

# "BUDDING GENERATION AND BRIDGING FREEDOM - GIRL CHILD"



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# Child Labour in India - A Study

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## Introduction

Childhood is the most important stage in human life that shapes the future individual, through formal education, self-learning through playing and interaction with other Children, adults and nature, into a better person in private and public life who is aware of rights and responsibilities. However, not all children are at advantage to enjoy their childhood. Millions of children are toiling at in humane working conditions to earn their livelihood. This issue of child labour has been widely researched and debated for decades but it is still a significant issue for many developing nations. In each country child labour is caused by unique mix of level of economic development in the country, social attitudes towards children, cultural factors, educational quality and quantity, duality in labour market, labour laws governing labour markets and the stringency with which they are enforced. It is aptly described, as 'child labour is a symptom and not the problem'. Despite the countless policies and programmes launched against the issue, the resultant dent caused in the numbers is very meagre. This study is a further addition to existing knowledge on child labour, with special focus on educational and employment issues related to child labour in India.

## Child Labour

Child labour should be viewed differently from the other three core labour standards; For it is not just a labour issue but it is a serious social and economic issue confronting the developing world. International organisations and national governments have put much effort forth alike that the recent statistics have started showing a downward trend in child labour incidence especially the worst forms of child labour (ILO, 2006). Having child labour listed as a core labour standard, reflects the commitment of international organisation in combating the issue. Though child labour has endured in many countries for decades, increasing trade between the developed and developing countries has helped to bring the issue into focus, and there is an increased awareness among the public. Because of the concerns about child labour, it is always under focus and has been a subject of intense scrutiny in public minds. Moreover, the research and outreach activities of the non-governmental organisations have increased considerably in this sector over the past decade.

## Child Labour in India

As a developing country with highest child population in the world, the issue of child labour in India is critical and is also widely researched. Though percentage of working children is lower in India than many other developing countries, it has the highest number of working

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children in the world, given its population size. The debate about the definition of child labour has adversely affected the statistics of child labour, where the exact numbers are still eluding. One of the major problems in gaining accurate numbers is primarily due to the employers and parents, who decline to divulge information on working children as child labour is legally banned in many occupations. Therefore, the official statistics might not be showing the real number of working children. According to National Sample Survey, there are about 9.33 million children in India actively engaged in work in the year 2009-2011. Different sources show different trends in child labour statistics.

The downward global trend in child labour numbers is also noticed in the National Sample Surveys' statistics. It shows that it has fallen from 13.95 million in the year 2001 to 9.33 million in the year 2009-2011. However, the census data presents a different picture, showing an increase from 11.28 million in the year 2001 to 12.66 million in the year 2011. The percentage of working children in the labour force, which reveals the intensity of the issue, has decreased from 5.37% in the year 2001 to 5% in the year 2011. The other way of calculating the child labour numbers is by calculating the difference between the total child population and the school enrolment rate (based on the assumption that children out of school are potential child labourers and all enrolled children are attending schools). The difference between such a number and the official child labour numbers shows the number of 'nowhere or idle children', who are not enrolled in schools and not reported to be work. These children could be just at home or employed in hazardous occupations banned by law and therefore not revealed by parents and employers. Statistics based on the NSS 55th survey on employment and unemployment data in India in the year 2009-2011 is presented in the discrepancies in data on child labour.

### **Efforts for Child Labour in India**

India has not ratified the two ILO conventions relating to child labour. However, there are constitutional and legislative provisions in place against child labour. Three articles of the constitution are concerned with child labour:

1. Article 21a - right to education for children aged between 6 and 14 years,
2. Article 24 - prohibition of employment of children in factories,
3. Article 39 - directs the state governments to form policies such that 'children are not abused and are not forced by economic necessities to enter avocations unsuited to Age and strength'.

Child labour prohibition and regulation Act, 1986, prohibits children from working in 13 occupations and 57 processes. It defines any person under the age of 14 as a child. The act was amended and made effective since October 2006, to include two more occupations. Employment as domestic workers or servants and employment in eateries, hotels and recreational facilities. This inclusion would directly affect 255,000 children. However, trade sector (gross and retailing) that employs nearly 10% of child labour was not included in the ban. Inclusion of this occupation would benefit child labourers in the urban areas. However, there is a negative repercussion, as the law might tend to be ineffective and make the children worse-off if implemented, depriving the family of income as there are no provisions for incentives for the children or for the



family for the loss of income through child labour. India was the first country to join the International Programme of Elimination of Child labour (IPEC), a global programme operated by ILO since the year 1992 and its operation in India was extended from time to time and was recently extended until Dec 2006. During the period 1992-2002, IPEC supported over 165 projects in India. The programme also operates state based projects, identifying child labour prone districts in the state. The programme works in tandem with NCLP. Under ILO- IPEC project, central ministry for labour and the US department of labour developed a project, INDUS, aimed at rehabilitating children working in 10 hazardous sectors. The project will directly benefit 80,000 child labourers and it plans to support 10,000 families of former child labourers.

### **Determinants of Children Out of School**

The determinants of child labour and educationally deprived children are one of the most extensively discussed topics in the issue of child labour and still being discussed by the public and the policy makers. The experiences of the developed countries need not hold for the developing countries as each country's case is unique, caused by their level of socio economic development together with the issues surrounding land, labour and financial markets etc. Of all the determinants studied, one stands out as frequently, studied both theoretically and empirically, Poverty. The idea of 'poverty trap' being the cause of child labour is long existent. Malthus argues that the prevalence of child labour in the 18th century is an evidence for families being unable to meet their basic needs. This study analyses the effects of, select characteristics of the family and the state where the family resides, on the children out of school including child labour. From the wide array of available literature, select theoretical and empirical studies are presented below.

### **Protection of Children under Child Labour (Prohibition and Regulation) Act, 1986**

The problem of child labour continues to pose a challenge before the nation. Government has been taking various proactive measure to tackle this problem. However, considering the magnitude and extent of the problem and that it is essentially a socio economic problem inextricably linked to poverty and illiteracy, it requires concerted efforts from all sections of the society to make a dent in the problem. Way back in 1979, Government formed to Gurupadaswamy Committee to study the issue of child labour and to suggest measures to tackle it. The committee examined the problem in detail and made some far reaching recommendations. It observed that as long as poverty continued, it would be difficult to totally, eliminate child labour and hence, any attempt to abolish it through legal recourse would not be a practical proposition. The committee felt that in the circumstances, the only alternative left was to ban child labour in hazardous areas and to regulate and ameliorate the conditions of work in other areas. It recommended that a multiple policy approach was required in dealing with the problems of working children. Based on the recommendation of Gurupadaswamy Committee, the Child Labour (Prohibition and Regulation) Act was enacted in 1986. The Act prohibits employment of children in certain specified hazardous occupations and processes and regulates the working conditions in others. The list of hazardous occupations and processes is progressively being expanded on the recommendation of Child Labour Technical Advisory Committee constituted under the act.

## **Various Government Protects to Eradicate Problems related to Child Labour**

We implement certain programmes to eliminate child labour. Some of them are as under mentioned.

1. National Child Labour Project (NCLP)
2. International Programme on Elimination of Child Labour (IPECL)
3. National Resource Centre on Child Labour, (NRCCL)
4. National Authority for the Elimination of Child Labour, [NAECL]

Agriculture sector employs 75% of total employed child labour. Even though it is not considered as hazardous process. Our acts determine physical Harm, danger and neglect psychological, mental or emotional harm, in agricultural operations a child has to work in direct sun, heat, cold season and rainy season. They are also used for spraying of poison pesticide and fertilizer. In consonance of recommendations of Gurupadaswamy Committee and enactment of child labour prohibition and regulation Act, 1986, A National Policy on child labour was formulated in 1987. The policy seeks to adopt a gradual and sequential approach with a focus on rehabilitation of children working in hazardous occupations and processes in the first instance. The action plan outlined in the policy for tackling this problem is as follows: Legislative action plan for strict enforcement of C.L. (P and R) act and other labour laws to ensure that children are not employed in hazardous employments. And that the working conditions of children working in non-hazardous areas are regulated in accordance with the provisions of the Act. It also entails further identification of additional occupations and processes, which are detrimental to the health and safety of the children. 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. Pursuant to this, in 1988 the NCLP scheme was launched in 9 districts of high child labour endemicity in the country. The scheme envisages running of special schools of child labour withdrawn from work. In the special schools these children are provided formal non formal education along with vocational training, a stipend of Rs. 100/- per month. Supplementary nutrition and regular health check-up so as to prepare them to join regular mainstream schools. Under the scheme, funds are given to the district collectors for running special schools and 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.

### **Present Scenario**

With a view to preventing employment of children below 14 years of age by Government servants. The commission recommended that the relevant service rules governing the conduct of central and state Government employees be amended to achieve this objective. The union ministry of personnel and public grievances and pensions (Department of Personnel and Training). Has informed the commission that the central Government has amended the All India Services (Conduct) Rules, 1968 as well as the central civil services (conduct) rules, 1964. Except for



the State of Manipur. All the States/ UTS have also brought out the required amendments to the conduct rules of their employees. The commission intends to monitor the issue and see whether the appropriate movements actually take action against those public servants who continue to employ children as domestic servants.

**Role of voluntary sectors:** At national levels as well as local level many such organizations are busy to protect the rights of the child as well as to solve the problem of child labour with the help of findings agencies and / or help of government machinery. Such organizations are CAVLGantar, UNICEF, Shaishav, ChildLine etc. **Government's commitment:** Government's commitment to addressing the problems of child labour is reflected in the National Agenda of governance. The Agenda States that the aim is to ensure that no children remain illiterate, hungry or lack medical care and that measures will be taken to eliminate child labour. **Pitfalls of the labour statute:** There is no minimum age in not prescribe for the Occupation permitted for children and no provision exists for education of working children.

### **Role of Judiciary and Child Labour**

The Hon'ble Supreme Court in the case of *MC Mehta V. State of Tamil Nadu* had given certain directions, to withdraw children from the hazardous working occupation and rehabilitate them. Where children are allowed to work in non-hazardous occupation, the condition of work shall be regulated and improved. The court had directed the Government to Survey for identification of working children: withdrawal of children working in hazardous industries and ensuring their education with appropriate instruction; contribution at the rate of Rs. 20,000 per child to be paid by the offenders to a welfare fund to be established for this. Employment to one adult member of the withdrawn child's family and if that is not possible, a contribution of Rs. 25,000 to the welfare funds 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 school. Regulating working hours for children in non-hazardous occupations, the court held that they should not exceed six hours per day with one paid holiday in a week and education expenditure to be borne by the employer. The Ministry of labour was required to appraise the court within a period of a year of the judgment regarding the compliance.

The Hon'ble Supreme Court directed that children should not be employed in hazardous jobs in factories for manufacture of match boxes and fireworks and positive steps should be taken for the welfare of such children as well as for improving the quality of their life. Again, Supreme Court directed that the employers of children below 14 years must comply with the providing for compensation, employment of their parents/ guardians and their education. The Court issued notice to centre and states on child labour the Hon'ble Supreme Court on a PIL, seeking enforcement of the right to education of every child in the age group 6-14 by abolishing child labour in all forms, issued notice to all the states and the Union Territories. The court asked Registrar-General of census to furnish figure for child labour in the country. The court issued notice to the centre. When the matter came up for hearing, the Bench expressed concern over continuance of child labour. After the constitutional amendment providing for compulsory education to children of 6-14 years of age, there could not be child labourers. "They have to be in school. It is the duty of the states to provide them schools". The court has issued notice, returnable in four weeks.

## Education as Preventive Measures

To provide compulsory primary education and the education should not be burdensome to the parents, the Government allowed funds for child labourer lamination programme. Initially, this scheme was introduced in the age group of 6-9 years and then gradually the age limit increased. They also allowed the child to work while studying even though 50% amount is not utilized. As per one estimate to cover 6 to 14 years children, required 6500 crore which is within affordable limit of state. It is also duty to the state under Art. 21A of the Constitution. Central Government has made the provision for 2% additional cess tax on tax payable, which will be used for the Child Education only. Mid-day launch programme in school: the Government has implemented a scheme for the children of primary school to give them mid-day meal through the Gram Panchayat. Where it is unable to provide the meal, they are provide with wheat, rice etc. Many other supplementary schemes are run by the Central Government along with state Government to achieve the full literacy in country.

## Conclusion

It is very much true to say that child labour is an incurable disease in our present society. We cannot conclude this topic by saying that children are exposed to serious health hazard in the trades where child labour is used. For instance, children inhale wool fluff in the carpet industry or toxic fumes in the match boxes and fireworks industry or the plastic bead industry, and they are exposed to intense heat in the glass industry. In the bangles and glass industries, children workers are affected by silica dust, which causes silicosis, a dangerous disease of the lungs. The work environment of child labour is usually unhygienic, poorly ventilated and badly lit. Children often have to work in an uncomfortable physical position and have no right to complain about their discomfort. The major problems pertaining to child labour, particularly in organized sectors are concerned with the minimum age, medical examinations, the working hours and prevention of night work. It is difficult to sketch a line between the hazardous process and non-hazardous process and occupation. These things should be done by way of mutual interaction and mutual awareness programme not by strict law enforcing as because law can be made to stop the tradition but it enforce the law and he people must stick to it.

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