CHAPTER VIII
CONCLUSION

A large section of children particularly belonging to Scheduled Castes/Scheduled Tribes in India still live much below the standards set by the Constitution, national and international laws. They suffer an array of threats to their development, well-being and survival. They suffer from poverty, diseases, famine, and war, and they also suffer from acts and omissions by their own caretakers, guardians, and parents. Primary education far away is from universal. Over seventy-two million children in the age group of 5-14 years in India are deprived of basic education and have no opportunity of going to school. India continues to have the highest numbers of child labourers globally. There are thousands of child labourers, working in agriculture, animal husbandry, manufacturing, household work. They live below poverty line with insufficient food and having no access to health care. There are an estimated 500,000 street children nationwide exposed to violence and exploitation. The continued neglect of the environment in urban slums poses one of the greatest threats to progress on infant and child mortality and improving the nutritional status of children living in disadvantaged areas. According to the National Family Health Survey, India accounts for one-third of the world’s children who suffer malnutrition. In India, 15 per cent of children have serious emotional disturbances. In addition, children are discriminated on the basis of class, caste, or religion.
Inspite of the various steps taken by UN at global level and the successive Union Governments in India, the problem of child labour still exists in India. The legal system has no provision to consider the mental health perspective or to deal with the trauma of children who come in contact with the system either as victims or as offenders.

Child labour denies a child the ‘right to childhood’. Domestic child workers are one of the most exploited children. Children who are even below ten years work as domestic workers. They are victims of all kinds of exploitation. They are vulnerable to sexual exploitation and in many cases, they are starved, beaten up, and tortured by the sadistic employers. It is a severe form of slavery. They are not included in the hazardous forms of child labour under the Child Labour (Prohibition and Regulation) Act, 1986. On the global plane, the idea that children have rights was considered many a time and this conviction was expressed at the Convention on the Rights of the Child (CRC) in 1989. It became a part of international law after nine months as the UN General Assembly adopted it on September 2, 1990 which is considered as the most significant milestone in the quest of children’s rights.

This was the first international legal instrument which laid down guarantees for the entire spectrum of the child’s human rights. Under this convention, a child means every human below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.
Encompassing the whole range of human rights—civil, political, economic, social and cultural—the convention recognized that the enjoyment of one’s right cannot be separated from the enjoyment of others. This conviction, also recognized that governments are not able to ensure immediately all economic, social and cultural rights, but it commits them to make those on a priority basis. Pakistan signed this conviction in the same year on January 26, 1990 whereas India ratified it two years later in 1992.

Less than a year the adoption of the CRC “the World Summit for Children” was held at the UN on September 29-30, 1990. In this summit a “World Declaration on the Survival, Protection and Development of Children” and a “plan of action” for implementing the declaration in the nineties was adopted. As a result of this, India has adopted the “immediate Goals of national plan of action and goal for the year 2000”

The ILO, since its foundation in 1919, has made the question of child labour one of its special concerns and adopted several conventions and recommendation regarding minimum age, working condition, and medical examination, which are to be effective through ratification by the states.

It may be recalled here that the Constitution of India in its chapter on “Directive Principles of State Policy” (Article 14) declares that “no child below the age of 14 years shall be employed in any factory or mine or engaged in any other hazardous employment”.
However, actually the problem of child labour began to receive some serious attention only after the U.N.O. declaration of 1979 as the international years of the child. India has followed a proactive policy in the matter of tackling the problem of child labour. India has always stood for constitutional, statutory and developmental measures that are required to eliminate child labour. Six International Labour Organisation (ILO) conventions relating to child labour have been ratified and three of them as early as first quarter of the 20th century.

It is surprising that while the Indian Constitution was adopted as far back as in 1950, it was only in 1986 that the Child Labour (Prohibition and Regulation) Act was promulgated. Despite the constitutional provisions and the enactment of the 1986 act, a large multitude of children in India continue to be involved in various hazardous and non remunerative occupations.

Abolition of child labour in our country is not an easy job and mere enactments of child labour abolition laws will not guarantee the attainment of desired goal. There are hosts of factors that can easily render the existing laws blunt and ineffective. A fundamental problem relates to the definitional aspect of child labour. On the other hand, the poor parents, having no other assets, themselves treat their children as assets rather than liabilities. Rather than sending their wards to schools, they prefer to associate their children in whatever income-earning activities that may be available before them. In most
cases, these activities turn out to be petty income earning and/or niggardly paid activities. Often the rate of payment is not the parent’s concern; the absolute income earned by the children is the major deciding factor.

Various NGOs are especially waging a battle in favour of child labour abolition. Even at global level, some developed nations have hardened their stance on this issue- these developed countries are threatening to ban exports from developing countries, which rely on utilization of cheap child labour. These countries are trying to stick to the clause that some particular exports from developing countries must come with a certified declaration from the appropriate authority that the products have no child labour content.

At the national level, apart from passing relevant Acts, the Central as well the Government of Punjab has attempted to lure children from work places to schools by making primary education free and introducing mid-day meal scheme at the schools. In Punjab along with free primary education, books etc. are also being distributed free of cost at the primary school level.

A large part of credit for forcing and inducing the governments in initiating steps against widespread use of child labour is due to some NGOs. Two NGOs namely the Rationalist Society of Punjab and Umeed Khanna Foundation have undertaken a crusade against the evils of child labour and have been largely responsible for spreading campaign on the issue among the masses.
The pertinent questions on this issue are:

- can and should child labour be stopped altogether, and, if so,

- how can it be stopped?

The first of these two involves some normative considerations. Obviously, the first best and ideal world is the situation where the phenomenon of child labour is totally absent. But due to the existing socio-economic conditions of Punjab first best solution is very difficult to achieve. A more pragmatic approach would be to strive to mitigate the plight of the child labourers in the immediate short run and to get rid of the vice in the long run, if not possible in the near future. For this, however, it is imperative to set a deadline-say 8-10 year horizon from now on and work sincerely towards attaining a child labour free society.

Simply passing of laws and making education free, obviously, cannot ensure the emancipation of child labour. It is observed that the quality education at primary level is lacking. Because of this, families are forced to seek private tuitions for their children, which they cannot afford. Naturally, free primary education scheme fails to serve any meaningful purpose. The entire question needs to be addressed in a general equilibrium framework and within the ambit of present socio-economic parameters. It can safely be presumed that the current parametric configuration is not conducive to improved well being of the child workers simply based on legal interventions. The
economic condition of the poor families needs to be improved, coupled with the general awareness about the long term benefits of education as well as of family planning among the low income people. Economic condition of the poor families cannot just be improved by some stop-gap, ad-hoc measures and measures like minimum wage laws.

The role of judiciary in India has been quite significant in promoting child labour welfare. The judiciary has played an important role in protecting the child workers from exploitation and improving their conditions. Judiciary has shown a generosity towards poor child workers by relaxing the rules of locus standi. Judiciary made sincere efforts to benefit the poor child workers by entertaining their problems and giving them relief despite the limitations of locus standi. The observations made by the judiciary in various decided cases show that it is always committed to the cause of the child labour. Whenever a legal wrong or legal injury is caused to the child labours by their employers, the judiciary has come forward to help them despite the locus Standi issue. The courts have always liberalized the concept of locus to meet the challenges of time and provide justice to the child labourers. The efforts made in this direction are quite evident from the decisions taken by the courts in some important cases like People's Union For Democratic Rights (1982), Bandhu Mukti Morcha (1984), Neeraja Chaudhary (1984) in which the apex court liberalized the rule of Locus Standi and given their judgment that public interest litigation can be filed by any one, not the aggrieved persons. The judiciary has
protected the interests of the working children against exploitation. The Judiciary has played a significant role in protecting child labour by delivering Judgments in situations where there is no proper child labour legislation. The Apex Court has delivered Judgment in Mohni Jain and Unni Krishanan cases in which it held that Right to Education is a Fundamental Right and no child can be left without providing education.

Although community resources are available on the ground, the judiciary and the police are not aware of them as there is no coordination or sharing of information among government, law makers and implementers of community and civil society resources.

**MAIN FINDINGS**

- The gender-wise classification of our child labourers indicated that an overwhelming majority of 65.62 per cent child labourers are males. The low percentage of girl child labour might be due to social and cultural factors, which hampers their participation in works.

- From the analysis of the data, it has been observed that WPR of children had increased during 1981-1991 decade but it showed increase during the period 1993-94 to 2004-2005 in India. Though both male’s and female’s WPR revealed increasing trend during 1993-94 to 2004-2005. But according to census data of 1991 and 2001 WPR of children had also increased in Punjab as well as in Sangrur district during 1991-2001. The female
children WPR and male children WPR had declined in rural areas but rose in urban areas because of migration of child labour from other state to Punjab and shifting of population from rural to urban areas. Among the children, female child workers are found to be more involved in work activities in rural areas than in urban areas in India as well as in Punjab.

- From the findings of the study, it has been observed that maximum numbers of child labourers belong to the age group of 12-14 years from both the districts. As regards the education of children is concerned, only 37.38 per cent child labourers in Sangrur district were found to be pre-school passed whereas, 43.56 per cent child labourers in Barnala district were found to be pre-school passed. 62.61 per cent child labourers in Sangrur district were found to be primary passed whereas 56.3 per cent child labourers in Barnala district were found to be primary passed. Thus it can be concluded that as far as education of children is concerned, both the districts are found to be educationally backward.

- Poverty is primary reason for child labour. It is also observed that household’s impoverished conditions, the economic backwardness and rising prices of consumable goods are the compelling reasons for sending their children at work. Other reasons identified in the study for child labour are uaffordability of paying school fees, lack of socialization, broken families,
domestic help, untimely death of bread winner, chronic illness in the family, large family size, drinking and gambling habits of family members etc.

- The study also revealed that the larger the family, the lower is per capita income which in turn is indicator of poor economic status of the family compelling its children to take to child labour. Thus, size of the family is an important factor contributing to the evils of child labour. The twin issues of child labour and children's right to education have been key issue which has drawn the attention of policy-makers.

- The study revealed the fact that two NGOs namely Rationalist Society of Punjab in Barnala district and Umeed Khanna Foundation in Sangrur district differ with each other on the issue of providing compulsory elementary education to the children. Rationalist Society of Punjab in Barnala district takes the view that education is a fundamental right. It stressed the need for providing elementary education compulsory to all the children. But this view is not shared Umeed Khanna Foundation in Sangrur district. It argued that making education compulsory would be tantamount to punishing poor families who are dependent on the labour of their children. The quality of education in mainstream government schools and the lack of resources to provide universal coverage are mentioned as further justifications for not making education compulsory. A
more extreme corollary to this position maintains that children also have the right to work and to organise. It argued that school is not the only arena where children learn; they can acquire life skills at the workplace as well. But the view expressed by Umeed Khanna Foundation is not acceptable. But it may gain ground on account of getting linked to international movements of working children and because of the pressure generated by certain quarters of the donor community.

- A variety of educational services are offered by these two NGOs in their attempt to provide an alternative to child labour. They provide full-day schools that mirror the mainstream formal system in many respects. But these schools are regarded as non-formal on the grounds that they offer the primary school curriculum in a compressed time frame and their teachers are less qualified and are paid lower salaries than government school teachers. They demand that such schools must be funded by the Government. The rationale for setting such schools is to improve school access to the children of educationally backward areas of Barnala and Sangrur districts. These NGOs also demanded that more conventional non-formal programmes such as evening classes and on-the-job literacy classes for working children should be offered.
This study found wide variation in the importance of working children’s contributions to household livelihood. In some poor households, a male bread winner was earning enough to feed his household. In such families, children are not working full-time. But sometimes due to dire economic necessities arising from sibling’s marriage or religious ceremony, these families are compelled to send their children to work part time or full time. 30.62 per cent of children are found working as well as attending school. A majority of such children consists of children working as domestic servants in homes and in agricultural fields. In other household, working children’s contributions is considered important, because an adult male member of the family is not working or diverting economic resources to the purchase of drugs and alcohol. In some households, where labour is sporadic rather than constant, girls work part-time after attending the schools.

The study revealed that certain jobs were seen as having high moral risks for children specially girls. The girls who work outside their homes are facing sexual as well as mental harassment at the hands of employers.

The study also revealed that that maximum number 88 male child labourers (84.61 per cent) in Sangrur district are employed as agricultural labourers. Contrary to this, in Barnala district, only 43 male workers (40.56 per cent) are doing the job of
casual or as permanent labourers. In regard to female child workers, majority of both the districts are working as domestic workers i.e. 44.64 percent in Sangrur district and 44.44 percent in Barnala district. The majority of the female children i.e. 44.64 percent in Sangrur district and 44.44 percent in Barnala district are working as permanent agricultural workers or casual workers. The participation of male child workers is comparatively low in domestic work as compared to the participation of male child workers in brick kiln and agricultural works in both the districts. But on the other hand, female child workers participation is high in domestic works and carpet weaving in contrast to brick kiln and agriculture works in both the districts.

- It is found that the parents of 150 child labourers are not aware of constitutional provision of compulsory and free primary education in Sangrur district whereas in Barnala district parents of 148 child labourers are not aware of these provisions. Parents of 12 child labour respondents in Sangrur district are aware about Right to Education Act, 2009, whereas parents of 12 child labour parents are aware in Barnala district about Right to Education, Act, 2009.

- The study also revealed that that very small proportion i.e. 5 percent parents of working child respondents expressed the view that they are aware about child labour laws and regulations. On
the other hand, in Barnala district, only 6.87 per cent parents of working child respondents held the opinion that they are aware of child labour policies and regulations.

**SUGGESTION:**

- There is a need for building effective mechanism and structural pattern to ensure that all the laws framed by the Government for the eradication of child labour must be implanted. If the laws are effectively implemented, the rights of the children shall not remain on paper but shall be translated into action.

- The action plans for the eradication of child labour must be multifaceted and multidimensional and have diversity of approaches so as to provide solution to the complex and deep-rooted problem of child labour. Several issues like the child’s perspective, context and environment must be incorporated and properly addressed to meet the growing challenge of child labour.

- A campaign to promote awareness of the Convention, the constitutional provisions and the situation of children in Punjab must be launched. The campaign should focus on information dissemination on child rights at the State, District and village levels. It should also demand the implementation of the commitments made by both Union and the Government of Punjab. The campaign must undertake initiatives at national level through awareness building, networking, and child-
centered policy advocacy, for building a conducive institutional environment wherein all the internationally agreed and accepted child rights are fully practiced and promoted. One of the objectives of the campaign must be to mobilize public opinion for the protection and promotion of child rights through information dissemination, awareness.

- The Indian legal system has to evolve a great deal in securing the rights of the child. Firstly there has to be some synchronization of the upper age limit for childhood if the rights of childhood have to be realized. The Convention on the Rights of the Child creates, for the first time, a balanced and clearly articulated framework for determining the rights that a child has under international law. Even with its inherent problem of enforcement, the Convention can be a catalyst for legal reform since it sets out the rights, a child should be able to claim at some point in the national legal system.

- The multilateral International treaties which have given a new dimension to the concept of child rights that must be appreciated at the national level. The domestic legal systems should also incorporate this holistic perception of rights.

- There is a need to include the provision for mandatory enforcement of the orders of the National Commission for Children and the Commission should be given powers to initiate contempt proceedings against those not complying with its orders within a time frame.
• The Government of India should ratify the International Labour Organizations Convention 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labour. The Government should also ensure compliance of the Supreme Court ruling on child labour.

• The district-level vigilance committees should be strengthened to identify and eliminate bonded child labour.

• The provision mentioned in the education policies should be implemented to reduce children dropping out of schools and becoming child labourers.

• The Factories Act should be amended to cover all factories or workshops employing child labour.

• A few children in Barnala and Sangrur districts have not any other earning member in their families; in such a case, the Government should pay some allowances, so that the child should not compelled to work.

• The Government should improve the quality of education by introducing innovations in textbooks, teacher training, and classroom teaching methodology to create a more meaningful and engaging classroom experience for students.

• India should have a statutory National Minimum Wage (a living wage) equivalent to the first-day wage of the lowest paid government employee.
• The government must formulate a comprehensive plan to check the use of alcohol in low income areas.

• Adequate medical and recreation facilities should be provided to the deprived children for their emotional and psychological development.

• Hazardous and exploitative forms of child labour, including bonded labour, sexual exploitation at work that hampers the child’s physical, social, cognitive, emotional or moral development, must not be tolerated, and government must take immediate steps to check this evil.

• All children should be registered at the time of birth. Registration is essential to permit the exercise of the child’s rights, such as access to education, health care and other services, as well as to provide employers and labour inspectors with evidence of every child’s age.

• The media should play an important role in educating the public about child rights. It should draw attention of the policy-makers to violations of child rights. Media should give children a voice, expose shortcomings in the system, highlight the achievements of children—their aspirations and the risks they face.

• There is an urgent need to encourage community participation in all the areas relating to child labour such decision making, priority setting, planning and implementation of poverty alleviation programmes, rural development.
• NGOs should play an important role to ensure effective assertion of the rights of children. At the regional level, NGOs must explore ways of using regional human rights machinery and instruments to address regional specificities and disparities and developing regional positions and strategies regarding issues relating to children. At the international level, NGOs’ vital role should include identifying specific areas for international cooperation and technical assistance to realize the rights of the child. The challenge for child rights NGOs lies in applying a participatory empowerment approach to the development of the rights of the child.

• Training, Sensitization, and Capacity Building should be an important part of the strategy to protect the rights of the child. Effective child protection and development depend on skills, knowledge, and judgment of all professionals, personnel, and staff working with children. It is important that people in direct contact with children receive training to raise their awareness of the issues and concerns of laws and rights relating to children.

• The various agencies like Juvenile Justice Boards, Child Welfare Committee members, the bar, school teachers, government officials from various ministries like the Ministry of Human Resources, Development, Department of Women and Child Development, Ministries of Labour and Social Justice and Empowerment which are involved in childcare system must be trained to protect the interests of the children.
BIBLIOGRAPHY

PRIMARY SOURCES


Campaign Against Child Labour, CACL Update CACL, Central Secretariat, Karnataka, India, February 6, 1998.

Campaign Against Child Labour, CACL Update, CACL, Central Secretariat, Karnataka, India, February 3, 1998.

Campaign Against Child Labour, Child Labour in India—A Dossier, Compiled by Campaign Against Child Labour, Sponsored by UNICEF, Maharashtra State Office, Mumbai, India, 1995.


International Save the Children Alliance, Promoting Psychological Wellbeing among Children Affected by Armed Conflict and


