CHAPTER I
INTRODUCTION

“The child is a soul with a being, a nature and capacities of its own who must be helped to find them, to grow into their maturely into a fullness of physical and vital energy and the utmost breadth, depth and height of its emotional, intellectual and spiritual being, otherwise these children cannot be a healthy growth of the nation”

Justice P.N. Bhagwati
Former Chief Justice of India

1.1 INTRODUCTION

Children are the most precious gift of God. They are universally recognized as one of the important and greatest assets and the future of every nation is associated with the prospects of its children. Such prospective children ought to be raised in an environment wherein sustained opportunities of education and training are accessible, conducive to their social, moral and physical development. It is a universally recognized fact that children are the blooming flowers in the garden of society. They are the most valuable assets of the nation and their importance in nation building process cannot be undermined. Children of today are the potential citizens of tomorrow. The quality of life they enjoy today would ultimately determine the quality of future population of the nation.

Basically, children are like mirror who reflect the future image of a nation. Children are not only the future of any nation but also strength in reserve for a nation. They are the crops which feed the future. If they are healthy and active, educated and informed,

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disciplined and trained, the future of a nation is well insured, and if they are wanting in above aspects the future of the nation is doomed to disaster.\(^5\) A child is an asset as well as a liability to the parents, society and to the nation as a whole.\(^6\) Regarding liability of the children, the Supreme Court Judge Ruma Paul said while addressing a gathering of lawyers, Jurists and Judges that, ensuring justice to children is the responsibility of every citizen, every institution and every limb of the Government.\(^7\) Thus, it is the duty of everyone to fight against child labour.

It is quite shocking that these blooming flowers are neglected. Due to certain forces and circumstances children are compelled to work in the early stages of their childhood which does harm to the child and the society both.\(^8\) The problem of child labour is a burning problem of the world. From time immemorial it had been a concern of the social reformers, the priests, the legislators, the jurists, the philosophers, the politicians and economists etc.\(^9\) The practice of children being exploited and forced into labour, thus depriving them of education, which is so crucial to their personal development is an issue of major concern.\(^10\)

A plight of the child labourer is showing when early in the morning sun rises, some children are going to schools by carrying their lunch boxes and similarly on the other side some children are going by carrying their lunch boxes not to attend schools but on their workplaces where they are doing work. If they are late just by few minutes, they have to face humiliation of their employers. They are going to their workplaces without seeing whether it is cold weather or hot summer and without smiles on their lips with dryness in their eyes. They have no interest in anything else but an order given by the employer and to fulfill that at the cost of their health. They are doing work in hottest summer when other people are sitting in their air-conditioned rooms and during hard winter these

\(^5\) Ibid.
\(^7\) *The Times of India*, 10\(^{th}\) June, 2003.
\(^10\) Ibid.
children are doing work without sweaters or full clothes on their body. As a result they face dire consequences of ill health, injured body and hunger etc.

In simple words, child labour is commonly understood as work for children that results in their exploitation in some perceptible way, physically, mentally, morally or by restricting their access to education.\footnote{Rashmi Bothra, “Rehabilitation of Child Labour: Tracing the Legislative Intent”, \textit{Labour and Industrial Cases}, Vol. 2, 2008, pp. 129-133.} Child labour in some form or the other has always existed in societies all over the world. In earlier times, children used to accompany their parents while working in the fields. Moreover, they were also expected to help with household chores as well as taking care of the sick and elderly.

In comparison to the developed countries, the incidence of child labour in Asian countries is very high. The countries like India, Pakistan and Bangladesh have the world’s largest number of child labourers.\footnote{Aparna das, \textit{Economics of Child Labour: A Case Study of Unorganized Sector in Raipur City of Chattis Garh}, Sunrise Publications, New Delhi, 2010, p. 1.} Developed countries have also this problem, though its intensity varies. There are also different forms of exploitation of children other than employment in various kinds of occupations. Across the world, to a less or greater degree, visible or invisible, admittedly or otherwise, child labour exists. Though child labour is widely condemned due to the implications it has on children and society, it persists and is quite expensive in many third world countries like India in comparison to the developed countries of the world.\footnote{\textit{Id.}, p. 4.}

The magnitude of the problem, especially, in developing countries is great and task of attacking it is urgent. What gives cause for concern is work that places too heavy a burden on the child; work that endangers his safety, health or welfare; work that takes advantage of the defenselessness of the child; work that exploits the child as a cheap substitute for adult worker; work that uses the child’s effort but does nothing for his development; work that impedes the child’s education or training and prejudices his future. Child labour of this kind must be the target of national or international action.\footnote{Child Labour: \textit{Report of the Director-General to the International Labour Conference, 69\textsuperscript{th} Session}, 1983, International Labour Office, Geneva, 1985, p. 37.}
As most of the work was being done under the watchful eyes of the parents, instances of exploitation were rare. Even today work of this sort is not considered exploitative.\textsuperscript{15} Children begin work in family undertakings from an early age alongside their parents. Later on, parents, relatives or friends take them to their future employers. The treatment meted out to the working child depends entirely on the treatment of the employer. Some children may be ill-treated and humiliated, even beaten while others are made to look after parental care. Most of the work they do is monotonous, repetitive and dull and is often not suited to their physical and mental capabilities. The child continues to work in appalling conditions because he expects very little from his job, knowing that at least he is employed and can earn some money.\textsuperscript{16}

In most of the developing countries, parents depend upon their children. These children not only perform important work in house or outside it but in many cases they are the main or only source of support for parents in their old age.\textsuperscript{17} However, the problem of child labour is not confined to a particular country, it has been a worldwide problem.\textsuperscript{18} Today, the incidence of child exploitation has posed a serious threat to the world. It has been a perennial social evil of the country and no suitable remedy has been traced out so far to curb this menace. No doubt, the child exploitation is legally prohibited but in reality, it is rare to see an occupation where children are not exploited.\textsuperscript{19}

The term ‘child labour’ is totally different from the expression ‘child is engaged in work’. If a child is engaged in work it does not mean that it always results into child labour. A distinction is often drawn between child engaged in work and child labour. The rationale given for the distinction is that all work is not necessarily exploitative.\textsuperscript{20} However, when the work is exploitative in nature and the child is made to work too early in life for long hours for a pittance in harsh intimidating conditions without any opportunity for

\textsuperscript{15} Retrieved from History of labour-http://india holic.blogs.spot.in, last visited on 08-09-2010.
\textsuperscript{17} B.K. Sharma and Vishwa Mittar, Child Labour in Urban Informal Sector, Deep and Deep publications, New Delhi, 1990, p. 11.
\textsuperscript{18} T.N. Bhgoliwal, Economics and labour and Social Welfare, Sahitya Bhawan, Agra, 1976, p. 651
\textsuperscript{19} Paras Diwan, Child and Law, Punjab University Publication, Chandigarh, 1985, p. 441.
schooling, recreation, play and development, it becomes a fit case for being categorized as child labour and needs to be prevented.\textsuperscript{21}

Help by the children, is perceived, as a necessity by families in certain sectors of economic activity and if it is not at the cost of schooling, play, recreation or growth of the child, it is not to be considered undesirable, as it does not risk the child’s future. In much of the developing world and in rural areas of the developed world, children are engaged in different kinds of activity at home, work shed or farm, and also share with parents various types of domestic work and non-market activities. This is a part of process of growing up, learning skills and preparing for adult roles.\textsuperscript{22}

Engagement of children with their parents in domestic and agricultural operation or in family business during socialization process without hampering the education and normal growth of a child cannot be treated as child labour.\textsuperscript{23} This includes activities such as helping their parents around the home, assisting in a family business or earning pocket money outside school hours and during school holidays. These kinds of activities contribute to children’s development and to the welfare of their families. They provide them with skills and experience and help to prepare them to be productive members of society during their adult life.\textsuperscript{24} But today children are employed in both hazardous and non-hazardous work and even they work at the cost of their lives etc.

Child labour is found in poor as well as wealthy economies.\textsuperscript{25} Child labour is a socio-economic phenomenon arising out of poverty, lack of development, lack of education and due to social circumstances. The practice of child labour is a hurdle in the way of development. The notion that the children of the poor should be removed from the labour force and placed into schools is a modern one. Until only a few centuries ago, children everywhere worked alongside their parents. Only the children of privileged classes could escape manual work, and in this way, they emulated their parents – priests, landlords and

\textsuperscript{22} Ibid.
rulers- whose control over wealth, knowledge and power enabled them to educate their children to assume the same role as their parents.\textsuperscript{26}

1.2 DEFINITIONS OF CHILD LABOUR

The term ‘child labour’ is used as a synonym for ‘employed Child’ or ‘working Child’. However, child labour can be defined as that segment of the child population which participate in work either paid or unpaid.\textsuperscript{27} To understand the term child labour, it is very essential to understand the meaning of the word ‘Child’. General meaning of this word is, that child is who cannot understand the technicalities of law or who is mentally or physically not mature. Child is undoubtedly a “minor” but all minor are not children. The word child is defined in various enactments and referred to differently for different purposes. Therefore, the Child Labour Act, 1986 clarified, identified and defined the term ‘child’ to mean one who has not completed the age of 14 years. For clarity, it may be noted that minor is one who has not completed the age of 18 years and the child is one who has not completed the age of 14 years.\textsuperscript{28}

The Oxford dictionary defines the term child as a young human being below the age of full physical development.\textsuperscript{29} According to the Convention on the Rights of the Child 1989 a child means any human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.\textsuperscript{30} Again The Children Act, 1960 child means a boy who has not attained the age of eighteen years.\textsuperscript{31} According to Juvenile Justice Act, child means any person who has not completed eighteen years of age.\textsuperscript{32} The Immoral Traffic (prevention) Act 1956 defines child as a person who has not completed the age of sixteen years.\textsuperscript{33} Besides it, Plantation’s Labour Act, 1951 define child as a person who has not completed his fifteenth year.\textsuperscript{34}

\begin{thebibliography}{99}
\bibitem{30} Article1, the \textit{United Nation Convention on the Rights of the child}, 1989.
\bibitem{31} Section 2(e), \textit{The Children Act}, 1960.
\bibitem{32} Section (k), \textit{The Juvenile Justice (Care and Protection of Children) Act}, 2000.
\bibitem{33} Section 2(cb), \textit{The Immoral Traffic (prevention) Act}, 1956.
\bibitem{34} Section2(c), \textit{Plantation’s Labour Act}, 1951.
\end{thebibliography}
The Employment of Children Act, 1938 prohibited employment of child who has not completed his 14 year in any workshop are process.\(^\text{35}\) Further The Minimum Wages Act, 1948, child means a person who has not completed his 15 years of his age.\(^\text{36}\) The Right of Children to Free and Compulsory Education Act, 2009 defines child as a male or female child up to the age of six to fourteen years.\(^\text{37}\) From the above definitions, it is submitted that the age of defining child is not uniform. The definition of the word child is different under different legislations. Even like the word ‘child’, the definition of child labour is also not uniform all over the world. The diversity of opinion among researchers in defining ‘child’ and ‘Child Labour’ is due to differences in social perceptions.

Francis Blanchard, the Director General of the International Organisation states that “a first problem is one of the definitions inherent in the notions of ‘child work’ and labour”.\(^\text{38}\) Child labour is perceived to be an economic necessity of poor households and the exploitative aspect in children’s work is associated with the profit maximizing motive of commercial enterprises, wherein children are made to work long hours, paid low wages and denied opportunities for education.\(^\text{39}\) However, the working child, who is below the age of 14 and who is paid either in cash or kind, is normally considered as a child labourer.

When the business of wage earning or of participation in self or family supports conflicts directly or indirectly with the business of growth and education, the result is child labour.\(^\text{40}\)

Child labour includes children prematurely leading adult lives, working long hours for low wages under conditions damaging to their health and to their physical and mental development, sometimes separated from their families, frequently deprived of meaningful education and training opportunities that would open up for them a better future.\(^\text{41}\)

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\(^{35}\) Section 3, The Employment of Children Act, 1938.

\(^{36}\) Section 2(c), The Minimum Wages Act, 1948.

\(^{37}\) Section 2(c), The Right of Children to Free and Compulsory Education Act, 2009.


\(^{39}\) Usha Sharma, What Constitutes Child Labour in India, Mittal Publications, New Delhi, 2006, pp. 3-4.


According to V.V Giri, the term child labour is commonly interpreted in two different ways: first as an economic practice, second, as a social evil. The first signifies employment of children in gainful occupation with a view to adding income of the family, and the second aspect takes into account the dangers to which the children are exposed which means the denial of opportunities of development.\(^42\)

Homer Folks, Chairman of the United States National Child Labour Committee-Child labour as or any work by children that interfere with their full physical development, their opportunities for a desirable level of education of their needed recreation.\(^43\)

Thus, an assortment of definitions of child labour has been given by various authors due to prevailing ambiguity in the definition of child labour. The various Acts have prescribed different ‘age’ limits for child labour. Consequently, children are exploited at large scale in the hands of employers, who find lacunae in the laws. To exercise effective control over the problem of child labour, there should be uniformity to cover the phenomenon of children

1.3 HISTORICAL ASPECT OF CHILD LABOUR

The practice of child labour in India or in any country of the world is an age old phenomenon. In pre-industrial, agricultural society of India, children worked as helpers and earners in hereditarily determined family occupations under the benign supervision of adult family members. The work place was an extension of the home and work was characterized by personal informal relationships. The task and technology of that work involved was simple and non-hazardous.\(^44\) In India, child labour has existed mostly in the agricultural sector. Children and their parents used to work together in the farms. Moreover, the task of taking the cattle to graze was always allotted to children. Although this work was hard and tiring, it did not lead to worsening of their future prospects. Schooling was not available in most villages and most of the jobs were still in the agricultural sector. So this work served as training for their future. Prevalence of child labour in the different periods has marked the presence of child labour in the history.

\(^43\) V.V. Giri, Labour problems in Indian Industry, 1958, p. 360.
1.3.1 Child Labour in Ancient India

Child labour prevailed in Ancient India even before 321 B.C.\textsuperscript{45} Child Labour in ancient India existed in the form of child slaves. The cruel practice of purchasing children of less than 8 years existed in ancient India, where these budding and blooming flowers were treated like a commodity which could be bought or sold, used or abused according to the whims of their masters. To accord protection to these working children whose plight was miserable by all standards, Manusmriti and Kautilya pointed out the need of giving protection to these working children.\textsuperscript{46} Considered it degrading to make children work on such jobs.\textsuperscript{47} Manu Smiriti reveals the fact that it was the duty of the King to educate every girl and boy and parents could be punished for not sending their children to school called Ashrams, which were really residential schools under a Guru (a learned sage).\textsuperscript{48}

The workers were not always entitled to a square meal. They got meal according to labour. The economic status of the slaves, hired labourers and unskilled worker was worse. The same was the position of the child, when he was engaged in agricultural sector. It is revealed that child labour in ancient India was very common and could be witnessed in different occupations, where they were engaged by the rich landlords to carry out activities directly or indirectly related to their agriculture sector. Hence, in ancient India child labour was found in the form of child slavery.\textsuperscript{49}

1.3.2 Child Labour in Medieval Period

In the medieval period a class of landless labourers came into existence and for its survival this class was bound to work for land owners. Children of these landless labourers helped their parents in the household work and also started to take part in

gainful activities outside the house.\textsuperscript{50} During the regime of Mughal Kings (1200-1700 AD) exploitative child labour practice was most prevalent. It was mainly due to (i) increasing human population pressure, (ii) recurrence of famine and (iii) the fact that the rulers did nothing for improvement of the conditions of common people and those of child labourers in particular.\textsuperscript{51}

The Mughal history is replete with glaring examples, where the kings used to grant permission to hypothecate children in the cases of famines and unavoidable crisis. However, silver lining in this field was seen during the region of King Jahangir. He condemned the practice of child labour and issued strict directions to discourage child labour even in cases of exceptional circumstances. But efforts made by Jahangir could also not make much dent on this problem and the position remained dissatisfactory despite efforts of the various rulers. The condition of children worsened more and more in post Jahangir era with the result that child labour was made a source of earning money even by the rulers themselves. The rulers enjoyed the monopolistic position and used to make money by trafficking in child slaves.\textsuperscript{52}

In the late 17\textsuperscript{th} Century, the most significant change was the growth of organizations involving the employment of large number of artisans. The Silk factory at Kasimbazar in Bengal employed 700-800 weavers. But the characteristic unit of production was still the small unit. The persistence dominance of family based work units indicates that any disciplined organization of an industrial society was not in sight.\textsuperscript{53}

In the middle of 19\textsuperscript{th} Century, there was an enormous growth of European Industry in India, especially, during 1860-70 as seen by the growth of the tea, coffee indigo and jute industry. At this time, the factory industry began taking place of handicrafts. It was in the fifties that the cotton and jute industry and coal mining were started in an organized way. However, even in 1980 the number of people employed in these industries was rather small even though people were quickly being driven out from their old crafts.\textsuperscript{54} The state

\textsuperscript{52} Sunil Deshta and Kiran Deshta, \textit{Law and Menace of Child Labour}, Anmol Publications Pvt. Ltd., New Delhi, 2000, p. 44.
\textsuperscript{53} \textit{Id}, p. 2.
\textsuperscript{54} \textit{Ibid}. 

\textsuperscript{52} Sunil Deshta and Kiran Deshta, \textit{Law and Menace of Child Labour}, Anmol Publications Pvt. Ltd., New Delhi, 2000, p. 44.
\textsuperscript{53} \textit{Id}, p. 2.
\textsuperscript{54} \textit{Ibid}. 

\textsuperscript{52} Sunil Deshta and Kiran Deshta, \textit{Law and Menace of Child Labour}, Anmol Publications Pvt. Ltd., New Delhi, 2000, p. 44.
\textsuperscript{53} \textit{Id}, p. 2.
\textsuperscript{54} \textit{Ibid}. 

\textsuperscript{52} Sunil Deshta and Kiran Deshta, \textit{Law and Menace of Child Labour}, Anmol Publications Pvt. Ltd., New Delhi, 2000, p. 44.
\textsuperscript{53} \textit{Id}, p. 2.
\textsuperscript{54} \textit{Ibid}. 

\textsuperscript{52} Sunil Deshta and Kiran Deshta, \textit{Law and Menace of Child Labour}, Anmol Publications Pvt. Ltd., New Delhi, 2000, p. 44.
\textsuperscript{53} \textit{Id}, p. 2.
\textsuperscript{54} \textit{Ibid}. 

\textsuperscript{52} Sunil Deshta and Kiran Deshta, \textit{Law and Menace of Child Labour}, Anmol Publications Pvt. Ltd., New Delhi, 2000, p. 44.
\textsuperscript{53} \textit{Id}, p. 2.
\textsuperscript{54} \textit{Ibid}.
regulations were lacking to deal with the conditions of employees in any industry. The employers were free to bargain with labour. Thus, the labour in this country was exploited by the employers for their benefits. Many children were employed in the cotton and jute mills and coal mines and even employed for underground work.  

From the above, it has been analysed that, child labour in medieval India was quite rampant and rulers encouraged it with an intention to make only traffic in child slaves. The rulers did not make any sincere efforts to abolish this practice due to their selfish ends and there by exploited the children.

1.3.3 Child Labour before Independence

Child labour is an unfortunate product of industrial revolution originated in England and embraced not only other industries in independent countries but also the colonies captured by imperial powers during the period from 1760 to 1860. It is the story of one hundred years, which gives an account of increased wealth, increased productivity with the help of machines, profit oriented activities of factory owners, migration of poor serfs and artisans from rural areas and hundreds of children who became victims of new capitalist’s economy. Children were exploited by such industrialist at large scale. These children used to work sixteen hours a day-from 5 am to 9 pm. History of child labour in factories during the 19th Century gives us dreadful events of their poor conditions, about the serfs in labour market sent by landlords as well as growing richness of the millions. The industrialisation leads to migration of labour including child labour from rural to urban areas to employers of factories, mines etc. who exploit child labour to minimize their costs and maximize profits. The Indian elite were joined by the middle classes, and together they perpetuated their erstwhile colonialists’ tradition of sourcing household help from the much poorer majority, and in a derogatory manner. Sadly this practice of

57 Ibid.
having servants that has travelled into coeval times has not precluded the employment of children.\textsuperscript{59}

Large scale exploitation of children in India began with the arrival of British. Just as the case was in Britain, the new industrialists started hiring children who were forced to work in inhuman conditions. Many laws against child labour were passed namely, Employment of Children Act of 1938, Factories Act, 1981, The Children (pledging of Labour) Act, 1933 etc. These attempts at legislation failed as they failed to address the root cause of the child labour in India. Poverty until and unless the people were brought out of poverty, it was impossible to take the children out of the labour force.\textsuperscript{60} Before independence, British Government also made a lot of efforts by bringing various legislations, along with their suitable amendments relating to employment of children in various sections, but the same failed to achieve its goal for the elimination of the evils of child labour.\textsuperscript{61}

1.3.4 Child Labour after Independence

After independence, No change was observed in the child labour scenario of India immediately after independence.\textsuperscript{62} During the twentieth Century, the concept of children’s rights emerged and the focus shifted from the welfare to the right based approach and this transition from welfare to right based approach in the Government and civil society is evolving with time. This shift in approach is primarily concerned with issues of social justice, non-discrimination, equity and empowerment. In the right based approach, children are viewed as citizens, entitled to all that has been promised to them under the Constitution of India and United Nations Child Rights Charter 1989. The Consciousness relating to child welfare is also reflected under various provisions of Indian Constitution.\textsuperscript{63}

\textsuperscript{59} Retrieved from www.guardian.co.uk, last visited on 15-10-2010.
\textsuperscript{60} Id, p. 7.
\textsuperscript{62} Ibid.
Constitution of the country includes provisions which deal expressly with the protection and welfare of children. The provisions dealing with protection and welfare of children are enshrined in part III and part IV are as follows:

- It enables the state to make special provisions for women and children.\(^{64}\)
- Traffic in human beings, begging and similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.\(^{65}\)
- No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.\(^{66}\)
- The state shall direct its policy towards securing the health and strength of workers, men and women, and the tender age of children are not abused and the citizens by economic necessity to enter avocations unsuited to their age and strength.\(^{67}\)
- The state shall ensure that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that children and youth are protected against exploitation and against moral and material abandonment.\(^{68}\)
- The state shall endeavor to provide within a period of ten years from the commencement of this constitution for free and compulsory education for all children until they complete the age of fourteen years.\(^{69}\)

Besides the Constitutional Provisions, there are various legislative enactments to check child labour. These are the Factories Act, 1948,\(^{70}\) The Mines Act, 1952,\(^{71}\) The Motor Transport Workers Act, 1961,\(^{72}\) The Merchant Shipping Act, 1951,\(^{73}\) The Beedi and Cigar workers Act, 1966,\(^{74}\) The Child Labour (prohibition and regulation) Act, 1986 etc.

\(^{64}\) Article 15(3), the Constitution of India.
\(^{65}\) Ibid, Article 23.
\(^{66}\) Ibid, Article 24.
\(^{67}\) Ibid, Article 39 (e).
\(^{68}\) Ibid, Article 39 (f).
\(^{69}\) Ibid, Article 45.
\(^{70}\) The Factory Act, 1948 prohibits the employment of children below 15 years.
\(^{71}\) The Mines Act, 1952 prohibits employment of children below 18 years in mine.
\(^{72}\) The Motor Transport Workers Act, 1961 prohibits the children of employment below the age of 14 years.
The Child Labour (prohibition and regulation) Act, 1986 prohibit the employment of children below the age of 14 years in 18 occupations and 65 processes. Apart from legislative enactments, the Government of India has adopted from time to time various policies and programmes to tackle the problem of child labour. For rehabilitation of child labour, the Government is implementing the National Child Labour Project Scheme since 1988. The scheme seeks educational rehabilitation of children working in hazardous occupations and processes. Under the project, children withdrawn from work are enrolled in special schools, where they are provided with vocational training, nutrition, stipend, health care, etc. before mainstreamed into formal education system.

Along with Legislations, role of Judiciary is very important for the eradication of child labour from the society. In various of judgments Supreme Court has clarified its view that child exploitation will not be tolerated. In *Labourers Working on Salad-Hydro Project v. State of J&K*, the Supreme Court has commented that the child of today cannot develop to be a responsible and productive member of tomorrow’s society, unless an environment which is conducive to his social and physical health is assured to him. Exploitations of their childhood due to poverty, in particular the poor and the deprived sectors of society, is determined to democracy and social stability, unity and integrity of the nation.

Reacting to the problem of child labour in *People’s Union for Democratic Rights v. Union of India*, the term ‘hazardous employment’ was interpreted in a liberal way. Accordingly construction work has been declared as hazardous occupation and it is made compulsory that the employment of children under the age of 14 years must be prohibited in every type of construction work. The problem of child labour is a difficult problem and it is purely on account of economic reasons that parents often want their children to be employed. The possibility of augmenting their meager earnings through employment of children is very often the reason why parents do not send their children to schools and

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73 Section 109 of the Act explains that no person under fourteen years of age shall be engaged or carried to sea to work in any capacity in any ship.
74 It prohibits the employment of children below 14 years of age in all industrial premises where in any manufacturing process connected with making of beedi and cigarette.
75 *Section 3, Child Labour (Prohibition & Regulation) Act, 1986.*
78 (1982)3SCC235:1982SCC(L&S) 275
there are large scale dropouts from schools. Child labour is an economic problem and it cannot be solved merely by legislation. So long as there is poverty and destitution in this country, it would be difficult to eradicate child labour. But even so an attempt has to be made to reduce, if not eliminate the incidence of child labour, because it is absolutely essential that a child should be able to receive proper education with a view to equipping itself to become a useful member of the society and to play a constructive role in the socio-economic development of the country.

In order to tackle the problem of child labour, the Supreme Court in *M.C. Mehta v. State of Tamil Nadu*, 79 issued directions to the state governments to fulfill the legislative intendment behind the enactment. The offending employers were directed to pay compensation of Rs 20,000 for every child employed. In *Unni Krishnan v. State of Andhra Pradesh*, 80 the Supreme Court has recognized primary education as an aspect of personal liberty and thus elevated it to the level of each child’s constitutional right to education. The Constitutional Bench of Supreme Court in this case ruled that the right to education is a fundamental right that flows from the right to life in Article 21 of the Constitution. Every child has a right to free education up to the age of fourteen years and thereafter, the right would be subject to the limits of the economic capacity of the State.

It is submitted that there are many reasons behind child labour in the country. Poverty, Unemployment, Illiteracy and Population are the most important reasons and these are related with each other. Children are compelled to work because of their poor economic conditions. As a result they are also deprived of their compulsory education.

Before independence of India, few regulations were framed to eradicate child labour but those proved to be ineffective. In the post independence era, various provisions have been made to abolish and to regulate child labour in certain professions. New Policies and new laws have been adopted to deal with child labour. The problem of child labour has been in existence and perpetuated in one or the other form due to several socio-economic factors.

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80 AIR 1993 SC 2178.
1.4 CONTEMPORARY SCENARIO OF CHILD LABOUR

It is an accepted fact that, developing economies is lagging behind in many respects. They usually suffer from specific economic handicaps due to the interplay of several factors. Most common problems identified in developing economies include their high population market constraints suffering from rigid control, equipmentory framework as well as their resource base which is narrow, fragile and prone to disruption due to natural disasters.\(^8^1\) Mostly, such economies are agro based and therefore, a huge population in these countries is involved in agricultural professions. This provides a seasonal income and forces these people to employ other members of the family especially children for other sources of income.\(^8^2\)

At global level, Asia and Pacific regions, Latin America and the Caribbean regions and Sub Saharan Africa regions experienced a decline in the magnitude of children (5-14 years old) engaged in economic activity from the period from 2008 to 2012 both in absolute and relative terms. As per International Labour Organisation global child labour estimation (2012), Asia and the Pacific regions has the largest magnitude of children (5-14 years old) engaged in child labour (52.7million versus 47.7million in Sub-Saharan Africa regions), but at same time Sub-Saharan Africa regions has the highest incident rate of children (5-14 years old) engaged in child labour (21.7% versus 8.3% in Asia and Pacific regions).\(^8^3\) Further, the ILO estimated that the world has 85.3 million children (5-17 years old) engaged in work that is considered hazardous work, which has or leads to adverse effects on child’s safety, health and moral development in 2012. The estimated number of children in hazardous work ranged from 33.8 million in Asia and the Pacific regions to 9.6 million in Latin America and the Caribbean regions. In relative terms, Sub-Saharan Africa region has the highest incidence of children in hazardous work, with one in ten children involved.\(^8^4\)

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\(^8^2\) *Id.*, p. 9.
\(^8^4\) *Ibid.*
Table 1.1

Global Distribution of Children in Child Labour by Region from 2008-12

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<th>Region</th>
<th>Year</th>
<th>Total Children (million)</th>
<th>Children in child Labour (million)</th>
<th>Activity Rate</th>
<th>Change in Activity rate (2008-2012)</th>
</tr>
</thead>
<tbody>
<tr>
<td>World</td>
<td>2008</td>
<td>1586.2</td>
<td>215.2</td>
<td>13.6 %</td>
<td>………</td>
</tr>
<tr>
<td></td>
<td>2012</td>
<td>1585.5</td>
<td>167.9</td>
<td>10.6%</td>
<td>-3.0%</td>
</tr>
<tr>
<td>Asia and the Pacific</td>
<td>2008</td>
<td>853.8</td>
<td>113.6</td>
<td>13.3%</td>
<td>………</td>
</tr>
<tr>
<td></td>
<td>2012</td>
<td>835.3</td>
<td>77.7</td>
<td>9.3%</td>
<td>-4.0%</td>
</tr>
<tr>
<td>Latin America and the Caribbean</td>
<td>2008</td>
<td>141.0</td>
<td>14.1</td>
<td>10.0%</td>
<td>………</td>
</tr>
<tr>
<td></td>
<td>2012</td>
<td>142.6</td>
<td>12.5</td>
<td>8.8%</td>
<td>-1.2%</td>
</tr>
<tr>
<td>Sub-Saharan Africa</td>
<td>2008</td>
<td>257.1</td>
<td>65.0</td>
<td>25.3%</td>
<td>………</td>
</tr>
<tr>
<td></td>
<td>2012</td>
<td>275.3</td>
<td>59.0</td>
<td>21.4%</td>
<td>-4.0%</td>
</tr>
<tr>
<td>Other Regions</td>
<td>2008</td>
<td>334.2</td>
<td>22.4</td>
<td>6.7%</td>
<td>………</td>
</tr>
<tr>
<td></td>
<td>2012</td>
<td>332.1</td>
<td>18.6</td>
<td>5.6%</td>
<td>-1.1%</td>
</tr>
</tbody>
</table>


From the table 1.1 it has been observed that in 2012, the largest child labourers were in Asia and the Pacific (77.7 million) followed by Sub-Saharan Africa with 59.0 million, Latin America and the Caribbean with 12.5 million and other regions with 18.6 million. In relative terms, Sub-Saharan Africa ranks highest. About 1 in 5 children was in child labour in the region. The Asia and the Pacific region experienced a remarkable decline in child labour between 2008 and 2012. In absolute terms, the number of child labourers declined by 36 million and in relative terms, the number of child labourers declined by 4 percentage point.

The Sub-Saharan Africa region also experienced a small decline in child labour between 2008 and 2012. In absolute terms, the number of child labourers declined by 6 million and in relative terms, the number of child labourers declined by 4 percentage point. Latin America and the Caribbean made a modest progress between 2008 and 2012. In absolute terms, the number of child labourers declined by 1.6 million and in relative terms, the number of child labourers declined by 1.2 percentage point.
1.5 NATIONAL SCENARIO OF CHILD LABOUR

In a country like India, chronic poverty is the biggest factor responsible for the prevalence and perpetuation of child labour. Owing to backwardness and labour intensive type of technology, there is a search for cheap labour, which is easily available in the form of child labour. Further, in the absence of state sponsored special schemes for family allowances to enable parents to ensure their children proper and adequate nutrition and living conditions, the poor parents are often forced to send their children to work.\textsuperscript{85} On the other hand, the lack of protective child labour legislation and the evasion of existing laws for the sake of perpetuation of child labour are responsible for the growing child labour and their ruthless exploitation.\textsuperscript{86}

According to Census of India, 2001, there were 12.26 million working children in the age group of 5-14 years as compare to 11.3 million in 1991, showing that there is an increase trend in absolute magnitude of child labour in the age group of 5-14 years in the States of Punjab, Haryana, Himachal Pradesh, Madhya Pradesh, Bihar, and Rajasthan and Uttar Pradesh. The share of Uttar Pradesh has shot up from 12.5 % during 1991 to 15.2 % in 2001 by large amount (2.7 %), which is a cause for serious concern. At the same time, the share of Punjab has also shot up from 1.3% during 1991 to 1.4% in 2001 but by small amount (0.1%). The change in child labour magnitude (age 5-14 years) during 1991 to 2001 is represented in table 1.2.

There is an increase in the absolute magnitude of child labour between 1991 and 2001 in the States of Uttar Pradesh, Bihar, Rajasthan, Punjab, Haryana, Himachal Pradesh and Madhya Pradesh. While the Andhra Pradesh, that had a dubious distinction of having the largest child labour force in the country, shows reduction in magnitude of child labour. However, Andhra Pradesh is the second largest state in terms of magnitude by 2001 Census.

\footnotesize{\textsuperscript{85} Prahlad Kumar and Vineeta Singh, “Problems of Child Labour in Urban Informal Sector”, Mahaveer Jain and Sangeeta Saraswat, Child Labour From Different Perspective, Manak Publications Pvt. Ltd., New Delhi, p.28.}
\footnotesize{\textsuperscript{86} Ibid.}
Table 1.2
Change in Magnitude of Child Labour (Age 5-14 Years) between 1991 and 2001

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Andhra Pradesh</td>
<td>1661940</td>
<td>1363339</td>
<td>14.7</td>
<td>10.8</td>
</tr>
<tr>
<td>Arunachal Pradesh</td>
<td>12395</td>
<td>18482</td>
<td>0.1</td>
<td>0.1</td>
</tr>
<tr>
<td>Himachal Pradesh</td>
<td>56438</td>
<td>107774</td>
<td>0.5</td>
<td>0.9</td>
</tr>
<tr>
<td>Madhya Pradesh</td>
<td>1352563</td>
<td>1065259</td>
<td>12.0</td>
<td>8.4</td>
</tr>
<tr>
<td>Jammu &amp; Kashmir</td>
<td>~~~~~~~~~</td>
<td>175630</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Maha-Rashtra</td>
<td>1068418</td>
<td>764075</td>
<td>9.5</td>
<td>6.0</td>
</tr>
<tr>
<td>Uttra Pradesh</td>
<td>1410086</td>
<td>1927997</td>
<td>12.5</td>
<td>15.2</td>
</tr>
<tr>
<td>Goa</td>
<td>4656</td>
<td>4138</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Gujarat</td>
<td>523585</td>
<td>485530</td>
<td>4.6</td>
<td>3.8</td>
</tr>
<tr>
<td>Kerela</td>
<td>34800</td>
<td>26156</td>
<td>0.3</td>
<td>0.2</td>
</tr>
<tr>
<td>Punjab</td>
<td>142868</td>
<td>177268</td>
<td>1.3</td>
<td>1.4</td>
</tr>
<tr>
<td>Haryana</td>
<td>109691</td>
<td>253491</td>
<td>1.0</td>
<td>2.0</td>
</tr>
<tr>
<td>Rajasthan</td>
<td>774199</td>
<td>1262570</td>
<td>6.9</td>
<td>10.0</td>
</tr>
<tr>
<td>Delhi</td>
<td>27351</td>
<td>41899</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Karnataka</td>
<td>976247</td>
<td>822664</td>
<td>8.7</td>
<td>6.5</td>
</tr>
<tr>
<td>Chattisgarh</td>
<td>~~~~~~~~~</td>
<td>364572</td>
<td>100.0%</td>
<td>2.9</td>
</tr>
<tr>
<td>Jharkhand</td>
<td>~~~~~~~~~</td>
<td>407200</td>
<td>100.0%</td>
<td>3.2</td>
</tr>
<tr>
<td>Sikkim</td>
<td>5598</td>
<td>16457</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Tamil Nadu</td>
<td>578889</td>
<td>418801</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Tripura</td>
<td>16478</td>
<td>21756</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Orissa</td>
<td>452394</td>
<td>377594</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Uttanchal</td>
<td>~~~~~~~~~</td>
<td>70183</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td>West Bengal</td>
<td>711691</td>
<td>857087</td>
<td>6.3</td>
<td>6.8</td>
</tr>
<tr>
<td>India</td>
<td>11285349</td>
<td>12666377</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

Source: Census of India, 2001
As far as the percentage share of child labour across the states, Uttar Pradesh accounts for a larger share of about 15 percent all child workforces in India followed by Andhra Pradesh, with 10.8 percent. Rajasthan, Madhya Pradesh, Bihar respectively garnered 10, 8.8 and 80 per cent of India’s child employment. The share of Uttar Pradesh has shot up from less than 13 per cent. During 1991 to 15.2 per cent in 2001, this is a cause for serious concern. Over 53 percent of the child labour in India was accounted for by the five states namely Uttar Pradesh, Andhra Pradesh, Rajasthan, Madhya Pradesh and Bihar during 2001. Karnataka, Maharashtra and West Bengal together had about 20 percent of the child labourers in India during 2001. It is also to be noted here that there is a general increasing trend in the magnitude of child labour in the north east region of the country. In Himachal Pradesh, the percentage of child workers has gone up from 5.5 percent in 1991 to 8.6 percent in 2001.

The National Family Health Survey\textsuperscript{87} shows that nearly one in every eight (11.8%) children aged 5-14 years works either for their own household or for somebody else. Among the children who work for others, 2.2% children are engaged in paid work and 2.9% are engaged in unpaid work. 3.1% children are engaged in household chores for 28 or more hours in a week, and 4.8% are engaged in work in a family business. Today, child labour exists in almost all countries of the world, but its extent varies from country to country. According to survey conducted by National Sample Survey Organization in 2004-2005, the number of working children is estimated at 90.75 lakh. Another survey of National Sample Survey Organization highlights the figure of working children in 2009-2010 is 49.84 lakh. It shows that the efforts of the Government have borne the desired results.\textsuperscript{88} The decadal decline in population was more for female children (2.8%) than male children in the age group of 0-6 years.\textsuperscript{89}

1.5.1 Trend of working children in India as per the last three Census Report & two NASSO Reports

Table 1.3

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of working children</th>
<th>Total child population</th>
</tr>
</thead>
<tbody>
<tr>
<td>1981 (Census)</td>
<td>1.30 crore</td>
<td>-</td>
</tr>
<tr>
<td>1991 (Census)</td>
<td>1.13 crore</td>
<td>20.92 crore</td>
</tr>
<tr>
<td>2001 (Census)</td>
<td>*1.26 crore</td>
<td>25.20 crore</td>
</tr>
<tr>
<td>2004-05 (NSSO)</td>
<td>90.75 lakh</td>
<td></td>
</tr>
<tr>
<td>2009-10 (NSSO)</td>
<td>49.84 lakh</td>
<td></td>
</tr>
</tbody>
</table>


From the above table 1.3, it has been observed that the number of working children has increased from 1.13 crore in Census 1991 to 1.26 crore in Census 2001. This is because the total child population of age group 5-14 years increased from 20.92 crore in 1991 to 25.20 crore in 2001.

1.6 CHILD LABOUR SCENARIO IN PUNJAB

The state of Punjab occupies an extremely important place in India. It is the country’s largest grain producer.90 The present Punjab, situated on the northwest side of the country, came into existence on November 1, 1966. Punjab, the richest state in India that throbs with the vibrant culture of equally vibrant people, has always moved on the path of prosperity despite all odds.91 In 2000-01 per capita income of Punjab was Rs. 24111 whereas that of India was Rs. 16707 at current prices.92 The attraction of city life has been more in Punjab in comparison to other States of India. Higher urban ratio is usually taken as an indicator of industrialization. Large number of people is migrating from rural

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areas to urban areas, because villages are still lacking basic facilities. Sincere measures should be taken to develop villages with basic facilities like drinking water, sanitation, etc., and villages should be developed in consonance with urban areas so that the migration to cities may be controlled.\textsuperscript{93}

According to 2001 Census, the literacy ratio at all India level is 65.38 per cent, whereas it is higher in Punjab (69.65 per cent). Life expectancy of Punjab is 65.6 years, which is more than that of India (62.5 years). Infant mortality rate of Punjab (54 per thousand) is less than that of India (71 per thousand). It indicates that Punjab as compared to India is better placed in terms of health and education level indicators. However, so far as other indicators like the sex ratio, work participation ratio and schedule caste population ratio are concerned, the picture is quite different and tells a different story. In India, the sex ratio is 933 whereas in Punjab it is much less at 876. But sex ratio, particularly in the age group 0-6 is even worse. For India, it is 927 whereas for Punjab it is shockingly low at 793. This imbalance in child sex ratio is going to reflect itself in the coming years. There is a need to make people aware that the unbalanced sex ratio points toward a weak social structure.\textsuperscript{94} In 2006-07 per capita income of Punjab was Rs. 30154 and that of India was Rs. 22580 at constant price 1999-2000.\textsuperscript{95}

\textbf{Table 1.4}

\textbf{Percentage of working children in Punjab according to usual activity status (5-14 years) (NSSO 1993-94 to 2009-10)}

<table>
<thead>
<tr>
<th>Years</th>
<th>No. of Working Children</th>
</tr>
</thead>
<tbody>
<tr>
<td>1993-1994 (50\textsuperscript{th} Round)</td>
<td>7.0</td>
</tr>
<tr>
<td>1999-2000 (55\textsuperscript{th} Round)</td>
<td>6.7</td>
</tr>
<tr>
<td>2004-2005 (61\textsuperscript{st} Round)</td>
<td>3.7</td>
</tr>
<tr>
<td>2009-2010 (66\textsuperscript{th} Round)</td>
<td>2.9</td>
</tr>
</tbody>
</table>

Source: NSSO, Various Rounds, Employment and Unemployment situation in India.

\textsuperscript{93} \textit{Ibid.}

\textsuperscript{94} \textit{Ibid.}

\textsuperscript{95} \textit{See Statistical Abstract of Punjab, 2009.}
From the table 1.4, it has been analysed that child labour is continuously declining from 1993 onwards up to 2010. Various rounds of National Sample Survey show that working children were 7.0 percentage in 50th round while 6.7 percent in 55th, 3.7 percent in 61st and just 2.9 per cent were in 66th round.

1.7 REVIEW OF LITERATURE

Researcher has briefly reviewed the literature on child labour. A brief review of some of the important studies on child labour is given below:

S.S. Chhina (2009)96 expressed that there are certain specific laws enacted for the organized sector by the Government but there are no laws for agricultural Sector. He pointed out that the inequality in income is the basis of this social evil and parents do not co-operate to provide the accurate position regarding wages and loan, etc. He expressed his opinion regarding child labour that Child labour is worst than slavery, though slavery was banned by legislation about 200 years back, but child labour is still continuing. This is very useful book dealing with child labour problem on the basis of empirical analysis done by author in a beautiful way.

Asha Bajpai97 has thrown light in his book on Child Rights in India. It is a Comprehensive book. Chapter I deal with Rights of the child. Chapter II & III deal with right to familial environment and parental care. Author has explained in detail about right against exploitation and sexual abuse under Chapter IV, V and VI. Right to development and right to survival towards child have been discussed by the author in the Chapter VII, VIII, and IX. The author has also critically examined the recent national and international initiatives, the present laws, court decisions, the recent amendments, the law reforms suggested by the law commission for setting an agenda towards protection of child rights.

Raj Kumar Sen and Asis Dasgupta (ed.)98 divided the book into three parts. Part I deal with Problems of Child Labour in India: General Issues. It provides detailed knowledge about causes and economic implications of child labour in India. Part II deals with the


Kamala Srinivas and Veena Gandotra (ed.)\textsuperscript{99} divided their book into four parts. Part I provides information about historical background, causes, magnitude, consequences and implications of child labour. Part II gives knowledge about eradication models to eradicate child labour from the society. Part III of the book deals with empirical studies on child labour regarding urban setting and part IV of the book deals with empirical studies on child labour regarding rural setting.

Nazir Ahmad Shah\textsuperscript{100} expressed in his book that children are not only the budding and blooming flowers of the garden of the society but also the builders of a nation. Thus any society, community or a nation worth can hardly afford the slightest negligence towards these blooming flowers. If it does, it would be digging its own grave and cramping the future of the coming generations to a large extent. Author gave very valuable suggestions that child labour is not only an economic compulsion but the need to preserve age old traditions of arts and crafts of Kashmir. Eradication of the problem of child labour is not possible; however it has to be brought under social and legal Umbrella.

M. Koteswara Rao (ed.)\textsuperscript{101} has divided his book into five sections. Section I deals with Dimensions of child labour in India. In this Section Author has thrown light regarding the existence of child labour in India. Section II and III deal with child labour in Indian Industries. He has taken Bihar, Kerala, Goa, Dharwad city, Bidar and Vijayawada city, and in section iv he has taken Gujrat, Nandyal, and Malur. Section four deals with characteristics of child labour in India. Section five deals with the methods to combat child labour.

Profulla Hazarika (2000) conducted an empirical analysis of child labour in the State of Assam. Author has given his views regarding child labour practice that child labour practice is considered as mixed bag in developing countries, more so in all Indian States including Assam, because many people think that child labour is a necessary evil in a developing country like, India, while many others think that it is disgrace to the nation and its immediate abolition is necessary. This book contains very beneficial matter from the academic point of view.

Ashhad Ahmad analysed the concept of child labour in very detail in his book. This book provides us information about various problems related with child labourers and their rights. Chapter I deals with conceptual forms of child labour. Chapter II deals with Constitution and problem of child labour in India. Author has thrown light on the constitutional provisions of child labour. Chapter III gives information about the causes of child labour in India and factors responsible for the existence of child labour. Chapter IV deals with various approaches adopted to combat the problem of child labour. Chapter V deals with the legal protection provided to the child labourers. This chapter lays emphasis on various laws that were made to protect child labour. Chapter VI deals with the Child labour (prohibition and Regulation) Act, 1986. Provisions of the Act were studied in detail. Chapter VII deals with conclusions and suggestions to eradicate child labour from the society.

Nirmala Krishnamoorthy draws our attention that the employment of children is more or less a general phenomenon. In every country irrespective of its economic system, children are working in one form or the other to contribute significantly to the income of the families. The reduction in child labour was achieved in the development countries largely by laws governing the employment of children, universalizing the primary education and increasing real income of parents through the industrial and social development. The near absence of child labour in the developed countries has resulted in excluding children below 14 years of age from the labour force.

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Aparna Das\textsuperscript{105} has made an attempt to examine the empirical analysis of unorganized sector in Raipur City of Chhattisgarh. The present study is divided into seven chapters. Author has collected in detail the data of child Labour in Raipur City. First Chapter gives information about ‘Introductory part’ of the subject. Second Chapter presents “Conceptual Framework and Methodology”. Third Chapter describes ‘Profile of Chhattisgarh and Raipur District’. The fourth Chapter focuses on ‘Economics of child labour- an empirical analysis’. Fifth Chapter deals with ‘An analytical analysis of child labour’. Chapter sixth presents with Government and child labour. The seventh Chapter focuses on all major findings, conclusions and Recommendations.

Sunil Deshta and Kiran Deshta\textsuperscript{106} has analysed the child labour problem in depth. Author has made an attempt to highlight that the main reason of child labour is poverty and overpopulation. Both are part of economic development and cultural crisis thereof. Wherever socio-economic conditions have improved, children go to school and child labour has virtually disappeared. All the developed countries have shown a tremendous progress in both aspects, therefore in those countries child labour problem is not a big problem as it is in the developing countries.

Pratibha Goyal\textsuperscript{107} has pointed out that children are the future of a nation. They need to be nurtured and brought up for their all round development. They need love, affection, human warmth, security besides sound education and perfection in some skill to become a strong component of the nation. Tomorrow certainly belongs only to them. Author has made an attempt to analyse the child labour in Ludhiana, Jallandhar and Amritsar. She has empirically analysed the child labour in Hosiery Industry of Ludhiana, Sports Industry of Jallandhar and Carpet Industry of Amritsars.

Mahaveer Jain\textsuperscript{108} has expressed his views that Andhra Pradesh has been one of the First State to make a complete commitment to combat child labour and to send all children in the age group of 5-14 years to school. He realized that the State has widened the scope of

child labour by making a comprehensive commitment to enroll all the children who were out of school. According to author, all the concerned government departments came forward to fulfill this commitment. Efforts were made to documents all the activities undertaken for securing 100 percent enrolment and bringing children into mainstream.

Nanjunda, D.C.\textsuperscript{109} has expressed his opinion that child labour is one of the worst forms of violations of child rights. Author has pointed out that according to ILO, 250 million children between the ages of five and fourteen work in developing countries. Bonded child labour is also becoming a major problem in India. Families who cannot pay their debt sell or trade their children to their debtors an exchange for the money they owe. The issue of child labour is the major human rights issue and at the same time it is highly an emotional one. Children are the future hope of the nation. They are like buds, which need to be properly nursed and well taken care. So, that they bloom fully and grow into able human beings.

Nuzhat Parveen Khan\textsuperscript{110} book is a very good book on the various issues related with child. In this book, author has made an attempt to examine the rights of children with the help of Constitution and various legislative enactments. In the first Chapter, author has discussed the definitions of ‘child’ given in various enactments. Second Chapter of the book deals with various abuses of children within the family. Author has nicely explained the exploitation of children in the hands of guardians, relatives and even in Institutions. Chapter 4 deals with exploitation of children in the hands of employers in organized and unorganized sectors both. Chapter 6 of the book provides information on child rights violation by strangers and unfamiliar persons. In chapter seven and eight author has also referred to various government policies, plans and programmes for child welfare along with legislative measures taken by the government for the protection of the rights of the child. Author has highlighted also various international initiatives taken for the protection of children. Chapter ten deals with Judicial approach towards child rights protection. She has nicely discussed Judicial Response towards Rights to Education, Sexual abuse cases and child labour. She has given her opinion regarding property and adoption matters in relation to children. She has thrown light on the Role of Non-governmental Organisations


in protection of child Rights. In the last Chapter she has given various conclusions and suggestions.

Mohd. Mustafa and Onkar Sharma\textsuperscript{111} have pointed out that with the advent of modern industrial system there came a tendency among the employers to earn easy and quick profits at fewer expenses. That is why, the employment of children in factories at low rate of remuneration became the frequent practice. They had to work for excessive hours under unhealthy, terrible and hazardous conditions. Author had expressed his views that child labour is both an economic and social problem. Where Social and economic conditions have improved children go to school and child labour laws virtually disappeared. So any society which wants its children to be free to learn and play, first free entire population free fear of wants. This means ensuring basic human needs of all people.

Narendra Prasad\textsuperscript{112} has pointed out India’s population is not only large in absolute size, but it is also growing at an alarming rate. The high growth rate of population has hindered economic development. Prime importance should be attached to reduce the reduce the growth of population. Author has expressed his opinion that Children are the future of Nation. They are Flowers of our National garden. Labour is worship, no doubt, but child labour is dangerous and a blot on the conscience of society. Despite tremendous amount of awareness generated by intellectuals, media, men, social workers and voluntary organisations, it has been increasing at an alarming rate.

Tapan Kumar Shandilya and Shakeel Ahmad Khan\textsuperscript{113} has pointed out that the practice of child labour in India or in any other country of the world is an age old phenomenon. In pre-Industrial agricultural society of India, Children worked as helpers and learners in hereditarily determined family occupations under the benign supervision of adult family members. The work place was an extension of the home and work was characterized by personal informal relationships. Author has expressed his opinion that


with the heralding of the new millennium, the problem of child labour stands as one of the most important global challenges. Millions of children in the world today turned into child labour due to various socio-economic problems.

1.7.1 Articles

Janak Raj Jai\textsuperscript{114} has expressed his stress by saying that In spite of all the statutory provisions, and the Constitutional, and the judicial pronouncements, the need for proper safeguards and protection of the Children. There is indeed a lack of political will by the policy makers, indifference of the administrative machinery, and above all lack of Coordination on the part of the enforcement agencies.

Nuzhat Parveen Khan\textsuperscript{115} has articulated his views regarding children that Children are innocent, vulnerable and dependent upon elders. Abandoning them and excluding them from good foundation of life for them is a crime against humanity. Many of things we need can wait but the childhood cannot. Right now is the when his bones are being formed, his blood is being made and his senses are being developed to him we cannot answer tomorrow, his name is today. He also realized that if the government is genuinely serious about the eradication of child labour, it should immediately implement, right to education and all other means to develop their physical and mental capabilities during childhood as child labour and child education go hand in hand.

Kavita and Preeti Sharma\textsuperscript{116} have given importance to education by saying – education develops human personality and the sense of its dignity and strengths the respect for human rights and fundamental freedoms. Education enables all persons to participate effectively in free society, promotes understanding, tolerance and friendship among all persons, therefore education is a tool to maintenance peace, unity and integrity of the nation. He also expressed his views that at the Domestic level of good effort have been made for uplifting the position of the child. He also praised the judiciary in his conclusion for playing an important role in the implementation of right to child to free and


compulsory education. He also realized that Judiciary alone will not be able to make meaningful this right. For that there is a need to make people aware about, right of children and as to the importance of the growing as responsible and productive citizens.

**Lingaraj M. Konin**\(^{117}\) has expressed his opinion regarding child labour that there is a need to make an objective assessment at grass root level to understand the ground reality in a socio-legal framework and to ascertain whether International Instruments, Constitutional and legislative provisions, Government policies and programmes are adequate to protect children from physical and economical exploitation in order to eliminate the problem of child labour.

**Krishna Aggarwal**\(^{118}\) has highlighted that labour is worship, no doubt, but it must be expected from and exacted upon those who are fit for it. Misplaced labour is dangerous to one who does it and to those who get the fruits out of it. History is replete with the instances when nations have come up or gone down on the basis of the treatment to that younger generation got at the hands of those in the saddle. The problems relating to children are basically a gift of poverty and illiteracy but there are contain other causative dimensions of the problem, including, at some places, the social structure one of the main problem relating to child is child labour.

**Subash Sharma**\(^{119}\) has analysed that daily large number of child labourers are working in agricultural field, houses, petty shops, bus/railway stations etc. Author has expressed his views that childhood is the golden period of physical, mental and moral growth. A Child Labourer becomes the victim of (multiple-deprivation) he cannot play with his companions, study in group at a school, share ideas amongst peers cannot dream with peers and this get the well-being of his personality. Author has concluded his Article with the views that there are various social, economic, political and cultural reasons of child

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labour in India. Therefore ‘multiple-deprivation’ require multi-pronged strategies for eradication of child labour.

Savitha has thrown light on the childhood that Nature has given childhood as a gift to human being. It is believed that childhood is an evidence of the faith of God in human being. Author has concluded that poverty and lack of education are the two primary reasons for the every growing social malice of child labour. The attitude of the parents also contribute to child labour. Author has given education is the most effective solution of child labour.

Pratibha Ganesh Chavan has thrown light on various reasons of child labour. He has expressed his views that it becomes imperative for the health of a nation to protect its children from premature labour which is hazardous to their all over developments that is mental, physical, educational spiritual and emotional. It is the duty of nation to save children from the murderous clutches of social injustice and educational deprivation.

Jayashree v. Doddawadmath and Ramesh has expressed his opinion through this article that it is essential for every creature on the earth to work and labour. If creatures do not work, he or she has no moral right to use and consume the facilities provided by the nature. But such labour and work should be according to physical and mental development, especially in the case of child because according to medical science, body organs are in the process of development during childhood which requires special attention, care and nurture.

Rahim Ubwani author has expressed the views that problem of child labour has become so deep rooted that it is practically a short period of time or a stipulated time, it will definitely take some time and can be tackled through various plans. According to Author, Article 24 of the Constitution prohibits employment of the child below the age of

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14 years in any factory or mine or in any other hazardous employment, but it is hard that due to poverty. Author has also expressed his views that lack of social and political will power is also responsible to some extent.

As the researcher has reviewed the literature on the subject, which reveals that notable scholars put their efforts to identify the causes of this evil, the problems faced by the child workers and overall gravity of the situation, but attempts to eliminate the child labour from the country or efforts to ameliorate their conditions have been far from sufficient.

1.8 RESEARCH GAP

Very few studies analyse the problems and prospects of child workers in the state of Punjab. These efforts have been done mostly in the organized sectors. The present study was conducted to cover children working in unorganized sectors of Malwa region of Punjab. Therefore, the direct impact of any problem on their living and working conditions and on their households has not been measured earlier. The present study intends to analyse the incidence of child labour in the unorganized sector of Malwa region to know the socio-economic and demographic background of child labourer and their parental families, and to study the situational factors forcing the children to become child labourers in the unorganized and analyse the living conditions of the child labourers after getting employed and to know about the problems confronted by the child labourers, and suggest measures to solve the problems of child labourers. There is a gap in the Indian literature about the empirical analysis of child labour in Malwa region of Punjab. The present study tries to fill the gap by observing and analysing various solutions for the same.

1.9 OBJECTIVES OF THE STUDY

The main objectives of this research are:

- To study the concept of child labour and factors leading to child labour.
- To analyze various international instruments dealing with child labour.
- To examine the legislative measures adopted for the eradication of child labour.
To evaluate the role of judiciary to check child labour.

To highlight the prevailing socio-economic conditions of child labourers in the State of Punjab.

To assess the extent of child labour in Punjab.

To give suggestions for combating the problem of child labour in Punjab.

1.10 RESEARCH QUESTIONS

- What are the international initiatives to prevent the child labour?
- What are the legislative measures to check the child labour?
- What are the socio-economic conditions of child labourers in Punjab?
- What is the magnitude of child labour in Malwa region of Punjab?
- What effective role is played by Right to Education Act, 2009 to eradicate child labour?
- What effective measures should be adopted to combat child labour?

1.11 SCOPE OF THE STUDY

The study was confined to analyze the problem of child labour with special reference to Malwa region in the State of Punjab. It analyses the socio-economic factors in the society which are responsible for the existence of child labour and gives suggestions. The constitutional framework relating to child labour is analyzed to understand the depth of the problem. Various international initiatives, legislative and non-legislative measures undertaken by government and non-government organisations to curb the menace of child labour in Punjab are evaluated. The study brings out the shortcomings present in the legislations and the government efforts. The response of judiciary against the practice of child labour is also highlighted. The present research work is based on household’s survey to identify child labour cases in Malwa region of Punjab. The study will be useful to device suitable means to eradicate the problem of child labour.
1.12 HYPOTHESIS

Although Punjab is an affluent State, yet child labour is quite prevalent in unorganized sectors in Punjab. No doubt poverty is the root cause of child labour in Malwa region of Punjab but parental attitude is one of the main factor responsible for the existence of child labour. Various international instruments and legislative measures dealing with child labour are not effective to eradicate child labour due to lack of effective implementation policies.

1.13 RESEARCH METHODOLOGY

The present research study is both analytical as well as empirical in nature. The data for the present research was collected through primary as well as secondary sources. The primary data was collected on the basis of questionnaire. Child labour respondents, their parents and employers were questioned to get the information. The secondary sources consist of research articles, books, reports, conventions, statutes, and cases decided by courts.

1.13.1 Universe of Study

The universe of the research study is Malwa region of Punjab. Four districts namely: Ludhiana, Bathinda, Moga and Faridkot of Malwa region of State Punjab were selected for data collection. The primary data for the research was collected through multi-stage sampling method. In order to examine the problem of child labour in Malwa region of Punjab, the localities with a large concentration of child labourers were identified. After selecting four districts from Malwa region at the second stage, one block from each such district was selected on the basis of random sampling method. Hence, a total of four blocks, namely: Faridkot block from Faridkot district, Moga block from Moga district, Bathinda block from Bathinda district and Ludhiana - East block from Ludhiana district, were selected. At the third stage, one ward from each selected block was selected on the basis of random sampling method. Hence, a total of four wards were selected.

1.13.2 Sample Size

From each selected ward of the selected district, a sample of 75 child labour respondents working in four selected sectors, a sample of 20 parents of child labourers as well as a
sample of 20 employers of child labourers was selected. In all, a sample of 300 child labour respondents working in four selected sectors, a sample of 80 parents of child labourers as well as a sample of 80 employers of child labourers was selected from the universe of the research study and data was collected with the help of a self-designed, pre-tested questionnaire. The details of child labour samples covered in selected areas are given in following table 1.5.

Table 1.5

Distribution of Child Labourers, their Parents and their Employers in Four Selected Districts of Malwa Region of State Punjab

<table>
<thead>
<tr>
<th>Name of District</th>
<th>Name of Block</th>
<th>Block Number</th>
<th>Sample Size for</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Child Labourers</td>
</tr>
<tr>
<td>Ludhiana</td>
<td>East- Ludhiana</td>
<td>11</td>
<td>75</td>
</tr>
<tr>
<td>Bathinda</td>
<td>Bathinda</td>
<td>11</td>
<td>75</td>
</tr>
<tr>
<td>Moga</td>
<td>Moga-II</td>
<td>24</td>
<td>75</td>
</tr>
<tr>
<td>Faridkot</td>
<td>Faridkot</td>
<td>3</td>
<td>75</td>
</tr>
<tr>
<td>Total</td>
<td>04</td>
<td>04</td>
<td>300</td>
</tr>
</tbody>
</table>

1.13.3 Methods of Data Collection

The employers of the child labourers were unwilling to provide information related to employment of child labour therefore it was not possible to meet the working children at their work place. Therefore, households were visited for primary data collection. As the child labour is available in different professions, so a list of their professions was prepared, where the children were working in maximum numbers. The child labourers were divided in following four categories:

1. Agricultural
2. Domestic
3. Brick-kiln
4. Hotels/Dhabas
Questionnaire was prepared to collect information from children, their parents and employers. Information was collected by conducting personal interview with them on various issues regarding child labour.

1.13.4 Processing and Analysis of data-

For the purpose of data analysis, the entire data was edited for consistency and completeness. Thereafter it was coded, processed and tabulated with the help of a computer. The data was analysed on the basis of percentage for further interpretation.

1.13.5 Presentation of Data

The data was presented for further explanation.

1.14 CHAPTERISATION PLAN

The study has been divided into six chapters.

Chapter-1: Introduction

Chapter one is introductory in nature. It provides basic information about child labour, its meaning, its historical background etc. Researcher has made an attempt to trace the origin and evolution of the problem of child labour in different periods. Child labour in ancient India was existed in the form of child slaves. Child slaves could be purchased or sold like commodities. Child labour in medieval India was quite rampant and rulers encouraged it with an intention to make traffic in child slaves. Legislative enactment were enacted by Britishers were also discussed. An exhaustive review of existing literature has also been undertaken. Objective of the study had been identified and hypothesis had also been framed. Research methodology adopted in the completion of the study had also been explained.

Chapter-2: International Initiatives on Child Labour

Chapter Two covers the analysis of international initiatives dealing with child labour. In this chapter, an attempt had been made to examine the international initiatives. The study had given special focus upon the Convention on the Rights of the Child 1989. The International Labour Organisation’s Convention No. 138, the Minimum Age for Admission to Employment and Work, 1973 and Worst Forms of Child Labour
Convention 1999 (No. 182) provides, scope for the prohibition and elimination of child labour, which also represents an important shift in the child labour movement, for it recognises the important prioritising efforts, in the international instruments.

The first organization which came in support of looking into the problems of child labour was the International Labour Organization, which had been established in the year 1919. The main aim of establishing this organization in the beginning was the special attention to the various problems concerning child labour. Till now 18 conventions and 16 recommendations had been adopted by this Organization concerning child labour. UNICEF is also working to eradicate the evils of child labour and protecting their rights. Convention on the Rights of Child, 1989 has played a great role for protecting the rights of children. But it is an irony that despite the international scenario has taken initiatives to mitigate the problem of child labour, the problem is still serious in the country like India, where maximum number of children are working in unorganized sector.

**Chapter-3: Legislative Measures and Judicial Response to Child Labour**

Chapter three deals with the Constitutional Provisions related to child rights in India. An endeavor had been made to analyse various national legislative measures enacted from time to time for the eradication of child labour from the country. The study analyses systematically various national policies, plans and programmes related to children introduced by the Government of India. It had been observed that the Child Labour (Prohibition and Regulation) Act, 1986 was enacted with the object of achieving two contradictory goals, *viz.* prohibition and regulation of child labour, which is not in conformity with Article 24 of the Constitution and the Act is in favour of regulation rather than abolition of child labour. The study analyses systematically various national policies, plans and programmes relating to children introduced by the Government of India. This chapter also deals with the government efforts and programmes adopted for better protection of children and their rights. Providing free and compulsory education to all the children between the age of 6 to 14 is of special importance in this regard.

It also examines the judicial response against the practice of child labour. The response of the judiciary with regard to child labour in India is highly commendable. It has in real sense brought a revolution in the field of child labour in India. The study analyzed
various judicial decisions rendered by the Supreme Court from time to time and an attempt had been made to evaluate the judicial contribution for eliminating the problem of child labour in India.

**Chapter-4: Socio-Economic Conditions of Child Labour**

Chapter Four examines the socio-economic conditions of child labourers in Punjab. Sociological status of state of Punjab has been discussed. The study has been focused on various causes and consequences of child labour in this region. Researcher has tried an attempt to throw light on the root cause of child labour. Socio-economic conditions prevailing in the society are strongly responsible for the existence of child labour in various forms. An attempt has been made to examine the various steps taken from time to time by Government of Punjab to eradicate the problem of child labour from the state. The role played by NGOs in the rescuing and rehabilitation of child labourers is also analysed. Researcher has made an attempt to highlight the importance of NGOs in abolition of child labour.

**Chapter-5: Empirical Analysis of Child Labour**

Chapter five covers the data analysis. In this chapter empirical survey has been undertaken at Ludhiana, Bathinda, Moga and Faridkot city of Malwa region of state Punjab to understand the actual reasons for the prevalence of child labour. Data was collected through administering the questionnaires to the child labour respondents. From each selected ward of the selected district, a sample of 75 child labour respondents working in four selected sectors, a sample of 20 parents of child labourers as well as a sample of 20 employers of child labourers was selected. In all, a sample of 300 child labour respondents working in four selected sectors, a sample of 80 parents of child labourers as well as a sample of 80 employers of child labourers was selected from the universe of research study and data was collected with the help of a self-designed questionnaire. Thorough analysis and interpretation of data was undertaken and for this purpose data was tabulated and graphs were prepared for the presentation of the findings. From the analysis of the data, the findings are made and the same are presented in the chapter.
Chapter-6: Conclusions and Suggestions

Chapter Six is related with conclusions, main findings and suggestions of the research. It also recommends certain policy implications relating to the problem of child labour. The study had led the researcher to conclude that large numbers of children are working as child labourers due to various socio-economic factors. Poverty is the root cause for the prevalence of child labour. The attitude of parents, who push their children to become child labourers, had been found to be one of the major causes for this evil practice. It is true that law alone cannot eliminate the problem of child labour. The involvement of voluntary, non-government organisations, local bodies etc. will go a long way in protecting the interest of children and thereby elimination of child labour can be ensured.