

POLICY INITIATIVES RELATING TO CHILD LABOUR IN INDIA

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Our evidence reveals that employment of children is almost non - existent in organized industries. It persists in a varying degrees in the unorganized sector such as small plantations, restaurants and hotels, Cotton ginning and weaving, carpet weaving, stone breaking, brick kiln, domestic works, handicrafts and road building.

- The National Commission on Labour (Government of India, 1969)

INTRODUCTION:

India has a long history of giving legal protection to the Child Labour from exploitation at work through its various labour laws and there are specific provisions both in the Directive Principles of State Policy and in the Articles pertaining to the Fundamental Rights guaranteed by the Constitution of India. The Post-Independence era has seen an unequivocal commitment of the government to the cause of children through constitutional provisions, legislation, policies and programs. The Constitution of India in Article 39 of the Directive Principles of State Policy pledges that “the State shall, in particular, direct its policy towards securing that the health and strength of workers, men and women, and the tender age of children are not abused, and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength, that children are given opportunities and facilities to develop in a healthy manner, and in conditions of freedom and dignity, and that childhood and youth are protected against exploitation, and against moral and material abandonment”.

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As a follow-up to this commitment, and being a party to the UN Declaration on the Rights of the Child 1959, India adopted the National Policy on Children in 1974. The policy reaffirmed the constitutional provisions and stated “it shall be the policy of the State to provide adequate services to children, both before and after birth and through the period of growth to ensure their full physical, mental and social development .The State shall progressively increase the scope of such services so that within a reasonable time, all children in the country enjoy optimum conditions for their balanced growth”.

1 Child Labour Policy:The National Child Labour Policy aimed at successfully rehabilitating child labour withdrawn from employment and at reducing the incidence of child labour progressively through a number of measures. The three main components of the policy are: Legislative Action Plan, Focusing on General Development Programmes, and Project based Plan of Action. A brief discussion on these three aspects is as follows;

1.1 Legislative Action Plan: In this, the emphasis is laid on strict and effective enforcement of legal provisions relating to child labour under various labour laws including the Child Labour (Prohibition and Regulation) Act, 1986, the Factories Act, 1948, the Mines Act, 1952 and the Plantation Labour Act, 1951. The National Policy for Children Resolution, adopted in August 1974, further developed the ideas and set out a policy framework and measures aimed at providing adequate services for children. Free and compulsory education for all children up to the age of 14, provisions 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 no child under the age of 14 years shall be permitted to be engaged in hazardous occupations.

The Committee on Child Labour (Gurupadaswamy Committee) examined the problems of child labour in detail. India is one of the countries where the problems of child labour are quite openly manifest and widespread existence of these has been viewed by the Government of India with concern. The Gurupadaswamy Committee recognized that a distinction had to be made between child labour and the exploitation of child labour. It had underlined that in all future action dealing with child labour this basic aspect would have to be taken note of i.e., that “labour becomes an absolute evil in the case of the child when he is required to work beyond his physical capacity, when hours of an 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 in, endangers his health and safety i.e. when he is exploited”.

The child Labour (Prohibition and Regulation) Act, 1986, is the culmination of the process of consideration, that, Government has been giving 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 and the outline of the programme of action, Government have had to keep in mind the economic and social aspects of child labour in the country.

India's First Act on the subject was the enactment of the Children (Pledging of Labor) Act of February 1933. The Employment of Children Act followed this in 1938. Subsequently, twelve additional legislations were passed that progressively extended legal protection to children. Provisions relating to child labor under various enactments such as the Factories Act, the Mines Act, the Plantation Labor Act etc. have concentrated on aspects such as reducing working hours, increasing minimum wage and prohibiting employment of children in occupations and processes detrimental to their health and development.

The Act aims at prohibiting the entry of children into hazardous occupations and at regulating the services of children in non-hazardous occupations. The Act, in particular,

- bans the employment of children, i.e. those who have not completed their 14th year, in specified occupations and processes (listed in the Schedule to the Act, attached at lays down a procedure to make additions to the schedule of banned occupations or processes;
- regulates the working conditions of children in occupations where they are not prohibited from working;

The enactment of Child Labour Act in 1986 and enunciation of Child Labour Policy in 1987 the government has been following a sequential approach towards elimination of child labour in the country. While it is committed for elimination of child labour in all its forms in the country, the focus is on elimination of hazardous forms of child labour in areas of high concentration. The list of hazardous occupations and processes are also being expanded to cover more and more sectors. The list has been expanded to include 13 occupations and 57 processes at present. In addition, government has recently also included domestic servants and children working in dhabas, hotels etc, in the list of hazardous occupations, which cover a large number of working children in the country.

1.2 Focusing of General Developmental Programmes for Benefiting Child Labour: As poverty is the root cause of child labour, the action plan emphasizes the need to cover these children and their families also under various poverty alleviation and employment generation schemes of the Government. In this component of the National Child Labour Policy the stress

is on utilization of various on-going development programmes of other Ministries and Departments for the benefit of Child Labour wherever possible.

1.3 Project based Plan of Action: The aim is to launch projects for the welfare of working children in the areas of high concentration of child labour. Project Based Plan of Action envisages starting of projects in areas of high concentration of child labour. The Scheme envisages running of special schools for child labour withdrawn from work. Under the Scheme, funds are given to the District Collectors for running special schools for child labour. Most of these schools are run by the NGOs in the district.

2. Programme Component: Under the National Child Labour Projects, it is proposed to focus on different developmental and welfare programmes for the benefit of child labour in the project area. Effective convergence and an integrated approach of the relevant social sector schemes need to be carried out to achieve the project goals. The activities taken up under the project in the 10th Plan are: a). Stepping up of enforcement of child labour laws, b). Formal Non- formal education, c) Provision of Vocational Training, d) Income and employment generation activities , e) Direct rehabilitation of child labour , f) Raising of public awareness , g) Survey and evaluation.

2.1. Operationalisation of child labour special schools: In view of the crucial role of education in prevention and elimination of child labour, a component of education is provided in the project. As the working children are from diverse backgrounds, skill and experience, it is important that the children in the special schools are imparted education on a formal/non-formal pattern with a condensed syllabus for a maximum period of 3 years after which the children are expected to reach the level of 5th standard. Apart from education, children are also provided with a package of welfare inputs such as supplementary nutrition and health- care through special schools to meet their special needs.

2.2. Project Implementation: The entire project is required to be implemented through a registered society under the Chairmanship of the administrative head of the district namely, District Magistrate/Collector/Dy. Commissioner of the district. Members of the society may be drawn from Government Departments, representatives of Panchayati Raj Institutions, NGOs, Trade Unions, etc.

2.3. Monitoring & Evaluation: Regular monitoring at the Central, State and district level is important for the effective implementation of the project. At the national level, a Central Monitoring Committee has been set up under the Chairmanship of Union Labour Secretary for overall supervision, monitoring and evaluation of various child labour projects. At the District Level, the Chairperson should review the, functioning of the project continuously.

2.4 Funding: Since the projects have been taken up in the Central Sector, the entire funding is done by the Central Government (Ministry of Labour). Funds are released to the project societies concerned depending upon the progress of project activities.

3. International Programme on the Elimination of Child Labour (IPEC):The International Programme on the Elimination of Child Labour is a global programme launched by the International Labour Organization in December, 1991. India was the first country to join it in 1992 when it signed a Memorandum of Understanding (MOU) with ILO.

The MOU that expired on 31.12.1996 has thereafter been extended from time to time and has recently been extended till 3 December, 2006. The long-term objective of IPEC is to contribute to the effective abolition of child labour. Its immediate objectives are:

Enhancement of the capability of ILO constituents and NGOs to design, implement and evaluate programmes for child labour;

- i. To identify interventions at community and national levels which could serve as models for replication; and
- ii. Creation of awareness and social mobilization for securing elimination of child labour.

At the international level, IPEC has a Programme Steering committee consisting of representatives of the ILO, the donors and participating countries. At the national level in India, there is a National Steering Committee of which the Secretary, Ministry of Labour and Employment is the Chairman. This is tripartite in composition with representation from NGOs as well. The National Steering Committee met twice in 2004 i.e. on 2nd July and 24th August 2004. Its last meeting was held on the 10th of October, 2005.

IPEC-India has, during the period 1992-2002, supported over 165 Action Programmes. The Government of India and the US Department of Labour have also initiated a US\$ 40 million project aimed at eliminating child labour in 10 hazardous sectors across 21 districts in five States namely, Maharashtra, Madhya Pradesh, Tamil Nadu, Uttar Pradesh and NCT of Delhi. This project, popularly known as INDUS, is being implemented by ILO. An estimated 80,000 children are to be withdrawn and rehabilitated through this project. Support activities are also directed to 10,000 families of former child workers.

3.1. The Andhra project: The ILO has also implemented phase I of the State-based Project in Andhra Pradesh. The National Steering Committee has also approved Phase II of the AP Project in its meeting held on 24.08.2004. A Memorandum of Understanding was signed between the DFID and the ILO in November 2004. In the second phase, the project will focus on two most child labour endemic districts in the State i.e. Mahabubnagar and Kurnool. The Project also focuses on the special problems of urban areas and attempt to evolve a strategy for

Hyderabad city. The Project seeks to develop and implement strategy for skill training for adolescent children by linking vocational training facilities.

3.2. Karnataka project: In addition, the National Steering Committee also gave a go ahead to the ILO supported project on “Combating worst forms of child labour in sericulture industry” in Karnataka as per the revised parameters proposed by the State Government keeping in view the existing child labour situation in the State. The Project will be implemented in the two districts of Chamarajanagar & Bidar and would not be confined to the sericulture industry alone, but would also include other working children. The Project would implement all the existing components of the NCLP and would also incorporate some of the additional components being implemented in other ILO Project like INDUS. The initiatives are implemented on the pilot basis for future replication in other areas. The duration of the Project is 3 years with the budget of US\$ 3.29 million, which is funded by the Government of Italy through ILO.

The Ministry of Labour, Government of India and US Department of Labour have developed a project under ILO-IPEC for Prevention and Elimination of Child Labour in identified Hazardous Sectors. This project has been developed as a follow-up of the Joint Statement on “Enhanced Indo-US Cooperation on Eliminating Child Labour” signed between the Ministry of Labour and the US Department of Labour in August, 2000 whereby each reiterated their respective nation's commitment to the Prohibition and Elimination of the Worst Forms of child labour as a matter of urgency and agreed that each would support and facilitate the development of comprehensive projects in identified sectors

The Indus Project is jointly funded by the Ministry of Labour, Government of India and the Department of Labour, United States of America (USDOL) and is implemented in ten hazardous sectors in 21 districts across five states namely, Maharashtra, Madhya Pradesh, Tamil Nadu and Uttar Pradesh.

4. Committees and advisory board on child labour: In terms of the Provisions of Section 5 of the Child Labour (Prohibition & Regulation) Act, 1986, further occupations and processes may be added to the Schedule of the Act as per the recommendations of the **Child Labour Technical Advisory Committee (CLTAC)**. The Committee consists of a Chairman and nine other Members appointed in terms of Child Labour (Prohibition & Regulation) Rules.

Besides, CLTAC, a high level National Authority for Elimination of Child Labour has been constituted under the Chairmanship of Hon’ble Labour Minister to lay down policies and programmes for elimination of child labour, particularly, in hazardous employments. The

Authority is also expected to coordinate implementation of child labour related projects of various Ministries/Departments of the Central Government.

In addition, a Central Advisory Board on Child Labour has also been constituted to review the implementation of the existing legislations and suggest measures for welfare of working children.

Finally, in order to monitor the functioning of the NCLPs, a Central Monitoring Committee has been formed. The Committee sees the overall supervision, monitoring and evaluation of the National Child Labour Projects. It is set up under the Chairmanship of Secretary, Ministry of Labour and Employment with representative of State Governments and Ministries/Departments concerned. The State Governments have also been advised to set up State Level Monitoring Committees similar to the Central Monitoring Committee to monitor functioning of National Child Labour Projects in their States.

5. Strategy for the elimination of child labour under the 10th Plan:

The salient points of the 10th Plan Strategy are as follows:

1. Focused and reinforced action to eliminate child labour in the hazardous occupations by the end of the Plan period.
2. Expansion of National Child Labour Projects to additional 150 districts.
3. Linking the child labour elimination efforts with the Scheme of Sarva Shiksha Abhiyan of Ministry of Human Resource Development to ensure that children in the age group of 5-8 years get directly admitted to regular schools and that the older working children are mainstreamed to the formal education system through special schools functioning under the NCLP Scheme.
4. Convergence with other Schemes of the Departments of Education, Rural Development, Health and Women and Child Development for the ultimate attainment of the objective in a time bound manner.

The Government and the Ministry of Labour and Employment in particular, are rather serious in their efforts to fight and succeed in this direction. The number of districts covered under the NCLP Scheme has been increased from 100 to 250. In addition, 21 districts have been covered under INDUS, a similar Scheme for rehabilitation of child labour in cooperation with US Department of Labour.

Elimination of child labour is the single largest programme in this Ministry's activities. Apart from a major increase in the number of districts covered under the scheme, the priority of the Government in this direction is evident in the quantum jump in budgetary allocation during the 10th Plan. Government has allocated Rs. 602 crores for the Scheme during the 10th Plan, as

against an expenditure of Rs. 178 crores in the 9th Plan. The resources set aside for combating this evil in the Ministry is to the tune of around 50 per cent of its total annual budget.

6. Policy Measures in 11th plan: In addition to the policy initiatives undertaken in the 10th plan, the 11th plan focused on the following issues to eliminate child labour;

- a. It is decided to expand NCLP scheme to all the districts of the country.
- b. Provision of uniform and sports kits to children enrolled in special schools.
- c. Providing immunization and mineral / vitamins supplements to them regularly with the help of Health Department at state level.
- d. Development of curriculum for special schools at state level in collaboration with Education Department.
- e. Establishing a system of 'lead schools' in every district for smooth transition into main stream education.
- f. Monitoring and tracking of child labour even after mainstream, and
- g. Vocational training based upon market survey and association with ITI and vocational training to adolescents also.

Every state should develop 'state action plan' with specific targets for every district to eliminate child labour in a time bound manner. The plan also identified the need to evolve a 'specific strategy for migrant child labour' in metropolitan cities with greater interstate coordination. It is decided to amend the child labour (Prohibition and Regulation) Act, 1986, as follows;

- a. Fixing 14 years as minimum age of employment in non hazardous occupation.
- b. Rising minimum age of employment hazardous occupation from current level of 14 years to 18 years.
- c. Inclusion of education as one of the objectives for framing rules under the act for regulation of working conditions.

Assessment of child labour in various occupation in the district through intensive fresh child labour surveys in all the districts. This would enable the state and district level authorities to develop the action plan to tackle this problem in the entire state. Some of the prominent schemes of these Ministries / Departments, which could have an explicit component for child labour and their families are given below and could be utilized for supporting Government's intervention for elimination of child labour. This is however, only an indicative list and could be extended to other programmes too.

Schemes of the Department of Elementary Education

- Sarva Siksha Abhiyan (SSA)

- Vastishala
- Shiksha Mitra Yojana
- Mid Day Meal Scheme

Schemes of Ministry of Women & Child Development

- Anganwadi Centre / Day Care Centre
- Extension Services of Anganwadi Workers
- Balika Samridhi Yojana
- Swavalamban
- Mahila Samakhya (Assistance to Voluntary agencies with Mahila Samakhya Women)

Schemes of Ministry of Rural Development

- Swarnjayanthi Gram Swarozgar Yojana (SGSY)
- Samporna Grameen Rozgar Yojana (SGRY)
- Indira Awas Yojana (IAY)

7. Supreme Court on Child Labour:

Judiciary has played very crucial role in augmenting the efforts of all concerned for elimination of child labour in the recent past. The Supreme Court in its landmark judgment delivered on 10th December 1996 in M.C.Mehta case gave a major fillip and encouragement to the efforts of various agencies working in the field of child labour.

The Supreme Court in its judgment directed among other things to conduct a detailed survey of child labour in the entire country. According to the judgment, on completion of the survey an amount of Rs 20, 000/- per child should be collected from the employer who has employed child labour in hazardous occupations and processes, which will be used as corpus for the child labour Rehabilitation cum welfare fund to be set up at the district level. States should ensure alternative employment to an able bodied adult member of the family of the child who was withdrawn from the work or alternatively contribute Rs. 5, 000/- per child to the said fund. The child would be ensured education in the formal school and the employer should be prosecuted for violating the provisions of the child labour Act. In non-hazardous jobs, the child should be imparted education at the cost of the employer and the Government should ensure that the children do not work for more than 4 to 6 hours.

The above directions of the Supreme Court are included in Article 141 of the constitution of India, which is reproduced below:

Article 141 Law declared by Supreme Court to be binding on all courts: The law declared by the Supreme Court shall be binding on all courts within the territory of India. After MC Mehta's case another important judgment was delivered by the apex court in Bandhu Mukthi

Morcha case⁵. In this case the court observed that “Child of today cannot develop to be a reasonable and productive member of tomorrow’s society unless an environment which is conducive to his social and physical health is assured to him”. It directed the government to evolve principles of (and) policies for progressive elimination of employment of the children below the age of 14 years in all employments governed by the respective enactments mentioned in MC Mehta’s case.

The court held that child labour must be eradicated through well planned poverty focused alleviation development and imposition of trade sanctions in employment of children etc. It called for progressive ban on the exploitation of the child and directed the government to evolve simultaneous alternative including boarding, education, health care, nutrient food, shelter and other means of livelihood with self-respect and dignity of person.

7.1. Follow up action on the directions of the Supreme Court: As a follow up of the directions of the Supreme Court, all the State Governments were sent detailed guidelines on December 26, 1996 indicating the manner in which the directions of the Supreme Court were to be implemented. A meeting of the NAECL was convened on 31st December 1996 to discuss the directions of the Supreme Court on child labor. It was decided in the meeting that the Ministry of Labor should immediately release funds to the State Governments so as to enable them to conduct surveys of working children before June 10, 1997. A conference of the Labour Ministers of State/Union Territories was convened on January 22nd, 1997 to finalize an action plan for the implementation of the directions of the Supreme Court on withdrawal and rehabilitation of working children. In the conference, all the participating States and Union Territories welcomed the judgment and demonstrated their political will to eliminate child labor. However, all the States pleaded for additional and liberal financial assistance from the Central Government for implementing the judgment of the Supreme Court.

The following significant recommendations were made in the Conference: The survey envisaged in the judgment of the Supreme Court would be in two phases. In the first phase the survey would be conducted in all industries, establishments, shops, work places in urban and semi-urban catchment areas where hazardous processes will be identified. In the event of any child labor being found employed in any such process, simultaneous action would be taken to recover an amount of ` .20, 000/from the offending employer. Hazardous establishments in the rural areas would also be fully covered by the survey in the first phase. The door-to- door survey for the purpose of identification and enumeration of working children will be taken up in the second phase.

While primarily it is the responsibility of the State Governments to provide necessary funds for taking up activities in compliance of the directions of the Supreme Court, funds for conducting the survey will be released by the Central Government to the agencies at the district level immediately. If the funds released for the first phase of survey fall short of the actual requirement in any district, the State Governments will provide the additional funds for this purpose. Since this first phase of the survey is concentrated on industrial establishments, the requirement of funds would be worked out by the Central Government and the same would be released immediately.

Immediate action will be initiated by the State Governments for strengthening the enforcement machinery at various levels and for creation of a separate cell at the State level to monitor and coordinate the activities to be taken up in compliance of the directions of the Supreme Court. They will also send their requirements of funds in this regard, if any, to the Planning Commission at the earliest.

If for some reason, the State Governments find it difficult to give effect to any one or more directions of the Supreme Court, they will seek necessary clarification/directions from the Hon'ble Supreme Court well in time.

As a follow-up of the decision taken in the State Labor Ministers' Conference, the Chief Secretaries of State and Union Territories have been sent detailed guidelines for carrying out the survey as per the directions of the Supreme Court. A copy of the child labor survey form has also been sent to the Governments of State and Union Territories.

Funds have been released to all the State and Union Territories governments for the purpose of conducting the surveys. The Chief Secretaries were specifically instructed that if the State Governments could not complete the surveys in time, they should apprise the Supreme Court through an affidavit about the reasons for delay and seek extension of time from the Supreme Court well in advance.

The Judiciary in India has played very crucial role in augmenting the efforts of all concern for elimination of child labour. The Supreme Court in its Judgment directed among all other things to conduct a detailed survey of child labour in the entire country. The court directed that the child labour must be eradicated through well planned poverty focused elevation development and imposition of trade sanctions in employment of children etc.

Findings and Suggestions:

The study highlights that due to lack of employment opportunities and proper legislation and policy, and the consequent engagement of children in work. Most of the child labour households (98per cent) are not aware of child labour Laws. They are fascinated towards

migration to urban areas for one reason or other, unable to find suitable job and this situation also forced them to engage their children at work.

The Child Labour Act 1986 banned the employment of children below 14 years in certain industries which are hazardous. According to this Act all the children below 14 years working in different sectors will not come under Child Labour Act. This is creating lot of confusion in the stage of collecting census data of working children. Though more number of children are working in agricultural sector, they were not figured in the census data. Due to this reason the census data is not exactly matching with the occupations listed in hazardous under the Child Labour Act. A clear segregation of data into hazardous and non-hazardous occupations has to be done to have broad estimation of children working in different occupations.

Lack of awareness among the parents, employers and society in general about the problem of child labour is the major concern. There is a need to develop awareness in the child workers, their parents and employers of the damage the early work can cause to the society, young earners and their generations to come. They should be informed about the benefits of the alternative solutions. They should be explained the difference between right, educational work on one hand and exploitative drudgery on the other hand. For a wider publicity of this message, mass media should be used giving regular information and running educational campaigns. Public lectures can also be organized with more emphasis on the problem and its repercussions. Child labour is the most pernicious problem which has been discussed by everyone with social conciseness. Attempts were made and many policy initiatives were taken and many schemes were implemented by the state and central governments for the eradication of child labour. But all these exercises proved futile as the problem remained the same and taking dangerous proportions. Hence the attempt is made to probe in to the root cause for this problem. Poverty is the one of the reasons for the Cancerous growth of this obnoxious problem. The problem can be viewed from different perspectives of a child's caste, colour, creed, gender, region and also the environmental factor. One can't just brush it aside as a problem to be tackled by the labour department. One can't wipe it out by simple legislation. In an agricultural country like India , where land plays a vital role for economic security and the livelihood of people, the only solution for the problem seems to be distribution of land among the poor and the downtrodden along with the eradication of caste system and education should instill confidence among the people that it helps normally in the acquisition of knowledge but also creates better employment opportunities. Then only one can see a way of hope for the eradication of the problem of child labour.

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