CHAPTER II
INTERNATIONAL INITIATIVES ON CHILD LABOUR

Child labour today is a universal problem which needs prime attention and care to sort out. “Today’s child is tomorrow’s citizen”, this is universally accepted truth. But it is also a universal fact that children today form an important section of this labour force in all sectors of employment in all the less developed and developing economies. Hence, it is rightly observed by the International Labour Organization that the child labour is essentially a problem of development process. It is a phenomenon deeply rooted in economic and social conditions. Industrialization in the developing nations has further aggravated the problem instead of helping to reduce it.\(^1\)

It was however only in the 20\(^{th}\) century that child labour began to be seen as a matter of global concern for all nations and people of the world. Child labour is a universal problem and is prevailing across the world whether it is developed, developing and under developed country. Long-ago, countries basically had no concern for children and their rights. It is significant to make a mention that, factory system in England abused child labour force and they were employed and made them to work for long hours from the age of 8 years. Children who were forced to work at the machines for a long time, used to sleep and get rolled into them along with cotton bales.\(^2\)

With the growth and expansion of factories and industries in the sub-continent beginning in the mid-nineteenth century, new avenues for employment were created resulting in a gradual migration of the labour force from rural areas to mills and factories located primarily in urban areas. In the beginning of Industrial period the employers were less concerned about the needs of their employees, the working hours were too long, wages were much below the subsistence level, and the worker’s employment conditions were

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unsatisfactory. Children were exploited by employers by not giving appropriate wages and taking too much work from them. Child labour in India is socio-economic phenomenon arising essentially out of poverty and lack of development and it is a cheap labour, which is preferred by many industrialists. Due to urbanization, industrialization and human development in the world, various social problems which had been neglected, now come within the boundary of utmost care. The problem of working children is one such problem. Children in almost all societies do one kind of work or another. But the extent and nature of their work are influenced mainly by the structure of the economy and the level and pace of development. Not teenagers working for a few hours to earn additional pocket money, not children helped on family farms; not youngsters doing household chores. But 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 educational and training opportunities that could open up for them a better future. Child Labour is of the object of national and international concern”. Child Labour is prevailing in the world in the form of agricultural labour, industrial labour, mining, domestic services, street children, brick kilns, self employed, at hotels, tea stalls and restaurants etc.

2.1 GLOBAL CHILD LABOUR TRENDS FROM 2004 TO 2012

1. Trends with regard to children in employment (5-17) years
2. Trends with regard to children in child labour (5-17) years
3. Trends with regard to children in hazardous work (5-17) years

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6 Ibid, p. 127.
2.1.1 Trends with regard to children in employment in the age group of 5-17 years from 2004-2012.

Table 2.1
Global Distribution of Children in Employment by Age Group (5-17) Years during the Period (2004 - 2012)

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Year</th>
<th>Total Children (Million)</th>
<th>Children In Employment (Million)</th>
<th>Activity Rate</th>
<th>Change In Activity Rate (2004-2008)</th>
<th>Change In Activity Rate (2008-2012)</th>
</tr>
</thead>
<tbody>
<tr>
<td>World (5-17) Years</td>
<td>2004</td>
<td>1566.3</td>
<td>322.7</td>
<td>20.6%</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td></td>
<td>2008</td>
<td>1586.2</td>
<td>305.6</td>
<td>19.3%</td>
<td>-1.3%</td>
<td>...</td>
</tr>
<tr>
<td></td>
<td>2012</td>
<td>1585.5</td>
<td>264.4</td>
<td>16.7%</td>
<td>...</td>
<td>-2.6%</td>
</tr>
<tr>
<td>Boys (5-17) Years</td>
<td>2004</td>
<td>804.0</td>
<td>171.1</td>
<td>21.2%</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td></td>
<td>2008</td>
<td>819.8</td>
<td>175.7</td>
<td>21.4%</td>
<td>0.2%</td>
<td>...</td>
</tr>
<tr>
<td></td>
<td>2012</td>
<td>819.8</td>
<td>148.3</td>
<td>18.1%</td>
<td>...</td>
<td>-3.3%</td>
</tr>
<tr>
<td>Girls (5-17) Years</td>
<td>2004</td>
<td>762.3</td>
<td>151.5</td>
<td>19.8%</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td></td>
<td>2008</td>
<td>766.3</td>
<td>129.8</td>
<td>16.9%</td>
<td>-2.9%</td>
<td>...</td>
</tr>
<tr>
<td></td>
<td>2012</td>
<td>765.6</td>
<td>116.1</td>
<td>15.2%</td>
<td>...</td>
<td>-1.7%</td>
</tr>
<tr>
<td>(5-14) Years</td>
<td>2004</td>
<td>1206.5</td>
<td>196.0</td>
<td>16.2%</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td></td>
<td>2008</td>
<td>1216.8</td>
<td>176.4</td>
<td>14.5%</td>
<td>-1.7%</td>
<td>...</td>
</tr>
<tr>
<td></td>
<td>2012</td>
<td>1221.0</td>
<td>144.0</td>
<td>11.8%</td>
<td>...</td>
<td>-2.7%</td>
</tr>
<tr>
<td>(15-17) Years</td>
<td>2004</td>
<td>359.8</td>
<td>126.6</td>
<td>35.1%</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td></td>
<td>2008</td>
<td>369.4</td>
<td>129.2</td>
<td>35.0%</td>
<td>-0.2%</td>
<td>...</td>
</tr>
<tr>
<td></td>
<td>2012</td>
<td>364.4</td>
<td>120.3</td>
<td>33.0%</td>
<td>...</td>
<td>-2.0%</td>
</tr>
</tbody>
</table>

Source:
Table 2.1 shows that globally, the number of children engaged in employment in the age group (5-17) years old continues to decline during the period from 2004-2012. During the period 2004 to 2008, the number of children in employment in the age group (5-17) years old declined by 1.3 per cent, from 322.7 million (20.6%) to 305.6 million (19.3%) and during the period 2008 to 2012, the number of children in employment in the age group (5-17) years old declined by 2.6 per cent, from 305.6 million (19.3%) to 264.4 million (16.7%) in the world. Over the same period i.e., from 2004 - 2012, the number of children in employment in the age group (5-14) years old also declined by 1.7 per cent and by 2.7 per cent.

2.1.2 Trends with Regard to Children in Child Labour by Age Group (5-17) Years

Table 2.2

Global Distribution of Children in Child Labour Work by Age Group (5-17) Years during the Period 2004-2012

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Year</th>
<th>Total Children (Million)</th>
<th>Child Labour (Million)</th>
<th>Incidence Rate</th>
<th>Change in Incidence Rate (2004-2008)</th>
<th>Change in Incidence Rate (2008-2012)</th>
</tr>
</thead>
<tbody>
<tr>
<td>World (5-17 Years)</td>
<td>2004</td>
<td>1566.3</td>
<td>222.2</td>
<td>14.1%</td>
<td>……..</td>
<td>……..</td>
</tr>
<tr>
<td></td>
<td>2008</td>
<td>1586.2</td>
<td>215.2</td>
<td>13.5%</td>
<td>- 0.6%</td>
<td>……..</td>
</tr>
<tr>
<td></td>
<td>2012</td>
<td>1585.5</td>
<td>167.9</td>
<td>10.5%</td>
<td>……..</td>
<td>-3.0%</td>
</tr>
<tr>
<td>Boys (5-17 Years)</td>
<td>2004</td>
<td>804.0</td>
<td>119.5</td>
<td>14.8%</td>
<td>……..</td>
<td>……..</td>
</tr>
<tr>
<td></td>
<td>2008</td>
<td>819.8</td>
<td>127.7</td>
<td>15.5%</td>
<td>0.7%</td>
<td>……..</td>
</tr>
<tr>
<td></td>
<td>2012</td>
<td>819.8</td>
<td>99.7</td>
<td>12.1%</td>
<td>……..</td>
<td>-3.4%</td>
</tr>
<tr>
<td>Girls (5-17 Years)</td>
<td>2004</td>
<td>762.3</td>
<td>102.7</td>
<td>13.4%</td>
<td>……..</td>
<td>……..</td>
</tr>
<tr>
<td></td>
<td>2008</td>
<td>766.3</td>
<td>087.5</td>
<td>11.4%</td>
<td>- 2.0%</td>
<td>……..</td>
</tr>
<tr>
<td></td>
<td>2012</td>
<td>765.6</td>
<td>068.1</td>
<td>08.8%</td>
<td>……..</td>
<td>-2.6%</td>
</tr>
<tr>
<td>(5-14 Years)</td>
<td>2004</td>
<td>1206.5</td>
<td>170.3</td>
<td>14.1%</td>
<td>……..</td>
<td>……..</td>
</tr>
<tr>
<td></td>
<td>2008</td>
<td>1216.8</td>
<td>152.8</td>
<td>12.5%</td>
<td>-1.6%</td>
<td>……..</td>
</tr>
<tr>
<td></td>
<td>2012</td>
<td>1221.0</td>
<td>120.4</td>
<td>09.8%</td>
<td>……..</td>
<td>-2.7%</td>
</tr>
<tr>
<td>(15-17 Years)</td>
<td>2004</td>
<td>359.8</td>
<td>051.9</td>
<td>14.1%</td>
<td>……..</td>
<td>……..</td>
</tr>
<tr>
<td></td>
<td>2008</td>
<td>369.4</td>
<td>062.4</td>
<td>16.8%</td>
<td>2.7%</td>
<td>……..</td>
</tr>
<tr>
<td></td>
<td>2012</td>
<td>364.4</td>
<td>047.5</td>
<td>13.0%</td>
<td>……..</td>
<td>-3.8%</td>
</tr>
</tbody>
</table>

Source:
From the table 2.2 it has been observed that globally the number of children engaged in child labour in the age group (5-17) years old continues to decline during the period from 2004-2012. During the period 2004 to 2008, the number of children engaged in child labour in the age group (5-17) years old declined by 0.6 per cent, from 222.2 million (14.1%) to 215.2 million (13.5%) and during the period 2008 to 2012, the number of children engaged in child labour in the age group (5-17) years old declined by 3.0 per cent, from 215.2 million (13.5%) to 167.9 million (10.5%) in the world. Over the same period i.e., from 2004 to 2008 and 2008 to 2012, the number of children engaged in child labour in the age group (5-14) years old also declined by 1.6 per cent and by 2.7 per cent.

2.1.3 Trends with Regard to Children in Hazardous Work by Age Group (5-17) Years

Table 2.3
Global Distribution of Children in Hazardous Work by Age Group (5-17) Years during the Period (2004 - 2012)

<table>
<thead>
<tr>
<th>Age Group (5-17) Years</th>
<th>Year</th>
<th>Total Children (Million)</th>
<th>Hazardous Work (Million)</th>
<th>Incidence Rate</th>
<th>Change in Incidence Rate (2004-2008)</th>
<th>Change In Incidence Rate (2008-2012)</th>
</tr>
</thead>
<tbody>
<tr>
<td>World (5-17) Years</td>
<td>2004</td>
<td>1566.3</td>
<td>128.3</td>
<td>8.1%</td>
<td>………</td>
<td>………</td>
</tr>
<tr>
<td></td>
<td>2008</td>
<td>1586.2</td>
<td>115.3</td>
<td>7.2%</td>
<td>-0.9%</td>
<td>………</td>
</tr>
<tr>
<td></td>
<td>2012</td>
<td>1585.5</td>
<td>85.3</td>
<td>5.4%</td>
<td>………</td>
<td>-1.8%</td>
</tr>
<tr>
<td>Boys (5-17) Years</td>
<td>2004</td>
<td>804.0</td>
<td>74.4</td>
<td>9.3%</td>
<td>………</td>
<td>………</td>
</tr>
<tr>
<td></td>
<td>2008</td>
<td>819.8</td>
<td>74.0</td>
<td>9.0%</td>
<td>-0.3%</td>
<td>………</td>
</tr>
<tr>
<td></td>
<td>2012</td>
<td>819.8</td>
<td>55.0</td>
<td>6.7%</td>
<td>………</td>
<td>-2.3%</td>
</tr>
<tr>
<td>Girls (5-17) Years</td>
<td>2004</td>
<td>762.3</td>
<td>53.9</td>
<td>7.0%</td>
<td>………</td>
<td>………</td>
</tr>
<tr>
<td></td>
<td>2008</td>
<td>766.3</td>
<td>41.2</td>
<td>5.3%</td>
<td>-1.7%</td>
<td>………</td>
</tr>
<tr>
<td></td>
<td>2012</td>
<td>765.6</td>
<td>30.2</td>
<td>4.0%</td>
<td>………</td>
<td>-1.3%</td>
</tr>
<tr>
<td>(5-14) Years</td>
<td>2004</td>
<td>1206.5</td>
<td>76.4</td>
<td>6.3%</td>
<td>………</td>
<td>………</td>
</tr>
<tr>
<td></td>
<td>2008</td>
<td>1216.8</td>
<td>52.8</td>
<td>4.3%</td>
<td>-2.0%</td>
<td>………</td>
</tr>
<tr>
<td></td>
<td>2012</td>
<td>1221.0</td>
<td>37.8</td>
<td>3.1%</td>
<td>………</td>
<td>-1.2%</td>
</tr>
<tr>
<td>(15-17) Years</td>
<td>2004</td>
<td>359.8</td>
<td>51.9</td>
<td>14.4%</td>
<td>………</td>
<td>………</td>
</tr>
<tr>
<td></td>
<td>2008</td>
<td>369.4</td>
<td>62.4</td>
<td>16.8%</td>
<td>2.4%</td>
<td>………</td>
</tr>
<tr>
<td></td>
<td>2012</td>
<td>364.4</td>
<td>47.5</td>
<td>13.0%</td>
<td>………</td>
<td>-3.8%</td>
</tr>
</tbody>
</table>

Source:
It has been analysed from the table 2.3 that globally, the number of children engaged in hazardous work in the age group (5-17) years old continues to decline during the period from 2004-2012. During the period 2004 to 2008, the number of children engaged in hazardous work in the age group (5-17) years old declined by 0.9 per cent, from 128.3 million (8.1%) to 115.3 million (7.2%) and during the period 2008 to 2012, the number of children engaged in hazardous work in the age group (5-17) years old declined by 1.8 per cent, from 115.3 million (7.2%) to 85.3 million (5.4%) in the world. Over the same period i.e., from 2004-2012, the number of children engaged in hazardous work in the age group (5-14) years old also declined by 2.0 per cent and by 1.2 per cent.

2.2 INTERNATIONAL LABOUR ORGANIZATION

International Labour Organization (ILO) is an important specialized agency of the United Nations Organization, which is working for the protection of children from exploitation and for the betterment of the conditions of labour throughout the world. The abolition of child labour is one of the aims of ILO. The functions of the International Labour Organization include development for national legislation to protect and improve working conditions and standards of living. Child Labour is a very sensitive issue which needs protection not only at the national level but also at the international level too. ILO is working like an umbrella regarding child labour which protects the children from the sunlight of exploitation in the hands of employers. International organization like the United Nations has always placed the children on the top of their policies.7


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Nations Population Fund, United Nations joint programme on AIDS, etc. These initiatives depend upon the member state’s national legislations and situation of child labourers in those countries. Conventions and declarations make promises and set high aspirations. But the state parties face practical difficulties in implementation due to socio-economic and cultural and political systems. There are no implementing provisions either in the conventions or declarations. There is no responsibility or accountability upon the state parties for their acts and omissions.

According to ILO, there are 250 million child labourers in the world of which 61 per cent are in Asia, 32 per cent in Africa and 7 per cent in Latin America. In terms of number of child labourers Asia tops, whereas, in proportion of children, Africa tops where every third child is working. But according to the ILO’s latest estimates (2006), the number of child labourers fell by 11 per cent globally over the past four years and the number of children in hazardous work has decreased by 26 per cent. Though this is encouraging, worldwide there are still 218 million child labourers and of which 126 million are engaged in hazardous work. Over seventy per cent of child labourers work in agriculture from tending cattle to spraying pesticides. Over many millions of girls and boys aged 5 to 14 are engaged to help in producing food and drink that is consumed by all. The number may vary from country to country but still it is estimated that at least ninety per cent of economically active children areas in developing countries but it is also a serious problem in developed countries. The ILO standards have been ratified by approximately all the countries irrespective of their status and socio-economic development. In India, Constitution of the country expressly provides that Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other decisions made at any international conference association or other body. The ILO plays a very significant role throughout the world.

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12 Article 253, the *Constitution of India*. 

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by passing many conventions and recommendations specifically in developing countries of the world.

2.2.1 ILO Convention No. 138: The Minimum Age for Admission to Employment and Work, 1973

The objective of Convention no.138 is the effective abolition of child labour, which puts forth the most comprehensive and authoritative international definition of minimum age for admission to employment and sets the boundaries of the types of work that are unacceptable under international standards and the Worst Forms of Child Labour Convention of 1999” (No. 182) which prohibits and eliminates the worst forms of child labour.\(^\text{13}\)

The ILO Convention on Minimum Age, 1973 (No. 138) lays down a basic minimum age which should not be less than the age for completion of compulsory schooling and in any case not less than 15 years. It also provides that the minimum age should be progressively raised to a level consistent with the physical and mental development of young persons. But it permits the employment of young persons between the ages of 13 and 15 on light work. It also allows an element of flexibility for countries whose economic and educational facilities are insufficiently developed. Such countries can initially specify a general minimum age of 14 instead of 15 and a minimum age for light work 12 instead to 13. On the other hand, the convention sets a higher minimum age of 18 for hazardous work.\(^\text{14}\) According to ILO, “Not all work is harmful for children. Some type of activities under regulated conditions can have positive effects for the child and for society. Work experience of the right sort can be means of acquiring skills of learning responsibility, of becoming and fuller member of the society, in short, a valuable part of going up”. However, the work that places too heavy burden on the child, work that endangers his safety, health and welfare, work that takes advantage of the defenselessness of the child, work that exploits the child as a cheap substitute for adult labour, work that uses the


child’s effort but does nothing for his development and work that impedes the child’s education or training and thus effects his future is a major cause of concern.15

2.2.1.1 The framework as to the minimum age is as following

The Convention 138-Minimum Age Convention, 1973 (No.138) applies on the following conditions:

- To all economic sectors, and
- To all working children

<table>
<thead>
<tr>
<th>Parameter</th>
<th>General Minimum Age Specifications</th>
<th>Exception for Developing Countries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Basic Minimum Age</td>
<td>15 years</td>
<td>14 years</td>
</tr>
<tr>
<td>(Article 2)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hazardous Work</td>
<td>18 years (16 years conditionally)</td>
<td>No Exception</td>
</tr>
<tr>
<td>(Article 3)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Light Work (Article 7)</td>
<td>(13-15) years</td>
<td>(12-14) Years</td>
</tr>
</tbody>
</table>

Table 2.4
Framework Regarding Minimum Age

Whether:-

(i) They are employed for wages, or
(ii) Working on their own account

Each member State for which this Convention is in force undertakes to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to level consistent with the fullest physical and mental development of young persons.16 The Convention no. 138 also provides for a prohibition for admission of child to any work that is likely to be hazardous or to be harmful to the child’s health or physical, mental, spiritual, moral and

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16 Article 1, the *Convention No. 138*. 

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social development. The minimum age for admission to this type of work or employment is fixed at 18 years.\textsuperscript{17} Furthermore according to this convention, measures must be taken to determine the no. of hours during which and the conditions under which ‘light work is undertaken’, and to govern persons under 15 years who have not yet completed their compulsory schooling.\textsuperscript{18} Besides it convention also provides that all necessary measures including the provisions of appropriate penalties should be taken as to ensure the effective enforcement of the Convention.\textsuperscript{19}

It is important to note that whether or not countries actually ratify ILO Conventions, these conventions and recommendations exert a great influence on member states and have resulted in the adoption of national legislation that is often close to international standards.\textsuperscript{20} At the end of 2010\textsuperscript{21}, this convention had been ratified by 156 of the 183 member states of the ILO. India has not adopted Convention no. 138. The minimum age convention is not ratified by India because the government believes admission to employment needs to be preceded by creation of suitable enforcement machinery and measures. This would warrant the children not being compelled by circumstances to seek employment. However, enforcement and measures are difficult in the unorganized sector.

\textbf{2.2.2 The Worst Forms of Child Labour Convention No. 182 of 1999}

This convention concerning the prohibition and immediate action for the elimination of the worst forms of labour was an outcome of the general conference of the ILO which had been convened at Geneva and was adopted on 17-6-1999. It came into force on 19.11.2000.\textsuperscript{22} The basic need for the unanimous adoption of such a concern was that, child labour remaining a concern for the international community, prohibition and elimination of the worst forms of child labour was becoming the main priority for national and international action. Article one re-enforces this objective by stating that

\begin{itemize}
  \item \textsuperscript{17} \textit{Ibid}, Article 3.
  \item \textsuperscript{18} \textit{Ibid}, Article 7.
  \item \textsuperscript{19} \textit{Ibid}, Article 9.
  \item \textsuperscript{20} Id, p. 242.
\end{itemize}
each ratifying number shall secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.\textsuperscript{23}

The goal of the ILO is for all member countries to adopt and ratify this new convention, and work on ways to help ensure its effectiveness. The government should work with non-governmental society as a whole. Ratifying the convention is just a first step. Governments must agree to strict enforcement and prosecution of offenders. Civil society should also play a major role in helping alleviate the problem by actively helping with the monitoring process and informing the general public about the statistics, realities, and current situations regarding child labour. The key to the success of the ILO Convention no.182 is co-operation among governments, the civil society and the general population in fighting to put an end to the problem.\textsuperscript{24}

There is an age relaxation between developing and developed countries in Convention no.138 but such type of flexibility clause of age relaxation is not available in Convention no.182. It makes no distinction between developed and developing countries, and applies to all boys and girls younger than 18 years of age and to all sectors of economic activity. The convention defines worst forms to be prohibited to all persons less than 18 years. The convention\textsuperscript{25} defines worst forms to be prohibited to all persons less than 18 years, as:

(a) All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdoms and forced compulsory recruitment of children for use in armed conflict.

(b) The use, procuring or offering of a child for prostitution, for the production of pornography or pornographic performance.

(c) The use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties.

(d) Work which; by its nature or the circumstances in which it is carried out is likely harm the health, safety or morals of children.

\textsuperscript{23} Ibid.
\textsuperscript{25} Article 3, \textit{Convention No. 182}.
Activities covered under article (a) – (c) are the worst forms of child labour other than hazardous work are also known as unconditional worst forms of child labour. The type of work referred under article (d) known as hazardous work shall be determine by national legislations or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned. But in respect to ‘hazardous work’, each country must define in laws the types of work which could damage the health, safety or well-being of children, under 18, so that they are protected against these kinds of work. When developing these laws, the authorities in each country must work in cooperation with organizations of employers and workers. The authorities should regularly discuss the existing list of hazardous work, with organizations of employers and workers, and update their laws if necessary.26

The ‘hazardous work’27 referred under Convention no.182 is defined as:

a) That exposes children to physical, psychological, or sexual abuse
b) Underground, underwater, at dangerous heights, and in confined spaces
c) With dangerous machinery, or involves manual handling of heavy loads.
d) In unhealthy environment that expose children to health hazards
e) Under particularly difficult conditions (e.g. long hours), or if freedom is confined

Convention also states that work referred under Article 3(d) is to be determined by national laws or by competent authority after consultation with the organizations of employers and workers concerned, taking into consideration relevant international standards.28 Each country has to take into account the importance of education for children. Countries must work hard to take action- within a specific timeframe- to:

1. Prevent children from becoming involved in the worst form of child labour.
2. Help to remove children from the worst forms of child labour and ensure protection and support for the children’s reintegration into society.

28 Id, Article 4.
3. Give children the possibility to go to school for free and give opportunities for skills training to older children who have been taken out of the worst forms of child labour.

4. Identify and help children who may be at special risk.

5. Consider the especially vulnerable situation of girls.\(^{29}\)

The convention requires ratifying states to design and implement programmes of action to eliminate the worst forms of child labour as a priority and to establish or designate appropriate mechanisms for monitoring implementation of the convention in consultation with employers and workers organisation. It also says that the ratifying states should provide support for the removal of children from the worst forms of child labour, and their rehabilitation, ensure access to free basic education or vocational training for all children removed from the worst forms of child labour identify children at special risk and to take into account the special situation of girls.\(^{30}\)

After 1999, Adoption of the ILO’s worst forms of child labour Convention no. 182 in 2002, the ILO publishes its first global report on child labour\(^ {31}\) and establishes 12\(^{th}\) June as World Day against child labour. Encouraged by findings of the second global report on child labour, which says that child labour is declining worldwide, the ILO launches a global campaign to eliminate the worst forms of child labour by 2016. In 2008 the ILO adopts the ILO declaration on social justice for a fair globalization, which recognizes the particular significance of the fundamental rights including the effective abolition of child labour.\(^ {32}\)

### 2.2.2.1 Significance of ILO Convention No.182

It is a landmark Convention for the elimination of worst form of child labour.

1. It declares that there are certain forms of child labour that must be eliminated as a matter of urgency. While elimination of all forms of child labour is inevitably a long term goal because it is so deeply rooted in poverty, underdevelopment and

\(^{29}\) *Id.*, Article 7.


\(^{31}\) *Id.*

social and cultural attitude. The adoption of this Convention means there can be no justifications for its delaying actions against its worst forms.

2. Only two years after its adoption, it has been ratified by over half of the ILO’s member states—signifying that the vast majority of sovereign states is ready to take immediate and effective measures to prohibit and eliminate the worst forms of child labour as a priority. India has not adopted this convention, but India is in the process of adoption.33

2.2.3 International Program on the Elimination of Child Labour (IPEC)

ILO’s International programme on the elimination of child labour was launched in 1992 to progressively eliminate child labour through strengthening national capacities to address child labour problems and promoting a worldwide movement to combat child labour. While IPEC’s goal remains the prevention and elimination of all forms of child labour, the priority targets for IPEC’s action are the worst forms of child labour, which are defined in Convention No. 182.34

Since 2002, IPEC’s projects and programs have reached around 5 million children. It currently operates in 88 countries with an annual expenditure on technical cooperation projects that reached over US$74 million in 2006. Even though the goal of IPEC is to prevent and eliminate all forms of child labour, the priority targets of IPEC for immediate action are the worst forms of child labour, which are defined in the ILO Convention no. 182 as the Worst Forms of child labour, 1999.35

The implementation of IPEC programs in India has certainly created a very positive impact towards understanding the problems of child labour and in highlighting the need to eliminate child labour as expeditiously as possible. A major contribution of the IPEC program in India is that it has generated a critical consciousness among all the three social partners for taking corrective measures to eliminate child labour.36
2.2.4 International Labour Organization and India

India is a founder member of ILO which came into existence in 1919 within a framework of the child labour (prohibition and regulation) Act, 1986 and through the National Policy on child labour, ILO has funded the preparation of certain local and industry specific projects. The implementation of IPEC programs in India has certainly created a very positive impact towards understanding the problem of child labour and in highlighting the need to eliminate child labor as expeditiously as possible. A major contribution of the IPEC program in India is that it has generated a consciousness to eliminate child labour.\(^{37}\)

India is associated with the International Labour Organization since the latter’s birth in 1919. Today, India is a permanent member of the organization as one of leading industrial countries of the world. The record of labour Legislation in India indicates that there were no important labour measures on the Statutes up to 1919. All major labour legislations had been passed by India after 1919.\(^{38}\) India is a founder member of the International Labour Organization, which came into existence in 1919. At present the ILO has 175 Members. A unique feature of the ILO is its tripartite character. The membership of the ILO ensures the growth of tripartite system in the Member countries. At every level in the Organization, Governments are associated with the two other social partners, namely the workers and employers. All the three groups are represented on almost all the deliberative organs of the ILO and share responsibility in conducting its work.\(^{39}\)

The approach of India with regard to international labor standards has always been positive. The ILO instruments have provided guidelines and useful framework for the evolution of legislative and administrative measures for the protection and advancement of the interest of labour. The influence of ILO conventions as a standard for reference for labour legislation and practices in India, rather than as a legally binding norm, has been significant. Ratification of a Convention imposes legally binding obligations on the country concerned, and therefore, India has been careful in ratifying conventions. It has

\(^{37}\) Retrieved from labour.nic.in, last visited on 1-05-2013.

\(^{38}\) Id., p. 151.

\(^{39}\) Ministry of labour and Employment, Government of India, retrieved from labour.nic.in, last visited on 11-1-2013.)
always been the practice in India that to ratify a convention when it is fully according to the laws of the country and practice in conformity with the relevant ILO convention.\textsuperscript{40}

The ILO has so far adopted 18 Conventions and nine recommendations about the employment of children and young persons. India has been able to ratify only 6 Conventions out of 18 Convention till now, because of technical and administrative difficulties. These are: no. 5 Minimum Age (Industry) Convention, 1919 (laying down the minimum age of 12 years); no.6 Night Work for Young Persons (Industry) Convention,1919; no.15 Minimum Age (Trimmers and Stockers) Convention, 1921 (minimum age of 16 years); no.16 Medical Examination of young persons (Sea) Convention, 1921 (minimum age of 18 years), no.90 Night Work of young persons (Industry) 1948 (no night work for 12 hours for persons below 17 years) and no.123 Minimum Age (Underground Work) Convention, 1973. These six ratified Conventions aim at protecting the children and young persons employed in industries is respected of hours of work and from hazardous occupations not suited to their age and health.\textsuperscript{41}

ILO has also taken the domestic form of child labour in its agenda because this is that form where child labour is difficult to identify. Child domestic labour is one of the most common forms of child labour and a widespread phenomenon. The ILO defines child domestic labour as “situations where children are engaged to perform domestic tasks in the home of a third party or employer that are exploitative”. Child domestic work includes all children in domestic service who are under the legal minimum working age as well as those above the legal minimum age but under the age of 18 who are in hazardous or other exploitative situation. A child’s engagement as a child domestic worker in someone else’s house often is considered safe and no stigmatizing, even a part of his/her development process and may not be considered labour.\textsuperscript{42}

As a recent policy implementation regarding child labour, in October, 2006, India became the first country in the world to recognize domestic child labour as hazardous and ban the employment of children in domestic services. The Government of India added

\textsuperscript{40} A. J. Kaul, \textit{Child Labour in India-An Overview}, V.V. Giri National Labour Institute, Noida, 2001, p. 199.
\textsuperscript{41} \textit{Ibid}, p. 152.
\textsuperscript{42} \textit{Id}, p. 72.
domestic labour as well as some other forms of labour performed by children (such as labour at food stalls, on the streets, restaurants, hotels, motels, teashops, resorts, spas and other recreational centers) to the list of hazardous occupations in the child labour act. The Government of India is currently in the process of enforcing this new ban throughout the country. 43

Most of the international tools leave it to the states to draw up appropriate measures to protect rights of children. Sanctions against unwilling states or against companies responsible for the violation of these rights are fragile or non-existent. The basis of this is grounded in the stark reality that this world is an unequal one and there is a gap between the rich and the poor nations which is ever widening and it is very difficult to bridge. Hence the approach on resolving the issue of child labour remains a diverse one where initiative such as economic interventions, social security packages etc. are a distant reality in many parts of the globe”. 44 The International Labour Organization (ILO) in a study has concluded that in Asian countries 70% to 80% of children is either working or “simply wasting their lives away. 45

2.3 UNITED NATIONS CHILDREN FUND (UNICEF)

UNICEF was created by the United Nations General Assembly on 11 December, 1946, to provide emergency food and healthcare to children in countries that had been devastated by world war II. Elimination of child labour is also key component of UNICEF’S policy. UNICEF is the only United Nations agency responsible for programs to aid education and health of children and mothers in developing countries. Founded in 1946, initially to care for the children of war torn Europe, its mandate was gradually expanded. UNICEF supports government efforts in providing services essential to the survival and development of children, such as clean water, safe sanitation, immunization and other

43 Ibid.
45 Piyush Khanna and Aishwarya Ratna Pandey, “Child Rights: Are We Able to solve the Problem?” Legal News and Views, Vol. 24; No. 6, June 2010, pp. 13-18
health measures. It also seeks to provide to children skills essential for leading a healthy and productive life and thus education is a major priority of the UNICEF.\textsuperscript{46}

The UNICEF has reported that the work frequently absorbs so much time of children that school attendance becomes impossible. It often leaves children so exhausted that they lack the energy to attend school or cannot study effectively when in class. In the case of seasonal agricultural work children generally miss too many days of class even though they are enrolled in school.\textsuperscript{47} The UNICEF recognizes education as a fundamental human right which helps not only individuals but also societies to develop and it paves the way to a successful and productive future. The importance of education has been stated by UNICEF in its proclamation in the following words:

When it is to ensure that children have access to a rights-based, quality education that is rooted in gender equality, then to create a ripple effect of opportunity that impacts generations to come.\textsuperscript{48} According to UNICEF’s, Annual Report\textsuperscript{49} expressed that the day will come when nations will be judged not only by their military or economic strength, nor by the splendor of their capital cities public building but by the well-being of their people’ by the provision that is made for those who are vulnerable and disadvantaged and by the protection that is afforded to the growing minds and bodies of their children. That is why UNICEF has adopted the following objects to deal with the problems of child labour.

2.3.1 **Objectives of UNICEF**

Following are the main objectives of UNICEF:

1. To promote compulsory primary education to prohibit child labour, particularly in hazardous industries.

2. To assist central and state governments to develop and implement programmes and action plans for the withdrawal and rehabilitation of child labour.

\textsuperscript{46} Ashhad Ahmad, *Child Labour in India*, Kalpaz Publications, Delhi, 2004, p. 128.


3. To promote convergence of all sectoral and developmental programmes for “at risk” families.

4. To strengthen monitoring systems on child labour.

5. To strengthen alliances between NGOs, media, industry and the Legal- set-up for social mobilization in support of elimination of child labour.\textsuperscript{50}

Child Labour is considered exploitative by UNICEF. It has evolved a criterion for child labour exploitation. The child labour is exploitative if it involves:-

(i) Full time work at too early an age;

(ii) Too many hours spent working;

(iii) Work that exerts undue physical, social or psycho-logical stress;

(iv) Work and life on the streets in bad conditions;

(v) Inadequate pay;

(vi) Too much responsibility;

(vii) Work that hampers access to education;

(viii) Work that undermines children’s dignity and self esteem such as slavery or bonded labour and sexual exploitation, and

(ix) Work that is detrimental to full social and psychological development.\textsuperscript{51}

From the above criterion it is clear that international organisations are very much committed towards the problem of child labour. International communities want to provide a life in which children can progress, develop and grow. To get this aim and object, UNICEF is playing an important role by providing financial help and care to children.

Effective policies aimed at the protection of children at work and the gradual elimination of child labour must be isolated adjusted to the socio-economic situation of each country. Child labour cannot be approached as a problem, its reduction and elimination will


require a set of direct and indirect, albeit inter-related, measures. In another report recently UNICEF has stated that there are 146 million malnourished children in the world out of which 57 million are in India. According to UNICEF, India houses one-third of the stunted/wasted (termed malnourished) children of the world and 46 per cent of the children below the age of three are too small for their age and 47 per cent are underweight. Under-nutrition can result from lack of nutrients in an individual’s diet a weakened immune system and inability to absorb nutrients. Under-nutrition increases the risk of chronic-diseases and its impact lasts lifelong. Table 2.1 gives a glimpse of the problem of the malnourished children in some developing countries.

Table 2.5
Profile of Malnourished Children in Some Countries

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Countries</th>
<th>Rate of Malnourished Children (per cent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>India</td>
<td>47</td>
</tr>
<tr>
<td>2.</td>
<td>Ethiopia</td>
<td>47</td>
</tr>
<tr>
<td>3.</td>
<td>Nepal</td>
<td>48</td>
</tr>
<tr>
<td>4.</td>
<td>Bangladesh</td>
<td>48</td>
</tr>
<tr>
<td>5.</td>
<td>Afghanistan</td>
<td>39</td>
</tr>
<tr>
<td>6.</td>
<td>Thailand</td>
<td>18</td>
</tr>
<tr>
<td>7.</td>
<td>China</td>
<td>08</td>
</tr>
</tbody>
</table>


From the table 2.5 it is concluded that Nepal and Bangladesh have highest rate of malnourished children. India and Ethiopia came after them. China has lowest in number of malnourished children.

An important feature of UNICEF report is that the proportion of under-weight children is very high in developing countries. It has declined only marginally during 1990-2005, falling only to five percentage points. Only among four children up to five years is under weight (27% of 146 million children) and about half of them live in India, Bangladesh

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52 Id. p. 131.
and Pakistan, accounting for the death of 5.6 million children less than five years every year.\textsuperscript{55}

UNICEF has been actively supporting various programmes on the issue of eliminating child labour, especially with the purpose of sensitizing various groups of people to the issue of child labour, through workshops, seminars, media based advertisement campaigns, research and documentation based projects, etc. These efforts will undoubtedly help in creating an environment that is conducive for the elimination of child labour, as also for evolving a mechanism for a scientific enumeration of all categories of working children.\textsuperscript{56}

2.4 THE UNITED NATIONS INSTRUMENTS

Child labour is considered exploitative by the United Nations. The Article 32 of the United Nations is a very important Article in this regard which speaks about child labour in the following words that State parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development.\textsuperscript{57} The United Nations Instruments for the protection and welfare of the children are as follows:

2.4.1 The UN Declaration of the Rights of the Child, 1959

The need for extending particular care to the child has been stated in the Geneva Declaration on the Rights of the child of 1924 and in the declaration of the rights of the child adopted by the United Nations in 1959.\textsuperscript{58} The adoption of the declaration of the rights of the child by the general assembly of the UN on November 20, 1959 was indeed a very important event as regards the international recognition of the right of the child. The general assembly affirmed that the child has the right to enjoy special protection and to be given opportunities and facilities to be able to develop in healthy and normal

\textsuperscript{55} Ibid, p.223.
\textsuperscript{56} Sheelu Srivastava, “Child Labour as a Socio-Economic Problem in India” in Mahaveer Jain and Sangeeta Saraswat (ed.), Child Labour from Different Perspective, Manak Publications, New Delhi, p.6.
\textsuperscript{57} Suman Chauhan, child labour-Increasing Challenge, Educational Publishers and Distributors, New Delhi, 2010, p.29.
manner. The declaration contained 10 principles, being of comprehensive nature which formed code for the well-being of every child.\textsuperscript{59} The 1959 declaration expanded the 5 principles of the Geneva Declaration to 10 basic principles. There was no reference to bind the member states for their implementation. The child only remained as an object of concern, rather than a person with self-determination.

\subsection*{2.4.2 International Covenant on Civil and Political Rights, 1966}

Adopted by the UN General Assembly in 1966 and entered into force in 1976, it reaffirms the principles of the Universal Declaration of Human Rights (1948) with regard to civil and political rights and commits stair parties to take action to realize these rights. Article 8 states that no one should be kept in slavery or servitude or be required to perform forced or compulsory labour.\textsuperscript{60}

\subsection*{2.4.3 International Covenant on Economic, Social, and Cultural Rights, 1966}

Adopted by the UN General Assembly in 1966 and enforced in 1976, it reaffirms the principles of the Universal Declaration of Human Rights with regard to economic, social, and cultural rights. Article 10 states that parties are to protect young people from economic exploitation and employment in work likely to hamper their morals, their health, or lives, or likely to hamper their normal development. It also commits parties to set age limit below which the paid employment of child should be prohibited and punishable by law.\textsuperscript{61}

\subsection*{2.4.4 International Year of Child, 1979}

The UN General Assembly decided on 21st December 1976 to observe the year 1979 as the International year of child with the following objectives.\textsuperscript{62}

(a) To provide a frame work for advocacy on behalf of children and for enhancing the awareness of the special need of children on the parts of decision makers and the public.

\begin{flushleft}
\textsuperscript{60} See International Covenant on Civil and political Rights, 1966.
\end{flushleft}
(b) To promote recognition of the fact that programmes for children should be an integral part of economic and social development plans, with a view to achieving, in both the long term and short term, sustained activities for the benefit of children at the National and International level.

2.4.5 United Nation Convention on the Rights of Child (1989)

The UN Convention on the Rights of Child 1989 is a compendium of diverse rights described in nearly 40 Articles.63 This document unambiguously defines a standard childhood and it lays down distinctly the responsibilities of individuals, of institutions and of states for realization of those rights. Sarcastically, the euphoria in adopting the convention and the tremendous response in committing to uphold the rights by each state seems to with away in no time.64 UN convention on the rights of child defines a child as “an individual under the age of 18 years”.65 This convention was a landmark in international law. It became an unprecedented success as it reached almost universal acceptance with 190 state ratification in less than ten years.66

The UN Convention on the rights of Child is the first legally binding international treaty. The convention’s objective is to protect children from discriminations, neglect and abuse.67 It is the principal Children’s Treaty, covering a full range of civil, political, economic, Social and cultural rights.68 The convention includes the rights of the children to be recognized by state parties in respect of physical, spiritual, moral and social development.69 According to the United Nations’ declaration of the rights of the child, principle 9 reads as The child shall not be admitted to employment before an appropriate minimum age; he shall in no case be caused or permitted to engage in any occupation or

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67 Ibid, Article 3.
68 Ibid, Article 4.
69 Ibid, Article 27.
employment which would prejudice his health or education or interfere with his physical, mental or moral development.\textsuperscript{70}

The Right to Free Primary and Compulsory Education is also given in the convention.\textsuperscript{71} Article 32 of convention on the rights of the child obligation the government to protect children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education or to be harmful to the child’s health or physical, mental, spiritual, moral or social developments.\textsuperscript{72} The state parties shall take legislative, administrative, social and educational measures to ensure the implementation of the Convention\textsuperscript{73} and to achieve this target states shall:

(a) Provide for minimum age or minimum ages for admission to employment.

(b) Provide for appropriate regulation of the hours of work and conditions of employment.

(c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of its provisions.\textsuperscript{74}

It grants rights for children in peace time as well as during armed conflict, and provides for the implementation of those rights.\textsuperscript{75} The convention serve as both as rallying point and a useful tool for civil society and individual people, working to protect and promote children’s rights. In many ways, it is an innovative instrument.

Convention on the Rights of Child is one of the most ratified international instruments on any subject in the world. So far 189 countries of the world, all excepting the US and Somalia have ratified the convention. The right to play is a Fundamental Right of the child as enshrined in the convention on the rights of the child.\textsuperscript{76} The convention on the rights of child also contains important provisions which have a bearing an extreme forms of child labour, such as the sexual exploitations of children and the education and sale of

\textsuperscript{70} James Vadackumchery, The Police and Delinquency in India, APH Publishing Corporation, New Delhi, 1996, p.56.
\textsuperscript{71} Ibid, Article 28.
\textsuperscript{73} Ibid, Article 4.
\textsuperscript{74} Ibid, Article 32(2).
\textsuperscript{75} Ibid, Article 38.
\textsuperscript{76} Ibid, Article 31.
and trafficking in children for any purpose or in any form and against the recruiting children any form of war activities. India signed and ratified this convention in 1992. The United Nations convention on the Rights of the Child, 1989 is a landmark in international human rights legislations. India has also ratified this convention. But one main weakness of international instruments is that all these conventions are not enforceable and their ratification totally depends upon the member states. India has not yet ratified the ILO Convention no.138 and 182. India has given its own reasons for non-ratification. India has not ratified ILO Convention no.138 fixing minimum age of employment as 18 years. According to Child Labour (Prohibition and Regulation) Act, 1986, children below the age of 14 years are prohibited for employment in hazardous occupations/processes specified in the act. Government of India, follows the policy of ratifying the ILO conventions only when the existing laws and practices are in full conformity with the provision of said convention. Most Indian laws including the Child Labour (Prohibition & Regulation) Act, 1986 define ‘child’ as a person below 14 years of age. The Government of India has not ratified the Convention No. 182, due to constraint of fixing the minimum age of 18 years for employment of children. Despite these weaknesses, international initiatives are very helpful in eradicating child labour or regulating the hazardous form of child labour.

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\[\text{Ibid, Article 34.}\]