CHAPTER - I

CHILD LABOUR: AN INTRODUCTION
The idea of human rights has existed as natural rights – the idea that people have certain rights simply as natural human individual. It was a way to assert that individuals had rights that should not be violated by anyone. In recent decades human rights have also become a much more prominent concern of foreign policy. Several governments have made respect for human rights by other governments a precondition for favourable relations. The international institutions like United Nations (UN), International Monetary Funds (IMF), World Trade Organisation (WTO) and World Bank (WB) are playing crucial roles in support of human rights in international politics.

Human rights are those elementary rights which are considered to be indispensable for the development of the individual and “they belong to a man, woman, child simply because they are a human being”.¹ As a human being children are also entitled to the rights, the right to survival and development, the right to be heard on all those decisions, which affect them.

In an economically, socially, culturally diversified world, children constitute one third of the population. In these diverse conditions many children are even struggling for the basic needs of survival e.g. food and shelter. These children generally belong to developing and under developed countries. In all regions of the world particularly in less developed and developing countries, children are found to be malnourished, plagued by preventable diseases and are denied even a basic education. They continue to be exploited, prostituted and abused in the home and at work place. They are also invariably used in war. One of the forms of exploitation is child labour, which is found in every part of the world, but this problem is more acute in South and East Asia, Sub Saharan Africa and Latin America. Charles Dickens

through *David Copperfield* has drawn a graphic portrait, of child labour phenomenon in the 19th century in the United Kingdom (UK). Similarly in India, Raj Kapoor in *Boot Polish* in 1952 and Meera Nair in *Salam Bombay* in 1992 drew our attention to the suffering children.²

According to *Human Development Report 2000*, out of an estimated 5.81 billion people in the world in 1998, three-fourths of them belonged to developing countries (4.57 billion).³ Region-wise, South-Asian region is estimated to be the second largest populated region with 1.36 billion people.⁴ UNICEF gives detailed accounts of children. According to its recent report that children make up about one third of the population of the world of which an estimated 2.77 billion are under the age of eighteen years. More than four-fifth of them 2.44 billion belong to developing countries.⁵ The South Asian region accounts for 732 million children under the age of eighteen years and 564 millions belong to 6 to 14 years of age group.⁶

Children are considered as "potential citizens"⁷ and it is expected that every society creates a favourable environment and provides adequate opportunities for their total development. Ironically 12 million children die every year in developing countries before reaching the age of five due to the absence of basic minimum necessities and over 200 million children under the age of 5 are considered to be suffering from malnutrition. Over 250 million children between age groups of 10-16

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⁴ Ibid.


years working all over the world is considered malnourished. Due to such widespread poverty and to escape from malnutrition, over 250 million children between the ages of ten to fourteen years are working in the world. Most of these children belong to underdeveloped and developing countries and hardly enjoy their childhood, being forced to face the reality of adulthood.

South Asian region is also one of those areas, which provides congenial environment for the practice of child labour. Malnutrition, health problems, gender discrimination, illiteracy and ignorance are common features of this region. In this region, infant mortality rate and under-five mortality rate is 82 and 121 respectively as compared to the world's average of 61 and 90 respectively. Here, approximately 53 percent people live below the poverty line and 41 percent people are illiterate.

There has been a growing global consensus on the need to eliminate different forms of exploitation of children including child labour and ensure every child the right to protection and development. Apart from the Convention on the Rights of the Child, the international community agreed at the World Summit for Children held in 1990 on a series of specific and measurable goals for the protection of the lives, the health, and the normal growth and development of children. The goals included:

- A rooting out of child malnutrition,
- Control of the major childhood diseases,
- The eradication of polio and dracunculiasis,
- The elimination of micro-nutrient deficiency,
- A halving of maternal mortality,

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8 UNICEF, n. 6, p. 2.
9 Ibid, p. 65.
12 Ibid, p. 98.
The achievement of primary school education by at least 80 per cent of children,
• The provision of clean water and safe sanitation to all communities, and
• The universal ratification of the Convention on the Rights of the Child.

By the end of 1995, it was subsequently agreed that a set of intermediate goals
should be achieved. The World Summit for Social Development in Copenhagen in
March 1995 was an attempt in the same direction to continue this effort.

1.1 Historical Aspect of Child Labour

On the history of the child labour, a retrospective look shows that it is not a
new phenomenon. Though child labour existed in one form or the other in many
societies, its nature, dimensions and magnitude have varied depending on the existing
socio-economic structure of society. The varied nature of children’s work needs to
be related to differing perceptions of childhood in various social organisations, at
different time periods.

Earlier, the practice of child labour was found in feudal society and later it
became deep-rooted in capitalistic society. In earlier times, child labour existed only
as an extension of the home. Children were part of a social organisation where
members pooled their labour for subsistence. The nature of work was non-hazardous
and it was practised with the basic aim of passing on traditional skills. Weiner also
expressed the same view that the traditional concept was that children should be
socialised to contribute to the maintenance of the family. During such process of
socialisation “the child grew to physical and intellectual maturity without ill-treatment
and virtually without being exploited and was simultaneously prepared for adult

Sahoo points out an exception that wherever parents had to work for the landlord, then even their children were involved in work. Children often remained as bonded labour in the landlord's house along with their parents.\textsuperscript{17}

Nieuwenhuys expressed his views in terms of economic value and mentioned that children's work in the context of peasant family is not given any valuation. They are wrongly considered economically worthless. Children may not be directly productive but in the interaction between the children's household and the larger society children's work is transformed into economic value.\textsuperscript{18} In this society, children were employed mostly with the aim of passing arts and for their socialisation.

Kumar has expressed similar views that in traditional societies child labour was a part of work culture and life system where children were prepared for performance of ascribed traditional occupations. While looking at structural aspect of the society, he states that in case of general workers, their children learnt work/art while working with their parents. In case of elite groups, children were trained by specialised instructors/teacher. Thus, child labour and child learning were structurally linked with the social and economic organisation of even traditional societies. He also looks at this aspect in terms of production relations and concludes, it could also be said that workers i.e. cultivators, artisans and craftsmen, in the economy engaged their family members in work from early childhood. On the other hand, those who lived on the surplus generated by labour or exchange employed teacher/instructors to educate or train their children.\textsuperscript{19}

\textsuperscript{17} Sahoo, n. 14, p. 30.
The process of industrialization and urbanisation brought a change in socio-economic structure and a new dimension of labour emerged. It was caused by the large-scale migration from rural to urban areas, which resulted in the uprooting of the family. Family based economy began to disintegrate and a large number of people became wage earners. There was a change in the nature of child labour. Because of poverty, the child was then considered as a means of production contributing to economic growth. Industrialisation brought along hazardous situation of work, which endangered the well being of children. Behra explains this change with industrialisation concept. In the pre-capitalist society child was confined within family environment and work was considered as the central aspect of their socialisation and training. This concept of ‘socialisation process’ underwent a dynamic change with the advent of capitalism and industrialisation in several European countries during 18th century and child work/labour began to be designated as a social problem. A transition took place from the family based economy to capitalist-wage earners industrialised economy.20

With the progress of industrialisation, the tendency to make quick profits by reducing high working costs. This has aggravated the exploitative practice thereby employment of children is a common practice. With an advent of large-scale industries in mid of 19th century along with no state regulations, which were a typical characteristic of that period, aggravated the situation. It left employers free to bargain with labourers. Many children were employed on cotton and jute mills and coal mines. With the advent of factory organisation, some public attention was drawn towards the existing evils of child labour. While discussing about the industrialisation factor in child labour practice, Bhatt says that due to this factor only, daily wage

earning labour force gradually came to swell in the new industries. Due to lack of labour protection laws in its early phase, employers remained free to bargain with the labourers to their maximum exploitation. And children became the easiest targets.\textsuperscript{21} The problem of child labour was replicated in the long and stretched working hours for meagre earnings.

In a new socio-economic structure, involvement of child labour started increasing and various modes of exploitation became very much revealing. In this changed structure, Kumar explains the growth of formal sectors and changing concept of child work to child labour. He states that structural basis of child labour underwent a change with the advent of modern era, which was marked by a twin phenomena. One is, in the economic sphere the advent of organised modern industrial sector and another is the emergence of Nation States on the political horizon. These two new factors consequently entered in to the social life. Further, new discoveries and inventions in the area of science and technology changed the character of economic organisations and production system.

Kumar further argues that this new production systems required systematic knowledge and skills to apply them. This could be imparted through formal and high professional institutions. Thus, formal professions required formal learning and training under systematic courses. Thus learning of children and adolescent (even adults) was separated from their working. That is, in the formal sectors learning and employment do not go together. This created a disharmony between the traditional value and modern values. Therefore, modern education became a necessary precondition to interact with and enter into modern sectors of economy and workers.

including children with no education left for informal and unskilled works. In recent decades declaration of the International Year of the Child 1979, by the United Nations has exposed the magnitude the problem and focused the attention on various problem of child labour and measures for their gradual elimination.

The phenomenon of child labour is not only prevalent in the developing countries. Their presence is also acknowledged in developed countries but the nature of their work is different. It started in Europe from the time of industrial revolution and from the mid of 19th century in America. In contemporary times, the incidence of child labour is very high in Third World Countries. This inequality can be due to two inter-related reasons, one, colonial past of the developing countries, which makes them lag behind in order of industrialization as compared to developed countries and another, steady economic growth in the process to cope with international markets. This results in unequal economic distribution. While looking into the cause of these inequalities, Basu explains that child labour has not always been thought of as an evil, the excessive use of child labour increased in the early 19th century but it started declining by the late 19th century. This institution was seen to have been to ‘exported’ from the industrialised nations, as the practice of child labour got shifted to the colonies. However, within the boundaries of industrialised nations, it was undeniably on the way out.

There is still no consensus on the debate over that how it happened. On the one hand, there was a series of legislative acts limiting child labour and ultimately declaring it unconditionally illegal. There were also rules about compulsory education, which made it difficult for children to work full time. On the other hand, the increasing prosperity of Europe, the United States of America (USA) and Japan

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22 Kumar, n. 19, pp. 2-3.
made it easier for the parents to pull out their children from work without having to fear that this would impoverish the household. All these factors have played a role with important regional and sectoral differences.\textsuperscript{23}

Choudhary has offered six generalisations for the purpose of analysing present day child labour phenomenon, origin and ways to control it. These ideas are based on vast historical literature on child labour phenomenon in its early stages of industrialisation in countries of Europe, North America and Japan. These are:\textsuperscript{24} i. The early phase of industrialisation experienced a population explosion due to declining death rate and high and rather sluggish total fertility rate, which in turn affected population pyramid by increased child population in total population from about 30 to 40 percent. This phenomenon is known as “Theory of Demographic Transition”. Caldwell (1990) calls it \textit{Soft Under Belly of Development}\textsuperscript{25}. Some diversity of this pattern is also observable in contemporary Asia, including India. ii. Structural change triggered by industrialisation led to migration of workers and their families and a shift from agricultural to non-agricultural activities. Though the degree of urbanisation with urban facilities such as formal educational facilities, etc. increased, it fell short of the migrated population. The demand of compulsory schooling in these countries was partly to deal with some problems like, street urchins, indiscipline, etc.


\textsuperscript{24} Choudhary, n. 2, pp. 790-92.

iii. Rural and agricultural child labour has never been a subject of debate in any of the countries except Japan, where girls, mostly in silk and textile production, were targeted for compulsory schooling. But in US, where use of child labour was widespread in agro-processing until 1930s was by and large left alone. Even the International Labour Organisation’s Charter of 1919 did not include child workers in agriculture as a part of its prohibited employment sources.

iv. Child Labour Prohibition and Regulation Act of UK (frequently amended in the 19th century) and its counterparts in countries of Europe and North America were mainly focussed at urban, industrial wage based activities. Rural agricultural child labour and children working in household sectors have been exempted from prohibition. The genesis of India’s Child Labour Prohibition and Regulation Act of 1986 can easily be traced back to that of 1938 in India and that of UK of the 19th century with various amendments.

v. Use of trade sanctions as an instrument of public policy to combat child labour occurred mainly in the US during the 1930s in connection with trade between the states of USA. Everywhere else, trade, as a weapon to deal with the child labour was not considered seriously.

vi. Expansion of school facilities with or without compulsion occurred everywhere once output per worker and output per capita started growing. Declining total fertility rate, expansion of school enrolment and improved retention rates in schools occurred virtually simultaneously.

Countries of East Asia and South East Asia followed Japanese model of school education and emphasised on universal elementary education since World War
II. The experience of South Asia in Human Resource Development (HRD)\textsuperscript{26} was qualitatively different. Even within South Asia, Sri Lanka has far better experience than that of other countries.\textsuperscript{27}

This awareness regarding child labour is also partially caused by the increasing globalisation. It brought, as Basu describes, not only more information about the condition of labour in different nations to academics and activists the world over, but also goods produced by children in far away lands into the hands of consumers in high income countries. This has, in turn, brought two very different kinds of people onto the same platform—individuals who are genuinely concerned about the plight of children in poor countries, and those who comprise the forces of protectionism in developed countries.\textsuperscript{28} While discussing the effects of it, he further states that the two have worked together to support a variety of interventions in third world labour markets.

This concern ranged from banning imports into industrialised nations of products ‘tinted’ by child labour inputs. This was carried out through setting international labour standards to be monitored by international organisations, such as World Trade Organisation (WTO) or International Labour Organisation (ILO), to labelling products that involved child labour so as to give the consumer the option to boycott them. Any such intervention is likely to impact not only on the well being of children, but also out cause spillover effects on others.\textsuperscript{29}

\textsuperscript{26} Myrdal (1968) in its \textit{Asian Drama} has given due importance to the school education in Human Resource Development, quoted in D P Choudhary, “A Policy Perspective on Child Labour in India with Pervasive Gender and Urban Bias in School Education”, \textit{The Indian Journal of Labour Economics}, vol. 40, no. 4, 1997, p. 792.

\textsuperscript{27} Choudhary, n. 2, p. 792.

\textsuperscript{28} Basu, n. 23, p. 1083

\textsuperscript{29} Ibid, pp. 1083-84.
From the 19th century, governments of many countries began to regulate the conditions of employment and restricted the ages at which children could work. The major steps taken by international agencies in this direction that serve as landmarks are: International Child Labour Convention, 1919; Minimum Age (Industry) Convention No.5, 1919; ILO Forced Labour Convention No.29, 1930; ILO Minimum Age Convention No.138, 1973 and the Convention on the Right of the Child, 1989.

This new attitude to childcare and development has emerged because of greater emphasis being given to the welfare of children. This has resulted in the emergence of several governmental initiatives in order to protect and help the children to have better childhood.30

1.II Concept of Child Labour

Lyakat Ali says that the concept and practice of child labour is economically unsound, psychologically disastrous and morally wrong. It is economically unsound because the cheap child labour available displaces one adult worker from job or employment; psychologically disastrous, as the scars incurred during childhood remain embedded during youth and the rest of life; morally wrong because the society is responsible for snatching the childhood of the person.31 The practice of child labour is not new for modern society but what is new, is that now it became more complex and vulnerable in its nature.

A child labourer can be distinguished from others as a person under the age of fourteen or fifteen years, involved in any productive activity. They can be paid workers or unpaid, within the family or outside. Generally, they are involved in a

30 Kaldate, n. 7, p. 67.
wide range of works from agricultural to urban areas both in organised or unorganised sectors. Before defining the child labour, it is essential to define its component, the 'child' and the 'labour'.

1.II.i Child and Childhood

De La Luz Silva defines a child as “someone who needs adult protection for physical, psychological and intellectual development until able to independently integrated into the adult world". Generally, one can define a child as a person under a specific age, which varies from ten to fifteen years. According to Goddard and White, its definition varies from one society to another, even from one time to another and also according to both class and gender.

The legal definition of a ‘child’ depends very much upon the specific legislation. In Nepal, in case of child employment, minimum age considered is fourteen years (The Children’s Act, 1992). In India, the definition of a child varies depending upon the purpose of its application. The Census of India treats persons below the age of fourteen as “children”. In the Juvenile Justice Act, 1986, the age for juvenile boys is sixteen years and for girls it is eighteen years. In case of child employment, ‘child’ means a person who has not completed his fourteenth years (Child Labour [Prohibition and Regulation] Act, 1986).

A child is defined by chronological age and also by cultural and social factors. The growth of the child is both social and biological. But then different societies may have different thresholds for demarcating childhood and adulthood. In some societies,

33 Ibid.
as Fyfe points out, age may not be a sufficient basis for defining childhood. The fulfilment of certain social rites and traditional obligations may be important requirements in defining ‘adult’ and ‘child’ status. In still others, the integration of children into socio-economic life may begin early, and the tradition from childhood to adulthood may be smooth and gradual, that it may be virtually impossible to identify clearly the different life phases.  

In Third World countries, a person especially 8 or 9 year old is usually not considered as a child. The demarcation of childhood from adolescent and adulthood is not clear. For instance, a child who is offered protective rights in developed countries may start working in developing countries, not necessarily due to economic compulsions. The concept of childhood in developing countries is of western origin. It was Philip Aries who first put forward the thesis, in the *Centuries of Childhood* that childhood is a modern western invention. It was he who said that ‘there was no place for childhood in the medieval world. The infant who could not participate in the adult world simply did not count.’ By the end of 18th century childhood was established by Blacke and Wordsworth as a major literary theme, something which was to continue well into the 19th century with Dickens, Mark Twain and Tolstoy.

Today’s concept of childhood, invented and sustained by adults, has two key features: one, a rigid age hierarchy, which separates them from adults and institutionalised this childhood by special dress, games, language and literature. Another is, the myth of childhood innocence where the child must be both happy and separated from the corrupt adult world. It is more expressed in child-centred families,

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37 Ibid.
which is determined to make these years best in the life. These adult modes and prescription have been codified into international standards expressed in Declarations, Covenants and Charters where child cannot be defined as a worker but requires protection. In this protected period of child’s socialisation, the schooling has become the acceptable way of work for the child.

In case of India, Nepal and such other countries, everyone is aware of the fact that, in the upper economic class there is an extended childhood with different kinds of protection, such as financial, extended till the child finish his/her education or finds a job. On the contrary, among lower classes, the gap between childhoods to next life cycle is very short and children belonging to this section tend to enter into the market, whether skilled or unskilled, in their early age or during their teenage years. Bissell has favoured this view and accepts the concept of childhood as more of social construction.

1.II.ii Labor

In general economically active population is referred to as the labour force. According to the Multilingual Demographic Dictionary, “The working population consists of those individuals who take part in the production of economic goods and

38 Ibid, p. 163.
41 Governments and international organisations usually treat a person as economically active or gainfully employed if the person does work on a regular basis for which he or she is remunerated or that results in output destined for the market.
services, including unpaid family workers in an economic enterprise as well as persons who work for pay or profit".\(^42\)

In the case of children, as De La Luz Silva found ‘work’ often on the borderline between work and play, work and vagrancy, and work and apprenticeship.\(^43\) According to Schildkrout, “any work activity done by children, which either contributes to production, gives adult free time, facilitates the work of others, or substitutes for the employment of others” can be considered as children’s work.\(^44\)

1.II.iii Child Labour and Child Work

“Every child labourer is first a child with all needs like other children. The child needs the opportunities not only for physical growth but also for personality growth through all activities and experiences of adulthood”.\(^45\) Though there is no consensus over definition of child labour, all of these are more or less similar in their sense. The diversity of opinion among scholars in defining child labour is due to differences in social perceptions.

Homer Folks, the former chairman of the US National Child Labour Committee, defined child labour as “… any work by children that interferes with their full physical development, the opportunities for desirable minimum education or of their needed recreation”.\(^46\) According to the *International Encyclopaedia of Social

\(^{42}\) Rodger and Standing, n. 32, p. 3.

\(^{43}\) Ibid.

\(^{44}\) Ibid.


"when the business of wage earnings or of participation in self or family support conflicts directly or indirectly with the business of growth and education, the result is child labour".\textsuperscript{47} In its most common definition, child labour can be defined as, children under the age of fifteen years in work or employment with the aim of earning a livelihood for themselves or for their families.

The ILO (1993) has recently attempted a uniform definition, to produce statistics on child labour, "economically active population under the age of fifteen".\textsuperscript{48} In India and Nepal, there is hardly any statutory provision, which defines precisely, the term "child labour". Even in various legislative provisions, which prescribed the minimum age for the admission to different vocations, do not fix a uniform age and it varies depending on the nature of work in which they are employed. In India, according to the Child Labour (Prohibition and Regulation) Act, 1986, employment of children up to the age of fourteen years and in case of hazardous employment up to eighteen years is defined as child labour.\textsuperscript{49} In Nepal, according to the Children's Act 1992, the work done by a child below the age of fourteen years is recognised as the child labour.\textsuperscript{50}

Children at work can be understood on the basis of the regularity of work (full time, part time and seasonal), working conditions (degree of hazards and exploitation), social relations of work (bonded labour, family based farm or enterprise and wage employment), and nature of returns to work (unpaid family labour, payment


in kinds, piece rate and time rate). Giri has distinguished the term 'child labour' in two different terms, first, as an economic practice and second, as a social evil. The term 'child labour' is now more commonly used in its second context. In this notion, its close relation identifies the work with its negative implications on the child. In assessing the nature and extent of the social evil, it is necessary to take into account the character of the job on which the children are engaged, the danger to which they are exposed and the opportunities of development, which they have been denied.  

The term “child labour” is often used as synonym for “employed child” or “working labour”. In this sense, it is co-extensive with any work done by a child for gain. There are two main perspectives, which discuss what comprises child labour. On the one side, there is the viewpoint that makes no distinction between these two terms. According to this viewpoint, all work done by children is considered to be child labour. On the other hand, a distinction is made between the concept of child labour and child work. According to second point of view, ‘work’ and ‘labour’ sometimes appear same as both are born out of the ubiquitous human need to survive. 

According to George the distinction between the two terms “is determined by the particular social context, the quality of various interactions and dynamics present in the production process.”

To distinguish child labour and child work, Bhaskar says that it is necessary to take into account the character of the jobs on which children are engaged, the danger to which they are exposed and the opportunities of development of which they have

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51 Kulshreshtha, n. 46, pp. 1-2.
53 Ibid.
been denied. Lieten has made a crucial distinction between child labour and child work. He prefers to use child work as the generic term and stress that it should refer to any type of work being done in any mode of employment relationship. The concept of work, therefore, should serve as a description of the physical (or mental) involvement in a job. It is an activity, which rather then being harmful may be beneficial to the child in its formative socialisation. The concept of labour, he recommends, should be restricted to the production and services, which interferes with the normative development of children. The labour relation (paid or unpaid, hired or self employed, full time or part time) is immaterial to the definition.

Thus, when a distinction between child labour and child work is made, it is clear that child labour involves the elements of exploitation. When a child, out of economic necessity of the family, is forced to join the labour force, the child becomes quite vulnerable to exploitation. When a child indulges in labour, greater physical and mental resources is consumed than a child possesses, thus hindering the child’s natural growth. Such kind of work comes under the category of child labour. On the other hand, if conditions of work are non hazardous, non exploitative and allow children enough freedom for their proper development or the work which is flexible enough to cater to child’s need and does not hinder child’s overall development, then it is termed as child work.

The second perception strongly criticized the demarcation between ‘child labour’ and ‘child work’. According to this perspective it is very difficult to

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56 Ibid.
demarcate work into hazardous activities or non-hazardous. The child can face dangers in any type of job. Many times, occupations may not be hazardous themselves but they might be performed in hazardous environment. Thus, it is difficult to define the term hazardous in clear terms. It is felt that it is not possible to demarcate work done by children as ‘child work’ and ‘child labour’. While supporting this viewpoint Patil argues that no distinction should be made between child labour and child work. He further says that in the prevalent economic and social context, in developing countries including India, “the work of only a small fraction of children and their work would fall within the meaning of child work”. 58 Sinha strongly advocates this view and says “to judge and distinguish between child labour and child work is highly subjective and artificial process”. 59 She further argues that there is no simple method by which some activities in which children are involved could be classified as exploitative ‘work’ and other as non-exploitative ‘labour’. 60

As Blanchard, the former Director General of ILO, stated that “the first problem is one of definition inherent in the notion of child ‘work’ and ‘labour’”. 61 Generally the term ‘child labour’ is commonly associated with something hateful and associated with exploitative attitude. The work, which is imposed upon a child outside his potentialities, dictated by the needs of his family, even under the exploitative conditions, is responsible for the child’s physical and mental degradation and retards his personality development. Thus, “Child labour is harmful because the energy that

60 Ibid, pp. 106-07.
should have been spent on the nurturing of his latent powers is consumed for purposes of his survival and prevents the child from attaining his full blown manhood".⁶² According to Kulshreshtha, three things are necessary to include employment of child within the notion of child labour:⁶³

First, the child should be employed in gainful occupation;
Second, the work to which he is exposed must be dangerous;
And third, it must deny to him the opportunity of development.

The term ‘child labour’ as Kulshrestha pointed out, not only applies to the children working in the industries but also to the children working in all forms of non-industrial occupations which are injurious to their physical, mental, moral and social development.⁶⁴

1.II.iv Girl Child Labour

Apart from biological differences, the girl child is usually conditioned for ‘gender specific’ roles, which land them in disadvantageous position vis-à-vis the boys. Physical and psychological abuse of girl children within the family, the school and at workplace is a common practice. They routinely bear burdens and endure treatment that reflects their unequal status. Working girls are often invisible, treated as if they did not exist.⁶⁵ The girl child constituted an economically and culturally marginalized section, both at the macro and micro levels.

Girl child as a special cognitive and empirical category has emerged on the scene only recently, i.e. during the last two decades. A girl child as a different section

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⁶³ Kulshreshtha, n. 46, p. 2.

⁶⁴ Ibid.

⁶⁵ UNICEF, n. 10, p. 44.
is conceptually distinguished from a broader gender category called ‘females’ or ‘women’. These are indeed necessary and desirable developments. These may have promising consequences for both (a) possible theoretical break-through, and (b) social praxis, i.e. practical outcomes in terms of change or alteration in situations of girl children.  

There are socio-economic factors affecting allocation of specific types of occupations between male and female children. Because some kinds of work, as Bequele and Myers found, tend to be performed mostly by girls and others by boys, there were sexual differences in the exposure of children to work hazards. This is found in both urban and rural sectors. As in construction work boys are predominantly found whereas the presence of girls in domestic service is more common. There are, however, many other works i.e. match factories, carpet industries, etc. where both boys and girls are found. Along with girls as domestic servants, girls in the streets are more exposed to sexual exploitation and psychological damage.

There is some evidence that girl, as a group work longer hours than boys, which largely reflects in their involvement in household tasks either at home or elsewhere. This is one important cause for low schooling rates among girls than boys. According to UN publication, the number of out-of-school girls in the developing world is 60 million, out of which 28 million are found in South Asia alone. In India and Nepal about 67 percent and 81 percent respectively, females enrolled for primary education compared to males. This difference is more clearly seen in the adult literacy

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rate.\textsuperscript{69} In both India and Nepal gender bias is commonly found in every sector in range of areas including difference in labour participation rate to pay scale which is usually lower than males for the same work. As girls are much more vulnerable than boys with regard to sexual abuse, they have to face social rejection, psychological trauma, and unwanted motherhood.\textsuperscript{70} This gender differences need to be addressed at the workplace and home.

\textbf{1.III} Various Perceptions of Child Labour

The rights of the child, which has its origin in developed countries and spread to the developing countries, and the regional variations of social construct of childhood, has a contradiction especially in terms of their implementation. It also led to the difference between developed and Third World societies. It became more explicitly in the wake of globalisation policy debates though in a very scattered way. There are various perceptions regarding child labour and child rights, which are discussed here.

\textbf{1.III.i} Human Rights and Child Labour

Like childhood, child rights is also a western notion that traversed along with many other ‘right based approach’ to development and is a late entrant to the Third World countries. Anthony and Gayathri stress that the romanticised notion of an urban, elite and North American or European Child, well groomed by the formal educational system and well protected by the state and family from the adult world, formed the ‘ideal type’ of universal childhood. And child rights are articulated on the

\textsuperscript{69} UNICEF, n. 6, pp. 107-08.

\textsuperscript{70} Fyfe, n. 35, p. 20.
basis of various protections that such childhood demanded.\textsuperscript{71} This perception has dominated all the policy documents over the years. The view that the employers of child labour as well as parents of working children are self-seeking, intensive and short-sighted economic agents, are based on this perception only. It, therefore, demanded that it is the duty of the sovereign state to intervene and stamp/quash out the evil of child labour. International pressure through UN conventions, part of ILO’s efforts, some NGOs activities and even use of threats of trade sanctions are ethically justified from a moral high ground.\textsuperscript{72}

The opposition to this perception, as Anthony and Gayathri state, is based on two facts. One, childhood is a social construct and has variations across culture, time and space. Another, it is not completely tenable even within that part of the globe. Concentrated efforts are pointing out the dangers of imposing the standards of universal childhood and child rights in different landscapes of social and economic development. International organisations have made some attempts to pass such policies regulating child labour, according to countries’ requirements/scenarios, such as ILO’s new convention no. 182 on the Worst Form of Child Labour 1999.\textsuperscript{73}

1.III.ii \textbf{Child Labour and Developmental Aspects of the Child}

Relationship between work and development of the child is the key factor in understanding child labour. The work, which is harmless for adults, can be harmful to the child. To determine the hazardous nature of work, it is important to understand the impact of work on a child’s proper development. Thus, the concept of ‘work

\textsuperscript{71} Piush Antony and V Gayathri, “Child Labour: A Perspective of Locale and Context”, \textit{Economic and Political Weekly}, vol. 37, no. 52, 28 December 2002, p. 5187

\textsuperscript{72} Basu, n. 23, p. 1091-92.

\textsuperscript{73} Anthony and Gayathri, n. 71, p. 5196.
hazards\textsuperscript{74} needs to be child-centred, focusing not only on factors of immediate jeopardy but also those that hamper child development over the long term. Important dimensions of a child's development that can be endangered by work can broadly be divided into four categories. These are:\textsuperscript{75}

i. Physical development – including overall health, co-ordination, strength, vision and hearing;

ii. Cognitive development – including literacy, numeracy and the acquisition of knowledge necessary to normal life;

iii. Emotional development – including adequate self-esteem and family attachment;

iv. Social and moral development – including a sense of group identity, the ability to cooperate with others and the capacity to distinguish right from wrong.

All the four aspects are crucial for a child's proper development, which is hindered by child labour. Apart from healthy development and self-esteem, education is considered a key factor in the progress of children and their future. In terms of cognitive development minimum education is not only necessary for them but also they have the right to acquire it. But child labour and education show a negative relation. While explaining this negative relation, UNICEF study report describes the ways by which work can interfere with education. These ways are:\textsuperscript{76}

i. It frequently absorbs so much time that school attendance is impossible;

ii. It often leaves children exhausted that they lack the energy to attend school or cannot study effectively when in class;

iii. Some occupations, especially seasonal agricultural work, cause children to miss too many days of class even though they are enrolled in school;

iv. The social environment at work sometimes undermines the value children place on education, something to which street children are particularly vulnerable;


\textsuperscript{75} UNICEF, n. 10, pp. 24-25.

\textsuperscript{76} Ibid, p. 25.
v. Children mistreated at the work place may be so traumatized that they cannot concentrate on schoolwork or are rejected by teachers as disruptive.

Education not only helps in a child's cognitive development but also emotionally and socially as well. Self-esteem is as important for children as it is for adults. Separation from family during the working period, inhuman behaviour towards them can result in severe emotional damage. Such psychological damage lessens their self-esteem and is responsible for their unsociable behaviour. Such problems are more common in work like domestic workers, street children, sexually abused children, etc.

1.III.iii Child Labour and Invisible Nature of Work

Invisibility of child labour itself is a grave problem especially in developing countries. Most of the child workers remain concentrated in agriculture, domestic service and the urban, informal sector because these areas are invisible. Small production units run on an informal and self-employment basis is the dominant characteristics of economies of developing countries. Working children in these areas are mostly hidden from public scrutiny and legal protection as well. Many times under a contract system, parents bring home work like beedi or match making, etc. the children are also obliged to contribute their labour for the family, which is paid on the

77 Ibid.

78 Keith Hart in “Informal Income Opportunities and Urban Employment in Ghana” (Journal of Modern African Studies, March 1973, pp. 61-89), initially used the formal and informal classification in a study of urban Ghana. The most popular division of the economy into the formal and informal sectors is based on the market structure, technology used and relationship with the government. Heather and Vijay Joshi in Surplus Labour and the City: A Study of Bombay, (Oxford, Delhi: 1976, pp. 44-49), has also tried to define these sectors. According to them, informal sector is one, which contains a very large number of small producers operating on narrow margin in highly competitive product market, selling a variety of goods and services. Its products are sold mainly to low income groups (though there are obvious and significant exceptions such as domestic services).

79 Bequele and Myers, n. 67, pp. 21-22.
piece rate system. Such work is usually beyond the law. In India and Nepal, most of working children come under this category.

1.III.iv Child Labour and Exploitation

There are chiefly two groups debating over child labour. Western countries considered it as a way of exploitation. The Third World argues that child labour is not exploitative by nature. It becomes exploitative when the child is paid less, given more work with physical and mental torture. The exploitation of child labour could be seen through the hazardous nature of their work, performed by them. Thus, it prefers to differentiate child’s employment into ‘child labour’ and ‘child work’, based on the exploitation involved. But these two terms are different in nature, Ivy explains, “while work is natural human response to survive and therefore healthy and socially desirable process, labour denies the producer an opportunity for self-direction and control, the insolubility of which makes it a pernicious social process”. 80

For the purpose of defining child labour, both the nature of work and the nature of the relationship between the child and the employers must be considered. A key element is whether the arrangement is “exploitative”. 81 In the extreme, this can take the form of bonded labour, quasi-slavery or feudal relationships. The term exploitation can be defined in respect of child labour as “when children’s work involves deprivation of their basic needs of education and recreation and hazardous to their health, it amounts to child exploitation”. 82 Exploitative child labour involves “premature assumption of adult roles on the part of children, long working hours for

80 George, n. 52, p. 20.
81 Grootaert and Kanbur, n. 48, p. 5.
low wages, impairment of their physical and psychological growth and deprivation of
development opportunities in general and education and recreation in particular". 83

UNICEF determined that child labour is exploitative if it involves 84

i. Full time work at too early an age;

ii. Too many hours spent working;

iii. Work that exerts undue physical, social or psychological stress;

iv. Work and life on the streets in adverse conditions;

v. Inadequate pay;

vi. Too much responsibility

vii. Work that undermines children’s dignity and self-esteem, such as slavery or
bonded labour and sexual exploitation;

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

1.III.v Child Labour and Education

Education is considered as fundamental human rights of every child from age
group of 5 to 14 and any child out of the school should be treated as child labourer.
There is consensus regarding childhood linked to schooling and other protective
measures that the larger society is morally obliged to provide to children. State is
ultimately responsible to create infrastructure for that. Mishra says that child labour is
a consequence of failure of the state and the society to provide school education to the
children, which is their fundamental right. He simply favours the view that all
children in the school going age who are out of school should be presumed to be
doing some work or other. 85 Anthony and Gayathri also discuss about the
heterogeneity of the relationship between work and education. While analysing the
issue in depth they state that evidence from children’s lives reveal that beyond a

83 Ibid, p. 32.


simple dichotomy between children at work and children at school, there exists a much more complex range of categories comprising children in full time education, children in full time work, children who are neither at school nor at work, children who are engaged in occasional and seasonal work and children who are engaged in both school and work. However, even these do not form mutually exclusive categories.\(^8\)

Burra, while looking at the education through the debate as need vs. right, found this distinction, very unproductive and false. In a democratic society where all participants should have the skills and knowledge necessary to take advantage of the opportunities of a modern economy, education is increasingly a need, not just a right. Children therefore, have the ‘need’ for, as well as the ‘right’ to, education.\(^7\) She further explains that children’s right to education was non-negotiable, implies compulsion rather than persuasion. Only by making education compulsory, parents could be motivated or compelled to remove their children from work and the state pressurised to make available the requisite facilities to ensure that children can go to school.\(^8\)

1.IV Approaches to Protect Children

Child labour cannot be abolished at a stroke. Vocational training and non-formal education can provide crucial support to children, forced to work due to socio-economic reasons. But the ultimate goal must be to eliminate child labour. Action against child labour can be undertaken on a broad front-social, economic and

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\(^8\) Antony and Gayathri, n. 71, p. 5188.


politicall-with governments, employers, trade unions and NGOs working alongside each other.

Thijs raises some questions related to approaches for child labour and states that, “What is the best response to child labour? Should actions focus on improving and enforcing child labour laws, on promoting compulsory education, or both? Too often the problem of child labour is confronted in a piecemeal and scattered fashion, as a series of separate issues rather that as a whole”. Further discussing the issue, Thijs stresses that what is required is “well planned and well integrated series of complementary measures which will be short term, medium term or long term in nature”. 89 Any effective strategy needs the involvement of organisations at all levels, international, national, and local. The basis of any approach to child labour is effective legislation and its implementation but it should be substituted by other techniques, especially when it comes to the informal sectors and agriculture, where most of child labour is concentrated. There could be three probable approaches, prohibitive, preventive and rehabilitative, to deal with child labour.

1.IV.i  Prohibitive Approach

This approach includes particularly legislative measures. All governmental and non-governmental policies are primarily based on this approach and followed by others, as suited to their regional conditions. Though the laws, by-laws and rules are made according to the nature and intensity of the problem. The history of child labour in West also proves that legislative approach is one of the effective and successful means to deal with the problem. Moehling’s finding on the eradication of child labour

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in 18th century America is of the example of its affectivity. This is the approach, which could be followed either for the short-term goal or long-term goal or could be utilised for the both purposes.

1.IV.ii Preventive Approach

This approach particularly intended to eliminate the underlying social and economic inequalities that in turn generate child labour. It deals with the structural change in terms of socio-economic behaviour, especially through reforms. It, therefore, may not be immediately fruitful/viable. This approach could further be divided into sub-methods/techniques.

i. Economic Development and Better Income Distribution Policy Or Economic Development Approach

ii. Social Security and Assistance Policy or Targeted Incomes Approach

iii. Discouragement of Children from Entering Employment Policy Or Educational Approach

iv. Encouraging Technological Advancement Or Technological Development Approach

1.IV.iii Rehabilitative Approach

This approach deals directly with individual children who are already in the labour market. It aims to withdraw the maximum numbers of child labourers in the hazardous working conditions, by providing them and their families an alternative support. This approach is particularly for the children in difficult situations and programmes under this category could be undertaken by any of governmental or non-

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91 Bequele and Myers, n. 67, pp. 33-37.
governmental organisation, private or public sectors. This approach too, could further be divided into other sub categories. ⁹²

i. Providing Protective and Rehabilitative Services Or Compensatory Services Approach

ii. Providing Protected Work Opportunities Or Sheltered Workshop Approach

iii. Correcting the Conditions that make Work Hazardous Or Occupational Safety Approach

iv. Enhancing Family Protection Or Family Reinforcement Strategy.

1. V Classification of Children’s Activity

Children are engaged in wide range of activity in both rural and urban areas. In urban areas they are found in both organised and unorganised sectors or formal or informal sectors, employed in both visible and invisible nature of work. These child labourers are considered as unskilled labour with limited physical strength.

According to area and nature of work and remuneration, whether they are paid or unpaid, different studies and scholars have classified child labour in different categories. Broadly, we can classify child’s activity in two categories, rural and urban. On the basis of nature of work, whether it is invisible or not, it can further be classified into formal and informal sectors.

Rodgers and Standing divide children’s activities into different categories: ⁹³

i. Domestic non-monetary work: It includes domestic non-monetary work, they put those children who usually work within the family, e.g. cleaning, cooking, washing, childcare, etc. This is self-employment and is generally time extensive.

ii. Non-monetary and non-domestic work: Children engaged in this category includes non-monetary and non-domestic work and are usually found in the poor


⁹³ Rodger and Standing, n. 32, pp. 2-11.
agrarian or rural economies. In such works, children are considered as a part of family activity. Generally, girl workers belong to this category. This category includes activities like tending of livestock, protection of crops from birds and animals, hunting, gathering, weeding and taking care of younger sister and brothers. This work is also time intensive and is often intermixed with domestic work.

iii. Work in the non-agrarian environment: It includes artisan production, small-scale production, manufacturing and services. This category includes the work in urban sectors.

iv. Bonded labourers: Children of this category works as bonded labourers and are pledged by their parents in lieu of debt. Although law abolishes the practice of bonded labour, still the prevalence of the practice is noticed in a number of studies especially in rural areas.

Rodger and Standing further classified these four categories on the basis of paid or unpaid work. The unpaid labour includes work usually carried out within the family and is known as self-employment. These practices are noticed in agriculture, carpet making (based on piece rate), domestic services, brick making, match making etc. The other part of child labour is paid workers who work in the field, small-scale industries and occupation and the service sector. This category of work is both formal and informal in nature, whereas earlier one is basically informal in nature.

Studies conducted by UNICEF categorise child’s activity in two ways based on nature of work and the relation of child with their family during the work.

(a) Classification of child’s work in relation to children’s interaction with their family during the working period. UNICEF classified it into three categories:94

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i. Within the family

ii. With the family but outside the house

iii. Outside the family.

The first category includes work in handicrafts / cottage industries, domestic/household tasks, agricultural / pastoral work, etc without pay. In such types of work children are worked with their families and considered as a part of them as in the piece rate system. The work considered as a part of their training in their childhood. Usually children work with their family.\(^95\)

The second category includes those children who are engaged in agricultural / pastoral work which consists of (seasonal/full time) migrant labour, local agricultural work, domestic service, construction work and informal occupations. In these works, children are employed purely with the aim of economic assistance and as in the case of second factor; these works are considered as training for their future prospects.\(^96\) Children here work with the family but outside the house.

Children belonging to third category are engaged in different types of work, outside the family, which is more exploitative by nature. This category includes bonded work, apprenticeship, skilled trades (carpet, embroidery, brass/copper work), industrial or unskilled occupations or mines, domestic work, commercial work in shops and restaurants, begging, prostitution and pornography.\(^97\) Such inhuman activity is degrading for them.

The third category also includes those children who are engaged in self-employment which consists of informal sector work like shoe shining, car washing, recycling of garbage, running errands, selling newspapers, etc.


\(^96\) Ibid, p. 13.

On the basis of nature of work, UNICEF identified six areas where children are engaged: 

i. Forced and bonded labour
ii. Commercial sexual exploitation
iii. Industrial
iv. Agricultural and Plantation work
v. Street work
vi. Domestic Service
vii. Work for the family and Girls' work.

1. VI Consequences of Child Labour

Child labour directly affects children and their health and education. It gives rise to many factors, which in turn perpetuate child labour. Breton codified the prime consequences as follows: 

1. Absence of a harmonious family life,
2. Insufficient spare time for play and cultural activities corresponding to the child’s age,
3. Exposure to social risks,
4. Health risk, because the resistance and muscular strength of a growing child are inferior to those of an adult. Children are, therefore, particularly susceptible to professional illness, e.g. tuberculosis caused by exposure to dust in textile industry and accidents at work. In addition, health problems appear in the medium or long term, caused by physical efforts appropriate to their stage of development.


5. Mostly lack of opportunities to acquire the basic general and professional knowledge necessary for their normal mental and intellectual development and to permit them to be successful in their entry into their future professional and social lives.

The most destructive consequence of child labour is that it affects the long-term quality of life. It permanently damages the social development skills of the concerned children.

1.VI.i Psychological Damages

A child who starts working at an early age faces many adverse consequences because they are not suited for long hours of strenuous and monotonous work. These consequences are seen in the form of physical and psychological damage. The physical harm is, of course, easiest to access. Psychological damage is more devastating and depends on environment in which they are oppressed. In the carpet industry, children are made to work as much as 17 hours a day and 7 days a week. Even 5-year-old children are working there. About 95.40% of the children sleep in the factory premises that could be characterised as congested and stuffy rooms/sheds. These rooms lack proper ventilation and the stale breath is laden with woollen particles. For this labour, children get only Rs. 20 a day for a 15 hours work and for some children it is only two meals a day. It was found in a survey that about 57% child labourers are paid on piece rate basis, about Rs. 20-30 a day. The other 12% are trainees who are not paid anything during the training period. Separation from families, continuous work for long hours for five to six days (sometimes seven days a

week) with rare holidays, poor treatment at working place leads to physical disorder and make children psychologically unstable.

They suffer the effects of fatigue and exertion much more quickly than those of adults. Large number of them is already suffering from malnutrition, which makes them more vulnerable to disease due to weak immunity. Carrying heavy loads or sitting for long periods in unnatural posture can permanently disable growing bodies.

Hard physical labour over a long period of years can stunt children's physical stature by up to 30 percent of their biological potential, as they expend more energy. Like in carpet weaving children have to work continuously for about 15 hours a day. Under such circumstances, lack of exercise and continuous sitting and stooping posture results in loss of appetite and sluggishness of various parts of body. General body ache may affect back, legs, hands and feet, which sometimes compounded by headaches caused by weak eyesight. Constant interplay of fingers with threads results in scratch marks on fingers. They are also prone to accidents and occupational hazards, which can mean permanent disability.

Besides these direct harmful effects on the child, work deprives them from attending school, which is an essential factor for child's proper development especially psychologically. Education helps a child to develop cognitively, emotionally and socially and it is an area often gravely jeopardized by child labour. Education also helps children in enhancing their working skills but most of the working children are out of school.


102 UNICEF, n. 10, p. 25.


104 Ibid, p. 25.
Generally child labourers are physically abused and exploited. Exploitation of children depends on their terms of work in two ways: hazardous working conditions and low remuneration along with excessive hours of work. Abuses are numerous because the efforts demanded out of children in their work often exceed their physical and mental capacities, especially when they work outside the traditional family framework. Among several factors of abuses perhaps the worst is separation from their parents which sometimes is life long specially in the form of debt bondage and bonded labour and finally, at worst, sale of children. Some times they are forced to get involved in anti-social and criminal activity.

1.VI.ii Physical Hazards

Children are susceptible to all kinds of dangers as are faced by adults, when placed in the same situation. Survival and physical integrity are important to them as to older people. However, health hazards that affect adults, affect children even more strongly. Therefore, it is necessary to go beyond the relatively limited concept of “work hazards” which is usually applied to adults and expand it to include the developmental aspects of childhood. Often children are made to do work which adults would find degrading or unpleasant because they are uncomplaining workers and do not have the physical strength to fight against these exploitative conditions imposed on them by the more powerful adults. Coming as they do from the so-called “lower caste”, this is again a form of oppression from their upper caste adult employers.

105 Breton, n. 99, p. 27.

106 Dogramaci, n. 101, p. 6.

Studies about the health of child workers have shown the close relationship between malnutrition, lack of sleep and hence, fatigue which leads to reduce working capacity.\textsuperscript{108} Voll further says that the child then has to work longer hours and this becomes a vicious circle. Poverty, malnutrition, lack of education and pressure of work creates an extremely stressful situation for a young child.\textsuperscript{109} Long working hours and poor working conditions are the normal features of a significant number of work places. Often children handle hazardous and toxic materials without any protection. Carrying heavy loads and maintaining uncomfortable and wrong body postures for long time, which in due course may develop, in a some kind of musculo-skeletal disorder. Besides this, children are not suited for long and monotonous work and their level of concentration is also less than of adults.\textsuperscript{110}

In different organised sectors, "the lack of training and experience in handling tools, their short span of concentration, the use of unguarded machinery, the unsafe use of electricity, the shortage of gloves, goggles and other protective equipment and the insalubrious state of workplace resulting from dust, fumes, lack of hygiene, poor lighting and inadequate ventilation are all potential source of accidents and diseases".\textsuperscript{111} The vulnerability of children is increased by the high incidence of malnutrition and under nourishment, which weaken them further. This weakens resistance, causes debilitating illness and decreases life expectancy.

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\textsuperscript{108} Ibid.
\textsuperscript{109} Ibid.
\textsuperscript{110} ILO, n. 61, pp. 12-14.
\textsuperscript{111} UNICEF, n. 13, p. 14.
1.VI.iii Economic Exploitation

Exploitation of children is not only physical and psychological but also economic. Usually they work for long hours beyond their capabilities and get very low remuneration and sometimes receive no wages. This fact is also recognised by ILO that in some cases they are not paid especially in apprenticeship schemes in small enterprises and informal sector settings. In cases where they are paid, they almost invariably receive low wages. This appears to be one of the reasons for the widespread use of child labour, especially in small enterprises, informal sector and agriculture.\textsuperscript{112} In industrial establishments like, garment making, carpet, brick kiln, confectionaries, etc. these working hours are from 8 to 11 hours a day.\textsuperscript{113} Children, especially girls, in domestic service in both countries, work long hours since they must be available at nearly all times and this work is more exploitative because of its invisible nature.

Besides these long hours of work children are paid low wages or sometimes no wages. In most of cases such as beedi rolling, some aspects of agriculture, quarrying, construction, etc. wages are paid on piece rate basis to the family as a unit of which the child is a part. In such situations children are used to work for long hours and are undermined in terms of wages. Third World countries like India and Nepal provide conducive environment for child labour where an unorganised sector dominates market structure and is the largest source of urban employment. This sector is characterised by “low remunerative employment, poor working conditions and

\textsuperscript{112} ILO, n. 61, p. 12.

frequent violation of labour laws, permits children to work beyond the time permitted even in nights, without any wage security".\textsuperscript{114}

1.VII Causes of Child Labour

Child labour is a socio-economic problem and several factors are responsible for it. Monetary contribution is higher amongst other factors, though unemployment, underemployment, irrelevant education, market structure, environment of family and attitude of society, high fertility and over population and ineffective policy formulation. There have been many studies that have dealt with the causes of child labour. These studies on child labour give stress on various factors. Weiner has discussed child labour in the context of India and Nepal and has compared the issues of child labour with the West. He argues that unlike 19\textsuperscript{th} century England and the US, child labour in India is “not the product of large scale capitalist industrialisation”. He claims that it is “partly a continuation of traditional role of child as a worker for or with the family as a source of family’s income, but child labour is also promoted by the state as a means of strengthening the small scale sector”.\textsuperscript{115} He further says that in 19\textsuperscript{th} century child labour was redefined with the need of industrialisation where children were employed in factories, for employers and for wages. But these children of poor people were ‘priceless’\textsuperscript{116} for rich people.\textsuperscript{117}

\textsuperscript{115} Weiner, n. 15, pp. 186-89.
\textsuperscript{116} Viviana Zelizer, in \textit{Pricing the Priceless Child: The Changing Social Values of Children}, argues that in the late nineteenth century, as a consequences of variety of cultural forces rather than changes in the structure of the labour market, American children began to undergo a process of ‘sacralization’, that is, the separation of children from the each nexus. Quoted in Myron Weiner, \textit{The Child and the State in India} (Delhi, Oxford: 1991), pp. 110.
\textsuperscript{117} Weiner, n. 15, pp. 109-10.
Grootaert and Kanbur discussed the factors responsible for child labour in two categories: (a) fertility, household size and time allocation on the supply side, and (b) the structure of the labour market and the prevailing production technology on demand side. Similarly, while discussing causes of child labour in Asia, Thijs divided all factors in two categories. One is pull factor that includes low cost, unskilled workers, market pattern, etc. and another is push factor which includes lack of educational facilities and socio-economic relevance of the education, demographic factors, etc. According to these researchers’ approach, responsible factors for child labour may be classified into two broad categories viz., Push/Supply and Pull/Demand. ‘Supply’ factors are those, which are related to socio-economic circumstances of the children and ‘demand’ factors are those, which works in market. In market, employers prefer children because they are easy to find and cheap to hire. And for children, the work is required either for livelihood, to continue education or for the financial survival of their family.

1.VIII Scope of the Study and Scheme of Chaperisation

This study will discuss the problem of child labour in two countries of South Asia viz. India and Nepal. It will deal with the ongoing process and efforts towards elimination and rehabilitation of child labour at three levels: international, national and community level.

The common features that characterise the child labour situation in India and Nepal, which will be dealt in this study, are:

118 Grootaert and Kanbur, n. 48, pp. 10-11.


a. Both these countries have more and less the same nature, origin, growth and practice of child labour;
b. Both countries have rampant practice of child labour and lower socio-economic indicators help to perpetuate it;
c. The occupations and areas of child labour employment are mostly common in both the countries in both formal and informal sectors;
d. Socio-economic compulsions among the poor act as a major boost to child labour practice;
e. Certain cultural practices and class biasness have played critical role in both enforcing child labour and its widespread practices;
f. Besides the socio-economic conditions, perpetuation of child labour is directly and indirectly related to other factors like poor political will, lack of legal enforcement and resource constraints on the part of the state and the civil society;
g. Inadequate legislation in unorganised sector helps in perpetuation of child labour;
h. A number of non-governmental organisations both national and international have been working in both the countries towards eradication of child labour. Yet the situation does not seem to have improved. Both these countries have started facing widespread international protest including the ban on import of their products where child labour are purported to have been used. These countries are now found to be under pressure in strategising their international negotiations.
i. Apart from the punitive and supplementive role of international agencies, NGOs in both these countries are raising adequate pressure to force their governments to take action with regard to child labour. Their role is emerging to be more supplementary than the competitive one.
All these features will be discussed in the following four chapters. The second chapter of this thesis, "Child Labour in India and Nepal" will give an insight analysing the status of child labour in India and Nepal in terms of numerical and socio-economic indicators. It will examine the causes and consequences of child labour and the gravity of the problem. South Asia particularly India and Nepal, have a varying range of estimated number of child labourers. The issue are both complexed and intractable in these countries. This fact is further proved by the organisations that come out with incompatible results. This has raised adequate debates over the authenticity of these data alone. It further points out the lacunae in the estimation process and the scaling for the estimation, by which most of children particularly those who are engaged in indiscernible nature of work or unorganised sectors are taken into account in this study.

The chapter further gives an overview on the sectoral and geographical distribution of child labourers in both these countries. Child labour goes through different types of exploitation and abuses, health hazards and face deprivation during different kinds of activities at different levels i.e. in carpet industry, tea plantation, brassware, match and firework industry, beedi making, glass industry, etc. It will further analyse the causes and consequences of the child labour both in India and Nepal.

The third chapter, "Rights of the Child: Role of International Agencies" will give an analytical description of the rights of children that are advocated and provided by the international agencies i.e. United Nations (UN), International Labour Organisation (ILO), United Nations Children’s Fund (UNICEF), World Trade Organisation (WTO), etc. this chapter also discusses the international ramification of child labour practice in India and Nepal.
The chapter will discuss different international attempts, started from the Geneva Declaration, 1924 to the Rights of the Child, 1989. Before Convention on the Rights of the Child (CRC), it gives an overview of the Universal Declaration of Human Rights 1948, the Declaration of the Rights of the Child 1959, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, 1966. The CRC, which has its roots in the Declaration of the Rights of the Child, can be regarded as the first international legal device, that lays down guarantees for the entire spectrum of the child related human rights. Encompassing the whole range of human rights like civil, political, social and cultural, the convention recognises the essential rights of survival, development, protection and participation of the child labour. But the convention on the other hand does not even mention about time period and measures for regulation and penalties if fails to execute the same. It uses very ambiguous language that gives adequate scope of violation of its provisions while implementing. Moreover, the convention does not address the immediate protection from worst forms of exploitation.

The ILO recently acknowledged this aspect in its new convention. To fulfil the demands of CRC, many steps have been taken by the international community, i.e. World Summit for Children and Plan of Action. This chapter deals with the working strategies of the ILO and UNICEF as the chief agencies of child labour elimination and also examine as to how India and Nepal have followed the international norms and practices in addressing the issues of child labour in their countries. The chapter also takes up the ILO’s working programme viz., International Programme on the Elimination of Child Labour (IPEC) and international sanctions on the developing countries under the social clause of WTO. The UNICEF works through Action for Overall Development of the Children, which includes children under difficult
circumstances, and the ILO provides minimum standards for the working population and children.

The fourth chapter, "Alleviation and Rehabilitation: Role of Governments" will give an account of the efforts made by the governments of India and Nepal to eradicate the problem of child labour in their respective countries. It analyses governmental approach towards child labour on the assumption that attack on child labour should be two dimensional, by offering socio-economic support to poor households on the one hand and strictly prohibiting its practices legally on the other.

The chapter will excess various legislative measures undertaken by these countries. In regards to the provisions for the protection of child labourers, India has long list of legislative attempts as compared to Nepal. The important acts which discussed in the chapter are, the Child Labour Act 1992 and the Child Labour Rule 1995, recently passed new Child Labour (Prevention and Regulation) Act 2000 in Nepal and Child Labour (Prohibition & Regulation) Act 1986 in India.

The chapter also discusses Child Labour Act of India, both in terms of its efficacy and limitation and the Supreme Court's judgement along with noticeable cases, which led to action against child labour. Various projects, for helping out child labourers economically and initiating them to schools, were launched time to time by both governments. As a part of eradicating child labour activities, National Child Labour Project (NCLP) in India, as also discussed is a major project.

The fifth chapter, "Role of Non-Governmental Organisation: Interventions at the Grassroots Level" discusses the emerging role of NGOs at the national and grass root level vis-à-vis the menace of child labour. It will also examine to what extent they have supplemented the government's efforts and the role of trade unions in eradicating child labour. While discussing about role and function of NGOs in South
Asian region the chapter examine two interesting case studies in the field of child labour. The South Asia Coalition for Child Servitude (SACCS) in India and the Child Workers in Nepal (CWIN) in Nepal are taken as a case study. According to the requirements of the respective countries these two NGOs providing the objectives and achievements in response to their role on child labour. Where they succeeded, why and how, Can they become supplementary to the government or independently activate their objectives are the rising questions for them. Because in countries like India and Nepal we cannot expect the governments to take care all the sectors. The NGOs, seems to be successful in this sector while the governments are found to be comparatively weak.