CHAPTER - VII

7.0. SUMMARY & SUGGESTIONS:

This is a study of working children in Hyderabad, Kurnool, Vijayawada and Machilipatnam cities of Andhra Pradesh in the age group of 6 to 14 years. The working children belong to low income groups who in urban centres generally reside in slums and depressed areas. In order to locate these children, a selection of 100 slums pockets in three districts viz, Hyderabad, Kurnool, and Krishna (representative areas) was made in consultation with the officials of the Municipal Corporations. In all 300 families were surveyed in these pockets to identify children in the age group of 6 to 14 years. The survey revealed that out of a total of 46,569 children, 6845 (14.7%) have already joined the work force. A gender wise distribution of these working children showed that 248 out of 300 (82.7%) of them were boys and 52 (17.3%) girls. As regards their distribution by age, 2.3 percent of them were in the age group of 6 to 8 years, 34.7% in the age group of 9 to 12 years and 63% in the age group of 12 to 14 years. Separate lists of male and female working children for each slum pockets were prepared and a sample, roughly 5 percent in the size of universe was drawn on the basis of regular interval. The sample (300) had the following dimensional characteristics.

i) It comprised 248 boys (82.7%) and 52 girls (17.5%).

ii) 2.3 percent of the working children belonged to the age group of 6-8 years, 34.7 percent to the age group 9-12 years and 63 percent to the age group of 12 to 14 years.

iii) By religion it showed that 211 out of 300 (70.3%) were Hindus, 83(27.7%) Muslims and 6 (2%) Christians.
iv) Of the Hindu working children as many as 77 (36.5%) out of 211 Hindu children belonged to the Scheduled Castes, 16 (76 %) Scheduled Tribes, 97 (45.9%) Backwar ` classes and 21 (10%) to other castes.

v) The distribution of working children in terms of educational level showed that as many as 74 (24.7%) had never gone to school, 223 (74.3%) school drop-outs and 3(1%) are attending the school while working.

vi) Out of 300 working children 279 (93%) working under an employer and 21 (7%) were self employed.

vii) Of the 279 employed children, 230 are boys (82.4%) and 49 girls (17.6%) and of the 21 self employed children, 18 are boys (85.7%) and 3 girls (14.3%) 

viii) Out of 300, 260 lived with their parents and 40 with guardians and relatives.

ix) As regards their occupational classification, 67 were engaged in Shops and Establishments, 30 hotels/Tea Stalls and Restaurants, 24 automobile garages, 23 Scooter/Cycle repair shops, 21, Machine Tools and Engineering shops, 19 in Beedi rolling units, 17, Stone crushing units, 12 Mining 11, Electrical shops, 10 each in Rag picking and Tailoring shops, 8 each in construction and Lime kiln quarries, 6 each in Tanning and Petty Business (Vegetable/fruits/ice cream vendors) 5 Coolies, 4 Carpentry, 3 each in Petrol Bunks and Domestic services. It is fundamentally true that poverty is the basic cause of child labour. Poor families generally first send their sons for employment away from home and daughters are engaged initially in manual work in or around families. Compared to regular wage employment, household employment may be less clear and less accounted for. Thus the impact of poverty is likely to be felt more in respect of male child labour participation than in respect of female child labour participation. Poverty being primarily caused by socio-economic history and socio-economic structure, in poor families where everybody able to work must work to make both ends meet, children cannot be spared for enrolment in schools. So non-enrolment in schools may be regarded as symptom of poverty and may be considered as a proxy variable for poverty. Of
course, because of general bias against female education, non-enrolment in school is a stronger symptom of poverty for male children than for female children. This will show that there is positive association between Child Work Participation and poverty intensity and itself will establish the first and foremost hypothesis of this research study.

7.1. SOCIO-ECONOMIC PROFILES OF THE FAMILIES OF WORKING CHILDREN:

i) The majority of the families of working children (63.8%) had 5 to 8 members, the average being 5.8 per family. There were more male members than female members - 3.2 males for every 2.6 females.

ii) The total number of members in the 260 families were 1508. Out of this 167 (11.1 percent) were children in the age group of 0 - 6 years and 706 (46.8%) adolescents and adult above 14 years.

iii) Out of 635 children in the age group of 6-14 years as many as 288 (45.4%) were found working. Again of these 364 (57.3%) were boys and 271 (42.7%) girls.

iv) Out of 364 male children, as many as 181 (49.7%) and out of 271 girls. 107 (39.5%) were found working.

v) Work participation of children from Hindu families was found greater than that of children in Muslim families.

vi) The overall percentage of literate in the sample families was considerably lower than the corresponding percentage for Andhra Pradesh (23.5% as against 44.09%). The female literacy is very low. This significantly shows that most of the child labourers mothers are illiterates and they will send their children to work rather than to attend schools.

vii) The dropout rates among girls are more than boys (84.6% and 72.2% respectively). This will establish the truth that where dropout rates are high at the Primary and
Middle School levels, including child labour is also high. This itself will test the 4th Hypothesis of this research study.

viii) The percentage of working children increased with age, 2.3 percent in the age group of 6-8 years to 34.7% in the age group of 9-12 years and 63 percent in the age group of 12 to 14 years. Most of the children joined the labour force by the time they were 10 years of age.

ix) Irrespective of sex, the eldest child in the family had invariably to work (96% boys and 90% girls).

x) A comparison of occupations of adult and children indicated that majority of adults were engaged in a variety of jobs such as Casual Labourers (31.7%) Petty Business (Hawkers/Vendors) (9.3 percent) Rickshaw pullers (4 percent) Domestic services (5.7 percent) etc. Whereas majority of children were engaged in Shops and Establishments(22.3%), Repair services (22.7%) Hotels/Tea Stalls (10 %) Manufacturing industries (4.3 %) etc. because of their ability to perform delicate jobs with their nimble fingers and their readiness to do any job.

xi) Inspite of the fact that there are roughly 3 earners per family, as many as 68% of the families earned only Rs.1001 to Rs.2000 per month. Children contributed to the extent of 23% of the family income with boys contributing 5.8 times more than girls. In 8 families children were the sole earners and in 24 they were the principal earners.

xii) The per capita monthly income of the family came down from Rs.83 to Rs.59. When the contribution of children was deducted from the family income.

xiii) The narrow gap between per capita monthly family income and expenditure (Rs.328 and Rs.364) hardly permit any saving to meet exigencies. The result was frequent borrowings.
7.2 PHYSICAL AND BEHAVIOURAL ASPECTS OF CHILD LABOUR:

7.2.1 CHILD WORKERS:

i) Out of 260 living with their parents as many as 25 (one fourth) never went to school.

ii) The percentage of girls drop out (84.6%) was significantly higher than that of boys (72.2%)

iii) Out of 279 children, 36.8 percent joined the work force between 6 and 9 years of age, 40.6 percent between 10 and 12 years of age and 22.6 percent between 12 and 14 years of age.

7.2.2 CHILD WORKERS UNDER EMPLOYERS:

i) In the sample of 300 working children, those who worked under the employer constituted 93 percent (279) Of these, 10.8 percent were in the age group of 6-9 years, 21.5 percent in the age group of 9-12 years and 67.7 percent in the age group of 12-14 years.

ii) 25 percent of the employed children of the sample study had never attended school, 74 percent are school dropouts and one percent of the children are attending the school while working.

iii) Seventy percent of these working children are Hindus. 28 percent Muslims and 2 percent Christians. Among the Hindu children 36.5 percent belonged to Scheduled castes, 7.5 percent Scheduled Tribes, 46 percent Backward castes and 10 percent other castes.

iv) Of the 40 children who stayed with their guardians/relatives, 32 were working under employers and 8 were self employed.
v) Thirty four percent of these children got their present job through the efforts of their co-workers, 11.8% each through parents, family members and employer himself employed the child, 7.2% children through their own efforts, 7.9% through their relatives, 2.2% child himself approached the employers through local agents.

vi) None of these children were asked to produce a certificate of medical fitness by the employer nor the employer got him/her medically examined.

vii) The parents were not asked by the employers to furnish any surety or security at the time of their children’s employment.

viii) Majority of children (89.7%) took up the present job out of their own willingness. In regard to the rest some coercion was used by their parents.

ix) As per their own statements majority of children (except domestic service and construction) were getting a salary of more than Rs. 250 per month. The average monthly income earnings of these children, came to Rs.378.

x) Children engaged in mining, stone-crushing were paid, their monthly salaries ranging from Rs. 558 and Rs. 450. Those working in household and construction work were the lowest paid in terms of hard cash. (Rs. 117 and Rs. 206 respectively on an average.)

xi) All children except 2% of them got their salaries on time.

xii) As many as 88% of these children received their salaries themselves. In the case of the rest, it was the parents/guardians who received the salary. Of those children who received their salaries themselves, as many as 78.5% handed over to parents/guardians, the whole of it, the rest withholding some part of it for themselves.

xiii) Out of 279 children who were earning, as many as 53 (18%) received pocket money to spend the way they liked.

xiv) 181 children (64.9%) worked on regular basis and the rest 98(35.1%) on daily wages.
xv) Out of 300 children (including 21 self employed children) only 12 children used to stay at the work place, the rest had to travel daily to and from the work place a distance ranging from less than one kilometer to 5 kilometers.

xvi) As many as 36.4% of children worked beyond 6.00 P.M.

xvii) The minimum number of hours a child worked was 4 hours and the maximum 12 hours, the average being 8.9 hours.

xviii) As many as 92 to 93% of children availed Sunday as a holiday and the rest on Monday in a week.

xix) Almost all parents visited the work place of their children once or twice in a month.

xx) Out of 279 establishments including households, 51.2% had employed only one child, 34.4% 2 to 5 children, 10.8%, 6 to 10 children, 1.8%, 11 to 25 children and 0.7%, 26 and more. 3 employers (1.1%) were not interviewed.

xxi) As many as 155 (51.7%) of children did not express any difficulties in the performance of their jobs. Of the remaining 145, 103(71%) said that the job was very tiresome, 10(6.8%) that it was hazardous (Mining, Construction and Lime-Kilns.) 9 out of 17 Beedi workers complained that it involved the maintenance of single posture which caused pain. 10 children (Tailoring) said that they are getting burning sensation in the eyes due to continuous stitching. 3 children(Petrol Bunk) said that physical conditions were bad and the remaining 10 that the job was very tiresome and often having body pains.

xxii) For 22.3% of children, the job was too tiring, for 47% it was tiring to some extent and for 30.7% it was not tiring at all.

xxiii) 28.7% of the children were satisfied with the treatment accorded to them by their employers and 71.3% were not satisfied.

xxiv) 68.1% of the employers were satisfied with the work behaviour of the child, 6.4% were not satisfied. 22.6% of the employers had a mixed feeling towards the work behaviour of their child employees and 2.9% were just satisfied.
xxv) According to parents, none of the employed children even met with an accident at the work place.

xxvi) 18.7% of children were highly satisfied with the job and hours of work, 81.3% were indifferent. Construction, Mining, stone crushing and children involved in Lime kilns are the most dissatisfied lot and those engaged in Hotels/ Restaurants, Ragpickers, Shops and Establishments, petty business and Electrical shops are the most satisfied.

xxvii) 14% of the children are most satisfied with their salaries. 81.3% with the length of their working hours. 73.3% with the physical conditions of the work

xxviii) 76.3 percent of the parents considered acquiring skill in the work is important for the well-being of their children, 15.7% considered education as more important and 8% of them education and work equally important. When the interest of the family was the focal point, 66% expressed themselves in favour of skill, 24.7% in favour of education and 9.3% in favour of both.

xxix) 76.7% of the parents felt that some trade should be taught to children before they reached the age of 14 years in the school. As many as 19.7% did not favour the idea and 3.6% expressed their ignorance in the matter.

xxx) 82.7% favoured some kind of vocational training for school dropouts.

xxxi) 89.9% felt that the vocational training should be organised under Government auspices.

xxii) 64.6% of the parents and 53.4% of the employers were of the view that child labour should not be abolished, instead working conditions should be improved. 31.7% of the parents and 33.3% of the employers believed that child labour should be abolished only in hazardous areas and only 3.7% of the former and 12.2% latter that it should be totally abolished. Three of the employers (1.1%) did not hold any definite view in the matter.

xxiii) Only a negligible percentage of parents (1.1%) said that they won't need any Governmental help if child labour was legally abolished.
xxxiv) The employers seemed to have colossal ignorance about the existing laws relating to working children. Out of 279 employers, only 52 (18.6%) were dimly aware about the existence of such laws.

xxxv) Out of these 52, only 30 were in favour of legislation regulating employment of children. Twenty of them believed that existing laws are being implemented properly.

xxxvi) Out of 279 employers owning establishments, only 13 mentioned officials visiting their establishments for inspection purposes off and on.

7.3. SOME SUGGESTIONS

1. It is a matter of common knowledge that working children in urban areas come from families which occupy the lowest rungs of the socio-economic ladder. These children join the labour force because of economic compulsion either to supplement the meagre earnings of the family or to act its sole breadwinner. Provision of employment to all able-bodied adults in these families or a sea change in their economic situation is a subject of long-term national strategy. However, if the employed adults in these families are paid wages according to the provisions of the Minimum Wages Act, their economic condition would improve markedly and they would not be compelled to put their children prematurely on pettiest jobs. It is, therefore, essential that Minimum Wages Act should be strictly enforced and adequate implementation machinery provided, if necessary.

2. Parents in poverty groups do not have a tradition of learning and they still fail to appreciate the role of child education as a key status raiser. In our study, as many as 66% of the parents considered work as more important in the interest of the family than education and 9% as important as the latter. It is therefore of utmost importance that these parents are made education-conscious through concerted
propaganda and publicity by mass media. The Adult Literacy campaign may provide an effective base for diffusing this consciousness among parents.

3. A large percentage of children of low income group parents either do not join the school system or drop out of it shortly to join the labour force. According to our study as many as 25% children in the universe of families either had not attended school, and 74% had dropped out. It is therefore imperative that well-planned school enrolment drive should be launched by Education Department officials to educate and motivate parents to put their children into schools. Moreover there is a need to make the school environment and the curricula more attractive and interesting so as to sustain the interests of the school-going children. There is also the need to introduce measures like supply of books, stationery, uniforms, and midday meals and evening snacks in the schools predominantly attended by children from poor families. Experience of some states like Kerala, Himachal Pradesh, Tamilnadun Maharashtra and Punjab could be of great help for policy initiation where the state Government’s policy on School Education, Social Infrastructure and Technical progress is gradually accelerating the process of Social Human Development.

4. Concerted efforts notwithstanding a substantial portion of poor children would work rather than attend regular schools. These working children may however have strong secret yearning for education. In our study 78.7% of the employed children expressed their willingness to avail of educational facilities, if provided without disturbing their work schedule. It is, therefore, suggested that a network of Formal or Non-Formal education centres should be established in slum areas to cater to the educational needs of working as well as non-working drop out children during suitable hours.
5. There is a need to vocationalise the school education so as to subserve the future work needs of children. Vocational courses should be introduced in schools for children in the age group of 11-14 years. The services of craftsmen in the community may be utilised to impart pre-vocational training to such children.

6. Training centres/Institutes should be set up in depressed areas to provide facilities for employment counselling, vocational guidance and training in skilled and semi-skilled jobs suited to the requirements of working children and needs of the community.

7. The Apprentices Act, 1961, provides for the training of apprentices in the age group of 14 years and above in different trades. Poor children under 14 years who dropout of the school system for one reason or another cannot, therefore, take advantage of the provisions of this Act. It would be worthwhile for the Ministry of Labour to explore the possibility of extending the provisions of this Act to cover children under 14 years for purposes of training in selected trades.

8. Many children from low income group whose parents go out for work cannot attend school because they have to look after the younger siblings. Community creches and day-care centres should, therefore, be established through voluntary effort in urban slum areas.

9. Destitute children also swell the ranks of the child labour force. The Union Department of Social Welfare is implementing a scheme of assistance to voluntary organisations for the welfare of children in need of care and protection. Ostensibly there is need to expand services under this programme.
10. Because of limited employment opportunities, adults and children have to compete with one another in the employment market. In order to save children from such a stiff competition it would be desirable if certain existing non-hazardous occupational areas are identified and preference to employment of children over adults is progressively stressed therein.

11. In view of the fast-changing production technology and the use of new processes, machines and chemicals etc., occupational hazards for working children have considerably multiplied. These hazards should be identified industry by industry if necessary through research studies the concerned departments and measures instituted to protect child workers. It would also be essential to constantly review the list of hazards occupations and to the child employment therein.

12. Article 45 of Constitution of India provides for free and compulsory education for all children until they complete the age of 14 years. It is clear from this article that the Constitution makers intended that children below 14 years should not be employed but should pursue education. In deference to our Constitution, it seems, therefore, desirable to have the minimum age of employment at 14 years in all State and Central legislations. This age bar however, should not apply to apprenticeship training of children above 12 years of age.

13. The existing legislative provisions in regard to child workers do not suffer from major structural deficiencies. However, the study shows the enforcement machinery is not adequate and well-oriented. There seems a paramount need to augment the strength of the Inspecting staff under the Factories Act as well as under the Shops and Commercial Establishments Act.
14. Employers invariably take work from children for much longer hours in various establishments than stipulated under law. If they are legally required to record in the employee’s attendance register the actual arrival and departure times of child workers, their circumvention of legal provisions in regard to working hours can substantially be curbed.

15. Child workers are not organised on the lines of trade unions of adult workers. It is essential to orient and involve trade unions in matters relating to the welfare and protection of child labour against exploitation.

16. The lapses of employers in implementing legislative and other provisions in regard to working children need to be widely publicised in order to build strong public opinion against defaulters. The Ministry of Information and Broadcasting, the State Directorate of Publicity and Labour Department should make use of mass media for the purpose.

17. There is an urgent need to educate the employers as well as the public about the existing legal provisions relating to working children. An educational brochure on such legal provisions and the harmful effect on working children of their violation should be prepared by concerned officials of State Government and Municipal Corporation and widely circulated among employers, trade union leaders and the general public.

18. Special Employment Bureau should be set up by voluntary organisations to facilitate suitable placement of children in need of work.

19. Voluntary Organisations like Mahila Mandals, welfare societies should conduct non-formal education classes for young domestic servants and persuade their
employers to meet humane treatment and ensure them the minimum facilities of life essentials for their proper growth and development.

20. The Shops and Establishments Act is being implemented by the Hyderabad Municipal Corporation under the overall supervision of the Labour Commissioner. The local leaders and influential persons often come in the way of proper implementation of the Act including the provisions relating to child workers. The State government may consider the transfer of implementation of this piece of legislation to Labour Department with a view to ensure an effective and integrated inspection of various kinds of establishments.

21. There is a need to have a fresh, intensive and meaningful training programmes to be organised for all departmental officers working with child labour in order to bring an attitudinal change in their policies and their efforts to implement these legislations. The training should be so planned that it generates a better appreciation of the problems of child labour.

22. In order to have community participation for the elimination of this problem, it is suggested that all the NGOs with the child labour shall be authorised to bring complaint cases directly in the court of law where they find any violation of regulations regarding child labour. This right can be given to any citizen of India also. The power of labour enforcement inspectors can be given to NGOs also for better implementation of these laws.

23. In order to facilitate speedy justice in the case of violation of child labour, at least one special court in every district which should be authorised to hear cases relating to child labour. If there are resource constraints then, in the first phase, those districts should be covered which are having intensive child labour.
(i) The number of special schools designed to cater to displaced child labour must be increased drastically.

(ii) The syllabus and curriculum of such special schools must be so designed that they impart some kind of vocational training besides their formal education plan.

(iii) The subjects for such vocational training shall be chosen as per the prevailing social and economic conditions of the particular area so that it will not create future unemployment problems for such displaced child labour.

(iv) All such schools shall be recognised by the Education Department and they must present certificates to all such child labour.

(v) All the teachers engaged in such schools must be provided special training designed to bring about attitudinal changes in those teachers.

(vi) The Education Department and NGOs must be entrusted with the responsibility of surveying the child labour-intensive belts and preparing an exhaustive list of all the child labour in the area and enrolling the children in these special schools before commencement of the next session.

(vii) The Researcher emphasised that special care should be taken of all drop-outs from such schools and monitoring must be done regularly.

(viii) Some employers who are willing to impart four hours training to child labour must be encouraged.

(ix) A special cell should be created in the Education Department in order to monitor the welfare and rehabilitation programme of displaced child labour.

(ii) All the displaced child labour must be provided with credit facilities from Banks after attaining the age of 14 so that they can start their own business. The need was felt because, at present, Banks provide credit facilities only after the age of 18.
(ii) The families of child labour must be made beneficiaries of all the poverty-eradication schemes of the Central and State Governments. They should be given priority in all such schemes so that they can be brought above the poverty line.

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(i) The syllabus of schools must include health education and nutrition education.

(ii) The Researcher felt that child labour must have compulsory health check-ups, health services and other medical benefits.

(iii) In order to provide health care and medical facilities, a comprehensive and coordinated policy has to be framed so that all health organisations should work together to achieve this aim. All Departments like health, social welfare and ICDS must be allotted targets in this scheme.

(iv) To strengthen this scheme, NGOs, the Labour Department and ESI Department must work together to implement it.

(v) This subject should be given importance in the planning of local bodies and their budgetary allocations as well as in village panchayats.

27 The identification of child labour and schemes for its eradication must figure in the agenda of regular DC meetings at the Mandal level. The Labour Department must have a representative in all such meetings in order to provide information of different Government schemes and legislations to the village pradhans and block pramukhs and seek their cooperation for finding solutions.

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(i) The Researcher felt that there is a need for forming a State Level Committee to identify, displace rehabilitate and create employment opportunities for all child labour in the State. This Committee must also involve NGOs and all other concerned Departments to implement schemes so framed.
(ii) Similarly at the district level, Committees should be formed which must have representation from NGOs working for child labour, the Social Welfare Department, ICDS, DRDA, the Education Department and Health Department. Eminent educationists, social workers and local institutions related to child welfare must also get representation on this Committee.

(iii) This Committee must be authorised to monitor and evaluate all the schemes regarding child labour running in this area. It must also frame the policy to rehabilitate child labour so displaced.

29. NGOs must be entrusted with the responsibility of creating awareness in the people regarding child labour. They must also educate the masses that an educated youth of the family will contribute much more to the family income than uneducated child labour.

30

(i) The child labour problem should get top priority in policy formulation.

(ii) A.P.State Government should formulate its own rules under the Child Labour (Prohibition & Regulation) Act, 1986.

(iii) Primary education facilities in Andhra Pradesh need to be strengthened.

(iv) Pressure groups should be established consisting of local influential, interested and committed persons in the areas of child labour concentration. Combined efforts of all including the Government, the politicians, the parents, N.G.O. and the World Organisations may be of immense help for achieving success in this task of social re-construction and development.
7.5. POLICY ISSUES:

In this section, we discuss the policies needed and some issues relating to eradication of child labour in Andhra Pradesh.

7.5.1. ECONOMIC GROWTH, POVERTY AND CHILD LABOUR:

The policies that improve economic growth and reduce poverty certainly would help in reducing child labour. Increase in adult wages are important to reduce the supply of child labour. A micro study by Swaminathan (1998) argues that economic growth alone is not sufficient to eradicate child labour. Her study examines features of child labour in an area of high economic growth in western India. Growth was associated with an increase in the number of child workers over the last 15 years. The analysis shows that children work at repetitive manual tasks that do not require long years of training or work experience. The work is low paying, involving drudgery and hazardous work forecloses the option of School education for most children. Thus aggregate economic growth is not a sufficient condition for reduction in child labour.

7.5.2. IMPACT OF LIBERALISATION:

Focus on export sector due to liberalization may increase demand for child labour. If we assume that quality of schooling is one of the determinant of child labour in the initial years of liberalization one would expect a dampening effect on schooling because of cuts in education expenditure. But in the medium education expenditures are likely to increase that can reduce child labour. The globalisation can reduce or increase the education expenditure depending on how the countries are successful in mobilizing resources through tax and non-tax sources and the priority given to education. Many developing countries seem to have realize the importance of education and the expenditure are likely to go up in future.
7.5.3. GOING BEYOND POVERTY: COMPULSORY EDUCATION:

The establishment of compulsory education for children is a necessary condition for the reduction and abolition of child labour.

7.6. POSSIBLE ALTERNATIVES

1. Temporary rehabilitation centres for children takes out of the working situations as integrating them into formal school system could be a possible alternative;

2. Residential or Non-Residential educational centres combined with the possibility of skill upgradation and procurement of employment is one of the alternatives for children who are already working and are taken out of his situation.

3. Children could also be trained in agricultural skills, traditional crafts and artisanship according to the need of the area.

4. Employers need to be motivated to realise their responsibility towards children employed by them. They should be made responsible for the children's education upgradation of skills and consequent placement in proper jobs. Such employers could be provided with incentives like exemption from the excise duties, taxes etc. from Government.

5. Another programme is to motivate people in the state to offer sponsorship to children who are currently working and need to be released and settled in an alternative manner for a continuous period of atleast five years. This can be done on an experimental basis by NGOs are even by concerned Government Departments.

7.7. APPROACH TO WORKING CHILDREN IN 'NON HAZARDOUS INDUSTRY'

The eradication or elimination of child labour is the basic goal. Child labour cannot be legitimised under any circumstances. In this perspective the existence child
labour in non-hazardous occupations also can not be justified. Even in this case what is required is a similar kind of approach with preventive and corrective elements as in the case of child labour in hazardous industries.

The only difference may be that the alternative for children working in non-hazardous industries can be worked out without weaning them out of the working situation immediately. Initially the effort can be to regulate working conditions, lower working hours, improve wages as to make it non viable for employers and provide development programmes for these children with a view to working out alternatives for them. This too, is looked upon as an interim measure.
CHILD LABOUR

↓

No Education

↓

Unskilled Jobs

↓

Exploitative Wages

↓

Denies Adults Employment

↓

Early Marriage

↓

Economic in Security

↓

Low Quality of Life

↓

Perpetuates poverty

↓

ABOLISH CHILD LABOUR

↓

Child Education

↓

Skilled Jobs

↓

Better Wages

↓

Higher Adult Employment

↓

Delayed Marriage fewer Children

↓

Economic Security

↓

Better Quality of Life

↓

Economic Advancement
ANNEXURE-I

Supreme Court of India – 1994
(Under Article 32 of the Constitution of India)

1. It may be that the aforesaid appeal lies at the back of the saying that “child is the father of man.” To enable fathering of valiant and vibrant man, the child must be groomed well in the formative years of his life. He must receive education, acquire knowledge of man and materials and blossom in such an atmosphere that on reaching age, he is found to be a man with a mission, a man who matters so far as the society is concerned.

2. Our Constitution makers, wise and sagacious as they were had known that India of their vision would not be a reality if the children of the country are not nurtured and educated. For this, their exploitation by different profit makers for their personal gain had to be first indicated. It is this need, which has found manifestation in Article 24, which is one of the provisions in Part-IV of our Constitution on the fundamental right against exploitation. The framers were aware that this prohibition alone would not permit the child to contribute its mite of the nation building work unless it received at least basic education. Article 45 was therefore inserted in our paramount parchment casting a duty on the State to endeavor to provide free and compulsory education to children. (It is known that this provision in Part-V of our Constitution is, after the decision by a Constitution Bench of this Court in Unni Krishnan, 1993-01 SCC 645, has acquired the status of fundamental right). Our Constitution contains some other provisions also to which we shall advert later, desiring that a child must be given opportunity and facility to develop in a healthy manner.
3. Despite the above, the stark reality is that in our country like many others, children are exploited lot. Child labour is a big problem and has remained intractable, even after about 50 years of our having become independent, despite various legislative enactment's, to which we shall refer in detail subsequently, prohibiting employment of a child in a number of occupations and avocations.

3-A. In our country, Sivakasi was once taken as the worst offender in the matter of violating prohibition of employing child labour. As the situation there has become intolerable the public spirited lawyer Sri M.C. Mehta, thought it necessary to invoke this court’s power under Article 32, as after all the fundamental right of the children guaranteed by Article 24 was being grossly violated. He, therefore, filed this petition. It once to be disposed off by an order of October 31, 1990, by noting that in Sivakasi, as on December 31, 1985, there were 221 registered match factories employing 27,338 workmen of whom 2941 were children. The Court then noted that the manufacturing process of matches and fireworks (for the manufacture of which also Sivakasi is a traditional center) is hazardous, giving rise to accidents including fatal cases. So, keeping in view the provisions contained in Article 39(f) and 45 of the Constitution, it gave certain directions as to how the quality of life of children employed in the factories could be improved. The court also felt the need of constituting a committee to oversee the directions given.

4. Subsequently suo moto cognizance was taken in the present case itself when news about an “unfortunate accident,” in one of the Sivakasi cracker factories was published. At the direction of the court, Tamilnadu Government filed a detailed counter stating, inter alias, that number of persons to die was 39. The Court gave certain directions regarding the payment of compensation and thought that an advocates committee should visit the area and make a comprehensive report relating to the various aspects of the matter, as mentioned in the order of August
14, 1991. The committee was to consist of (1) Sri R.K. Jain, a senior advocate; (2)Ms. Indira Jaisingh, another senior advocate, and (3) Sri K.C. Dua, Advocate.

5. The Committee has done a commendable job. It submitted its report on 11-11-91 containing many recommendations, the summary of which is to be found at pages 24-25 of the report, reading as below:

a) State of Tamilnadu should be directed to ensure that children are not employed in fire works factories.

b) The children employed in the match factories for packing purposes must work in a separate premises for packing.

c) Employers should not be permitted to take work from the children for more than six hours a day.

d) Proper transport facilities should be provided by the employers and State Government for traveling of the children from their homes to their work places and back.

e) Facilities for recreation, socialisation and education should be provided either in the factory or close to the factory.

f) Employers should make arrangements for providing basic diets for the children and in case they fail to do so, the Government may be directed provide for basic diet—one meal a day program of the State of Tamilnadu for school children any be extended to the child workers.
g) Piece-rate wages should be abolished and payment should be made on monthly basis. Wages should be commensurate to the work done by the children.

h) All the workers working in the industry, whether in registered factories or in unregistered factories, whether in cottage industry or on contract basis, should be brought under the Insurance Scheme.

1) WELFARE FUND: For Sivakasi area, instead of present committee, a committee should be headed by retired High Court Judge or a person of equal status with two social workers, who should be answerable either to this Hon’ble Court or to the High Court as may be directed by this Hon’ble Court Employers should be directed to deposit Rs.2/- per month per worker towards welfare fund and the State should be directed to give the matching contribution to the employers of all the industries whether it is registered or unregistered, whether it is cottage industry or on contract basis, to deposit Rs.2/- per month per worker.

i) A National Commission for children’s welfare should be set up to prepare a scheme for child labour abolition in a phased manner. Such a Commission should be answerable to this Hon’ble Court directly and should report to this Hon’ble Court at periodical intervals about the progress.

6. We put on record our appreciation for the commendable work done by the committee.

7. There is an affidavit of the President of the All India Chamber of Match Industries, Sivakasi, on record which contains its reaction to the recommendations of Committee. It is not necessary to deal with this affidavit. Objection to the committee’s recommendations was also filed by the President of Tamilnadu Fireworks and Anerces Manufactures Association. We do not propose to traverse
this affidavit as well. Both of these contain general statements and denial of what was found by the committee.

8. For the sake of completeness it may be stated that there are on record various reports relating to working conditions etc. of child labour at Sivakasi. First of these reports is of a Committee which had been constituted by the Labour Department by the Tamilnadu Government vide its G.O.Ms. dated 19-3-84 under the Chairmanship of Thiru N. Haribhaskar. The report of the Committee is voluminous, as it runs in to 181 pages and contains a number of annexes. The Committee reviewed the working conditions and measures taken to mitigate the sufferings of the child labour and has made various recommendations in Chapter-XI of its report. We also have a work of Collector of Kamarajar District titled “Integrated Project for the Betterment of Living Conditions of Women and Children Employed in Match Factories in Sivakasi area.” This work is of October, 1985. There is yet another report dealing with the causes and circumstances of the fire expositions which had taken place on 12-7-91 at Dawn Amerces Fireworks Industries and it contains remedial measures. The final report relating to Sivakasi workers is of 30th March, 1993, this relates to elimination of child labour in the match and fireworks industries in Tamilnadu. The representatives of Department of Labour Employment, Social Welfare and Education had prepared this report in collaboration with UNICEF and it speaks of “A proposed strategy framework.”

9. The Government of India as well has been apprising itself about the various aspects relating to child labour in various industries. A 16 member committee had come to be set up by a resolution of the Labour Ministry dated 6/7 February, 1979 under the Chairmanship of Sri M.S.Gurupadaswamy. The Committee submitted its report on 29-12-79 and made various recommendations which are contained in Chapter-V. The Labour Ministry had subsequently surveyed the problem of child labour departmentally as a part of the observance of international Child Year
Programme. The report (dated 24-6-81) mentions about the survey conducted in certain organised and unorganized sector of industries. It contains an account of employment, wages and earnings, working conditions and welfare activities relating to child labour both in organised and unorganised sectors. Chapter- iii of the report contains the conclusions of which what has been stated in para 4.5 deserves to be noted. The same is as below:

Extreme poverty, lack of opportunity for gained employment and intermittence of income and low standards of living are the main reasons for the wide prevalence of child labour. Though it is possible to identify child labour in the organised sector, which form a miniscule of the total child labour, the problem relates mainly to the unorganised sector where utmost attention needs to be paid. The problem is universal but in our case, it is more crucial.

3. National Child Labour Projects in Andhra Pradesh:

Government of Andhra Pradesh is one of the few States to respond to the call of the Central Government to formulate the projects for child labour concentrated areas. Out of the 76 districts in the country, 20 districts in the State are covered under the National Child Labour programmes. In all the 20 districts out of 23 districts in the State, the National Child Labour Project programmes are successfully grounded and several programmes have been launched to tackle the problem of child labour. Importance has been given to child workers employed in hazardous occupations mostly in rural areas. Under the programme 617 special schools for child labour have been functioning accommodating 38814 number of child workers. It is indeed very happy to note that preliminary report of Administrative Staff College of India which conducted evolution of the implementation of NCLP in Andhra Pradesh indicated that the implementation of NCLP is satisfactory.
IPEC In Andhra Pradesh:

Under the International programme on elimination of child labour launched by ILO 6 projects have been taken up in Andhra Pradesh targeting 6000 child workers employed in biscuit factories and several rural occupations in 2 districts.

Government Efforts In Augmenting Enforcement:

The State Government is committed to secure gradual and sequential elimination of child labour completely in the State. Towards this end, the State has taken several steps to augment the enforcement of labour laws dealing with child labour. The following steps have been taken:

Training Of Inspectors:

Providing training to the Factory and Labour Inspectors was found to be one of the important factors for achieving efficient enforcement of child labour legislation. Readiness on the part of the Inspectors to enforce the legislation to tackle the problem of child labour was lacking four years ago. For variety of reasons including the reason of implementing of several labour laws, required attention was not given to the item of child labour in enforcement. Realising the need for changing the attitudes and priorities of Inspectors, the Government conducted several training programmes for all the Enforcement Officers in collaboration with the National Labour Institute, UNICEF and National Institute of Rural Development. All the enforcement officers of the Labour and Factories Department have been trained several times in various courses to mentally prepare them to act on child labour without any reservation. It is happy to note that a visible change is noticed in the attitude of inspectors and results are very encouraging.
Child Labour Law in Andhra Pradesh:

In addition to the Central laws governing the child labour, the State of Andhra Pradesh has a special legislation to deal with the child labour in Shops and Establishments. The Andhra Pradesh Shops and Establishments Act, 1988 prohibits employment of children below the age of 14 in any shop or establishment throughout the State of Andhra Pradesh. In view of this prohibition the regulatory provisions contained in the child labour (Prohibition & Regulation) Act, 1986 in so far as the shops and establishments are concerned are not being implemented in the State. On the other hand the prohibitory provisions as contained in A.P.S.E. Act are being implemented.

During the last four years, the State has witnessed a series of enforcement actions on child labour. Increase in the number of Inspectors in concentrating on this item of work is clearly visible from the achieved results. The following table reveals the implementation statistics under A.P.Shoops and Establishments Act, 1988 on child labour material.

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<td>1.</td>
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<td>1995</td>
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<td>1996</td>
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<td>4.</td>
<td>1997</td>
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<td>863</td>
<td>96,570</td>
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<td>5.</td>
<td>1998(Upto June)</td>
<td>14,337</td>
<td>1929</td>
<td>1,53,745</td>
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Non Governmental Organisations:

Several non-Governmental organisations have been doing commendable work in the field of child labour in the State of Andhra Pradesh. Exchanging experiences, crystalising thoughts and coordinating the activities of various non-Governmental organisations was one of the items on the agenda of Government towards eradication of child labour.

Projects In Markapuram And Jaggampet:

Integrated Residential Complex which consists of 20 Schools for 1,000 child workers employed in Slate Industries of Markapur area is under implementation.

A project for child workers employed in tile industries of Jaggampet, East Godavari district is also under implementation. In all these projects, the non-Government organisations have been additionally involved.

Rehabilitation Packages By The State Government:

In addition to the NCLP Programmes, the State Government has also supplemented several efforts for the rehabilitation of child labour. In this direction, the Government has launched a Girl child project from the year 1997-98.

Integrated Girl Child Labour Project:

The Andhra Pradesh Government has launched an integrated girl child labour rehabilitation project for bringing attitudinal change in the society towards education of girl child and thus eliminate girl child labour practice in all the 23 districts. The State Government has allocated Rs.100 lakhs to this project during 1997-98. The objectives of this project besides the rehabilitation programmes are:
1. Withdrawing girl child below 14 years of age for work and enrolling them in the bridge course.

2. Motivating the parents for girl child education.

3. Sensitise the community to stop child labour practice and the need for girl child labour education.


**Back To School Programme:**

The Government of Andhra Pradesh has launched a project i.e. back to school programme in 1997. 40,000 children who are child workers and school dropouts were admitted into school during 1997. This year again the Government has announced a programme to cover one lakh child workers and school drop outs. The objectives of the scheme are:

1. To identify the children who are either drop outs and never attend the schools and to prepare them for admission into schools depending on their age their capacity to learn and reach the required academic Standard.

2. To identify the children who are working as bonded labour and who are engaged to work in the houses or to look after the cattle etc., or any other working children and to prepare them for admission into schools after making them undergo a short bridge course specially prepared for the purpose.

The strategy adopted for this programme is to admit these children into summer camps started in social welfare hostels utilising the infrastructure.
3. To admit them in nearby schools depending upon their age and capacity to reach the required academic standards after completion of summer camp.

4. To admit them in hostels on priority.

The Government of Andhra Pradesh is fully committed to eradicate the child labour from the State in a progressive manner. This also committed towards securing labour welfare by organising several welfare programmes for smooth transition of child workers from work place to rehabilitation centres. The Government will take up series of actions in future towards this end.

**Problems In Implementing The Law:**

At the Asian Regional Seminar on Child Labour (New Delhi, February, 1991) Ms.Meena Gupta of the ILO New Delhi has described the special problems of enforcement of child labour laws and regulation. Ms.Gupta has grouped the difficulties arising in the implementation of labour laws into three categories.

- difficulties arising out of the social environment
- physical and logistical difficulties.
- legal difficulties.

The difficulties faced by law enforcing agencies in Andhra Pradesh are very much similar to those mentioned above. Using the “adaptability” and ‘nimble finger’ arguments employers of child labourers do not consider themselves as law breakers. They think it is impractical and idealistic of the Government to expect industry to flourish and be viable without such workers.
Several householders employing children for domestic help that but for food, clothing and shelter that they were providing, these children would be destitute and homeless. Some householders compared them with street children and rag pickers to show how better were domestic helps as they ate what the household ate, and even had time to play with the employers’ children.

Parental attitudes are a big hurdle to law enforcement. In a domestic country though it is mandatory for Government to ensure universal elementary education the same cannot really be called compulsory education for all those below 14 because there is actually no compulsion on the parents’ part to send their children to school.

In Andhra Pradesh in every school at the village level teachers are expected to go around, collect census of children in the area by age and get them to schools. Some school inspectors whom the writer met felt that although this is true there was no incentive for teachers to do so. They are paid insufficiently, travel miles (sometimes by foot) to reach school in all seasons and meet hostile parents who consider it a hindrance for sending children to work. Parents in turn cite that the schools have no infrastructure or teaching aids and therefore find no use in sending their children to schools.

Poorer parents feel that it is in fact the duty of their children to contribute to the family income as soon as he/she is old enough to do so.

The physical and logistical difficulties arise when there are too many units employing children. Although there are laws applicable to the unorganised sector (Child Labour Prohibition and Regulation Act, 1986) they are difficult to be implemented as for instance in the case of household industries. There are several such industries in Andhra Pradesh: The Beedi makers of Nizamabad, Chittoor and the weavers in Mahbubnagar.
and Nalgonda. In these and such cases inspection is difficult since it means intrusion into the privacy of home.

Moreover the Child Labour (Prohibition and Regulation) Act, 1986 exempts “family work” or work done by a man, his wife and their children from the purview of the Act. But it is important to note that the Act intended to exempt only family work - but not “farmed out, piece-rate work, where the home merely replaces the factory premises.

At the ground level this however gives rise to two types of situation. The labour inspectors feel that this exemption made for “the family” is being treated as a loophole by those who do ‘sub-contracted acted’ work at piece-rate. Inspectors who lack zeal in work report “nil” giving the benefit of doubt to those units with child workers.

A glaring difficulty in implementing labour laws is the case cited by a labour inspector in the Kattedan area of Rangareddy district. When surprise visits are made to the area the inspector finds child workers in the first unit (randomly chosen) but by the time he gets to the second or the third units child workers are not physically present - word about the presence of the inspector in the area spreads faster. There are no records maintained of the child workers even if they are legitimately employed - making it extremely difficult to prove the case. Since labour inspectors’ visit can only be periodic, children continue to be employed with impunity.

Legal difficulties are almost insurmountable. Even when a labour inspector finds an industrial unit employing children in violation of the law, taking up prosecution is a cumbersome and time consuming process. Small units claim in the courts that the employed children as their own or as visitors of adult employees. As documentary evidence and witnesses are almost always required by the court the labour inspector is often left to collect non-existent employment records. Witnesses are never forthcoming.
The age of any working child is very difficult to prove. Birth certificates are rarely heard of in rural Andhra Pradesh. Among urban poor such things are not given attention to. Existing laws require medical certificate to be kept at the workplace. If unavailable, it is for the inspector to have the child immediately examined at the employer's cost. All this is bound to take time with no guarantee that the medical certificate is foolproof.

Where offenses relating to employment of child labour have been proved the courts have passed light sentences. Inspite of provisions in the Child Labour (P&R)Act, 1986, explicitly laying 3 months imprisonment and a fine of not less than Rs.10,000 there are reports of courts imposing less than statutory minimum penalty. Appeals to higher courts are allowed and this means more time and perseverance on the part of the labour inspectors.

**Statutory Provisions.**

We may now note as to how the problem of child labour has been viewed by our policy makers and what efforts have been made to take care of this evil. We have shown our concern in this sphere ever since the International Labour Organisation, set up in 1919 under the League of Nations, had felt that there should be International guidelines by which the employment of children under a certain age could be regulated in industrial undertakings. It therefore suggested that the minimum age of work be 12 years. The same required ratification by the Government of British India and during the Legislative Assembly debates, the question of raising the minimum age from 9 to 12 years had created a furore. The Hon'ble Sir Thomas Holland had said in the Legislative Assembly in February, 1921 that if the minimum age were raised, the same would upset the organisational set-up of most textile mills which were the principal employers of children. On the other hand, there were those, who felt that the answer to the problem lay in compulsory primary education. The House ultimately was divided with 32 members voting for raising the minimum age to 12 and 40 voting against it. The
Assembly therefore recommended to the Governor-General-in Council that the Draft Convention should be ratified with certain observation.

May it be stated that the International Labour Organisation has been playing an important role in the process of gradual elimination of child labour and to protect child from industrial exploitation. It has focussed five main issues:

1. Prohibition of child labour.
2. Protecting child labour at work.
3. Attaching the basic causes of child labour.
4. Helping children to adapt to future work.
5. Protecting the children of working parents.

Till now, 18 Conventions and 16 recommendations have been adopted by the I.L.O. in the interest of working children all over the world.

To continue our narration of steps taken here, a Royal Commission on Labour came to be established in 1929 to inquire into various matters relating to labour in this country. The report came to be finalised in 1931. It brought to light many inequities and shocking conditions of child labour in different industries and had found that children had been obliged to work any number of hours per day as required by their masters. It was also found that they were subject to corporal punishment. The Commission has felt great concern sums of money and as this system was found to be indefensible it recommended that any bond placing a child should be regarded as void.

The recommendations of the Commission came to be discussed in the Legislative Assembly and the Children (Pleading of Labour) Act, 1933 came to be passed, which may be said to be the first statutory enactment dealing with child labour.
Many statutes came to be passed thereafter. As on today, the following legislative enactment are in force prohibiting employment of child labour in different occupations:

(i) Section 76 of Factories Act, 1948:

"Prohibition of employment of young children. No child who has not completed his fourteenth year shall be required or allowed to work in any factory."

(ii) Section 24 of Plantation Labour Act, 1951:

"No child who has not completed his twelfth year shall be required or allowed to work in any plantation."

(iii) Section 109 of Merchant Shipping Act, 1951: "No person under fifteen years of age engaged or carried to sea to work in any capacity in any ship except:

(a) in a school ship, or training ship, in accordance with the prescribed conditions, or

(b) in a shop in which all persons employed are members of one family or

(c) in a home-grade ship of less than two hundred tons gross;

(d) Where such person is to be employed on nominal wages and will be in the charge of his father or other adult near medal relative."

(iv) Section 45 of Mines Act, 1952:

(1) No child shall be employed in any mine nor shall any child be allowed to be present in any part of a mine which is below ground or in any (open cast working) in which mining operation is being carried on.
(2) After such date as the Central Government may by notification in the Official Gazette appoint in this behalf no child shall be allowed to be present in any part of as mine above ground where any operation connected with or incidental to any mining operation is being carried on.

(v) Section 21 of Motor Transport workers Act, 1961: No child shall be required or allowed to work in any capacity in any motor transport undertaking.

(vi) Section 3 of Apprentices Act, 1961:
Qualifications for being engaged as an apprentices: A person shall be not qualified for being engaged as an apprentice to undergo apprenticeship training in any designated trade, unless he---
(a) is not less than fourteen years of age, and
(b) satisfied such standards of education and physical fitness as may be prescribed, different designated grades and for different categories of apprentices.

(vii) Section 24 of Beedi and Cigar Workers Conditions of or allowed to work in any industrial premises.


(ix) Shops and Commercial Establishment Acts under different nomenclatures in various States.

22. The aforesaid shows that the Legislature has strongly desired prohibition of child labour Act 61 of 1984 is, ex facie, a bold step. The provisions of this Act, other than Part-III came into force at once and for Part-III to come into force a notification by the Central Government is visualised by section 1(3) which notification covering all classes of establishments throughout the territory of India was issued on May 26, 1993. @3.Section 3 of this Act has prohibited employment of children in certain occupations and processes. Part-A of the Schedule to the Act contains the names of the occupations in which no child can be employed or
permitted to work and in Para-B names of some processes have been mentioned in which no child can be employed or permitted to work. It would be profitable to quote Parts-A and B of the Schedule which read as below:

**Part-A.**

**Occupations.**

Any occupation connected with:

(1) transport of passengers, goods or mails by railway;

(2) cinder picking, clearing of an ash pit or building operation in the railway premises;

(3) work in a catering establishment at railway station involving the movement of a vendor or any other employee of the establishment from one platform to another or into or out of a moving train;

(4) work relating to the construction of a railway station or with any other where such work is done in close proximity to or between the railway lines, and

(5) a port authority within the limits of any port.

**Part-B.**

(1) Bidi-making.

(2) Carpet-weaving.

(3) Cement manufacture, including bagging of cement.

(4) Cloth printing, dyeing and weaving.

(5) Manufacture of matches, explosives and fire-works.

(6) Mica-cutting and splitting.

(7) Shellac manufacture.

(8) Soap manufacture.

(9) Tanning.

(10) Wool cleaning.

(11) Building and construction industry.
Section 14 of the Act has provided for punishment upto one year (minimum being 3 months) or with fine upto Rs.20,000/- (minimum being ten thousand) or with both, to one, who employs or permits any child to work in contravention of provisions in Section 3. Even so it is common experience that child labour continues to be employed. As to why this has happened despite the Act of 1986 has come to be discussed by Neera Burra, in her above-mentioned book at pages 246 50 250 of the 1995 edition. It has been first pointed out that the occupations and processes dealt by the Act are same about which the repealed statute (Employment of Children Act, 1938) had mentioned except that in Part-B one process has been added the same being “building and construction industry.” According to Neera, there are a number of loopholes in the Act which has made it “completely ineffective instrument for the removal of children working in industry.” One of the clear loopholes mentioned is that children can continue to work if they are a part of family of labour. It is not necessary for our purpose to go into other infirmities pointed out. Nonetheless it deserves to be pointed out that the Act does not use the word “hazardous” anywhere, the implication of which is the children may continue to work in those processes not involving chemicals. Neera has tried to show how impracticable and unrealistic it is to draw a distinction between hazardous and non-hazardous processes in a particular industry. The suggestion given is that what is required is to list the whole industry as banned for child labour which would make the task of enforcement simpler and strategies of evasion more difficult.

Failure: Causes:

We have therefore to see as to why is it that child labour has continued despite the aforesaid statutory enactment. This has been a subject of study by a good number of authors. It would be enough to note what has been pointed out in “India Child Labour” by Dr. J.C.Kulshreshtha.
This aspect has been dealt in Chapter-11. According to the author, the causes of failure are:

1. Poverty;
2. Low wages of the adults;
3. Unemployment;
4. Absence of schemes for family allowance;
5. Migration to urban areas;
6. Large families;
7. Children being cheaply available;
8. Non-existence of provisions for compulsory education;
9. Illiteracy and ignorance of parent; and
10. Traditional attitudes.

Nazir Ahman Shah has also expressed similar views in his book “Child Labour in India.” In the article at pages 65 to 68, 1993 (3) SCJ (Journal Section) title “Causes of the exploitation of Child labour in India” Dr. Amar Singh and Raghuvinder Singh, who are attached to Himachal Pradesh University have taken the same views.

Of the aforesaid causes it seem to us that the poverty is basic reason which compels parents of a child despite their unwillingness to get it employed, the Survey Report of the Ministry of Labour (supra) has also so stated otherwise no parents, specially no mother, would like that a tender age child should toil in a factory in a difficult condition. Instead of it enjoying its childhood at home under the paternal gaze.

What To Do?

It may be that the problem would be taken care of to some extent by insisting on compulsory education. Indeed Neera thinks that if there is at all a blueprint for tackling the problem of child labour, it is education. Even if it were to be so, the child of a poor
parent would not receive education, if per force it has to earn to make the family meet both the ends. Therefore unless the family is assured of income all around, problem of child labour would hardly get solved and it is this vital question which has remained almost unattended. We are however of the view that till an alternative income is assured to the family the question of abolition of child labour would really remain a will of the wisp. Now if employment of child below that age of 14 a constitutional indication in so far as work in any factory or mine engagement in other hazardous work and if it has to be seen that all children are given education till the age of 14 years in view of this being a fundamental right now and if the wish embodied in Article 39(a) that the tender age of children is not abused and citizens are not forced by economic necessity to enter advocating unsuited to their age and if children are to be given opportunities and facilities to develop. In a healthy manner and childhood is to be protected against exploitation as visualised by Article 39(1) it seems to us that the least we ought to do is see to the fulfillment of legislative intendment behind enactment of the Child Labour (Prohibition and Regulation) Act, 1986. Taking guidance therefrom we are of the view that the offending employer must be asked to pay compensation for every child employed in contravention of the provisions of the Act a sum of Rs.20,000/- and the Inspectors whose appointment is visualised by section 17 to secure compliance with the provision of the Act should do this job. The Inspectors appointed under section 17 would see that each child employed in violation of the provisions of the Act, the concerned employer pays Rs.20,000/- which sum could be deposited in a fund to be known as Child Labour Rehabilitation-cum Welfare Fund. The liability of the employer would not cease even if he would desire to disengage the child presently employed. It would perhaps be appropriate to have such a fund district wise or area wise. The fund so generated shall form corpus whose income shall be used only for the concerned child. The quantum could be the income earned on the corpus deposited qua the child. To generate greater income, fund can be deposited in high yielding scheme of any nationalised Bank of other public body.
As the aforesaid income could not be enough to dissuade the parent/guardian to seek employment of the child. The State owes a duty to come forward to discharge its obligation in this regard. After all the aforementioned constitutional provisions have to be implemented by the appropriate Government, which expression has been defined in section 2(f) of the Act to mean, in relation to establishment under the control of the Central Government or a railway administration or a major part of a mine or oilfield, the Central Government and in all other cases the State Government.

Now strictly speaking a strong case exists to invoke the aid of the Article 41 of the Constitution regarding the right to work and to give meaning to what has been provided in Article 47 relating to raising of standard of living of the population and Articles 39(c) and (f) as to non-abuse of tender age of children and giving opportunities and facilities to them to develop in a healthy manner for asking the State to see that an adult member of the family whose child is in employment in a factory or a mine or in other hazardous work gets a job anywhere in lieu of the child. This would also see the fulfillment of the wish contained in Article 41 after about half a century of its being in the paramount parchment like primary education desired by Article 45, having been given the status of fundamental right by the decision in Unni Krishnan. We are however not asking the State at this stage to ensure alternative employment in every case covered by Article 24, as Article 41 speaks about right to work “within the limits of the economic capacity and development of the State.” The very large number of child labour in the aforesaid occupations would require giving of jobs to very large number of adults, if we were to ask the appropriate Government to assure alternative employment in every case which would strain the resources of the State, in case it would not have been able to secure job for an adult in a private sector establishment or for that matter in a public sector organisation. We are not issuing any direction to do so presently. Instead we leave the matter to be sorted out by the appropriate Government. In those cases where it would not be possible to provide job as above mentioned, the appropriate Government would as its contribution/grant, deposit in the aforesaid Fund a sum of
Rs.5,000/- for each child employed in a factory or mine or in any other hazardous employment.

The aforesaid would either see an adult (whose name would be suggested by the parent guardian of the concerned child) getting a job in lieu of the child or deposit of a sum of Rs.25,000/- in the Child Labour Rehabilitation-cum-Welfare Fund. In case of getting employment for an adult the parent/guardian shall have to withdraw his child from the job. Even if no employment would be provided the parent/guardian shall have to see that his child is spared from the requirement to do the job as an alternative source of income would have become available to him.

To give shape to the aforesaid directions, we require the concerned States to do the following:

1) A survey would be made of the aforesaid type of child labour, which would be completed within six months from today.

2) To start with, work could be taken up regarding those employment which have been mentioned in Article 24 which may be regarded as core sector to determine which the hazardous aspect of the employment would be taken as criteria. The most hazardous employment may rank first in priority to be followed by comparatively less hazardous and so on. It may be mentioned here that the National Child Labour Policy as announced by the Government of India has already identified some industries for priority action and the industries to be identified are as below:

The match industry in Sivakasi, Tamilnadu.
The Diamond polishing industry in Surat, Gujarat.
The precious stone polishing industry in Jaipur, Rajasthan.
The glass industry in Firozabad, Uttar Pradesh.
The brass-ware industry in Moradabad, Uttar Pradesh.
The hand-made carpet industry in Mirzapur-Bhadohi, Uttar Pradesh.
The lock-making industry in Aligarh, Uttar Pradesh.
The slate industry in Markapur, Andhra Pradesh.
The slate industry in Mandsaur, Madhya Pradesh.
ANNEXURE II

THE CHILD LABOUR (PROHIBITION AND REGULATION) ACT, 1986

23rd December, 1986.

An Act to prohibit the engagement of children in certain employment and to regulate the conditions of work of children in certain other employment. Be it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:-

Part 1

Preliminary

1. Short title, extent and commencement

(1) This Act may be called the Child Labour (Prohibition and Regulation) Act, 1986.

(2) It extends to the whole of India.

(3) The provisions of this Act, other than Part III, shall come into force at once, and Part 111 shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different states and for different classes of establishments.

2. Definitions

In this Act, unless the context otherwise requires.

(i) "appropriate Government" means, in relation to an establishment under the control of the Central Government or a railway administration or a major port or a mine or oilfield, the Central Government, and in the other cases, the State Government;

(ii) "Child" means a person who has not completed his Fourteenth year of age.

Schedule is carried on:

Provided that nothing in this section shall apply to any workshop wherein any process is carried on by the occupier with the aid of his family or to any school established by, or receiving assistance or recognition from, Government.
3. Power to amend the Schedule

The Central Government, after giving by notification in the Official Gazette, not less than three months notice of its intention so to do, may, by like notification, add any occupation or process to the Schedule and thereupon the Schedule shall be deemed to have been amended accordingly.

4. Child Labour Technical Advisory Committee

(1) The Central Government may, by notification in the official Gazette, constitute an advisory committee to be called the Child Labour Technical Advisory Committee (hereafter in this Section referred to as the Committee) to advise the Central Government for the purpose of addition of occupations and processes to the schedule.

(2) The committee shall consist of a Chairman and such other members not exceeding ten, as may be appointed by the Central Government.

(3) The committee shall meet as often as it may consider necessary and shall have power to regulate its own procedure. (4) The committee may, if it deems it necessary so to do, constitute one or more sub-committees and may appoint to any such sub-committee, whether generally or for the consideration of any particular matter, any person who is not a member of the committee.

(4) The term of office of the manner of filling casual vacancies in the office of, and the allowances, if any, payable to the Chairman and other members of the committee, and the conditions and restrictions subject to which the committee may appoint any person who is not a member of the committee as a member of any of its sub-committee shall be such as may be prescribed.
PART 11

MIGRANT CHILD LABOUR IN INDIA

5. Regulatton of Conditions of Work of Children

Application of Part The provisions of this Part shall apply to an establishment or a class of establishments in which none of the occupations or processes referred to in section 3 is carried on.

6. Hours and period of work

(1) No child shall be required or permitted to work in any establishment in excess of such number of hours as may be prescribed for such establishment or class of establishments.

(2) The period of work in each day shall be so fixed that no period shall exceed three hours and that no child shall work for more than three hours before he has had an interval for rest for at least one hour.

(3) The period of work of a child shall be so arranged that inclusive of his interval for rest, under sub-section (2), it shall not be spread over more than six hours, including the time spent in waiting for work on any day.

(4) No child shall be permitted or required to work between 7 p.m. and 8 a.m.

(5) No child shall be required or permitted to work overtime.

(6) No child shall be required or permitted to work in any establishment on any day on which he his already been working in another establishment.

7. Weekly holidays

Every child employed in an establishment shall be allowed in each week, a holiday of one whole day, which day shall be specified by the occupier in a notice permanently exhibited in a conspicuous place in the establishment and the
day so specified shall not be altered by the occupier more than once in three months.

8. Notice to Inspector

Every occupier in relation to an establishment in which a child was employed or permitted to work—immediately

PART 111

MIGRANT CHILD LABOUR: POLICY DIMENSIONS

9. (1) Before the date of commencement of this Act in relation to such establishment shall, within a period of thirty days from such commencement, send to the Inspector within whose local limits the establishment is situated, a written notice containing the following particulars, namely:

(a) the name and situation of the establishment;

(b) the name of the person in actual management of the establishment;

(c) the address to which communications relating to the establishment should be sent; and

(d) the nature of the occupation or process carried on in the establishment.

(2) Every occupier, in relation to an establishment, who employs, or permits to work, any child after the date of commencement of this Act in relation to such establishment, shall, within a period of two days from the date of such employment, send to the inspector within whose local limits the establishment is situated, a written notice containing the particulars as are mentioned in sub-section (1).
Explanation: For the purposes of sub-sections (1) and (2), "date of commencement of this Act, in relation to an establishment" means the date of bringing into force of this Act in relation to such establishment. (3) Nothing in sections 7, 8 and 9 shall apply to any establishment wherein any process is carried on by the occupier with the aid of his family or to any school established by, or receiving assistance or recognition from, Government.

10. Disputes as to age

1Q. If any question arises between and in respect of and an occupier as to the age of any child who is employed or is permitted to work by him in an establishment, the question shall, in the absence of a certificate as to the age of such child granted by the prescribed medical authority, be referred by the Inspector for decision to the prescribed medical authority.

11. MIGRANT CHILD LABOUR IN INDIA

(1) Maintenance of register

There shall be maintained by every occupier in respect of children employed or permitted to work in any establishment, a register to be available for inspection by an Inspector at all times during working hours or when work is being carried on in any such establishment showing

(a) the name and date of birth of every child so employed or permitted to work;
(b) hours and periods of work of any such child and the intervals of rest to which he is entitled;
(c) the nature of work of any such child; and
(d) such other particulars as may be prescribed.
Display of notice containing abstract of sections 3 and 14 12. Every railway administration, every port authority and every occupier shall cause to be displayed in a conspicuous inaccessible place at every station on its railway or within the limits of port or at the place of work, as the case may be, a notice in the local language and in the English language containing an abstract of sections 3 and 14.

12. Health and safety

(1) The appropriate: Over time may by notification in the official Gazette, make rules for the health and safety of the children employed or permitted to work in any establishment or class of establishments.

(2) Without prejudice to the generality, of the foregoing provisions, the said rules may provide for all or any of the following matters, namely:

(a) Cleanliness in the place of work and its freedom from nuisance;
(b) Disposal of wastes and effluents;
(c) Ventilation and temperature;
(d) Dust and fume;
(e) Artificial humidification;