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No.10/RN/Ref./2013

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Child Labour

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Child Labour

Introduction

Children are the greatest gift to humanity and Childhood is an important and impressionable stage of human development as it holds the potential to the future development of any society. Children who are brought up in an environment, which is conducive to their intellectual, physical and social health, grow up to be responsible and productive members of society. Every nation links its future with the present status of its children. By performing work when they are too young for the task, children unduly reduce their present welfare or their future income earning capabilities, either by shrinking their future external choice sets or by reducing their own future individual productive capabilities. Under extreme economic distress, children are forced to forego educational opportunities and take up jobs which are mostly exploitative as they are usually underpaid and engaged in hazardous conditions. Parents decide to send their child for engaging in a job as a desperate measure due to poor economic conditions. It is, therefore, no wonder that the poor households predominantly send their children to work in early ages of their life. One of the disconcerting aspects of child labour is that children are sent to work at the expense of education. There is a strong effect of child labour on school attendance rates and the length of a child's work day is negatively associated with his or her capacity to attend school. Child labour restricts the right of children to access and benefit from education and denies the fundamental opportunity to attend school. Child labour, thus, prejudices children's education and adversely affects their health and safety¹.

Magnitude of Child Labour in India

The magnitude of child labour in India has been witnessing enormous decline in the last two decades, both in terms of magnitude and workforce participation rates.

¹ Government of India, Planning Commission, Working Group for Social inclusion of Vulnerable Group like Child Labour and Bonded and Migrant Labour in the 12th Five Year Plan (2012-17)

Evidence drawn from the National Sample Survey data suggest that India's child workforce during 2004-05 was estimated at little over nine million (9.07 million) as against twenty-one and half million (21.55 million) in 1983. During this period, the number of child employment has declined sharply by 12.48 million. There is considerable fall in child workforce is observed among boys than girls. The corresponding fall in boys and girls workforce during 1983 to 2004- 05 is observed to have decreased from 12.06 to 4.76 million, and 9.49 to 4.31 million, respectively. In effect, the gender difference that existed between boys and girls (adverse against boys) during the early 1980s has almost dissipated in recent years, the difference being slowed down from 2.57 million to roughly 0.45 million. However, in absolute numbers, the problem is large. As per the Census 2001, there are 1.26 crores economically active children in the age-group of 5-14 years. It was 1.13 crores in the 1991 Census².

As per NSSO survey 2009-10, the working children are estimated at 49.84 lakh which shows a declining trend. As per the Global Report on Child Labour published by International Labour Organization last year, the activity rate of children in the age group of 5-14 years is 5.1 per cent in Latin America and Caribbean Region, which is the lowest in the world. In the Asia-Pacific Region, it is 18.8 per cent. In comparison to that, the activity rate of children in India, as per 2001 census is 5 per cent³.

State-wise details of working children as per NSSO Survey 2009-10 are at ***Annexure-I***.

Government Initiatives

Child Labour and Constitutional Provisions

The framers of the Constitution of India deemed it necessary to include special provisions in the Constitution for the protection of the rights of working children⁴.

² *Ibid*

³ India, Ministry of Labour and Employment, Annual Report 2012-13, p. 91

⁴ *Problems of Child Labour in India* by Raj Kumar Sen and Asis Das Gupta (Editors), 2003

Article	Title	Description
21A	Right to Education	The State shall provide free and compulsory education to all children of the age of 6 to 14 years in such manner as the State, by law, may determine.
24	Prohibition of Employment of Children's in Factories	No child below the age fourteen years shall be employed in work in any factory or mine or engaged in any other hazardous employment.
39	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 ⁵

Legislation for Child Labour in India

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.

⁵ <http://labour.nic.in>

- The Children (Pledging of Labour) Act, 1933
- The Employment of Children Act, 1938
- The Minimum Wages, Act 1948 and rules made thereunder 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, and
- Child Labour (Prohibition and Regulation) Act, 1986⁶

Child Labour (Prohibition and Regulation) Act (1986) was the culmination of efforts and ideas that emerged from the deliberations and recommendations of various committees on child labour. Significant among them were the National Commission on Labour (1966-1969), the Gurupadaswamy Committee on Child Labour (1979) and the Sanat Mehta Committee (1984). The Act aims to prohibit the entry of children into hazardous occupations and to regulate the services of children in non-hazardous occupations. In particular it is aimed at (i) the banning of the employment of children, i.e. those who have not completed their 14th year, in 18 specified occupations and 65 processes; (ii) laying down a procedure to make additions to the schedule of banned occupations or processes; (iii) regulating the working conditions of children in occupations where they are not prohibited from working; (iv) laying down penalties for employment of children in violation of the provisions of this Act and other Acts which forbid the employment of children; (v) bringing uniformity in the definition of the child in related laws⁷.

⁶ *Child Labour in India – Rights, Welfare and Protection* by Dipak Das, 2011

⁷ Government of India, Planning Commission, Working Group for Social inclusion of Vulnerable Group like Child Labour and Bonded and Migrant Labour in the 12th Five Year Plan (2012-17)

List of occupations and processes prohibited under the Act are given in **(Annexure-II)**.

The Child Labour (Prohibition and Regulation Amendment Bill, 2012 was introduced in Rajya Sabha on 4 December, 2012 further to amend the Child Labour (Prohibition and Regulation) Act, 1986. The amendment also seeks a blanket ban on employing children below 18 years in hazardous industries like mining. The Bill is referred to Standing Committee on Labour and Employment⁸.

Enforcement Figures on Child Labour

As per the data received from various States, the details of inspections carried out, prosecutions launched, convictions made under the Child Labour Act during the last five years and current year are given as under⁹:

Year	No. of Inspections	No. of Prosecutions	No. of Convictions
2007	363927	12705	617
2008	355629	11318	763
2009	317083	11418	1312
2010	239612	8998	1308
2011	84935	4590	774
2012**	25040	589	167

** The information yet to be received from many States.

Judicial Efforts towards the Problem of Child Labour

On 10th December 1996 in Writ Petition (Civil) No.465/1986 on MC Mehta verses State of Tamil Nadu, the Supreme Court of India, gave certain directions on the issue of elimination of child labour. The main features of judgment are as under:

⁸ The Assam Tribune, Guwahati dated 2.1.2013

⁹ Rajya Sabha Unstarred Question No. 1347 dated 5.12.2012

- Survey for identification of working children;
- Withdrawal of children working in hazardous industry and ensuring their education in appropriate institutions;
- Contribution @ Rs.20,000/- per child to be paid by the offending employers of children to a welfare fund to be established for this purpose;
- Employment to one adult member of the family of the child so withdrawn from work and if that is not possible a contribution of Rs.5,000/- to the welfare fund to be made by the State Government;
- Financial assistance to the families of the children so withdrawn to be paid -out of the interest earnings on the corpus of Rs.20,000/25,000 deposited in the welfare fund as long as the child is actually sent to the schools;
- Regulating hours of work for children working in non-hazardous occupations so that their working hours do not exceed six hours per day and education for at least two hours is ensured. The entire expenditure on education is to be borne by the concerned employer.

The implementation of the direction of the Hon'ble Supreme Court is being monitored by the Ministry of Labour and compliance of the directions have been reported in the form of Affidavits on 05.12.97, 21.12.1999, 04.12.2000, 04.07.2001 and 04-12-2003 to the Hon'ble Court on the basis of the information received from the State/UT Governments¹⁰.

National Child Labour Policy

Constitutional and legislative provisions providing protection to children against employment has been elaborated in the National Child Labour Policy announced in 1987. The policy addresses the complex issue of child labour in a comprehensive, holistic and integrated manner. The action plan under this policy is multi-pronged and mainly consists of:

- A legislative action plan;

¹⁰ <http://labour.nic.in>

- Focuses on general development programmes for the benefit of the families of children; and
- Project-based action plan in areas of high concentration of child labour¹¹.

National Child Labour Project Scheme

For rehabilitation of child labour, Government had initiated the National Child Labour Project (NCLP) Scheme in 1988 to rehabilitate working children in 12 child labour endemic districts of the country. Its coverage has increased progressively to cover 271 districts in the country presently. As on date the Scheme is in operation in 266 districts.

Under the NCLP Scheme, children are withdrawn from work and put into special schools, where they are provided with bridging education, vocational training, mid-day meal, stipend, health-care facilities etc. and finally mainstreamed to the formal education system. At present, there are around 7,000 NCLP schools being run in the country with an enrolment of three lakh children. Till date more than 9 lakh working children have already been mainstreamed to regular education under the NCLP Scheme.

The NCLP scheme is a Central Sector scheme. Under the scheme, project societies are set up at the district level under the Chairpersonship of the Collector/ District Magistrate for overseeing the implementation of the project. Instructions to involve civil society and NGOs have also been issued¹².

The number of child labourers rescued, rehabilitated and mainstreamed through National Child Labour Project Scheme during 2009 To December 2012, State-wise is given in **Annexure-III**.

¹¹ op.cit., Annual Report, pp. 91-92

¹² *Ibid*

Convergence with Programmes of Other Ministries/Departments

Convergence of services from different government departments is one of the key components of the NCLP which leads to the overall success of the programme. The NCLPs make efforts to utilise the services of other departments at various levels. Most important among the different departments has been the Department of Education. Since different forms of child labour cannot be ended only by improving school enrolment and educational rehabilitation, efforts for improvement of socio-economic environment of the child labour families will be strengthened. Some of the prominent schemes of these Ministries/department, which could have an explicit component for child labour and their family are given below and could be utilized for government interventions for elimination of child labour. This is however, only an indicative list and could be extended to others programmes to:

a) Schemes of Department of Education

- Sarva Shiksha Abhiyan (SSA)
- Mid Day Meal Scheme

b) Schemes of Ministry of Women & Child Development:

- ICPS scheme For providing food and shelter to the children withdrawn from work through their schemes of Shelter Homes, etc
- Balika Samridhi Yojana and admission of children withdrawn from into residential schools under SC/ST/OBC Schemes.

c) Schemes of Ministry of Rural Development

- Mahatama Gandhi National Rural Employment Guarantee Act (MGNREGA).
- Swarnjayanti Grameen Rozgar Yojana (SGRY)
- Indira Awas Yojana (IAY)

d) Scheme of Ministry of Labour & Employment

- Rashtriya Swasthya Bima Yojana (RSBY)
- Skilled Development Initiative Scheme (SDIS)

e) Other Social security schemes

- Indira Gandhi National Old Age Pension Scheme

- National Family Benefit Scheme
- Janani Suraksha Yojna
- Handloom Weavers' Comprehensive Welfare Scheme
- Handicraft Artsans' Comprehensive Welfare Scheme
- Pension to Master craft persons
- National scheme for Welfare of Fishermen and Training and Extension of Janashree Bima Yojana

As poverty and illiteracy are the prime reasons for child labour, a combined and coordinated effort of the various departments would greatly help to mitigate this problem. The National Policy on Child Labour, prescribes the need to focus on general development programmes for the benefit of the families of child Labour. Providing income generation opportunities to the parents of child labour would enable them to send their children to school rather than work. Moreover, encouraging the parents of the working children to form Self Help Groups (SHGs). This would also help to bring children from these families to the fold of education¹³.

Elimination of Child Labour in India – Coordination with ILO

The International Labour Organisation (ILO) launched the International Programme for Elimination of Child Labour (IPEC) in the year 1991 with the objective to end child labour globally. India was the first country to sign the Memorandum of Understanding (MOU) in the year 1992. During the 11th Plan Period, three Projects viz., INDUS Project, Andhra Pradesh Phase-II & Karnataka Project were implemented in the country under ILO-IPEC. Jointly funded by the Ministry of Labour, Government of India and the Department of Labour, United States of America (USDOL), the INDUS Child Labour Project was implemented in ten hazardous sectors in 21 districts across five states viz. Delhi (NCT Delhi), Maharashtra (Districts of Amravati, Jalna, Aurangabad, Gondia and Mumbai Suburban), Madhya Pradesh (Districts of Damoh, Sagar, Jabalpur, Satna and Katni), Tamil Nadu (Districts of Kanchipuram, Thiruvannamallai, Tiruvallur, Nammakkal and Virudhunagar) and Uttar Pradesh (Districts of Moradabad, Allahabad,

¹³ Government of India, Planning Commission, Working Group for Social inclusion of Vulnerable Group like Child Labour and Bonded and Migrant Labour in the 12th Five Year Plan (2012-17)

Kanpur Nagar, Aligarh and Ferozabad). The project adopted a participatory method to identify beneficiaries and enrolling child workers in schools, transitional education centres and vocational training centres was seen as a key strategy for rehabilitation of child and adolescent workers withdrawn from work. The project was instrumental in the operationalising the public education component in the field. The Project also developed income generation strategies for child labour elimination by linking child labour families with the ongoing government schemes that provide access to micro credit and subsidies. The project has systematically worked at developing a comprehensive multipronged communication strategy. A variety of tools have been developed to aid awareness raising efforts at the field level. Through its Action Programmes, the INDUS project worked towards sensitizing and building capacities of key government agencies and civil society partners in project states on child labour. The project, through an action research to study the occupational health and safety made efforts to develop interim solutions to protect adolescents and young adults from hazards at work places. The project has also operationalised a beneficiary tracking system, for tracking and following up on the progress of all project beneficiaries. Through this project, an estimated 103,152 children and adolescent workers were withdrawn and rehabilitated. The Project was concluded in March 2009¹⁴.

Conclusion

Government has accordingly been taking proactive steps to tackle this problem through strict enforcement of legislative provisions along with simultaneous rehabilitative measures. State Governments, which are the appropriate implementing authorities, have been conducting regular inspections and raids to detect cases of violations. Since poverty is the root cause of this problem, and enforcement alone cannot help solve it, Government has been laying a lot of emphasis on the rehabilitation of these children and on improving the economic conditions of their families¹⁵.

¹⁴ Government of India, Planning Commission, Working Group for Social inclusion of Vulnerable Group like Child Labour and Bonded and Migrant Labour in the 12th Five Year Plan (2012-17)

¹⁵ <http://labour.nic.in>

Annexure-I

**Data on Child Labour based on Employment Unemployment Survey
During NSS 66th Round (2009-10)¹⁶**

Sr. No.	Major State all India	Age Group 5-14			
		Rural		Urban	
		Male	Female	Male	Female
1.	Andhra Pradesh	88156	110191	20767	15548
2.	Assam	144655	31909	11833	757
3.	Bihar	224292	38665	11017	2548
4.	Chhattisgarh	3669	7321	636	0
5.	Delhi	-	-	18576	0
6.	Gujarat	150487	207973	15945	16282
7.	Haryana	22664	17471	28073	3988
8.	Himachal Pradesh	2300	2942	2156	0
9.	Jammu & Kashmir	11274	16872	1139	0
10.	Jharkhand	63684	14661	4123	0
11.	Karnataka	89796	113429	20793	2479
12.	Kerala	1182	0	0	1583
13.	Madhya Pradesh	91454	32812	57688	9063
14.	Maharashtra	66370	127996	54230	12077
15.	Orissa	54390	38288	36522	5363
16.	Punjab	16802	6433	15664	9937
17.	Rajasthan	93055	261871	43184	7826
18.	Tamil Nadu	0	13880	3471	0
19.	Uttarakhand	14810	7239	3219	2103
20.	Uttar Pradesh	1012294	546320	147820	68899
21.	West Bengal	357265	134657	31946	27716
	All India	2511101	1727271	546897	198602

¹⁶ Rajya Sabha Unstarred Question No. 2128, dated 12.12.2012

Part-A

List of Occupations Processes prohibited under the Act

- 1) Transport of passengers, goods or mails by railways;
- 2) Cinder picking, clearing of an ash pit or building operation in the railway premises;
- 3) Work in a catering establishment at a railway station, involving the movement of a vendor or any other employee of the establishment from the one platform to another or in to or out of a moving train;
- 4) Work relating to the construction of a railway station or with any other work where such work is done in close proximity to or between the railway lines;
- 5) A port authority within the limits of any port;
- 6) Work relating to selling of crackers and fireworks in shops with temporary licenses;
- 7) Abattoirs/Slaughter House;
- 8) Automobile workshops and garages;
- 9) Foundries;
- 10) Handling of toxic or inflammable substances or explosives;
- 11) Handloom and power loom industry;
- 12) Mines (underground and under water) and collieries;
- 13) Plastic units and fibreglass workshops;
- 14) Domestic workers or servants;
- 15) Dhabas (roadside eateries), restaurants, hotels, motels, tea shops, resorts, spas or other recreational centers; and
- 16) Diving.
- 17) Caring of elephant.
- 18) Working in the circus¹⁷.

¹⁷ Lok Sabha Unstarred Question No. 2669 dated 10.12.2012

Part B

Processes (Industrial Activity)

- 1) Beedi-making.
- 2) Carpet-weaving including preparatory and incidental process thereof;
- 3) Cement manufacture, including bagging of cement.
- 4) Cloth printing, dyeing and weaving including processes preparatory and incidental thereto:
- 5) Manufacture of matches, explosives and fire-works.
- 6) Mica-cutting and splitting.
- 7) Shellac manufacture.
- 8) Soap manufacture.
- 9) Tanning.
- 10) Wool-cleaning.
- 11) Building and construction industry including processing and polishing of granite stones`
- 12) Manufacture of slate pencils (including packing).
- 13) Manufacture of products from agate.
- 14) Manufacturing processes using toxic metals and substances such as lead, mercury, manganese, chromium, cadmium, benzene, pesticides and asbestos.
- 15) `Hazardous processes` as defined in Sec. 2 (cb) and `dangerous operation` as notice in rules made under section 87 of the Factories Act, 1948 (63 of 1948)
- 16) (16) Printing as defined in Section 2(k) (iv) of the Factories Act, 1948 (63 of 1948)
- 17) Cashew and cashewnut descaling and processing.
- 18) Soldering processes in electronic industries.
- 19) Aggarbatti` manufacturing.
- 20) Automobile repairs and maintenance including processes incidental thereto namely, welding, lathe work, dent beating and painting.

- 21) Brick kilns and Roof tiles units.
- 22) Cotton ginning and processing and production of hosiery goods.
- 23) Detergent manufacturing.
- 24) Fabrication workshops (ferrous and non ferrous)
- 25) Gem cutting and polishing.
- 26) Handling of chromites and manganese ores.
- 27) Jute textile manufacture and coir making.
- 28) Lime Kilns and Manufacture of Lime.
- 29) Lock Making.
- 30) Manufacturing processes having exposure to lead such as primary and secondary smelting, welding and cutting of lead-painted metal constructions, welding of galvanized or zinc silicate, polyvinyl chloride, mixing (by hand) of crystal glass mass, sanding or scraping of lead paint, burning of lead in enamelling workshops, lead mining, plumbing, cable making, wiring patenting, lead casting, type founding in printing shops. Store typesetting, assembling of cars, shot making and lead glass blowing.
- 31) Manufacture of cement pipes, cement products and other related work.
- 32) Manufacture of glass, glass ware including bangles, florescent tubes, bulbs and other similar glass products.
- 33) Manufacture of dyes and dye stuff.
- 34) Manufacturing or handling of pesticides and insecticides.
- 35) Manufacturing or processing and handling of corrosive and toxic substances, metal cleaning and photo engraving and soldering processes in electronic industry.
- 36) Manufacturing of burning coal and coal briquettes.
- 37) Manufacturing of sports goods involving exposure to synthetic materials, chemicals and leather.
- 38) Moulding and processing of fiberglass and plastic.
- 39) Oil expelling and refinery.

- 40) Paper making.
- 41) Potteries and ceramic industry.
- 42) Polishing, moulding, cutting, welding and manufacturing of brass goods in all forms.
- 43) Processes in agriculture where tractors, threshing and harvesting machines are used and chaff cutting.
- 44) Saw mill - all processes.
- 45) Sericulture processing.
- 46) Skinning, dyeing and processes for manufacturing of leather and leather products.
- 47) Stone breaking and stone crushing.
- 48) Tobacco processing including manufacturing of tobacco, tobacco paste and handling of tobacco in any form.
- 49) Tyre making, repairing, re-treading and graphite beneficiation.
- 50) Utensils making, polishing and metal buffing.
- 51) `Zari` making (all processes) `.
- 52) Electroplating;
- 53) Graphite powdering and incidental processing;
- 54) Grinding or glazing of metals;
- 55) Diamond cutting and polishing;
- 56) Extraction of slate from mines;
- 57) Rag picking and scavenging;
- 58) Processes involving exposure to excessive heat (e.g. working near furnace) and cold;
- 59) Mechanised fishing;
- 60) Food Processing;
- 61) Beverage Industry;
- 62) Timber handling and loading;

- 63) Mechanical Lumbering;
- 64) Warehousing;
- 65) Processes involving exposure to free silica such as slate, pencil industry, stone grinding, slate stone mining, stone quarries, and agate industry.

Number of child labourers rescued, rehabilitated and mainstreamed through National Child Labour Project scheme during the last three years and current year, State-wise

Sl. No.	State	No. of children Mainstreamed			
		2009-10	2010-11	2011-12	2012-13 Up to Dec. 2012
1	Assam	3685	274	227	10848
2	Andhra Pradesh	13689	1858	13202	7840
3	Bihar	7998	8552	19673	1162
4	Chhattisgarh	1063	5164	4914	2004
5	Gujarat	1437	2129	609	569
6	Haryana	1354	1293	1895	1722
7	Jammu & Kashmir	Nil	43	184	132
8	Jharkhand	1816	1015	2216	4003
9	Karnataka	3217	135	3761	742
10	Maharashtra	5,150	5113	4532	4328
11	Madhya Pradesh	9,692	13344	17589	5044
12	Orissa	10,585	14416	13196	10309
13	Punjab	1,023	123	168	0
14	Rajasthan	12,326	4415	1020	4155
15	Tamil Nadu	6,321	6325	5127	3537
16	Uttar Pradesh	40,297	28243	29947	10617
17	West Bengal	13,187	2215	7456	3117

Source: Lok Sabha Starred Question No. 191 dated 11.3.2013