

CHAPTER III

THE PROBLEM AND THE METHODOLOGY

The issue of child labour has been on the centre stage of developmental debates in the recent times and the exploitation of children in various employment has attracted a lot of attention, both nationally as well as internationally. The State's response to what it considers to be the reality of child labour however may not necessarily match with the kind of realities in which the child may find himself/herself and the nature of the response too may not necessarily bring in a change which ensures the protection of the rights of the child. Therefore, it is important to understand whether the State's response, particularly in the form of statutes and policies, is able to address the existing realities of child labour. Secondly, it is found that although most of the NGOs are scattered and diversified in their focus, they generally attend to the immediate needs of the working children (Kohli, 1990). Therefore, these organisations are likely to provide significant insights into the various approaches and strategies that can be adopted for the elimination of child labour and consequently the protection of the rights of the child.

A review of literature, however, indicates that there is a significant paucity of research data on the different strategies that can be adopted or are being adopted to curb the problem. The available data is either in a form of journalistic reports or statistics with little focus on the working child. Although there have been some scattered attempts to compile the experiences of various organisations working on the problem, a comparative perspective of these experiments is still lacking. Moreover, the available data does not focus on the situation of the child labourers who are the beneficiaries of the organisations' services. The perspectives offered by the Convention on the Rights of the Child (CRC) to understand

the status of children with respect to the violation/protection of their rights has not yet been applied to the understanding of child labour. From a broad problem of elimination of child labour the researcher narrowed down to a specific area of the role of NGOs and law in the process of eliminating child labour. This area of study was based on the framework of the rights of the child (as stated in the Convention on the Rights of the Child). The problem under study was thus delimited to a study of the law and NGOs in the process of eliminating child labour from the perspective of rights of the child.

Broadly, the significance of this study lies in the fact that it attempts to firstly, understand the strategies currently employed by some NGOs and the orientation of laws in child labour elimination; secondly, assess these action strategies so as to identify newer areas and strategies for future work; and thirdly, study the impact of these strategies by understanding which of them work and which do not and in what conditions.

Research design:

The present study follows a partly exploratory and partly a descriptive-analytical design to understand the role of law and NGOs in the elimination of child labour. It seeks to collect extensive quantitative data using the survey method and also utilises the case study method in order to make the study comprehensive¹. This combination brings out the best in the data for the following reasons: First, as each organisation is unique and distinct from the other, the richness of the insights from their experiences are preserved and understood with the case study design. These insights into the processes employed to eliminate child labour by the organisations would have been lost in a survey method. Second, a comparison of the relative impact of the organisations on the situation of working children would have been difficult to ascertain if the quantitative data that compared the status of children across organisations was missing. A survey conducted within each case ensured the availability of

data on the dependent variables which was to be compared with data from other organisations. Thus the case study design helped the researcher to present each NGO in great detail by bringing out its salient features while the survey design allowed the researcher to undertake a comparison of the case studies with each other and present insights which were not handled within each case.

Objectives and Research Questions of the study:

Objectives of the Study: The study was undertaken to meet the following objectives:

1. To review The Child Labour (Prohibition and Regulation) Act, 1986 and other legislative provisions related to child labour from the perspective of the rights of the child.
2. To analyse the role of law enforcement in the elimination of child labour.
3. To analyse the role of NGOs in the elimination of child labour from the perspective of the rights of the child.
4. To suggest a course of action for the elimination of child labour with specific focus on the intervention of law and the NGOs.

Research Questions: The study attempted to answer the following research questions:

1. In what ways do the laws related to child labour in India address the issue of child labour elimination from the perspective of the rights of the child?

2. What are objectives, scope and content of The Child Labour (Prohibition and Regulation) Act, 1986 and other legislative provisions on child labour in India?
3. What are the factors within the legal system which facilitate or hinder the process of eliminating child labour?
4. In what way do the NGOs address the issue of elimination of child labour from the perspective of the rights of the child?
5. What are the goals, strategies, activities, structure and scope of work undertaken by the NGOs in the elimination of child labour?
6. What are the NGO related factors which facilitate or hinder the process of eliminating child labour from the perspective of the rights of the child?
7. What are the changes required to be made in the legal framework for eliminating child labour from a perspective of the rights of the child?
8. What are the changes required in the intervention of NGOs for eliminating child labour through the protection of the rights of the child?

Operationalising the Child Labour-Child Rights Continuum:

As stated in Chapter II on the theoretical framework of the study, the perspective of rights of the child as laid down in the Convention on the Rights of the Child guided the critical analysis of the role of law and the NGOs in the process of eliminating child labour. This theoretical framework was presented in the form of a continuum which reflected the different forms of activities performed by the children according to the extent to which their rights were violated. Coinciding with this, a

progressive protection of the rights of the child from survival to participation rights for eliminating child labour was proposed. The continuum was a unidimensional, cumulative and an ordinal continuum that held four positions (in the form of four categories of rights) in a rank order.

For the purposes of the present study, the theoretical framework was operationalised by following two stages. The first stage consisted of examining the text of the Convention so as to identify specific rights which could be clubbed under the four categories of children's rights. Thus, survival rights consisted of right to life and liberty; protection rights included right against abuse, exploitation and neglect; development rights included right to education, recreation and personality development; and participation rights included right to information, decision making and association. This step of operationalisation was common for the analysis of the role of law as well as the non-governmental organisations in elimination of child labour. The statutes were examined directly against the set of rights which were developed in this manner so as to understand which of the children's rights get addressed to in the present legal framework. The operationalisation of the framework for analysis of the NGOs went through a second stage. In the second stage, an attempt was made to interpret the specific rights under the four categories of survival, protection, development and participation rights. Statements which indicated the violation of each of the rights were prepared with the help of literature available from the empirical studies on child labour in different sectors. Thus, a set of statements/indices indicating the conditions in which children worked was prepared under each category of rights. These statements were integrated in the tool of data collection in the form of open-ended questions.

The category-wise list of the indices referring to the working children's right to survival, protection, development and participation is as follows:

SURVIVAL RIGHTS

child is in debt bondage

child has been purchased by the employer

child has met with accidents on the job

child works in dangerous and hazardous occupation/processes

child has occupational disease/injury

child is forced to work by his employer

child is sole bread earner of the family

implications of not working will be starvation

PROTECTION RIGHTS

child is physically, mentally or sexually abused

child is made to work for long hours

child is made to do strenuous tasks

child is made to work in a congested place

child is made to work at night

child is not allowed to rest

child is not allowed to take holidays

child is not paid wages

child is paid low wages

child is not paid wages on time

child is not provided drinking water facilities

child is not provided toilet and washing facilities

child is not provided with first aid and other health facilities

child is not given bonus/incentives

DEVELOPMENT RIGHTS

child is not given education

child is not allowed to go to school

child is not provided with recreational facilities

child is deprived of facilities for developing his/her personality

child is not provided with training by the employer

PARTICIPATION RIGHTS

child is not consulted about the kind of work that s/he would like

child is not allowed to decide when and where to work

child is not consulted about his working conditions

These indices indicate a set of conditions which depict the violations of rights of the child in terms of the four categories. Although the size of each category of rights differs depending on its scope, this difference is not very critical as the scores are cumulatively computed. Since all the statements show the presence or absence of a particular variable, the scores were given as follows: 1 point for the presence of the variable and 0 point for the absence of the variable. At the end, category-wise as well the total scores were calculated for each child respondent. The scores obtained for each category indicated the extent to which the rights of the children were violated with respect to that category of rights. For example, a score of 3 points out of 3 points in the participation category indicates that the participation rights of the children were not protected. On the other hand a score of 2 points out of 8 points in the survival category indicates that the violation of the survival rights of the child was only 25% and thus the survival rights of the child were met to a large extent. As the statements were negative, the highest score indicated the highest violation of the rights of the child and thus a least favourable position and the lowest scores indicated the lowest violation of the rights of the child and thus a most favourable position.

Concepts and Variables used in the study:

The operationalisation of the concepts used in the present study is as follows:

1] *Law enforcement machinery*: In this study, by law enforcement machinery is meant the State executive machinery which is responsible

for the enforcement of The Child Labour (Prohibition and Regulation) Act, 1986 and The Factories Act, 1948. This constitutes the Office of the Labour Commissioner and the Office of the Chief Inspectorate of Factories.

2] Non-Governmental Organisation (NGO): In this study, by NGO is meant a voluntary organisation working for the elimination of child labour which is essentially a not-for-profit and a non-political organisation. This organisation may be set up solely for the purpose of eliminating child labour or it may have it as a part of a larger set of activities pursued for the betterment of the vulnerable sections of the society.

3] Rights of the Child: In this study, the rights of the child refer to the rights granted to the children under the Convention on the Rights of the Child which was ratified by India. These rights are classified according to their contents and goals into survival, protection, development and participation rights.

The present research aims to study the relationship among the following variables:

Dependent Variables: A set of dependent variables which indicate the impact of the organisation on the child from the child's rights perspective were worked out. They are as follows:

1] Status of the child: In the present study, the status of the child is understood as the child's engagement in work and/or education and is studied in terms of the present status of the child and the past status of the child. The present status of child refers to the position of the child at the time of the interview with respect to the education or employment after availing the services of the concerned NGO. The past status of the child refers to the position of the child with respect to the education or employment, before the intervention of the concerned NGO.

2] *Time spent on different activities:* The difference in the time spent on different activities refer to the differences in the number of hours that a child spent on various activities before and after the intervention of the concerned organisation. This difference in the time spent is with reference to the time spent on work or employment, time spent on household work and time spent on developmental activities which include education and recreation.

3] *Protection/Violation of Children's Rights:* The extent to which the rights of the children are protected/violated is measured with the help of the scores of the children on the 'Child Labour- Child Rights Continuum'. These scores are with respect to the four categories of survival, protection, development and participation rights of the children. The past and the present scores of the children on the continuum refer to the scores of the children before they received the services of the concerned organisation and the scores after receiving the services of the organisation and at the time of the interview, respectively. As mentioned earlier, the scores reflect the extent to which the rights of the children are violated/protected with respect to the four categories of children's rights.

Independent Variables: The independent variables covered under the present study included variables related to:

- 1] the child's profiles such as age, sex, religion, ordinal position, education, migration status;
- 2] the family profiles such as family size, parental income, parental education;
- 3] the employment profiles such as age of starting work, duration of work, nature of work, location of work, indebtedness, change in the occupation or employer, mode of recruitment, attitudes towards employment, and;
- 4] duration of the child being a beneficiary of the organisation.

Sampling:

The pilot work undertaken by the researcher revealed that the law enforcement machinery was an important component to be studied. As The Child Labour (Prohibition and Regulation) Act, 1986 was being primarily enforced by the Office of the Labour Commissioner in Karnataka², the researcher explored possibilities of interviewing the children who were released due to the enforcement of the 1986 Act. But after discussions with the Labour Commissioner and the senior labour inspectors of Karnataka, the researcher realised the unfeasibility of interviewing children who had been found to be working by the Labour Department. This was due to the lack of documentation of the background of the child labourers whose workplaces were raided by the enforcement officials. Thus, the beneficiaries of the law enforcement machinery could not be included, it was decided to restrict the sample to the beneficiaries of NGOs.

Although there has been a mushrooming of organisations working on the issue of child labour in the recent times, the researcher discovered that there were very few organisations which could offer useful and unique insights into the process of eliminating child labour as most of them followed similar strategies of work. Certain organisations which claimed to be working on child labour could not provide the researcher with the minimum number of beneficiaries as required by her sample size. Hence the researcher decided to undertake case-studies of organisations spread across the entire country instead of limiting the scope of the study to any particular State. After examining the NGOs against a set of criteria, it was decided to look at the work of five organisations from four States.

Identification of the NGOs: The researcher had several discussions with the members of the Campaign Against Child Labour (CACL) which is a nation-wide network of NGOs working on the issue of child labour and members of other fora working on the issue of child labour. In addition,

literature in the form of press reports, brochures of various organisations were studied. Pilot visits to a selected few organisations were made in order to understand whether they suited the criteria of study and five organisations were identified using the following criteria:

- 1] the organisation should offer useful and unique insights in the process of eliminating child labour;
- 2] the organisation should have worked in the field for a considerable period of time so as to gauge its impact;
- 3] the organisation should be working with child labourers who are engaged in agriculture and rural home-based occupations, export oriented occupation, non-export oriented but hazardous occupation or the urban services sector.

These categories were chosen because they more or less cover all the important groups of children's economic activities. The sample thus consisted of:

Law enforcement machinery: The sample of the law enforcement machinery consisted of the Officers and the Inspectorate staff of the Labour and the Factories Departments belonging to the States from where the NGOs were also studied. However, the researcher had difficulty in interviewing the officials of the Ministry of Labour, New Delhi. Thus, the data from the law enforcement machinery was collected from only three States of Karnataka, Tamil Nadu and Andhra Pradesh. The respondents were selected on the basis of their official responsibility towards enforcement of the statutes related to child labour. Inspectors who had an experience of filing cases related to child labour were selected on a purposive basis. No sample size was pre-determined for this category of respondents and the researcher interviewed 12 Officers and the Inspectors who had the relevant experience and who could contribute their insights to the present study.

Non-Governmental Organisations: By way of purposive sampling and on the basis of the criteria mentioned earlier, the following NGOs, with diverse ideologies and strategies of work in the field of elimination of child labour, were selected for the present study.

1] Don Bosco Tech (Hospet), Karnataka: The study covered their work in the semi-urban area of Hospet, Bellary District where children were employed in the urban services sector, mainly the automobile industry.

2] Indian Council for Child Welfare, Tamil Nadu: The study covered their work at the Child Labour Relief Project at Vellore and the Child Labour Action Project at Srivilliputtur. These projects were targeted at children engaged in hazardous occupations, namely, match and beedi work.

3] M. V. Foundation, Andhra Pradesh: The study concentrated on their work in the Shankarpalli Mandal and Chevella Mandal of Ranga Reddy District, Andhra Pradesh. The project worked with children who are employed in the agriculture and rural based economic activities.

4] The Panchayat Toofan Project of The Concerned for the Working Children, Karnataka: The study concentrated on the Panchayat Toofan Project which was run by Gramashrama, a rural project of the Concerned for the Working Children in Dakshina Kannada District of Karnataka. The project targeted children working in various rural economic activities.

5] South Asian Coalition on Child Servitude, Delhi/UP: The study covered their work at the Mukti Ashram on the outskirts of Delhi where the release and rehabilitation of children primarily engaged in carpet work is undertaken.

A sample of the following respondents was drawn from each of these organisations:

1] Field level workers or activists - These included the paid and unpaid activists who were working in different capacities at the grass-root level.

2] Managerial and Supervisory staff of the NGOs - These included members who headed the organisations or the individual projects and were involved in policy formulation work.

3] Beneficiaries which primarily included child labourers and in a few cases their families from each of the organisations selected for the study.

4] employers of the children wherever possible.

Sampling method and Sample Size: None of the organisations studied had a complete list of all their beneficiaries, either because of the vast pool of beneficiaries served by them or an inadequate documentation of the same. Therefore the researcher could not use a random sampling method. However, in order to maximise the representation of children from different categories such as gender, age, occupation and geographical area, the researcher stratified the sample on these vectors and then used a purposive or a quota sampling for selecting the respondents. A sample of 40 children per organisation was selected so as to get a sample large enough for statistical analysis. Thus a total of 200 child respondents from five organisations were covered under the study. The sample of parents and employers was also selected on the basis of purposive or quota method of sampling.

Data collection:

Data was collected by the researcher over a period of seven months from July 1996 to January 1997.

Sources of Data: Primary and Secondary data was collected from the following sources:

1. Law Enforcement Machinery: Besides the statutes and case-law on child labour, secondary data was collected from the records maintained at the Offices of the Labour Commissioner and the Chief Inspectorate of Factories of States that were covered under the study. The primary data was collected from the Labour Officers and the Factory Inspectors.

2. Non-Governmental Organisations: Secondary data about the organisations in the form of annual reports, publications, etc. was collected. Primary data was collected from the functionaries of the NGOs at the field level, supervisory and managerial level. Primary data was also collected from the working children, their families and the employers.

Tools of Data Collection: Initially, the researcher had planned to conduct focus group discussions with the labour and factory officials who are directly involved in the prosecutions. The researcher however found it unfeasible to collect all the officials together at the same time and she thus had to interview them as and when they were available individually. Yet, the guidelines for the focus group discussions were used as an open ended interview guide for this group of respondents. An attempt was made by the researcher to participate in a raid which was to be conducted by the Inspectors of Factories at the Sivakasi office. However, as the Medical Officer of the Department was not available for certain reasons, the raid was canceled and the researcher could not participate in the same. As the activists of the NGOs were spread out in different field projects, the researcher found it difficult to conduct focus group discussions with them and hence had to rely on in-depth interviews with each of them. The formats of the interview schedules were different for the field level staff and the staff at the supervisory and managerial levels of the organisations. Primary data was collected from working children, families and employers by way of in-depth interviews by using a pre-structured set of open ended questions. In the cases of DBT and SACCS, it was not possible to interview the parents as the families were not involved in the services delivered by the organisation in the case of the former and the

children were away from their families in the case of the latter. In instances where the children worked for their own families, parents were interviewed using the schedules meant for the parents as well as the employers. Although the schedule contained a predetermined set of questions, the researcher used the instrument as a flexible device to collect data as the background of the children interviewed was diverse making certain areas of information relevant to some while being irrelevant to the other respondents. The researcher also had to use some rapport-building exercises such as providing information to the children on nature and purpose of the study and personal information about the researcher; asking general questions that had no bearing on the research area; singing songs with the children; staying with them in the transition camps and so on. As the researcher was not familiar with the languages spoken by children from three organisations, namely, Panchayat Toofan of CWC, Karnataka; The Indian Council for Child Welfare, Tamil Nadu; and M. V. Foundation, Andhra Pradesh; assistance was sought from translators. These translators were either workers at the field level with the organisation or were volunteers with the organisation that was being studied. In some cases, translations were facilitated by other children who knew the language spoken by the researcher as well as by the employers when the interviews were carried out in the work premises. On each occasion, the researcher provided an orientation to the translator on the nature of the study, the kind of data to be collected, and the method of collecting data i.e. how should the questions be asked and so on. The researcher monitored the way the translators were asking the questions and suggested changes in some instances. The researcher also cross-checked the replies of the respondents to certain complex questions with the translators till she was satisfied with the completeness of the response given.

Items of Data Collected: The tools of data collection were used to collect data on the following items:

1. Law Enforcement Machinery: The data collected from the law enforcement machinery included different statutes related to child labour (particularly the State Acts), rules and notifications, State policies, case law, the process of law enforcement, machinery used for law enforcement, supports available from other departments, cases filed and outcome, incidence of child labour in their area of jurisdiction, work distribution and load, interaction with the NGOs, problems at work and successes.

2. NGOs: The data on the following items was collected from the NGOs: the environment or the context of their work, history of their work, mission, goals, objectives, strategies, specific activities and programmes, nature of beneficiaries, staff, interaction and support from the government and the legal enforcement machinery, funding patterns, problems at work, success stories.

3. Child Labourers: The following data was collected from the child labourers: personal and family background, information related to work and employment, services obtained from the State, NGOs, employers, etc. The statements used to operationalise the 'Child Labour-Child Rights Continuum' were translated into various questions pertaining to the children's working conditions and were also included along with other questions in the interview guide for child labourers.

4. Families: The interview schedule for the parents included the following items: socio-economic profile of the families, demographic details, attitudes towards child's work and education.

5. Employers: The interview schedule for the employers contained the following items: kind of work done at the factory/unit, details of adult and child workers, process of work, recruitment, background information, facilities provided to the labourers.

Data Analysis:

The data collection brought about a combination of quantitative and qualitative data. The quantitative data was subjected to simple frequency distribution analysis. The scores of the children on the continuum according to each category of rights and the total scores were calculated. The qualitative data was also analysed by classifying the data into smaller categories, coding the responses and then using cross tabular analysis for understanding the trends. Although the research study employed the case study method, quantitative analysis was undertaken not with a purpose of generalisation, but with a purpose of describing the data on each case in the most comprehensible manner. Statistical analysis that was undertaken was thus done in order to present the significant trends which were identified in case. Multiple regression analysis (using the least squares method) was done for each case study so as to estimate the relationship between the dependent and the independent variables. The dependent variables such as the present status of the child, the difference in the hours spent on different activities and the scores on the continuum were analysed with the independent variables such as child's age, sex, religion, education, parental education, age of starting work, nature of work done, migration history, ordinal position, indebtedness, duration of being a beneficiary and so on. The model for regression analysis was worked out by trying out a combination of different variables to get the best possible results. The software package of Microsoft Excel was used for generating spreadsheets as well as cross-tables. The statistical tool available on Microsoft Excel was used to do all the statistical analysis and testing. The secondary data obtained from the law enforcement authorities and the NGOs was put through content analysis and was presented by creating classifications and trends wherever possible.

Limitations of the Study:

Social problems are complex and their complete study remains partly an unachieved goal for researchers imposing limitations on the study. The

present study also has certain limitations which are as follows. First, child labour thrives in a variety of settings but voluntary action is limited only to the elimination of child labour in a few occupations. Although the organisations studied as part of this research covered voluntary action in the important occupations, there are still a number of employments which have not received the attention of the NGOs. Thus the findings of the present study do not provide insights for the elimination of child labour in such employments. Second, it is very likely that there are more efforts being made to eliminate child labour at the micro level and the organisations selected by the researcher are by no means exhaustive of all the experiments taking place at the national level. Such efforts, however, might have slipped the attention of this study on account of lack of publicity given to them as well as the practical constraints of the researcher in including many organisations. Third, the researcher had a language barrier while conducting this study. Had the researcher known the languages spoken by all her respondents, she would have been able to gather still better data. Fourth, nothing can be categorically said about the role of law enforcement on transforming the situation of 'child labour' to 'child work' as the child beneficiaries of the enforcement could not be interviewed. However, the study certainly brings out useful insights into the role of NGOs and law in the elimination of child labour from the perspective of the rights of the child.

Endnotes

¹ For a further discussion on the mixing of quantitative and qualitative methods, see Brannen (1992) and Bryman (1988).

² The researcher found that the enforcement of the 1986 Act was jointly undertaken by the Office of the Labour Commissioner and the Chief Inspector of Factories in Tamil Nadu. However, in Andhra Pradesh, it was being enforced primarily by the Office of the Labour Commissioner.