1981.17

**TABLE: 1.1**

**CHILD LABOUR SYSTEM UPTO 2004**

<table>
<thead>
<tr>
<th>Year</th>
<th>Estimation of Child Labour (5-14 years) in millions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1981</td>
<td>13.64</td>
</tr>
<tr>
<td>1983</td>
<td>17.36</td>
</tr>
<tr>
<td>1985</td>
<td>17.58</td>
</tr>
<tr>
<td>1990</td>
<td>18.18</td>
</tr>
<tr>
<td>2000</td>
<td>20.25</td>
</tr>
<tr>
<td>2004</td>
<td>22.15</td>
</tr>
</tbody>
</table>


**Gender Discrimination of Child Labour**

Girl is being subjected to unavoidable situation owing to increasing poverty of underdeveloped countries. Lack of education, nutrition food, preservation of health, girl is underestimated as unnecessary burden and productive machine in many parts of the World in general and India in particular.
Girl is denied freedom to participate in the social activities which reflect non-upliftment of girl and there is no chance for progress of the child. Girl is considered always to be lower than boy. Until and unless, societal discrimination of gender, erased from the minds of the people, a girl is not destined to progress and her development as a human being is at great risk.

Even to this day girl labourer are instrumental in many industrial units, that deprive of their child hood and deny the path to upliftment in society. Involvement of girl labourers in textile industry in India manufacture of match boxes and crackers industry in Tamil Nadu and glass manufacturing in Ferozabad and some other industries indicates the participation of child labourers in labour industry of India at large. Due to their participation as child labours in the industries, they are being subjected to several exploitation and prostitution in many parts of the World.

Causes for Child Labourers

There are many factors that contribute to the system of child labour in India. Poverty, illiteracy, insufficient protective legislation, inequitable distribution of land assets, lack of unions and not enforcing effectively. The existing laws etc., are considered to be main causes for breeding of child labours in India.
Violation of Children’s Rights in India

Even though Article 15 of the Indian Constitution provides equality to all sections in India, in practical terms, it makes division based on various aspects such as caste, religion which deprive equality especially of scheduled castes, scheduled tribes and girl child. The Guardian Wards Act (1890), The Hindu Minority and Guardianship Act (1956), Juvenile Justice System (1986) are protecting the rights of the child. But the poverty, illiteracy and the child marriages brought the parents into the vicious circle to make them as child labourers.

Apart from this, an outdated educational system, non-implemented provisions, societal norms and age old customs and traditions are also effecting the protection of the rights of the child labourers.

International perspective to combat Child Labour

United Nations General Assembly unanimously adopted a resolution of child rights and enacted certain provisions which seeking the member countries to adopt and implement the provision mentioned the following important provisions relating to the child rights. They are,

1. The United Nations General Assembly sought the member countries and other organization to see that the provisions are implemented.
2. Social security benefits and its fruits are to be provided, and

3. "The child is a first concept" for all governmental actions and programs.

United Nations Organization organized child rights convention on 20th November, 1989 and adopted certain recommendations for the protection of child rights. India also ratified this resolution. According to this agreement, all political parties and governments need to protect the children against exploitation of age and deprivation of education.

**Child Right Convention and Indian Child Rights – Status**

By ratifying Child Rights Convention (CRC) on 12th November, 1992 India itself shows India’s commitment to child rights. So, India committed and abide by the following aspects. They are

1. To reviewing the existing state laws and incorporating appropriate provisions to meet the commitment of Child Rights Convention.

2. All Governmental Departments, Non-Governmental Organisations (NGOs) and other organizational co-ordination and implementation of Child Rights convention enactments.

3. To prepare devices to improve Child Rights convention commitment, and

In 1919, International Labour Organisation (ILO) on its first session passed a resolution on industrial employment entry stating below 14 years of age children should not be deployed in any industrial activities. International Labour Organisation’s (ILO) resolution imposed a ban on child labours in hotels, industry and agricultural related activities are banned.

In this connection, India has also ratified this resolution. Again the International Labour Organisation (ILO) is 1973 on its 138 resolution seeks all its member countries to frame national child policy and combating child labour. The International Labour Organisation (ILO) also sought to protect the minimum age below 14, a minimum wages, working hours etc., need to be implemented compulsory on implementation of any welfare schemes.

Constitutional Protection on Child Labour

In Indian Constitution the commitment to child rights welfare is safeguarded in various provisions and legislative enactments. Article 14 of the Indian Constitution states that the child work below 14 year of age in any factory or mine and any hazardous occupation is banned.
Article 15(3) stipulated giving equal opportunities for children and women in public employment. Article 39(F) protects childhood, exploitation of child labour.

Article 45 stipulated compulsory primary education for the below 15 year of age children. In Directive Principles of State Policy contains 38, 42, 43, 46, 47 articles indirectly mentions child welfare policy and actions. Article 43, 42 provides equal wages for equal work, minimal working conditions leisure to safeguarded to combat exploitation of child labour force.

Legal Policies on Protection of Child Labour

Factories Act (1881) is a first enactment which defines on child and also leaning the children below of years of age to be employed.

The Factory Act of 1911 also imposed ban on working of children at night times in hazardous occupations. But the International Labour Organisation (ILO) in its first resolution (1922) pressurized its member countries to rise the minimal age to 15 years to work.

In 1935 the minimal age limit was extended 13 years. At present, Factories Act of 1948 restricts to deploy child labourers below 14 years of age. Indian Minimum Act (1951) stipulated children below 16 years should not be deployed in any mining activities.
In spite of various safeguards incorporated to protect rights the children, practically saying, most of the managements on one hand and parents on the other hand resorting to deployment of children as labourers. So, it clearly shows that the continuous violation of natural justice and social well being of children in society.

Government Programs to eliminate Child Labour

In 1974 the Government of India framed National Policy on Children. In 1992 National Child Labour Project (NCLP) program was brought to eliminate child labor. National Child Labour Project (NCLP) covers the following features. They are as follows:

1. Action plan as per law.
2. Concentration on providing benefits to the children in all programs.

National Child Labour Project (NCLP) is concentrating in the areas and daily density of child labours existing and area of query and daily wage so far, 12 National Child Labour Project (NCLP) projects are in force in 7 states. They are: Uttar Pradesh (4) Andhra Pradesh (2), Tamil Nadu (1) Madhya Pradesh (1) Bihar (1) Rajasthan (1), Maharashtra (1). Later on extended to other States.
3. To establish separate schools for the child labours, and

Verdict of Supreme Court on Child Labour (1996)

In December, 1996, The Supreme Court gave verdict that child labour fund should be established at the district level of every State. Each and every entrepreneur must allocate fund of Rs.20,000 towards child labour. Children should be employed only 4 to 6 hours in non-hazardous occupation and thereby bearing the expenses by management for the education of child for 2 hours every day. Child labour census need to be enumerated with in 6 months by all the states.

The verdict of Supreme Court imposed ban on development of child labours in government officers' houses.

The National Human Rights Commission (NHRC) also supporting a ban on child labour.

The above terms and actions led to the execution of various constructive actions by the Center and State governments.

The Indian Constitutional provisions in Fundamental Rights and Directive Principles of State Policy along with various legislative enactments incorporated to protect the rights of the children in respects of education, elimination of child labour becoming harsh reality in
enforcement practically. Meanwhile the Government of India stipulated targets to attain the universalization of primary education at the end of 2015. But in reality without providing basic education rights to child labour cannot be attained.

The research needs to find out the implementation and impediments wherein the stipulated targets on child labour and providing primary education are to be studied.

**STATEMENT OF THE PROBLEM**

The research study examines the issue of child labour in all its complexity, exposing the common myths and it and exploring the causes. The contributing factors are multiple and overlapping, including the exploitation of poverty, lack of access to education, and traditional restrictions. Particularly for girls compounding the problem of status about the number of child workers especially those in hazardous conditions. More data are urgently needed in order to better monitor and prevent child labour violations, particularly since the majority of child labour in invisibility.

Because the cause of child labour are complex, the solution must be comprehensive. The research study requires to analyse various dimensions of child labour and to propose suggestive views to help eliminate it including access to education, wider protection, collection of...
information, the materialization of resources and governmental initiatives, communities, non-governmental organisations and employers and trade unions. The single most effective way to protect children from hazardous and exploitative labour. The researcher identified to extend and improve education so that it will attract them and inspire the lives of children.

Child labour is a controversial and emotional issue. It is also a complex challenging one that defines simple solutions. The thoughtfulness and comprehensive approaches required must be guided by the interests of child and by a commitment to children’s human rights as enshrined in the convention on the rights of the child.

The United Nations International Children’s Emergency Fund (UNICEF) pointed out that priority be given to efforts for the immediate end of hazardous and exploitative child labour and to urgent support for education, so that children may acquire the knowledge and skills that can enable them to improve their lives. It also stresses the need for basic services, social development strategies, income generation measures and legal protection for children, their families and communities.

NATURE AND SCOPE OF THE STUDY

Quite a large number of studies on the problem of child labour has been conducted in India concentrated on only child labour, but in
this area of study no research work was carried on with reference to Anantapur district. Data available on the right to education protection among child labour is also very limited.

Anantapur district was chosen because of drought conditions and the poor economic conditions prevailing in the district, how for help to protect the primary education. Right among the child especially child labour through National Child Labour Project. Sarva Siksha Abhiyan (SSA) to attain universalisation of primary education to the end of 2015.

To find out the status, problems on the access of the universalisation of primary education right among child labour in the district.

OBJECTIVES OF THE STUDY

1. To highlight the social, cultural and economic background of the district and child labour.

2. To analyse the child labour and the human right violation relationship and at the global level, countrywide, specifically on the right to education.

3. To identify the factors that force parents / family members to send their children to the labour market at an early age.
4. To investigate / ascertain in the working condition and status of the child labour worldwide with reference to India so as to determine the form and extent of exploitation.

5. As certain Constitutional provisions and legal provisions relating to child labour and right to education protection in India.

6. To examine the role of various agencies on the elimination of child labour and setback on not attaining the targets.

7. To suggest measures which may be helpful in reducing the child labour and its adverse consequences, and

8. To find out National Child Labour Project. Sarva Siksha Abhiyan, Anantapur district programme on the right to education.

HYPOTHESES

1. Child labour is obstacle in the attainment of universalization of primary education.

2. Child labour is deriving the human rights in India especially in reference to Anantapur district on protecting the right to education in order to investigate the cause.

3. Whether the possibility of elimination of child labour and providing primary education right to the child labour is fulfilled.
4. The role of Government and Non-Governmental Agencies is leading to eliminate child labour and protect the human rights – especially the right to education at the end of 2015, and

5. Universalization of primary education can be possible to provide child labour as right to education as a fundamental right.

**METHODOLOGY**

The present study is based on literary data and reports and procuring information with various agencies. The published material consists of books, articles, reports, journals, newspaper articles, the United Nations International Children’s Emergency Fund (UNICEF) reports, Journals of Yojana, Kurukshetra, district level information has also been used. The material gathered mainly on primary and secondary sources provided a broad framework and perspectives to the study.

**REVIEW OF LITERATURE**

Studies on child labour cover reports of various types prepared by various governmental, semi-governmental or voluntary agencies of national and international status. These reports are based on primary and secondary data and are about urban and rural industrial and agricultural areas.

Labour Bureau, Minority of Labour 1954, New Delhi was the earliest study being conducted by labour bureau at nation-wide studies.
on child labour. The study was based on secondary information and a few on the spot investigations in industries e.g., mines, plantations, cottage industries, etc.

The year of 1979 being the International Year of Child, the central government sponsored some studies on child labour and also undertook nation-wide rapid survey on child labour. The study investigated the following (i) the dimensions of child labour and the occupation in which children were employed, and (ii) the existing labour laws – their adequacy and implementation. The study clearly showed non-implementation of various pieces of labour legislation. Many disturbing factors like long hours of work and low wages were also brought out. The study recommended a model legislation on child labour and also suggested the need to involve social workers, voluntary organisations, trade unions and parents to assist in the enforcement of legislative measures.

Studies by Barooach et al (1997), and Musafir Singh, et.al., (1980) revealed that 2/3rd of the child workers were working for less than a year on regular basis.

Whereas Patil’s (1988) and Kitchlu’s (1987) studies indicate that 3/4th of the employed children were in different employment from 1 to 5 years.
The study of Nangia (1987) and Patil (1988) revealed that a little less than 1/3rd of these children worked on more than one job. The reasons for frequent change of their jobs are heavy work, low wages, desire of their parents, illtreatment by employers, etc.

Similarly, Catholic Arch Diocese (Delhi), Prabhatara (Delhi), Theatre Action Group (TAG), (Ankur), Delhi Council of Child Welfare, Butterflies (Delhi) and many others have highlighted the problems of rag pickers, pavement dwellers and unlicensed collie boys. These organisations and groups primarily work among the working and street children.

The review shows the most of the studies on child labour are carried out in an eclectic manner. Some of these studies are from big Metropolitan cities. These studies are quite exhaustive. In Gujarat state, the studies conducted on child labour are usually confined to a particular category of child workers. These studies do not project a comprehensive picture because of their limited coverage and scope. The problem of child labour has not been probed in sufficient depth both by Dichhotia (1980) and Singh (1992) in their Ahmedabad and Kamala Srinivasan (1987) her Baroda Study. Therefore, the researcher can clearly understand the inadequacies in terms of passing the enactments for removal and eradication of child labour and thereby resulting in not
reaching the stipulated and cherished goals of the government as a whole.

This research study is mainly intended to cover the situation of child labour and how for the right to education is attained and also listed out the failures of the targets in elimination of child labour with special reference to Anantapur District – National Child Labour Programme (NCLP) programme.

CHAPTERIZATION

The research project has been organized into five chapters including introduction, findings and suggestions.

Chapter-I: This chapter describes the meaning of the child and problem of the child labour including statement of the problem, nature and scope of the study, objectives of the study, hypotheses, methodology, review of literature and chapterization.

Chapter-II: The second chapter examines the child labour status at global and national level. The second part of the chapter deals with the magnitude of the child labour in Andhra Pradesh and Anantapur district.

Chapter-III: This chapter narrates the relation between the child labour and right to education also examines the child labour policies in India.
Chapter-III: This chapter describes the profile of Anantapur district and National child labour project programmes performance in the Anantapur district, and

Chapter-V: This chapter analyses the major findings on the research topic and provided recommendations for protection of right to education among the child labourers.
References