CHAPTER-VII
CHILD LABOUR IN UNITED STATES OF AMERICA, UK, RUSSIA, CHINA, SOUTH AFRICA, SOUTH ASIA AND OTHER COUNTRIES: A COMPARATIVE ANALYSIS

7.1 Introduction

The problem of child labour is a global phenomenon and is not restricted to the poor, developing countries of the world, though it may manifest itself in varying forms and intensities among countries from different socio-economic milieu. It is also an extremely complex problem since; it is interlinked in cause and consequence to the social, economic, cultural and political systems which favour a few at the cost of others. In addition, the grossly exploitative and abusive conditions in which wide majority of children are made to work are an indication of their overall victimization by oppressive hierarchies on the basis of age, caste, class, gender and religion. Due to various reasons the children of all the countries including India are obliged to suffer neglect and destitute. The history of child labour is bound up with the status of the child, his rights and privileges in different societies.

In the developed industrial countries, the problems of child labour and deprived children are ignored. There are hundreds of children working to maintain their families and themselves. The major employment sector in which child workers are employed is prostitution. Today in the developed world child prostitution is very much in demand. Besides, the children from the poor black homes, porturicans and
other social minorities in the United States of America are working in factories and small establishments.¹

However, the problem of child workers is not as acute as in the developing countries of the Third World.² In most of the developing countries, development efforts have been lopsided. As a result, the gaps between rural and urban areas, between one region and another, and between one section of people and another section have considerably widened. This has resulted in a massive spread of poverty in many countries in rural areas. In urban areas, following western capitalist model of development, huge infrastructural facilities have been made available which has resulted in the over care of the urban sector and neglect of the rural sector. This too in a situation when majority of the population is still living in rural areas and livelihood of a large segment of the rural population depends on agriculture and allied activities.³

The agrarian structures of all the developing countries are again characterised by land related inequalities. Many efforts have been made by many governments in the Third world to redistribute land to landless and semi-landless households through various land reform measures. But the problems of poverty and exploitations are so tenacious and chronic that landlessness and destitution could not be stopped. This structural problem is the single most important cause of the emergence of a large number of working children in rural and urban areas. The destitute people generally migrate to cities and towns during acute unemployment and economic distress. It is

³ Ibid, p.25.
again the children of the unfortunate migrants who constitute the largest segment of the urban working children.⁴

It would be appropriate to study the problems and prospects of child labour in different countries of the world to understand the situation and analyse.

7.2 Child Labour in United States

Before the United States became an independent, sovereign nation, children worked alongside other family members and were considered an integral part of the work force. Children were socialised to contribute to the maintenance of the family through apprenticeships. This arrangement exemplified the child’s relationship to both work and family in pre-industrial society. In the pre-colonial and post-colonial U.S., children worked both on family forms and in cottage industries. Children in the agricultural and industrial sectors worked for long hours and in conditions that were detrimental to their physical and mental health. For parents and children, education was a secondary importance to supplementing the family income.⁵

The idea that people are responsible for their poverty and misery is rooted in the English poor laws. Many of the early settlers from Europe, including the Puritans, brought religious beliefs establishing a strong work ethic. They believed that social and economic degradation could be prevented by hard work and prudent saving. These beliefs provided the impetus to justify child employment, instilling in parents

⁴ Ibid, p.25.
⁵ Cathryane, L.Schmitz, Elizabeth Kimjin Traver and Desi Larson, “Child Labour: A Global View” p.188.
and employers that it was their role to prepare the children for adult life by teaching them positive work habits.6

Early in the history of the United States, children who were destitute and neglected were placed in private homes as domestic workers, in other instances, by court rulings, they were bound as apprentices. Boys were apprenticed until the age of eighteen or twenty one, and girls until they were eighteen years old or in marriage, work was considered training that provided children with skills in certain trades and occupations. Many children, however, received little or no training and their education was ignored. They carried out menial tasks and were underfed and inadequately clothed.7

Some children born to parents in slavery were sold into servitude. Prior to civil war, most African-American, children who were enslaved worked on farms and plantations; approximately 5 percent worked in mines and factories. During the antislavery period, children's apprenticeships bore striking similarities to forced bondage. Apprenticeships continued through the nineteenth century, especially in the Southern States. Whites in the Southern States used apprenticeships as a way to further enslave young African-Americans and secure a cheap source of labour.

In the United States child labour was considered a cheap and manageable workforce. The cities provided a wide array of employment opportunities for children. Girls and boys were engaged in similar jobs, although more boys were

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7 Ibid, pp 188-189.
engaged in street type occupations. More girls on the other hand worked at home helping their mothers in house-hold tasks such as cooking, cleaning, laundry, ironing, mending, sewing, and caring for younger siblings. Some girls worked in textile mills and factories as spinners and weavers. They sent their wages home or saved their pay for education, job training, or a marriage dowry.

In the early twentieth century, when most crop planting and harvesting was performed by hand, more children were engaged in farm work than any other occupation. A belief at that time was that farm work was good for children’s health. Some children moved from farm to farm with their families, carrying out the same backbreaking tasks as their parents. Entire migrant labour families, most of whom were African-American and other ethnic minorities, worked in the fields; this included children as young as three and four years old. Some families spent the entire year following the crops, staying at locations for just a couple of weeks. Migrant farm workers and their families were denied access to health and welfare services and, in certain areas, their children were allowed to attend the local schools. Even if the children were allowed to attend school, work always came first. Many families who lived in the city would get involved in agricultural work during the spring and summer months.  

In the United States the term child labour is commonly used to denote employment that is harmful to a child’s physical, cognitive, emotional, social and moral development. In the United States, work that is detrimental to children’s well

being is called *oppressive child labour* in the Fair Labour Standards Act (FLSA) of 1938. This is the main legal instrument ensuring the safety and protection of child workers. The use of the term child labour in the United States means work carried out by teenagers. Moreover Labour in occupations deemed hazardous for children under sixteen was then considered by the children's Bureau to be oppressive. Of the 8,50,000 children under sixteen years of age in employment, only 6% of them were in jobs that protected them according to this FLSA Law.

There is a general consensus that oppressive child labour is not present in contemporary U.S. society, recent studies and media stories provide evidence that it does exist. It is predominantly prevalent in the agricultural sector, with few federal and state laws for protection. Children in the non-agricultural sector are subject to health and safety hazards as well as illegal employment. Although the prevailing opinion is that children work because of their desire to acquire material items, researchers have found that children work in order to supplement their families' income; some even work at two jobs. A recent study reported additional reasons for children working: (a) for fun; (b) to occupy time; (c) to keep out of trouble; and (d) to help people in need.

Estimates from a 1997 longitudinal study indicate that 50% of youth of twelve years of age are engaged in some employment activity. Estimates increase to 57% at age fourteen, and at age fifteen it is 64%. Other studies reported that 2.9 million

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9 *Supra* note 5, pp.186-187.
adolescents in the fifteen through seventeen-year-old age group were employed during the school months and 4.0 million during the summer months of 1996-98. The number of adolescents in farm work in the United States is not known. The United Farm Workers Union estimates that 800,000 children are employed on family owned farms and as hired workers.\textsuperscript{12}

It is difficult to track child labour with any accuracy. In the U.S., the Bureau of Labour Statistics (BLS) collects data on persons who are fifteen years and older, but these estimates are not used in official government figures. In addition, United States child labour laws allow children under fifteen years of age to work within family owned farms and businesses as well as in other selected jobs, including as news carriers. The Current Population Survey (CPS) excludes this data from its estimates. As a result, child labour statistics represent conservative underestimates.\textsuperscript{13}

About 8 lakh to 1.5 million children of age group fifteen, work in agriculture industry of United States in horrible conditions. They do hard physical labour and work for twelve hours a day, due to which they get permanent deformities and heat illness. They get exposed to pesticides and sometimes they are injured seriously. Their life span comes down to forty nine years. Majority of these children are school dropouts. Law made for children who work in agricultural fields are poorly enforced in United States. In the \textit{Department of Labour v. Elderkin},\textsuperscript{14} a ten year old boy was working near a dangerous machine. He met with an accident. The court held the

\textsuperscript{12} Ibid, also see Human Rights Watch, 2000.
\textsuperscript{13} Ibid, p.187.
farm owner guilty, for employing children in dangerous occupation and hazardous work.15

7.2.1 Critical Analysis of Child Labour Policy of United States of America

The member nations of International Labour Organisation signed International Child Labour Treaty on 16th June 1999 in Geneva and the United States Senate also ratified Child Labour Treaty and it came into force on 19th November 2000. Though there is Child Labour Treaty, children still work in dangerous industries in United States. Children work in horrible conditions due to which they sometime get injured and even die. United States fails to protect its children from hazardous works. The New Deal programs focus on regulation which consists of child labour standards, maximum working hours, fair wages etc. However, racism and discrimination has led to many restrictions on New Deal Legislation.16

The 1966 Amendment of Fair Labour on Standards Act, 1938 (FLSA) prevented children from working on farms consisting of hazardous occupation and the 1947 amendment prevented children below 12 years from working on any farm. Children between 12 and 16 years of age were permitted to work on the farm, only if their parents were working on the same farm.17 Human Rights Watch Report says that 16 years old children work 14 hours a day, 6 days per week from April to November while harvesting in farms. For this work of eighty four hours per week,

16 Ibid.,
children are not given overtime wages and this is allowed under the exemptions of FLSA. Though there is labour law and legislation since 60 years, child labourers of agricultural industry are not protected from hazardous working conditions, low wages and long working hours. The Report further says that, children used knives, climb ladders and work near heavy machinery. According to the survey done by the department of labour in foreign countries, children work for long hours without rest. They are exposed to toxic chemicals which cause lung, skin, respiratory diseases, permanent physical handicaps and cancer.\textsuperscript{18}

There are many exemptions under United States Labour Law which permits child labour. Due to these exemptions if the child is employed by his parents, the child is allowed to earn less than minimum wages and child can work for a number of hours without any limitation provided: the work is not during school hours. Under Article 4(1) of the Child Labour Treaty, each signatory state can have its own interpretations of the word 'hazardous work'. Under Article 3(1) of Child Labour Treaty, Children should not do hazardous work and it also prohibits work in farms which are not family farms. Due to the exemption of family farm, any employer could stand in the place of parent and employ children.\textsuperscript{19} Thus, the law in U.S.A. is full of drawbacks and extends no resistance to child labour.

\textsuperscript{18} Supra note 15. 
\textsuperscript{19} Ibid.
7.3 Child Labour in England

Child labour was prevailing in England beginning from 14th century. The first Statute of 1388 laid down that any boy or girl; which used to labour at the plough or cart or other labour or service of husbandry till they be of the age of 12 years, that from thenceforth they shall abide of the same labour.20

For the protection of the child from exploitation, various measures were undertaken and legislations enacted. The increase in population in England compelled the parents to send their children to do some profitable work. In 1536, the Government of England, enacted a legislation for the employment of poor children in agriculture or other crafts between the ages 5 to 14 years.21

Subsequently Government of England enacted the statute of Apprentices, 1563; the Act of 1601; the Act of 1697; the Health and Morals of Apprentices Act, 1802; The Factories Act, 1833; The Mines Regulation Act, 1842; The Factories Act, 1844; the Factories Act of 1860 and 1870; Factories Act Extension Act and Workshops Regulation Acts, 1867; the Factories Act, 1874; The Act of 1876; The Factory and Workshops Act, 1878; The Factory and Workshop Act, 1871; The Factory and Workshops Act, 1901; Coal Mines Regulation Act ; The Children and Young Persons Act, 1933; The Factories act, 1937; The Education Act of 1944; and The Factories Act, 1961; These enactments indicate that Government of England was serious about prohibiting the employment of children.

Today in England, the children are engaged in part time activities. The Emrys Davies Report 1972 came as a shock.\textsuperscript{22} The report found that three quarters of all children between 13 and 15 had some sort of part time employment. Dr. Davis divided these jobs into two categories,\textsuperscript{23} labelled ‘A’ and ‘B’ Category. ‘A’ contained those which were subject to various bylaws, they included manual work, delivery rounds, jobs in shops and on farms. Category ‘B’ covered domestic work, child care and voluntary service and other jobs not subject to any control. The Davis Report was a major factor in promoting new legislation. The Employment of Children Act, 1973 gave the Government new powers to restrict the employment of persons under the upper limit of school leaving age. The intention of the former was to enable the Government to give better protection to children doing part-time work. But after this restriction the child prostitution has increased dramatically in England due to the financial need. On February 12, 1978, the Sunday Times reported that Scotland Yard had thirty six names of 18 years old girls who had been cautioned or arrested for prostitution of whom ten were under 16. It is, therefore, suggested that some outlet for growing feelings of independence and a desire or need to earn many, should be recognised. Otherwise youngsters may more readily turn to crime or prostitution.

7.4 Child Labour in Russia

The concept of child labour does not exist in Russia, a socialist country. Friedrich Engel has rightly pointed out: “On the first day immediately following the

\textsuperscript{22} Embrys Davis, \textit{Work out of School}, London: Councils and Education Press, 1972, also see Aloe Fyfe, \textit{Child Labour} (1989), p.34.

\textsuperscript{23} Ibid. 
seizure of political power, the working class must take more decisive measures for curbing female and child labour (the bill) for the ten hours or even eight hours working days.\textsuperscript{24}

Further, speaking of the reasons for the appearance of child labour under capitalism, Karl Marx, emphasized:\textsuperscript{25}

"In so far as machinery dispenses with muscular power, it becomes a means of employing labour of slight muscular strength, and those whose bodily development is incomplete, but whose limbs are all the more supple. The labour of women and children was, therefore, the first thing sought for the capitalists who used machinery."

The Soviet State had taken various steps to protect its women and children. Some specific protections are provided to women and children by legislation. The employment of women and young persons under 18 in hazardous work is prohibited by Article 129 of the Code of Labour Laws. Such types of work were listed by the National Code of Labour of Russia in 1932. Later on, these lists were changed due to the improvement in sanitary conditions of labour and removal of hazards in certain employments. A standard of maximum weight that can be lifted was made according to the Article 129 of the Code of Labour Laws. Night and overtime work by children is prohibited.

In addition, there are certain specific rules to protect children. These are;\textsuperscript{26}

\textsuperscript{24} Karl Marx and Friedrich Engles, Soch, 2\textsuperscript{nd} ed. Vol. 23, p.406.  
\textsuperscript{25} Great Soviet Encyclopedia, 1975, Vol.8, p.20.  
\textsuperscript{26} Supra note 21, pp.47-48.
(i) The employment of children below 16 is prohibited, but children below 15 years can be taken for educational work with the permission of a Trade Union;

(ii) The young person under 18 can be employed after a medical check up. Later on he is required for medical examination not more than one a year;

(iii) Maximum permitted working hours for young persons between 16 and 18 years are 6 hours a day and from children for 15 to 16 years of age are 4 hours a day; and

(iv) The young persons under 18 can enjoy usually holidays of one month duration, but not less than 24 working days. As a general rule summer holidays are also provided to children.

7.5 Child Labour in China

Child labour is prevailing in China in different forms and different age groups. The history of child labour in China parallels the development of the public education system. The history of development is examined under four phases.27

7.5.1 Child Labour before the Opium War (1840-1942)

Before the Opium War, China was a traditional agricultural country. The family was the basic unit of productivity. Everybody, including children, played a role in productivity. Girls were involved in domestic work and boys were involved in farm work. Children also worked in family businesses such as tea shops, wood shops and drugstores. The involvement of children in agricultural productivity was an inseparable part of survival for the family and society. Education before opium wars

27 Supra note 5, p.43.
was a luxury for only the wealthy families and those in the official classes of privilege. Children were sold to the wealthy persons and thereby exploited. Children once sold, they became slaves to wealthy families. The parents used to sign a contract and received a one time payment. Usually the child would receive only housing and food, and were forbidden to leave until the contract ended. The bonded children were sold to Qing Lou-brothels that forced children into prostitution. Thus there were no laws to either protect the children or eliminate the exploitative practices before the opium war.28

7.5.2 Child Labour after the Opium War (1843-1949)

During this period children continued to help the vast agricultural productivity, and the practice of tong yang xi and sale of female children persisted. With the foreign influence significant social changes impacted the life of children in China. The western education system influenced the curriculum and the structure of education. The concept of unified public education system, which enabled the children, from working families to attend school, was introduced. One of the most significant changes was extension of public education to girls, who were not allowed to go to school until 1907. During this period Child Labour Commission in Shanghai and the International Child Labour Standards developed at that time. Many laws which were passed not enforced due to many barriers like poverty, lack of birth

28 Ibid, pp.43,44.
records, lack of national educational organization etc., and laws in reality existed only on paper.\(^{29}\)

7.5.3 Child Labour elimination in Communist China (1949-1978)

During this period the Chinese Communist Party instituted economic reforms and expanded mass public education. Through its socialist moment and strict social control, child labour was eliminated. The practice of selling girls for prostitution, apprenticeships, and tong yang xi were regarded as forms of class exploitation and oppression were eradicated in this new social system. When people applied for employment, their age, family background, education and criminal record were checked. It was impossible for a young child to get employment.\(^{30}\)

7.5.4 Child Labour after 1978

The Great Cultural Revolution ended in 1976. Economic reform began and China opened its doors to the world in 1978. Child labour again reappeared in this economic development. Within the free market economy factory owners and managers favour the labour of children because they are paid less than adults. In addition, they are frequently more docile workers and unaware of their rights. Some local government officials ignore child labour in factories as long as the business taxes are paid. Businesses and small factories owned by subcontractors after do not have business licenses, and enforcement is typically weak in this uniformal sector. In order to escape notice, some reverse their work hours. Another technique used by

\(^{29}\) Ibid, p.45.  
\(^{30}\) Ibid, p.46.
some factories in remote areas is to move frequently. Conditions in these businesses are extremely hazardous.31

7.5.5 Recent Position of Child Labour in China

Children work in construction, electronics, the apparel industry and other industrial and commercial enterprises. Exploitation of children is rampant in the special economic zones setup by the Government. Thus child labour is yet to be eliminated in China. Many children under the age of 16 are still being hired to work long hours for low wages. So Government of China has committed to evolve education policy extending to the poor children, thereby child labour may be reduced.32

7.6 Child Labour in South Africa

Child Labour is best understood in the context of societal values and cultural norms. South Africa has developed legislation for addressing the issues of child labour. The term child labour in South African government documents refers to the inappropriate or exploitative work activities of children.33 In 1998 child labour in South Africa was defined as “Work by children under 18 which is exploitative, hazardous or other wise inappropriate for their age, detrimental to their schooling, or social, physical, mental, spiritual or moral development”.34 The above definition includes household chores and activities in the household of the child’s caregiver that are in appropriate for the child’s age. Children can be found working as part of the

31 Ibid, p.47.
32 Ibid.
33 Ibid, p.152.
daily routine of family life performing school maintenance, and working as farm labourers or in service jobs. Many of the jobs that children perform are neither harmful nor exploitative; other works in a myriad of exploitative or hazardous activities, thousands of children, however, work in ways that risk their health and safety, rob them of their childhood, and thwart normal physical and mental development. Children work in a number of industries that expose them to harsh environments, unsafe chemicals and equipment, and long working hours.  

_The Mail and Guardian_, one of the leading news papers in South Africa, estimated that more than 13 million of South Africa’s children work. Department of Labour in 1996 estimates that over 4 lakhs children from the age of 10 through 14 are engaged in child labour. In June 1993, UNICEF and the National Children’s Rights Committee (NCRC) reported that about 7,81,000, black South African and coloured children from the ages of 5 through 14 years were used in child labour, most of whom were believed to be employed in the informal and agricultural sectors. The number of white and Indian children for labour was reported to be negligible.  

In South Africa, child work is also a form of socialization and acculturation. Child work in and of itself is not necessarily harmful or exploitative, but if minors are required to work in hazardous conditions or excessive hours, then work becomes exploitative and can harm the physical and emotional development of the child. 

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35 *Supra* note 5, p.145.
38 *Ibid*, p.150.
Understanding child labour in South Africa involves distinguishing between economic and non-economic work activities (ILO 2000A). Economic work activities involve work with or without pay that directly benefits the family. Any child under 18 who works to help in a family business or assist in family farming or fishing is considered engaging in economic work activities. Non-economic work activities for children consist of housekeeping and other chores in the home of a care giver who is not a parent, and school maintenance such as cleaning classrooms and toilets, which are performed regularly on a non-voluntary basis. These unpaid activities, which are performed for others, are considered non-economic because there is no direct benefit to the parents. Schools in South Africa are not fully supported by Government funds, and families must pay a fee for their children to attend school. For many schools in South Africa, particularly schools attended by black Africans, school fees alone do not provide enough revenue to hire workers to do the routine cleaning and maintenance. Therefore these tasks may be performed by school children. While there are no international standards concerning the number of hours a child can work each week in school maintenance, the ILO considers more than five hours a week performing school maintenance tasks excessive.

The practice of child labour cause serious repercussions. Children, who engage in child labour are less likely to receive an education, may have their physical and social development compromised, or could experience working conditions that

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39 Ibid.
40 Ibid.
threaten their very lives. The African National Congress then ruling party in South Africa made its commitment to provide protection to its citizens, particularly to women and children, from abuse and violence. In 1997 Basic Conditions of Employment Act was introduced which established a minimum age for employment and the conditions under which a youth can be employed.\textsuperscript{41}

The elimination of child labour is a complex issue. So the South African Government recognises that a comprehensive approach is needed to combat child labour.

7.7 Child Labour in Countries of South Asia

7.7.1 Bangladesh

Bangladesh is a very young country that has faced problems similar to India’s. As in most dominantly agricultural countries, children have historically worked alongside their parents and extended family members on farms, in fishing, and in trades. There is also a long history of children working as domestic servants and in light manufacturing. In its broadest terms, child labour has been an adopted practice. It has long been a response to severe poverty.

UNICEF 1991 reports that in 1989 there were 33.7 million children in Bangladesh in the age group of 5-16. More than half of them did not attend school it can be inferred that children worked either for wage or for survival. In Bangladesh four out of every ten children never attend school. More than half of those who do

\textsuperscript{41} Ibid, p.152.
never get beyond second grade and more than three quarters do not complete primary level.\textsuperscript{42}

According to Bangladesh Bureau of Statistics Labour Force Survey (1990), there are 5.7 million 10 to 14 years old children working in Bangladesh.\textsuperscript{43} Another estimate puts the number at 15 million. Nearly all the child labourers in export industries is found in the garment industry. According to Bangladesh Ministry of Labour "Children are found working in garments, bakeries and confectionaries, hotels and restaurants, transport, beedi factories, small engineering workshops, fish processing and other informal and unregulated sectors." Further children drive rickshaws, carry goods for shoppers at markets, roll cigarettes, work in shrimp processing and are exposed to hazardous conditions in the leather industry.

Bangladesh Constitution provides safeguards to the children under Article 23 and 24 which prohibit the employment of children in factories, mines or in any hazardous work. There are number of statutes which provide protection and stipulate the minimum ages at which children can legally work in certain sectors. (1) Mines Act states that, children below 15 years cannot be employed in mines and the minimum age of employment stated is 15 years with medical certificates of fitness; (2) For children under the age of 15, the Employment of Children's Act,1938 prohibits work in Railways and Ports; (3) In commercial sides, the Shops and Establishments Act, 1965 prohibits the employment of children younger than 12; (4)

\textsuperscript{42} Supra note -1, p.25.
\textsuperscript{43} Helen R.Sekar, \textit{Child Labour Legislation in Select Countries of South Asia}, Noida: V.V. Giri National Institute of Labour.
The Factories Act, 1965 define child as a person who has not completed 16 years of age and it prohibits employment of children below 14 years in any factory and there is a penalty for violation of this Act under Article 14(1), the fine is up to 1000/- Taka; and (5) The Children’s Act, 1974 define child as a person below the age of 16 years and it prohibits the employment of children under the age of 15 years.44

With regard to inspection there is scarce resources as such enforcement of child labour became difficult. Factories Act, various Health and Safety codes are prescribed but are regularly violated. Consequently numerous lives have been lost to fires because doors have been locked and workers could not escape. The Bangladesh Constitution prohibits forced or bonded child labour, locking doors and requiring women to work overtime to meet a production dead line continued to shape conditions in the garment section. For people of eighteen years and over, prostitution is legal only with Government certification. However, ignored by law enforcement, and those who employ child prostitutes are rarely prosecuted and police and local authorities can be easily bribed.45

It is significant to mention that Bangladesh is a signatory to various International Human Rights Conventions namely, International Labour Organization Convention No.59, concerning minimum age for Admission to Employment in industry, including U.N. Convention on the Rights of the Child and International Labour Organisation Convention 182 against the worst forms of child labour. There

44 Ibid.
45 Supra note 5, p.18.
are eight laws related to child labour on the books, however these have not yet been implemented and no child labour cases have been filed.\textsuperscript{46} Bangladesh too has not ratified International Labour Organisation Convention no.138 concerning minimum age for admission to employment.

\textbf{7.7.2 Thailand}

There is an increased child labour practice in Thailand. Bangkok's Human Resource Institute recorded that at least 5 million Thai children, some as young as 7 years of age, work in 1993. Child labour does exist in export industries including garments, gems, leather bags, shrimps and sea-food processing. In 2001, the International Labour Organization estimated that 11.5\% of children in the age group of 10-14 years in Thailand were working. Children work in agriculture construction manufacturing industrial services and fishing sector.\textsuperscript{47}

In order to protect the rights of the children and prohibit child labour, Section 35 of the Thailand Constitution states that, "Forced labour shall not be imposed except by virtue of the law specifically enacted for the purpose of averting imminent public calamity or by virtue of the law which provides for its imposition during the time when the country is in a state of armed conflict or war, or when a state of emergency or martial law is declared."

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\item\textsuperscript{46} \textit{Ibid,} p.19.
\item\textsuperscript{47} \textit{Supra note 43.}
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Section 68 of Directive Principles of the State Policy provides that, the State should support and promote citizens development, especially children and youth, so that they may be physically, mentally, intellectually, morally and ethically sound.

There is a Labour Protection Act, 1998 in Thailand which sets the minimum age of employment at 15 years. Law permits children between the ages 15 and 18 to work only between the hours of 4 pm and 10 pm with the permission of Government authority. Children under 18 may not be employed in hazardous work, which is defined by the law to include any work involving hazardous chemicals, harmful temperatures or noise levels, exposure to toxic micro organisms, the operation of heavy equipments, and work underground or under water. The inspecting officers have the right to remove child workers from business and place them in Government custody. Maximum penalty for the violation of child labour law under Labour Protection Act is one of imprisonment and fine of Rs. 200,000 or both.

Thailand is a party to the United Nations Convention on the Rights of the Child and it has not ratified International Labour Organisation Convention No. 59 concerning minimum age for admission to employment in industry, and International Labour Organization Convention No.138 concerning minimum age for admission to employment.48

7.7.3 Philippines

Child labour is recognised as a serious problem in Philippines in the year 1991. This country is known for wood and clothing industries which are based on small
enterprises, child labour, both male and female, is extensively used. About 72% of
the children are employed in wood industry and about 82% clothing manufacture\(^{49}\)
The Philippines Department of Labour and Employment estimated that there were
777000 Filipino workers in the age group of 10-14, and 1.4 million between 15 and
17 years. These figures exclude the large number of working children below the age
of 10. In 1994 Department of Labour and Employment reportedly acknowledged that,
altogether at least 5 million children work in commercial and industrial sectors in the
Philippines. These figures coincide with UNICEF and International Labour
Organisation estimates of 5 to 5.7 million working children in 1993.\(^{50}\)

The Filipino Garment industry commonly uses child labour in the manufacture
of products exported to United States. Child labour allegedly found in wood and
rattan furniture making and in gold mining, but further research is required. In
addition there are reports of child labour in food processing (including sardine
canning), fire works/ pyrotechnics, footwear, plastic bags, and so called ‘muroami
fishing’. There is no statistics on the number of child workers in Filipino export
industry.\(^{51}\)

Constitution of Philippines 1987 values the dignity of every human being and
guarantees full respect for human rights. It recognises to protect children from all
forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their

\(^{49}\) Obsterhout, Henk Van, “Child Labour in the Philippines: The Muro-Ami-Deep-Sea Fishing
Operations” 1988, see also M.H. Rehman, Child Labour and Child Rights, New Delhi: Manak
\(^{50}\) Supra note 43.
\(^{51}\) Ibid.
development. Article II, Section 13 of the 1987 Constitution states that, "The State recognises the vital role of the youth in nation building and shall promote and protect their physical, moral, spiritual, intellectual and social well-being. It shall inculcate in the youth patriotism and nationalism, and encourage their involvement in public and civic affairs".\textsuperscript{52}

There is a Child Protection Act, 1992 which provides special protection to children against child abuse, exploitation and discriminations. Section 12 prohibits the employment of children under 15 years of age but they can be employed subject to fulfillment of certain requirements.\textsuperscript{53} (1) Employer must obtain permission from the government for the employment of child; (2) He shall secure the protection, health, safety and morals of the child; (3) To pay suitable remuneration and fix proper working time; and (4) To provide programme for training and skill acquisition of child. There is a section 13 of Child Protection Act which intended to provide non formal education for working children and section 14 prohibit employment of children in certain advertisements for example alcoholic beverages, intoxicating drinks, tobacco, and its by-products and violence.\textsuperscript{54}

Any person, who violates the Child Protection Act, shall be liable for imprisonment of three months which may extend to 3 years and fine 1000 pesos which may extend to 10,000 pesos or with both. The Bureau of Women and Young

\textsuperscript{52} Ibid.  
\textsuperscript{53} Ibid.  
\textsuperscript{54} Ibid.
Workers is charged with enforcing the child labour laws. But with a few number of labour inspectors, the monitories of child labour laws remains an enormous challenge.

Philippines is a party to United Nations Convention on the Rights of the Child and International Labour Organization Convention No. 59 concerning minimum age for admission to employment in industry and it is not ratified International Labour Organisation Convention No. 138 concerning minimum age for admission to employment.

7.7.4 Nepal

In Nepal Child labour has assumed serious propositions. It is estimated that three million working children are in Nepal. Most working children are in agriculture and in the export oriented Carpet Industry. Children are also working in garment industry, “Thanka” Painting, and in handicraft. In Khatmandu there are more than 40,000 children working as carpet boys, brick and factory workers, restaurant boys and rag pickers.55

The Constitution of Nepal 1990, seeks to protect the interests of children by conferring on them, certain fundamental rights, and imposing for their benefit certain ‘directive principles’ and policies of the State. The State shall make necessary arrangements to safeguard the rights and interests of children, ensure that they are not exploited, and make gradual arrangements for free education.56

55 Supra note 1, p.40.
56 Supra note 43. p.
The Constitution of the Kingdom of Nepal (1991) forbids the employment of children in a factory, mine or dangerous or hazardous workplace under the age of 14 years. Children’s Rights and welfare Act, 1992 define child as a person who has reached the age of 16 and states that a child who has not attained the age of 14 shall not be employed in any work as a labourer. The Act was enacted to protect the rights and interests of the Nepalese children to ensure their physical, mental and intellectual development.

The Labour Act, 1992, and Labour Rules, 1993 contains special provisions for the prohibition of employment of children below 14 years and prohibits admission to hazardous work for minors (aged between 14 and 18 years). The Government of Nepal has enacted the Child Labour (Prohibition and Regulation) Act, 1999 in response to its ratification of the International Labour Organisation; Minimum Age Convention No.138 has made important amendments in the Labour Act, 1992. The Child Labour Act, enlists specific occupations as hazardous work and prohibits the use of children below 16 years of age in such activities.57

Nepal Government had also enacted Self-Governance Act, 1997 for making provisions for decentralized action for children and against child labour. Nepal is signed various international Conventions like International Labour Organisation Worst form of Child Labour Convention (No.182); International Labour Organisation Minimum Age Convention (No.138); International Labour Organisation Forced

57 Ibid.
7.7.5 Pakistan

Child labour is rampant in Pakistan. According to one estimate, among 40 million children aged 5-14 years in Pakistan and 3.3 million i.e. 8.3% were economically active in 1996. Most Pakistani children work in agricultural sector. So, child labour is rural oriented, and a large number of children also work in urban centres, weaving carpets, manufacturing, surgical instruments and producing goods for export. There are allegation of children working in other industries including leather, foot wear and mining, millions of children who are under a system of bonded labour to work in brick kilns, carpet industries, agriculture, fisheries, stone brick, crushing, shoe making, power looms etc. Bonded Labour Liberation Front estimates that 8 million children are bonded in Pakistan. Half a million are allegedly, bonded in carpet industry alone. Some of these reportedly come from Afghanistan, Bangladesh and Burma. Child slavery and carpet industry are flourishing in Pakistan. S. Hafeez opines that most of the children all over Pakistan work in the carpet industry. Weaving carpets is a family occupation transmitted from generation to generations. In the informal carpet industry, family children are easily absorbed at home and formal, where the industrialist has his own loom installed at his factory. So, here “Carpets are the countries 5th largest foreign currency earner”.

58 Ibid.
There are various Constitutional provisions which prevent exploitation and protect the interest of children under Article 11(1) which forbids slavery; Article 11(2) prohibits all forms of forced labour and traffick in human beings; and Article 11(3) prohibits employment of children below the age of 14 years in any factory or mine or any other hazardous employment. There are various legislations which prohibit the employment of children below specified age limit i.e. 14 years. The Employment of Children Act, 1991 is the latest statute in the area of child employment and was enacted in response to enforcing Conventions on child labour. This Act prohibits the employment of children below 14 years of age in certain occupations and processes. The Pakistan Law Commission in its meeting held on 29th May 1999 resolve to enhance the present age limit for child work from 14 years to 15 years to protect him or her against any possible harm to their physical or mental / psychological growth. There is also the Bonded Labour (Abolition) Act, 1992 which abolishes and makes illegal bonded labour in Pakistan and cancels all obligations of bonded labourers to their employers and declared that, there is obligation on the part of the bonded labour to repay any bonded debt and same is cancelled and no suit could be brought for the recovery of such debt. Any person who violates this law is imprisoned from 2 years to 5 years or fine of Rs.50,000/- or with both. Pakistan is a party to International Labour Organization Convention No. 59, concerning minimum age of employment in industry and United Nations Convention on the Rights of the Child. Pakistan has not ratified International Labour Organisation Convention No. 138 concerning minimum age of employment.
7.7.6 Sri Lanka

In the year 1999 The Sri Lankan Department of Census and Statistics estimated in 1999 that 14.9% of children in the age group of 5-14 years in Sri Lanka were working. Most of the working children are in agricultural sector. Children are also working in informal sector like manufacturing, hotels and domestic services. Children who were migrated from rural areas to urban households work as domestic servants under bonded system to repay the debt borrowed by their parents. Government estimates that more than 2000 children are engaged in child prostitution. Child soldiering is also prevailing in the country between January 2002 and November 2004, UNICEF documented 4600 cases of child recruitment by the LTTE (Liberation Tigers of Tamil Ealam), but only 1208 children were released from its forces. Constitution of Sri Lanka 1978 provide various safeguards under Article 27 (13) that, State pledges to “promote with special care the interest of children and youth so as to ensure their full development, physical, mental, religious and social and to protect them from exploitation and discrimination”.

In addition the Draft Constitution (August 2000) Article 22 provides special Rights for Children, guaranteeing a child to be protected from abuse; to have access to free education between the ages of 5 and 14, and not to be employed in any hazardous activity. It also defines conclusively a child is a person under the age of 14 years. Among the various legislations the Employment of Women, Young Persons and Children’s Act, 1956 is concerned with child labour which prohibits work by

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60 Supra note 43.
61 Ibid.
children that may be injurious, work by children during school hours and work by children under 14 years in general and under 18 years in industrial settings at night. Further, children below 14 years are prohibited to work in any family industrial operations. The minimum age of employment of children was raised from 12 to 14 years in December, 1999 by an amendment to the Employment of Women Young Persons and Children’s Act, 1956. Again in 2003, this Act was amended to allow children below 14 years old to work only in part time family agriculture work or participate in technical training. National Child Protection Authority Law (1998) was established for effective implementation of National policy for the prevention of child abuse etc. Provision for penalty is made where as compensation is paid to victims, by employers violating the minimum age of employment laws. Penalties for trafficking children could be imposed with prosecution and imprisonment of 5-20 years and a fine. Sri Lanka has ratified various Conventions namely International labour Organisation worst forms of Child Labour Convention (No. 182); International Labour Organisation Minimum Age for Employment Convention (No. 138); International Labour Organisation Abolition of Forced Labour Convention (No. 105); and UN Convention on Rights of the Child (CRC)

7.7.7 Afghanistan

The International Labour Organization estimated that 23.8% of children aged 10 to 14 years in Afghanistan were working in 2002. Child workers are reported to be numerous in rural areas. Particularly in animal herding, and collecting paper and

\[^{62}\text{Ibid}\]
fire wood. Children are also found working in urban informal sector engaged in activities such as shining shoes, begging, or rummaging of scrap metals in the streets. There are reports that children continue to join or forcibly recruited into armed insurgent groups.

Article 49 of the Constitution of Afghanistan States that; “Forced labour is forbidden. Active participation, in times of war, calamity and other situations threatening public life and welfare is one of the primary duties of every Afghan. Children shall not be subjected to forced labour”.

The Labour Law 1999 under Article 15 provides that in special situation the child who has not completed the age of 14 could be appointed as a servant. If the child has completed the age of 13, the child can be admitted as a learner and work can be assigned. Independent jobs cannot be delivered to the child. Further the Labour Code prohibits children under the age of 15 from working more than 30 hours a week. Afghanistan has ratified many Conventions; important among them are UN Convention on the Rights of the Child and International Labour Organization Convention 182 Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour 1999.63

7.8 Comparative Analysis

According to International Labour Organization, there are 250 million child labourers in the world of which 61 percent are in Asia, 32 percent in Africa and 7 percent in Latin America. In terms of number of child labourers Asia tops, whereas, in

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63 Ibid.
proportion of children, Africa tops where every third child is working. Although the international focus is on formal sector (export) industries, in reality only five percent of all child workers work there. 64

Further, with reference to another analysis, statistics shows that, Child labour is most rampant in Asia with 44.6 million or 13% of its children doing commercial work followed by Africa at 23.6 million or 26.3% which is the highest rate and Latin America at 5.1 million that is 9.8%. In India 14.4% children between 10 and 14 years of age are employed in child labour, in Bangladesh 30.1%, in China 11.6%, in Pakistan 17.7%, in Turkey 24%, in Cote D’Ivore 20.5%, in Egypt 11.2%, in Kenya 41.3%, in Nigeria 25.8%, in Senegal 31.4%, in Argentina 4.5%, in Brazil 16.1%, in Mexico 6.7%, in Italy 0.4% and in Portugal 1.8%. The above figures only give part of the picture. No reliable figures of the child workers below 10 years of the age are available, though they comprise a significant amount. 65

Child labour levels are high in many developing countries. The accurate measure of child labour is, however, difficult to obtain, as there is no clear-cut definition of child labour according to international law. Children are often excluded from the official statistics. The minimum age for a child’s employment into work also

varies across regions. Therefore, the estimate of child labour would vary depending on how we define work, how we define a child, and how we collect data. 66

Table-1 represents the minimum age for work and the compulsory education age for different countries.

According to International Labour Organisation estimates of 2004, 317 million children were ‘economically active’ in the age group of five to 17 years, across the world, of whom 218 million hazardous work. For the narrower age group of five to 14 years olds, the corresponding figures are 191 million economically active children, 166 million child labourers, and 74 million children in hazardous work. The highest number of child workers in the age group of five to 14 years is found in Asia-Pacific (122.3 million) followed by sub-Saharan Africa (49.3million) and Latin America and the Caribbean (5.7 million). While Asia has the highest number of child workers, sub-Saharan Africa has the highest proportion of working children. (ILO2006a).67

However, there is difference between an ‘economically active child;’ and ‘child labour’, as per the estimate produced by the ILO. For example, the ILO treats a child as ‘economically active’ if the child has worked one hour or more in the reference week.68 The definition of child labour for those in the age group of five to 11 years is synonymous with the ‘economically active’; for those in the age group of

67 Ibid, pp 176-177.
68 Ibid, also see The ILO, Statement, The work performed must be in the Labour Market and hence excludes non-labour market production, such as housework. Therefore, the definition of child labour by ILO is appropriate for studies of the formal –sector Labour Market.
12 to 14, child labour consists of those who have worked 14 hours or more, but less than 43 hours non-hazardous work per week for those who have one hour or more hazardous work per week. Children in the age group of 15-17 years are generally allowed to work. However, if they are engaged in hazardous work, they are considered as child labourers.

The United States and the United Kingdom shares a common history in the area of child labour. In the earlier days America accepted child labour for one thing, most people had little knowledge of what was going on the government did not record national statistics children. For another, children were treated letter than in England. Although the general public accepted whipping rooms, believing that, punishment kept the devil out of the child, 'the beating were not as brutal as those in England. Furthermore, there were no American girls dragging loaded coal deep underground in coal mines. Another reason for accepting child labour was that many people believed working children kept parents from becoming dependent upon public charity. In addition, working children kept production cost down, and this made the nation competitive abroad.69

Finally, people believed that children benefited morally from their work. It was an established belief that 'idleness was a sin and industry a virtue'. From the earliest colonial days, the long standing belief that works was good for children. It

built character and taught responsibility and thrift. While these may indeed result from work, in fact the employer benefited for more than the employee.70

Today child labour is defined as the illegal employment of children when the children are under the legal minimum age, when they work longer hours than allowed by law, when their compensation is unfair, illegal or non-existent, or when the working conditions endanger their health.71

The Child Labour Coalition, a group that includes such organisations as the American Academy of Paediatrics, American Federation of Teachers, Consumer Federation of America, General Federation of Women’s Clubs, National Education Association, Children’s Defence Fund, and various labour unions wants Congress to enlarge the number of prohibited teenage occupation and work activities, reduce the number of hours of children work, and vigorously enforce the laws with higher fines.72

In United States of America majority of child workers are employed in agriculture and a high proportion of these are from immigrants families. The reasons which lead to child employment vary substantially with local condition and local cultures. These are divided into three broad categories:73

(i) Where a family simply cannot afford to keep a child at home, so he or she is put out to earn; (ii) There are children whose families cannot afford to keep them at

70 Ibid.
72 Ibid, p.240.
73 My name is today, “Children in News” Vol. XII No. 2&3, Butterflies programme with street and working children, New Delhi, pp.223 - 224.
home and realize on whatever financial value they may have on the market; and

(iii) It falls within the system of bonded labour.

United States has signed International Child Labour Treaty, despite this children work in dangerous industries. There was a lack of enforcement machinery and there are many exemptions under U.S. labour law which permits child labour and due to these parents by taking undue advantage employ their children.

In England child labour was prevailing since 14th century and continued till today even after introduction of several domestic laws due to social economic situation in developing countries offers very poor living conditions for the majority of population.

The USSR Government has undertaken various drastic steps to combat child labour and challenges ahead in the process of elimination of child labour.

In China, there was a rampant child labour practice prevailing in the early period but after the beginning of economical reforms again child labour increased but the China Government has evolved education policy for elimination of child labour.

International Labour Organisation has estimated the highest rates of child labour in Africa. In South Africa child work was considered as a form of socialization and there was no universal age limit for employment of children. Children work in Schools maintenance. Children are allowed to work non-hazardous and during normal hours. It has made a distinction between economic and non-economic work activities.
In Bangladesh (South Asia) child labour has been an accepted practice because of extreme poverty. More children work in garment industry and thereby children are exploited. Out of 33.7 million children in the age group of 5-16 more than half of them did not attend school and 8 million children not going to school. Though various legislations introduced they have not practically implemented. Though Bangladesh has signed various Conventions but it shows, there is a little response.

In Thailand, 11.5% of children in the age group of 10 to 14 years were working. Thailand law permits children between the ages 15 and 18 to work only between the hours of 4 pm and 10 pm with the permission of the Government authority. This shows Government is intended to protect children below 15 years from exploitation more so, children are allowed under the law to work after school hours. This is a progressive measure undertaken by the Government.

The historical record reveals an astonishing co-relation between the progress of education and decrease in the volume of child labour. The highest number of school enrolment coincides with the lowest number of school age children per teacher, and are found in the most developed countries. The United States of America, the United Kingdom and New Zealand and are such countries where child labour is least apparent. However the relationship between child labour and illiteracy may not be one of cause and effect. Some countries such as Mexico, Columbia and Thailand, Spain and Italy, have largely succeeded in eradicating illiteracy but remain confronted

74 Ibid.
by the child labour problem. The child labour is also rooted in the traditions and attitudes of the regions where it is practiced.\textsuperscript{75}

Philippines is known for wood and clothing industries, where in, child labour is extensively used. Government of Philippines enacted number of legislations for prohibition of child labour but due to understaffing and few numbers of inspectors, elimination of child labour remained as a problem.

In Nepal child labour is a serious problem. Most working children are in agriculture and carpet industry. Legislations in respect of eradicating child labour remained as a problem and required effective enforcement and creating public awareness.

Pakistan is known for carpet industry where in most of the children all over the Pakistan work in the carpet industry. Law Commission of Pakistan recommended to the Government to enhance present age of 14 years to 15 years. Bonded Labour (Abolition) Act which was in Pakistan is to some extent effectively implemented. The Bonded Labour Liberation Front of Pakistan estimates some 8 million children in Pakistan are in handed employment in April 1984. The bonded Labour liberation front of India discovered 32 children aged 6 to 14, all employed by the same loom owner.

In Sri Lanka, who ever violates Child Labour Laws National Child Protection Authority Law shall be prosecuted and compensation is paid to victims by employers.

\textsuperscript{75} Ibid
In Afghanistan forced Labour is forbidden and the Labour Code prohibits children under the age of 15 from working more than 30 hours a week. Thus, the problem of child labour is a global phenomenon, which is found in both developed and developing nations.

Thus, the problem of child labour is a global phenomenon, which is found in both developed and developing nations.