CHAPTER-3

LABOUR LEGISLATIONS AND PROTECTION OF CHILDREN IN INDIA
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India has been consistently following a proactive child labour policy through its Constitutional provisions, legislation and administrative measures. In India, the earliest legislation which gave alleged statutory protection to the working child was the Indian Factories Act of 1881, which prescribed a minimum age of Seven years. Since then, successive amendments have succeeded in raising the minimum age of employment, restricting the hours of work, improving the employment conditions, and providing measures for health and safety of child labour. New areas of industrial activity have been covered through protective legislation beginning from the enactment of Mines Act, 1901 and the Employment of Children Act, 1938. After Independence, the Constitution was also committed to the protection and promotion of the interest of the child which gets expression through Articles 23, 24, 39 (e) and 45. The Government of India also setup various committees such as the Labour Investigation Committee 1954, Harbans Singh
Committee 1976 - 77, Gurupada Swamy Committee - 1979, Sant Mehta Committee - 1983 and L.M. Singhvi Committee, 1989. The different committee highlighted the nature and magnitude of child labour in the different sectors which involve child labour. All the committees strongly recommended that a uniform law has to be made and a uniform age has to be fixed in order to tackle the problem of child labour. However each committee had its specific recommendations which culminated in the Child Labour (prohibition and Regulation ) Act, 1986 which prohibits the employment of children below 14 years in certain occupations and processes.

The problem of child labour has been a world - wide problem. Industrialisation on a large scale leads to the employment of children in factories, workshops and other unregulated occupations. It becomes a matter of deep concern to find out ways and means which may put an end to the employment and exploitation of children who are forced to join the labour stream. In recent decades, steady progress has been made in developing countries in the field of School education, resulting in a considerable improvement in the
School enrolment of children. This program has especially helped in bringing down the incidence of child labour.

Adequate discussion on the status of children is significantly absent in the debates of the Constituent Assembly during the framing of the Constitution. The reason can be that this matter might have been taken for granted during deliberations. However, when the Constitution was adopted, the preamble unequivocally states that social, economic and political justice, liberty of thought, expression, belief, faith opportunity and fraternity assuring the dignity of the individual and the unity and integrity of the nation will be secured to all the citizens. It recognizes the need for granting special protection to children. The founding fathers were wise enough to provide that the children should also have their distributive justice in future in free India. Therefore, special provisions ensuring justice to children have been incorporated in part III with Fundamental Rights and part IV devoted to Directive Principles of State Policy.

3.1. The Constitutional Framework

The Constitution of India is an elaborate document with 395 Articles which are divided into 22 parts and having 12
Schedules. It is one of the most comprehensive Constitutions in the world. This basic document of the country makes special provisions for certain selected classes of people like backward class, women, children etc. This document even though is the supreme law of the land, it is people of India who have given to themselves this Constitution. The preamble to the Constitution states that the people of India have given to themselves the document. The Constitutional provision dealing with welfare of children are explicit and are directly categorized into two categories. The explicit provisions dealing with the child welfare are Article 15 (3), 24, 39 (e) and 45. One of the important features of the Constitution of India is that while it recognizes the principle of equality before law, it provides for protective discrimination. For example, under Article 15(3) of the Constitution it is provided that State can make special provisions for women and children. Similarly, clause 4 of Article 15 allows the state to make provisions for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and Scheduled Tribes. Part III of the Constitution guarantees certain fundamental freedom to the citizens of the country and imposes certain restrictions on the State’s power. The
Constitution also authorizes the State to impose certain reasonable restrictions on the rights under third chapter. The right that are guaranteed under this chapter are:

- Equality before law (Article – 14)

- Prohibition of discrimination on certain grounds (Art-15)

- Equality of opportunity in matters of public employment (Art-16)

- Abolition of titles (Article- 18)

- Protection of certain rights regarding freedom (Art- 19)

- Protection against ex-post facto laws and double jeopardy. (Art-20)

- Protection of life and personal liberty (Art 21)

- Protection against arrest and detention in certain cases (Art-22)

- Prohibition of employment of children in certain cases (Art-24)

- Right of freedom of religion. (Art-25)
— Cultural and educational right, (Article 29, 30) and

— Right to Constitutional remedies (Art-32)

3.11. Child Labour Welfare Under

Fundamental Rights:

Part III of Constitution of India contains a long list of Fundamental Rights. This chapter has very well been described as the MagnaCarta of India. Fundamental Rights are limitations upon all the powers of the government, executive as well as legislative and they are essential to the preservation of public and private rights, notwithstanding the representative character of political institutions. The rights are regarded as fundamentals because they are most essential for the individual for the development of his full intellectual, moral and spiritual potentialities. The negation of these rights will hamper the individuals personality development. The declaration of fundamental rights under the Constitution limits governmental activities in the interest of the liberty of the citizens. Thus children have rights to enjoy all the fundamental rights which are guaranteed to the citizens and non citizens of India under chapter III of the Constitution.
The guarantee of Fundamental Rights under chapter III of the Constitution is for citizens and persons (foreigners and juristic persons). The rights to persons impliedly pave the way for protection to children in India. There are few Articles in which State is enabled to protective provision in favour of children namely articles 15(3), 24 & 39 of the Constitution.

It is submitted that a specific positive provision serves the purpose of avoiding any controversy and demonstrates the concern, however inadequate provisions of the Constitution aggravates the problem in respect of the welfare of the people including children. Our solicitude for children and repulsion for the exploitation of children of tender age compelled our founding fathers to make a specific mention of them. The State can make law for welfare of children, giving them preferential treatment over other persons in the society.

Article 21 is to provide for the protection of life and personal liberty of the people including children. “Right to Life” in the context has been held to be not a mere animal existence but it is to be with human dignity and values. Article 23 of the Constitution prohibits traffic in human beings, begar and other similar forms of forced labour and
exploitation. Although this article does not specifically speak of children, yet it is applied to them and is more relevant in their context because children are the most valuable section of the society. It is a known fact that many children are exploited even by the parents who allows their exploitation because of their poverty. And in the absence of parents, their exploitation by close relatives is still deeper. They are deprived of education, made to do all sorts of work injurious to their health and personality. In rural areas, children are pledged by destitute parents to the landlords as full-time servant or part time worker to look after both domestic and agricultural operation. In urban areas, the exploitation of children in myriad form exists such as helpers to artisans and skilled workers and also as domestic servants. Millions of children are exploited in violation of this fundamental right and no adequate and satisfactory legislative and administrative measures have been taken by the State to protect children.

In reference to children the word “begar” can be given a wide cannotation. Begar doesnot require total absence of payment. Even inadequate payment for the work rendered by the child amounts to begar or forced labour. The most
atrocious and heinous crime against helpless children is that they are captured and used by criminal gangs to indulge them in begging business. Sometimes the children of tender age are enticed for the flesh trade thus all in violation of Article – 23.

Article 24 prohibits the employment of children below the age of 14 years in factories, mines or hazardous employment. But in the context of the prevailing poverty in the country, it would be extremely difficult to implement the above provision. Employment of children below a particular age is also prohibited taking into consideration their physical structure. This article does not create an absolute bar to the employment of children below the age of 14 years. Moreover it does not prohibit their employment altogether. The employment of children is prohibited only in factory or mine or in any other hazardous occupation. However, this provision is to be understood in the light of realities and economic need of parents and children in our society. As article 24 prohibits the employment of children below the age of 14 years. It is submitted that even with respect to children above the age of 14 years, all agreements either express or implied are voidable and devoid of validity in case of exploitation. Further Article 24 is plainly enforceable against
every one and by reason of its compulsive mandate, no one can employ a child below the age of 14 years in a 'hazardous employment'. Hazardous employment of child below 14 years is a Constitutional prohibition which even if not followed up by the appropriate legislation, must operate with force\(^1\). It is therefore, necessary to identify the employment which may be called 'hazards' employment. Thus Article 24 is an example of additional precautionary measures securing distributive justice to children.

There are also the fundamental rights which are available to any person. Thus the question arises whether the fundamental rights which are available to a 'person' are also available to the child or not? The answer to this question finds its answer whether the word 'person' includes the child or not? The Indian Constitution does not define the word 'person' obviously for child a 'person' cannot include an 'artificial person'. But the question still remains whether an unborn child is included in the definition of 'person' as used in Articles 14, 17, 18(1), 20, 21, 22, 23, 25, 27, 28 and 32 of the Indian Constitution. There is no direct decision of Indian Supreme Court on this point. The Allahabad High Court,

\(^1\) People's Union for Democratic Rights Vs. Union of India, AIR 1982, SC, 1473.
however, held that for the purpose of section 304-A(a) of Indian Penal Code, the word ‘Person’ includes a child born or unborn. A child in womb can be regarded as a living entity with a life of its own. In Hindu law a child in womb is deemed to be in existence as a person and is entitled to share the joint family property. Thus the fundamental rights which are available to any ‘person’ may also be available to a child.

3.1.2 Child Labour Welfare Philosophy Under Directive Principles Of State Policy

Part IV of the Constitution provides for certain Directive Principles of State Policy. These directions may be described as the active obligations of the State. The principles laid down are treated as fundamental in the governance of the country and it shall be the duty of the State to enforce these principles in making laws. According to Article 37, the principles provided for in part IV are not enforceable in any court and they are to be applied by the State in making laws. The gist of this part could be laid down as follows:

"The State shall secure a social order in which social, economic and political justice shall inform all the institutions
of national life. Wealth and its source of production shall not be concentrated in the hands of the few but shall be distributed so as to subserve the common good, and there shall be adequate means of livelihood for all and equal pay for equal work. The State shall endeavor to secure the health and strength of workers, the right to work to education and to assistance in cases of want, just and humane conditions of work and living wage for workers, a uniform civil code and free and compulsory education for children. The State shall take steps to organise village panchayats, promote the educational and economic interest of the weaker sections of the people, raise the level of nutrition and standard of living, improve public health, organise agriculture and animal husbandry, separate the judiciary from executive and promote international peace and security, so also to foster International law and treaty obligations in the dealings of organised people with one another”.

The underlying principles of the Directive Principles of State Policy are to fix certain social and economic goals for immediate attainment by bringing about a non-violent social revolution. Through such a social revolution, the Constitution also seeks to achieve the objectives of the child welfare. To
achieve the goals of child welfare, the Directive principles of state policy have been designed with an earnest zeal to strive to promote the welfare of people by securing and protecting as effectively as it may be a social order in which justice social, economical and political shall inform all the institutions of national life. Naturally, an effective implementation of this principle results in promoting the welfare of the people through social, economic and political justice and in turn is expected to promote proportionately, the child welfare also.

Article 39 (e) and (f) direct the State to evolve a policy eliminating the abuse of tender age and to free children from the circumstances forcing them to enter into avocations unsuited to their age or strength. The State is also directed to create social and economical conditions and infrastructure for the healthy development of children and to provide facilities and climate for exercises of freedoms and maintenance of dignity. The State is further directed to protect the children against exploitation and moral and material abandonment.

Article 41 deals with the right to work, to education and public assistance in certain cases. Though it does not mention
children. The ending words " ............ and in other cases of, undeserved want. "The State shall be within the limits of its economic capacity and development make effective provision for securing the right to work, to education and to public assistance in case of unemployment, old age, sickness and disablement, and in other cases of undeserved want. It covers the children as the suffering children deserved the least fate as in no case they can be held responsible for their past sins. Hence it is the duty of State to provide social assistance to all the children who suffer for want of basic necessities of life. The implementation of this provision is also expected to promote the welfare of the children proportionately and to ensure distributive justice to them.

Article 42, requires the State to make provisions for securing just and humane conditions of work and for maternity relief. The measures for maternity relief are meant for expectant mothers during the period of pregnancy and after the child birth. These measures meant for providing proper health care and other facilities to the mothers before and after the child birth are expected to promote the health of children and to provide healthy environments for their bringing up.
Under Article 45, a duty is imposed upon the State to provide free and compulsory education within a period of ten years of the commencement of the Constitution for all the children until they complete the age of 14 years. This Directive signifies that it is not only confined to primary education, but extends to free education, whatever it may be on the age of 14 years. Article 45 is thus supplementary to Article 24 on the ground that when the child is not to be employed before the age of 14 years, he is to be kept occupied in some educational institutions. It is suggested that Article 24 in turn supplements the clauses (e) and (f) of Article 39, thus ensuring distributive justice to children in the matter of education. It is suggested that Article 24 and 45 should be amended so as to raise that age limit from 14 to 16 years. By doing so, the children's education at least up to Matriculation, would be ensured for the proper growth and development of their personality. There are various State Acts, which stipulate the upper age limit of 16 years.

Article 46 provides that the State shall promote with special care, the educational and economic interests of the weaker section of the people, and in particular of Scheduled castes and the Scheduled tribes, and shall protect them from
social injustice and all forms of exploitation. The implementation of this principle, while promoting the economic and educational interests of the weaker section of the people particularly those of Scheduled caste and Scheduled tribes, will indirectly promote the welfare of the children of these sections of the society. The need of the welfare measures is most desirable because of the appalling poverty and backwardness of their parents.

Article 47 imposes a primary duty upon the State to raise the level of nutrition and the standard of living of its people and improvement of public health. Thus it is the responsibility of the state to provide nutritious food to the children as the word “people” includes not only adults but children as well. Perhaps this provision becomes more relevant in case of children as the malnutrition can cause irreparable danger to the personality of the children through mental retardation and blindness.

Though these directives are not enforceable by the court, yet these have been declared to be fundamental in the governance of the country. It is the obligation of the State to apply these principles in making laws. If the government
ignores them it will certainly have to answer for them before the electorate at the time of the election.

Thus, it will not be correct to say that there is no sanction of enforceability behind these directives. In our democratic set up, vigilant public opinion is the real force behind the political institution which stands for the benefit of individual. The actions of the government are subject to scrutiny by the masses and distinguished leader of the different parties. If the government pursues a policy in accordance with the principles of the Constitution, people tolerate it, otherwise they oust it in the next election. Since these directives relating to the welfare of children have also been embodied in the Constitution the government is apt to implement them. Though they do not have legal force behind them but the highest tribunal, i.e. public opinion is behind them.

According to the interpretation given by the Supreme Court in earlier cases to article 37 and part IV, these directions even if disobeyed by the state, could not affect the legislative power of the state. This approach was due to the stand that these directives are only directory in scope and
operation. However there was a substantial change in this judicial attitude and recent decisions project this view. In *Air India Statutory Corporation Vs United Labour Union*², the Supreme Court reiterated that Directive principles in the Constitution are forerunners of the U.N. Convention on the Right to Development as inalienable human right and every person and all people are entitled to participate in, contribute to and enjoy economic, social, cultural and political development in which all human rights and fundamental freedoms would be fully realised. These principles are regarded as embedded as integral part of the Constitution in the Directive principles. Therefore, these principles now stand elevated to inalienable fundamental human rights. Even though earlier the Directive principles were considered to be non-justiciable, they are regarded as justifiable by themselves. Another important landmark in the Indian Constitution is Article 141 which proclaims that "the law declared by the Supreme Court shall be binding on all Courts within the territory of India. Hence even in the absence of a specific law if the Supreme Court declares the law, it will be

² AIR 1997, SC, 645
binding on all courts in the country. Cases like Mohini Jain Vs State of Karnataka\(^3\), Unni Krishnan Vs State of Andhra Pradesh\(^4\) and M.C. Mehta Vs State of Tamil Nadu\(^5\) are examples in this regard.

### 3.2. **Protective Legislations For Child Labour In India**

After the freedom of the country, special and protective legislations have been made for children in India. Because of their tender age, weak physique, inadequately developed mind and understanding, they need protection against moral and physical harm as well as exploitation by others. In the formative years of their life, they need special care service to realize full potential for growth and development. There are about 300 Central and State Statutes concerning children. These have been enacted with an intention to protect and help children to achieve the goal of child labour welfare enshrined in our Constitution.

To prevent employment of children in occupations hazardous for their health and to regulate the working

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\(^3\) AIR 1992(3), SCC, 666,  
\(^4\) 1993(1), SCC, 645.  
\(^5\) 1996(6), SCC, 756
conditions in different sectors of employment many legislations have been passed from time to time. However, something is yet to be done to solve the problem i.e. efficient enforcement of legislations without any deficiency. This is more in case of child labour particularly in the unorganised sector. This fact has been admitted by various committees under government control form time to time.

3.2.1 Historical Retrospect of Protective Legislations

The first protective legislation for child labour in India was seen in 1881 in the form of *Indian Factories Act* which had the provisions prohibiting employment of children below 7 years, limiting the working hours for children to 9 hours a day and providing 4 holidays in a month and rest hours. This was actually made by the ruling British Government to decrease the production in Indian industries through some legal restrictions.

It may be submitted that the labour legislations in India including protective legislation for children have been greatly influenced with the result of various Conventions and Recommendations adopted by International Labour Organisation. Besides Constitutional provisions there are
several legislative enactments which provide legal protection to children in various occupations.

_The Children (Pledging of Labour) Act, 1933_,

_The Employment of Children Act 1938_,

_The Minimum Wages Act, 1948 and rules made there under by the government_,

_The Factories Act, 1948_,

_The Plantations Labour Act, 1951_,

_The Mines Act, 1952_,

_The Merchant Shipping Act, 1958_,

_The Motor Transport Workers Act, 1961_,

_The Apprentices Act, 1961_,

_The Atomic Energy Act, 1962_,

_The Beedi and Cigar Workers (Conditions of Employment) Act, 1966_,

_The Shops and Establishment Act in Various States_,

_Child Labour (Prohibition and Regulation) Act, 1986_,

An attempt is made to trace the evolution of the present law through the years under different enactment. Legislative
response in this regard like the other areas in labour laws is being criticised in many circles as ad-hoc and very often half-hearted. Industrialization brought with it several woes for the working class especially long hours of work from dawn to dusk, which got extended with the invention of electric bulbs. The fate of the children was also not different where they used to accompany the parents to the work place. The Child Labour (Prohibition and Regulation) Act, 1986 was the culmination point of the following legislative landmarks:-

1881 The Factories Act

a. Factories employing 100 or more persons were covered by this Act.

b. Minimum age of a child for employment was fixed as seven years.

c. Successive employment for the same employee, i.e. employment in two factories on the same day was prohibited.

d. Working hours was prescribed not to exceed nine hours a day and at least four holidays to be given in a month.
1891 The Factories Act. (Revised)

The Act was revised with respect to the following matters:

a. Minimum age was increased to 9 years

b. Hours of work was limited to maximum seven hours per day, with prohibition of work at night between 8 p.m. and 5 a.m.

1901 The Mines Act

The Act prohibited the employment of Children under 12 years of age.

1911 The Factories Act

This Act Prohibited work of children between 7 p.m. and 5.30 a.m. It also provided for

a. Work in certain dangerous processes prohibited.

b. Certificate of age and fitness required
1922 The Factories (Amendment) Act

To implement the ILO Convention (No.5) 1919, the Factories Act was amended in 1922 which provided for the following changes:

- **a. Minimum age-limit was increased to 15 years.**

- **b. Reducing the working hours to a maximum of 6 hours, and also an interval of half an hour was provided for if children who are employed for more than 5 1/2 hours.**

- **c. Scope of the Act was limited to establishment employing 20 or more persons with mechanical processes, with power given to the local governments to exclude the provisions to premises employing 10 or more persons.**

- **d. Prohibition of employment of children below 18 and women, in certain processes.**
e. Provision for medical Certificate plus Certificate of re-examination for continuing work.

1923 The Indian Mines Act,

This Act prescribed a higher minimum age for employment in mines, i.e. from 12 to 13 years.

1926 The Factories (Amendment) Act,

This amendment imposed certain penalties on the parents and guardians for allowing their children to work in two separate factories on the same day.

1931 The Indian ports (Amendment) Act,

This Amendment provided that 12 years shall be the minimum age of a person for handling goods in ports.

1931 The Report of the Royal Commission on Labour,

The Commission and its recommendation had an impact on legislation pertaining to child labour during the period 1931 to 1949.

This Act was passed to check migration of labourers to districts like Assam. It also provided that no child should be employed or allowed to migrate unless the child is accompanied by his parents or an adult on whom the child is dependent.


This Act Prohibited pledging of children, i.e. taking of advances by parents and guardians in return for bonds, pledging the labour of their children – a system akin to that of the present day bonded labour system. This practice of pledging of labour of children was found to be prevalent in areas such as Amritser, Ahmedabad, Madras etc, in carpet and bidi factories by the Royal Commission. The children in these situations were found to be working under extremely unsatisfactory working conditions. Hence, the Royal Commission recommended that the expediency of penalising the giving of advances to secure the labour of children and that the bond for pledging the labour of a person under 15 years executed on account of any consideration should be void,
as was observed by the Commission. The System is indefensible, it is worse than the system of indentured labour for the indentured labour is, when he enters on the Contract, a free agent while the child is not.

This recommendation was given effect to by the legislature by introducing in the legislative Assembly a Bill called the Children (Pledging of Labour) Bill in 1932 which was a year later converted into an Act.

1934 The Factories (Amendment) Act.

This amendment Act had elaborate provisions for regulating the employment of children of various age groups with regard to factories, such as:

\[ \text{a. Children under 12 and 15 years employment generally prohibited.} \]

\[ \text{b. Children between 12 and 15 years employment restricted to 5 hours a day} \]

\[ \text{c. Children between 15 and 17 years Certain restrictions on employment were imposed.} \]
1935 The Mines (Amendment) Act,

This amendment introduced divisions of children according to age groups and the following restrictions were introduced:

a. Employment of children under 15 years in mines was prohibited.

b. Underground employment of persons between 15 to 17 years was permitted only on production of certificate of physical fitness granted by a qualified medical practitioner.

c. Working time restricted to Maximum 10 hours a day and 54 hours a week for above the ground and 9 hours a day for work underground.
1938 The Employment of Children Act.

This Act was passed to implement the Convention adopted by the 23rd Session of ILO (1937) which inserted a special Article for India, that:

"Children under the age of 13 years shall not be employed or work in the transport of passengers, or goods, or mails, by rail, or in the handling of goods at docks, quays of wharves, but excluding transport by land. Children under the age of 15 year shall not be employed or work in occupations to which this Article applies which are scheduled as dangerous or unhealthy by the Competent authority".

Hence it:

a. Prohibited the employment of children under 15 years in occupations connected with transport of goods, passangers, mails or railways.

b. Minimum age for handling goods on docks was raised from 12 to 14 years.

1948 The Factories Act,

An entirely new Act to consolidate and amend the law relating to labour in factories was passed in 1948 and it came into force on April 1, 1949. By 1948 Act, it was tried to implement as many of the provisions of I.L.O., Code of Industrial Hygiene as they were practicable under Indian conditions. The Provision relating to Periodical Medical Examination of young persons was made. This provision widened the definition of the “factory” and abolished the distinction between seasonal and non-seasonal factories. It raised the minimum age for admission of children to employment from 12 to 14 years and reduced the maximum permissible daily hours of work of children from 5 to 4 hours and a half.

The Employment of Children Act, 1938 (Act 26 of 1938).

The Act was passed to combat the evil of child labour in workshops. This Act was amended in 1939, 1948, 1949 and 1951. The main object was to check the abuses arising out of the employment of children in workshops which were outside
the scope of factories legislation. It wanted to regulate the employment of children in occupations connected with

\[ a. \text{ Transport of passengers, goods or mails} \]

\[ b. \text{ In port authority.} \]

The employment of children below the age of 15 in any occupation connected with the transport of passengers etc. as noted above was completely prohibited. It further laid down that with the exception of children employed as apprentices or trainees, no child between the ages of 15 and 17 years, would be employed or permitted to work in these occupations unless he was allowed a rest interval of at least 12 consecutive hours in a day which was to include the period between 10.00 p.m. and 7.00 a.m. Only the Government could relax this restriction in case of an emergency.

This Act forbade the employment of children below 14 years in the workshops connected with beedi making, carpet weaving, cement manufacture (including bagging of cement), cloth printing, dyeing and weaving, manufacture of matches, explosive and fire works, mica cutting and splitting and shellac manufacture, soap manufacture, tanning and wool
cleaning. The State Government had legislative authority to extend these provisions to other employments also. Accordingly, the children were forbidden to work as cleaners in motor transport workshops in Tamil Nadu and brassware and glass bangles industries in Uttar Pradesh.

Under this Act, the Railways and port were required to maintain registers showing the names and dates of births of children below the age of 17 years employed by them. Their periods of work, intervals of rest, nature of work etc, and notices to that effect were to be displayed. Contraventions were made penal offences. Almost all the State Govts., and also Railways and Port authorities framed rules under this Act.

The Employment of children Act, 1938 was repealed by the Child Labour (Prohibition and Regulations) Act.

Under this Act, Some procedure was laid down for the first time that in which employment, occupation or processes, the employment of children should be banned. Again for the first time some regulatory provisions were laid down in respect of the working conditions of children in most of the
employsments where they were not prohibited from working. This Act, by way of amendment, redefined the definitions of ‘adolescent’, ‘adult’, and ‘child’ in the *Minimum Wages Act, 1948*, *Plantations Labour Act, 1951*, *Merchant Shipping Act, 1958* and *Motor Transport Workers Act, 1961*.


The Act was passed to regulate the condition of service of motor transport workers. In such Act “a child” means, a person who has not completed the fourteenth year and “adolescent” means a person who has completed his fourteenth year but has not completed his eighteenth year. Chapter-VI of such Act regulates the employment of young persons, i.e. the children and the adolescent. This Act provides for penalty and procedure for prosecution for violation of such statutory provisions.

It was noticed that a sizeable number of child workers being engaged in the beedi and cigar manufacturing units and also in motor transport concerns were being forced to work under most unhealthy and unhygienic conditions. *The Beedi and Cigar workers (Conditions of Employment) Act 1966* (32
of 1966) was enacted for regulating the conditions of their service. Ten years there after i.e. in 1976 the Beedi Workers Welfare Cess Act and Beedi Workers Welfare Fund Act were passed.

**Mining legislation**

Indian Mines Act (8 of 1901) was passed in 1901. The Chief Inspector was granted power to prohibit employment of children. (as also women) in mines where the conditions were dangerous to their health and safety. This Act was replaced by the Indian Mines Act, 1923 (4 of 1923), in which the definition of “Child” was amended to mean a person under the age of thirteen years. Under this Act no child could be employed in a mine or to be present in any part of a mine which was below the ground or in any open excavation in which any mining operation was being carried on.

By 1935 amendment of the Indian Mines Act, the minimum age for employment of children in mines was raised from thirteen to fifteen years. An adolescent (i.e. between 15 and 17) could be employed underground only when he had been duly certified by a qualified Medical practitioner.
In order to update the mines legislation, at par with the Factories Act, the Mines Act was re-enacted in 1952. It provided for severe punishment including imprisonment for contravention of the provisions of the Act. Minimum age for employment below ground was raised to 18 years. An interval of rest of half an hour after every 4½ hours of continuous work was provided with. An adolescent could not be employed in any mine except between 6-00 a.m. and 6-00 p.m.

Mines Act was amended by the Act No.- 62 of 1959 (w.e.f. 16-1-1960) and then substantially by the Act No. 42 of 1983 (w.e.f. 31-5-1984). Present position in that under S-40 no person below eighteen years of age can be allowed to work in any mine or any part thereof. Only trainees and apprentices, not below sixteen years of age, may be entertained after prior approval of the Chief Inspector or Inspector. Contravention of this provision is a penal offence, vide Section-68. A person below eighteen years of age cannot even be allowed to be present in any part of a mine, vide Section-45.
Plantation legislation.

Plantation legislation grew with cultivation of tea in Assam and Dooars owing to scarcity of workers in those regions, they were being brought from other parts of the country. Understandably, early legislations were proplanters. To name a few:

a) *The Workmen's Breach of Contract Act, 1859 (Vii of 1859)*

b) *The Employment and Workmen's (Disputes) Act, 1860 (IX of 1860)*

c) *Indian Penal Code 1860*

d) *The Assam Labour and Emigration Act, 1901 (VI of 1901)*

e) *The Madras Planter's Act, 1903 (Provided with penal measures to protect the planters from loss of advances to the workers),*

f) *The Jalpaiguri Labour Act, 1912*
g) The Coorg Labour Act, 1926 (provided with penal measures like the Madras Planter's Act)

Most of the above legislations were put to an end in course of time. On the basis of recommendations of the Royal Commission on Labour the Tea Districts Emigrant Labour Act was passed in 1932 (XXII of 1932) for (i) free movement of labour and (ii) greater security for labourers. Under this Act children under 16 could not be migrated to tea plantation areas unless accompanied by parents or guardians. Curiously enough, this Act did not contain any provision regulating wages, hours of work, accommodation, sanitation, water supply, educational facilities, recreation etc. As the title suggested, it was substantially a statute on emigration.

Finally, the Plantation Labour Act, 1951 (LXIX of 1951) came into being after considerable deliberations. Its provision on conditions of work and employment were largely made similar to those of the Factories Act. The State Governments were empowered to make rules on welfare measures. Rules could be so made for providing with recreational facilities for workers' children and where there
were more than 25 children of the worker’s between the ages of 6 and 12 to provide with educational facilities.

This Act fixed the weekly working hours for children and adolescents at 40 and prohibited employment of children under 12 years of age. A certificate of fitness by a surgeon was necessary for employing a child or an adolescent who did not complete the age of 15 years and 18 years respectively. Except with the State Government’s permission no child worker could be employed except between 6.00 a.m. and 7.00 p.m.

The Act made provisions for annual leave with wages for a child or adolescent worker one day for every 15 days of work. Such leave could be accumulated for 30 days. Adequate penal measures were provided with for non-observance of such provisions made under the Act and Rules framed there under.

Paradoxically, many of such legal measures could not be translated into action because of slump in tea industry which started towards the end of the year 1951. As a result, the Act was enforced only on April 1, 1954. The Plantation Labour Act was amended by Act No. 42 of 1953, Act No. 34 of
1960, Act No. 53 of 1961, Act No. 58 of 1981 and Act No. 61 of 1986. Under 1986 amendment, the “adult” would mean a person who has completed his eighteenth year, an “adolescent” would mean when he completes fourteenth year but not eighteenth year and “child” would mean when he has not completed his fourteenth year.

**Other Legislations:**

**The Merchant Shipping Act 1958**

The Act prohibits employment of children between the age 15 years in any capacity on sea going ships except (a) in a school-ship or in a training ship, or (b) in a ship in which all persons employed are members of one family, or (c) in a home-made ship of less than two hundred tons gross or (d) where such person is to be employed on nominal wages and will be in the charge of his father or other adult near male relatives.

**The Inland Steam-Vessels Act–1917**

It does not contain any provision on the employment of child–worker. Children below 18 years of age are prohibited
to be employed at a place where radiation takes place under the Radiation Protection Rules 1971. The States have statutes under the title State Shops and Commercial Establishment Act which regulates employment of children in shops, restaurants and hotels, etc. where the Factories Act, 1948 does not apply. Thus the minimum age of employment in shops and commercial establishments is 12 years in Bihar, Gujarat, J&K, Madhya Pradesh, Karnataka, Orissa, Rajasthan, Tripura, U.P., West Bengal, Goa, Daman and Diu and Manipur, and 14 years in Andhra pradesh, Assam, Haryana, Himachal pradesh, Kerala, Tamil Nadu, Punjab, Delhi, Chandigarh, Pondichery and Meghalaya. The minimum age of employment in 15 years in Maharashtra.

The Child Labour (Prohibition and Regulation) Act, 1986,

This is an Act to prohibit the engagement of children in certain employments of hazardous nature and to regulate the conditions of doing work for the children in certain other employments of non-hazardous nature. It repealed the Employment of Children Act, 1938, but reproduces its schedules A and B. The Act consists of four parts. Part I
contains definitions. Part II deals with the prohibition of employment of children in certain occupations and processes. Part III regulates child labour in those establishments where children under 14 may be permitted, to work, namely those establishments where none of the occupations or processes of Schedules A and B are carried on. Part IV lists the penalties for violations of the Act.

Though the previous Acts prohibit the employment of children below 14 and 15 years in certain specified employments, there was no procedure laid down in any law for deciding in which employment, occupations or processes the employment of children should be banned. There was also no law to regulate the working conditions of children in most of the places where they are not prohibited from working and were working under exploitative conditions. The Present Act:

a) bans the employment of children i.e. those who have not completed their 14th year, in specified occupations and processes,

b) lays down a procedure to decide modifications to the Schedule of banned occupations or processes,
c) regulates the conditions of work of children in employment where they are not prohibited from working,

d) lays down enhanced penalties for the employment of children in violation of the provisions of this Act, and other Acts which forbid the employment of children and,

e) brings about uniformity in the definition of "child" in related laws.

No fundamental changes have been incorporated in the 1986 Act and in most essential matters it is a replica of the old Employment of Children Act, 1938. By defining child as a person who has not completed his or her 14th year of age in section 2 (ii), the Act reduces a child from 15 years to 14. The Constitutional benchmark of 14 years was used to lower the age from the higher age for the protection of the child. This permits more children to be employed in the areas of merchant shipping and motor transport. Here, the Constitution has been used by the parliament and government to take away the protection of children between 14 and 15.
The definition of "establishment" in Section 2(iv) lacks clarity if the term includes, or would include in course of time, some of the activities in which child labour need to be protected. The present definition is likely to pave the way for the organised sector or units to deploy children in sub-human conditions. Though the present Act does not ban child labour in the family, the only difference is that it restricts the definition of the family to include the parents, children, brothers and sisters in Section 2(v) as against the broader definition in section 3 (iii) of the 1938 Act. The word "occupier" in section 2 (vi) is not clearly defined and, therefore may not check employers agents and contractor, who play a vital role in the employment of children.

The provision of Section 3 keeps any occupation, a work or process – i.e. carried on by the occupier with the aid of his family – out of the purview of the Act. This provisions offers protection to several match, carpet, glass and bidi manufacturing units to continue the exploitation under the umbrella of the family. Therefore, there is a need to add to the provision that "it shall be presumed that the occupier is also the employer for the purpose of the Act and shall be liable for prosecution". The onus to prove that the child is a
member of his or her family would rest on the occupier. Though the provision says that nothing in this section shall apply to any workshop where 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 the government, when certain occupations and processes are harmful to the health of children, it remains applicable even if children work as part of family enterprises, or state managed/established/added/recognised schools. Once the occupations/processes have been identified as hazardous for the employment of children, any exemption made thereof is to the detriment of the children. Can there be any justification for such exemption?

Along with the prohibited occupations and processes which the 1938 Act listed, the new Act includes the prohibition of work in the building and construction industry after the Supreme Court order in 1981. Work relating to the selling of crackers and fireworks in shops with temporary licenses was added to the list of occupations along with the manufacture of slate pencils (including packing). Manufacture of products from agate and processes using toxic metals and substances such as lead mercury, Manganese,
Chromium, Cadmium, Benzene, Pesticides and Asbestos were inserted in the list of hazardous processes respectively by notification no. S.O. 404 (E) dated 5 June, 1989, published in the Gazette of India.

The Act does not include balloon and other factories where children are forced to work with fire and dangerous chemicals. It is also silent on children working in the agricultural sector which constitutes 80% of child employment.

The word ‘hazardous’ is not clearly defined in this Act and it is left to the Technical Advisory Committee to define hazardous occupations and processes. Also there is no provision in the Act to seek the prohibition of child labour in an occupation or a process even if the request is backed by relevant data, and no fixed time to respond to such a request. Therefore, it is necessary that the Central Government takes up the task of revising the definition of ‘occupations’ and ‘processes’ for the purposes of making additions to the schedule in a time-bound and planned manner.

With modernisation and rapid industrialisation along with tremendous strides in electronics, can one really
precisely define what is hazardous and what is not within
definite time frames? More and more hazardous jobs for
children will make the scene in time. Some jobs which are not
hazardous today will become hazardous tomorrow. Besides,
the adjective, "hazardous", is held to have purely physical
implication excluding the psychological, mental and
emotional dangers that a job can mean to child workers in any
given work. The very fact that childhood is snatched from a
child and it is forced to experience an adulthood it is not
prepared for, transforms every aspect of what should be an
optimistic environment for a child into a pessimistically
hazardous one. Moreover, the present Act does not specify
the minimum age of employment of children in occupations
and processes other than the prohibited ones.

The present Act legalises the entry of children in
hazardous occupations by regulating their deployment in
industries that are obviously non-hazardous for adults but are
hazardous for children. Another significant aspect of the 1986
Act is the more stringent punishment for violations under
section 14 which ranges from a fine of Rs. 10,000 to 20,000
or a minimum of three months imprisonment to a maximum
of one year or a combination of both fine and imprisonment.
However, one should understand that the earlier Acts were flawed not because the penalties were too light but because they were rarely enforced. It is necessary that the penal provisions be excluded from the purview of operation of the provisions of the first offenders Act by inserting a specific clause to this effect that offences under the present Act be made cognizable. Besides, offences made in any Act involving child labour should be deemed to be an offence under the Child Labour (Prohibition & Regulation) Act, 1986, by inserting suitable provisions in this and other Acts.

3.2.2. **National Policy On Child Labour**

The implementation of child labour legislation in our country, is very ineffective during last five decades. The main reasons for this are lack of adequate enforcement machinery, lack of political will, deliberate attempt of employers to flout the legal provisions and the lack of consciousness within the minds of parents themselves who obtain false age and medical certificates to enable their children to work in different undertakings. The number of labour inspectors as enforcement officers is far from the satisfaction. They can
barely visit all the factories in their jurisdiction. Keeping in view the pitiable conditions of child labour in India, the Government of India has endeavored to expand national policy on child labour welfare. New projects are on the anvil for regulating child labour in our country.

I. The Constitution of India in the Directive Principles of the State policy and as a part of the Fundamental Rights, has laid down that the State shall direct its policy towards securing that health and strength of workers, men and women, and the tender age of children particularly be given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity. Childhood and youth are to be protected against exploitation and no child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

II. The National Policy for Children Resolution, adopted in August 1974, further develops adequate services for children. These were to form a prominent part of the nation’s plan for development of human
resources. Free and compulsory education for all children up to the age of 14, provision of health and nutritional programmes and services, providing alternative forms of education for children unable to take full advantage of formal school education for whatever reasons and measures for protecting children against neglect, cruelty and exploitation form part of the National Policy for Children. The policy also provides, as one of its objectives, that permitted to be engaged in hazardous occupation or to be made to undertake heavy work.

III. The Committee on child labour (Gurupada Swamy Committee) which submitted its report in December, 1979 examined the problems of child labour in detail. India is one of the countries where the problem of child labour is quite openly manifest and the widespread existence of child labour has been viewed by the Government of India with concern. The Gurupada Swamy Committee recognised that a distinction has to be made between child labour and the exploitation of child labour as, though both are a problem, they are of different orders. It has underlined
that in all future action dealing with child labour, this basic aspect would have to be taken i.e., "Labour becomes an absolute evil in the case of the child when he is required to work beyond his physical capacity, when hours of employment interfere with his education, recreation and rest, when his wages are not commensurate with the quantum of work done, and when the occupation he is engaged endangers his health and safety i.e., when he is exploited.

IV. Government has given consideration to these aspects of the problems of child labour i.e. the need to protect child labour from exploitation or from being subjected to work in hazardous conditions, which endanger such children's physical and mental development; the need to ensure safety and health at their working places; that they should be protected from excessive long working hours and from night work, and that there should be regulated work even in non-hazardous occupations; and that all child labour have to be provided with sufficient weekly rest periods and holidays in their employments.
V. *The recently enacted Child Labour (Prohibition and Regulation) Act, 1986*, is the culmination of the process of consideration that Government has given to this pervasive problem figuring in the economic and social landscape in the country. Both, in enacting the legislation, and thereafter in proceeding to lay down the policy, the outline of the policy and the outline of the programme of action, Government has to keep in mind the economic and social aspects of child labour in the country. For example with substantial portions of Gross Domestic Product (GDP) coming from the agricultural sector, rural industries or artisans, workshops, or small scale services, often children work as an essential part of a farm household, or as part of the working family assisting parents in ancillary tasks. In such working activities by children in farm and field, in artisan households or in small family – centered trade or service establishments, children most often acquire the skills which enable them to become full –fledged workers in farming households, family establishments or trade. While work of such kinds has its problems, it is more essential at the present stage of national development
to concentrate in those sectors or establishments where children are deployed on wage or quasi-wage employment, outside the family, where there is most likely to arise exploitation in whatever form it may be.

VI. The National Anti-poverty policies, the National Education policy, the National policy on Health for all and on Nutrition, as also the generally stepped-up provisions in social services in national plan outlays, are all geared to tackle the problems of poverty, where too often the origins and compulsions of child labour are rooted. The general raising of large numbers of the population above the poverty line, or the provision of the entire spectrum of improved social services in the above-mentioned areas will, it is hoped, lead to progressive elimination of poverty, and consequently of the phenomenon of children being put out for wage employment or quasi-wage employment at unsuitable ages. The measures to promote employment-oriented development, both in rural and urban areas, and the all-round development and extension of adequate facilities for both formal and non-formal education, vocational education and
training, and in the coverage and extension of social security and family welfare measures would all go a long way to tackle the basic and root causes of child labour.

VII. This action programme, therefore, has to be viewed against the above background specifically, the attempt is to deal with a situation where children work, or compelled to work, on a regular or a continuous basis to earn a living for themselves and/or for their family, and where their conditions of work result in their being severely disadvantaged and exploited, and where abuses connected with such factors impacting on wage-employed children need to be given close attention by the State for rectification, amelioration and regulation through specific legal and administrative instruments and measures.

VIII. The future action programmes is setout under the following three heads.

\[ a. \] The legislative Action plan
3.2.2.1. b. The focusing of general development programmes for benefiting child labour, wherever possible, and
c. Project-based plan Action in areas of high concentration of child labour engaged in wage/quasi wage employment, legislative Action plan.

3.2.2.1. Legislative Action Plan

I. A child Labour Technical Advisory Committee has been setup to advise the Central Government on addition of occupations and process to the schedule contained in the Child Labour (Prohibition and Regulation) Act, 1986 (hereinafter referred to as CLA, 86)

II. The provisions of the CLA, 86, the Factories Act and the Mines Act will be enforced so as to particularly ensure that children are not employed in factories or mines or in any other hazardous employment, and where they are employed in non-hazardous employments or occupations, to ensure
that the work is regulated in accordance the part III of the CLA, 86. Where it is necessary for State Governments to make rules under CLA, 86, or under any other legislation so as to protect the interest of child labour, they will be so requested to undertake reviews and frame rules as necessary. The Railway administration, Major ports and Central and State Government departments, incharge of oilfields and mines will also similarly be asked to review the situation arising from the enactment of CLA, 86, so as to ensure that child labour is not employed in prohibited occupations or employments, that the provisions setout for their health and safety, for the maintenance of registers, and for regulating the periods and days, of rest are enforced in all establishments.

III. Government will also bring forward legislation to delete the provision contained in the Minimum wages Act, allowing different wages to be fixed for children, adolescents and adults. In other words, children will have to be paid the same as adults. This will remove the economic incentive to
employ child labour on lower wages. For enforcing other protective legislations like the *Payment of Wages Act, the Equal Remuneration Act*, etc, it will be ensured that child labour is not discriminated against as compared to adult labour. The Central and State Inspection machinery will be geared up for this purpose.

3.2.2.2. **Focussing Of General Development Programmes for Benefiting Child Labour**

National Development programmes exist with very wide coverage in areas of education, health, nutrition, integrated child development and the anti-poverty group of programmes. In order to have an impact on child labour, it will be necessary to focus these programmes by the implementing agencies under the State Governments or the Central Government, so as to deliver benefits to child labour whenever possible. Some areas where such focusing could be possible are set out below.

a) **Education**: The National Policy on Education, 1986 (NPE) sets the target of all children who attain the age of 10 years by 1990 having had five
years of schooling or its equivalent, through a non-formal education (NFE) centers proposed to be opened, which will supplement the formal education system. Since the central feature of the implementation of the strategy for non-formal education is based on micro-level and area specific and population specific planning, NFE Centers for child labour will be set up with the involvement of voluntary agencies and Panchayati Raj Institutions which are capable of running non-formal education centers, wherever possible, to cater to child labour who, after work or during holidays, can present themselves at the NFE Centers. Special attention will be given to attracting and retaining girls from among working children to NFE Centers. Part-time courses and vocational courses will also be catered to at these centers. Such non-formal education Centers for child labour would aim to educate children up to class V level, with arrangements for continuance of non-formal education up to class VII level, wherever possible, to organise such NFE centers for child labour, all the special features figuring
in the programme of action of the NPE will be provided.

b) For Child labour belonging to disadvantaged classes like SC/ST families, details of a scheme of incentive/assistance to indigent SC/ST families who have to put out their children to wage/quasi-wage employment, will be worked out in consultation with State Governments. For Such children who come from families engaged in occupations like scavenging, with constant micro-planning needs verification to ensure that SC/ST Child Labour enrolled in Non-formal Education centers successfully complete the course of non-formal education up to class VIII. These are as per the specific provisions laid down in the programme of action of the NPE.

c) Micro-Planning for non-formal education centers will have to be undertaken for child labour, especially for those belonging to such disadvantaged sections of the society as SC/ST, or
in areas where there is high concentration of such-disadvantaged groups of families.

d) In Urban areas also, especially in urban slums, non-formal education programmes by both the State Governments and by voluntary agencies will be promoted, including the organisation of extra-curricular activities, diversity in learning activity and with a provision of games and sports and related equipment, plays and skits, excursions, etc.

e) The projects of voluntary agencies will be entertained for a period of 3-4 years, whether for urban or rural areas, and while the initial proposals would be required to be sent to the State Governments, at subsequent stages, the voluntary agencies will directly approach the Department of Education for release of grants-in-aid to such non-formal education centers. The Ministry of Labour, Govt. of India may also arrange for micro-level help to the Department of Education.
f) NREP\RLIGP funds would be used on a priority basis for creating the infrastructure for Non-Formal Education Center catering to child labour under the overall co-ordination and direction of the local district level development authorities.

g) For continuing education of child labour who have been enrolled and successfully completed their period of non-formal education efforts would be made to link the non-formal educational institutions with the open schools, or with the formal educational system, so as to enable them to continue their education. The non-formal education programme would also be linked with the Shiksha Nilayams and vocational and technical courses of a wide variety would be provided where required for among others, working children who come from the non-formal stream.

h) **Health:** Health is a State subject, and the programme of medical inspection of children have been assigned to the States. The progress among
the various States is uneven. A few States have good programmes, but many other States do not. Those States where there exists a school health service programme are many and in some states even all, primary school going children in the rural areas have been covered under scheme for regular examinations. But those children who do not join school because of being at work would obviously not be covered by such school health programmes (where they exist). The Ministry of Health and Family Welfare, Govt. of India will address the state Governments, recommending that intensive medical inspection of children be taken up in those areas where child labour is prevalent. The State Governments will have to be persuaded to extend the coverage of the school health services programme to child labour. Since this is an area essentially under the State sector, a continuing dialogue, effort and persuasion with the State Governments will have to be maintained, so that all children, irrespective of whether they are in primary school, or at work, are covered by regular health inspection and
treatment/referral services. It should be possible to arrange for some health screening at NFE centers for child labour.

i) **Nutrition:** Department of Women and Child Development, Ministry of HRD, Government of India has an ongoing programme for Women and Children, i.e. *Integrated Child Development Services* which are approved on the basis of proposals by the State Government and Non Governmental Organisations. While it will not be possible to earmark funds specifically for child labour, proposals from State Government/Non governmental Organisation and Voluntary agencies in child labour areas will be founded on a priority basis and, if necessary, the rules could be relaxed to consider proposals from the organization for taking up welfare measures for child labour also.

j) **Anti Poverty Programmes Coverage:** IRDPI NREP/ RLEG, etc. funds meant for poverty alleviation programmes on the basis of criteria
which have been laid down for the State to follow. Included in the coverage of the entire gamut of anti-poverty programmes are families which have child labour and, to the extent that such families with incidence of child labour fall within the selection criteria for endowment of income generating assets (i.e. IRDP) or for wage employment (NREP/RLEG), they would be benefited by the ongoing programmes which have a large corpuses of funds allocated to them in 7th plan. To the extent, therefore, that the poorest families are often forced to put out their children to work for wage/quasiwage employment, they would be getting assistance to raise themselves above the poverty lines and this, in conjunction with the Non Formal Education Centers being opened in rural areas, slum areas etc., will go a long way towards tackling one of the basic causes of children being put to work, i.e. poverty.

To sum up, it is revealed from the foregoing chapter that many labour welfare legislations have been enacted from time to time to promote and improve the working conditions
of child labour. Even after independence, numerous welfare legislations have been enacted by the Center and State Governments, in the light of the philosophy, contained in Indian Constitution. Besides these legislative enactments, the Government has also adopted a National Policy on Child Labour in 1974. The policy resolution has evolved guidelines in the field of education, health, nutrition, integrated child development etc. Both the Governments i.e. Center and State are expected to carry out the guidelines of National policy to ensure the improvement of the working conditions of the child workers. It is also revealed that the child labour welfare legislation in India has been influenced to a great extent by the Conventions and Recommendations adopted by International Labour Organisations from time to time. Besides Constitutional provisions, there are at present thirteen major enactments which provide legal protection to our children in various occupations. A part from this, a recent Bill namely "The Children's Code Bill 2000" prepared by an expert committee under the chairmanship of justice V.R.Krishna Iyer, also deals about abolition of child labour in India in future.
3.2.2.3. **More Districts Under Child Labour Elimination Project.**

Fifty more districts will be brought under the purview of the National Child Labour Projects (NCLP) being implemented in 13 States for the elimination of child labour. The Labour Ministry, Govt. of India runs these projects in 100 child labour endemic districts in the Country.

The Planning Commission in the Tenth Plan gave the approval for the inclusion of 50 districts having high concentration of child labour. The Planning Commission has also increased the annual budget for the projects to Rs. 602 crore in the Tenth Plan.

The NCLPs were launched for the first time in 1988 in the areas of high concentration of child labour. These are area specific and time-bound projects where priority is being given to the withdrawal and rehabilitation of children in hazardous employment. As of now, the projects are being implemented in Andhra Pradesh (22 districts), Bihar (2), Jharkhand(16), Karnataka(5), Madhya Pradesh (3), Chhattisgarh (5), Maharashtra (2), Orissa (18), Punjab (3), Tamil Nadu (9), Rajasthan (6), Uttar Pradesh (11), and West Bengal (8). So
far, 2.11 Million children have been covered under the projects of whom 1.87 lakh have been brought into the formal education system through special schools.

The ILO funds several International Programmes including some in India, for elimination of child labour. Five districts each in Madhya Pradesh, Uttar Pradesh and Tamil Nadu are covered under the project that have seen the enrolment of 20,000 children for elementary education, 40,000 directly rehabilitated, 20,000 adolescents imparted Vocational training and 10,000 families provided with additional income generating opportunities.

The International Programme on Elimination of Child Labour in India covers children involved in gem cutting and polishing in Jaipur, those working in textile mills in Tirupur, Carpet making in Mirzapur and glass manufacturing in Ferozpur. Besides, there is special programme being funded and run by the ILO in Andhra Pradesh for eradication of the child labour.

According to the estimates of the 55th round of the National Sample Survey Organization (NSSO) Survey 1999-2000, the number of working children in the country is 10.4
million. The 1981 Census recorded the number of child labour as 13.56 million, the 1991 census recorded the number around 11.28 million, while the 2001 Census indicates the number around 10.34 million. (Census Reports, Govt. of India, 1981, 1991 & 2001).

3.3. **Reforms Helping in Poverty Reduction.**

A study by the *U.N. Conference on Trade and Development (UNCTAD)* team in India has revealed that Maharashtra, Tamil Nadu, Gujrat, Karnataka, Andhra Pradesh and Punjab are better integrated into the global process as evidenced from their growing share in the country’s total exports. They have also witnessed the highest reduction in poverty rates both urban and rural. In the case of agriculture, domestic reforms would have a greater impact on rural poverty than external sector reforms even as a rise in world agricultural price on account of liberalization of world trade would substantially reduce the incidence of poverty globally.

In the on-going agricultural negotiations in the WTO, the UNCTAD study has stated that developing countries such as India would stand to gain immensely if agricultural
protectionist and trade distorting measures in developed countries are immediately addressed.

An interesting point brought out is that contrary to the perception of service providing employment only for the highly skilled, nearly two thirds of the employment in the services sector might consist of low-skilled or medium skilled people.

The study is also categorical that most of the poverty gains from trade liberalization would result from India’s own reforms. Describing the advent of G-20 coalition pre Cancun as an important opportunity for India to follow a trade reform agenda, the study observed that it would increase trade among these countries and enhance the levels of incomes and employment and have both direct and indirect effects on poverty alleviation in India.

3.3.1. **Worker’s Project to be launched**

The Union Government has decided to launch a pilot project on unorganised sector workers in 50 districts in the
Country. The project would cover 10 lakh workers in the first year and an additional 15lakh in the next. The project has been launched after the Cabinet recently approved the *Un-Organised Sector Workers Bill* which entails provision of *Pension and Medical Insurance* to unorganised sector workers. Twenty-five State Capitals will be among the areas covered under the pilot project, in addition to Faridabad, Lucknow, Patna, Nellore, Ranchi, Hazaribagh, Pune, Nagpur and Barh.

Besides above, the U.S. Labour Department, the International Labour Orgnisation and the Indian Government have launched a $ 40 million project to combat exploitative and hazardous child labour in this country on February 15, 2004. The project has been named as ‘INDUS’ project, the new co-operative venture in the US Labour Department’s "*Largest International Technical Assistance Programme*". Its goal is to eliminate child labour in 10 hazardous industries in India.