CHAPTER - V

LEGISLATIONS REGARDING CHILD LABOUR

As we studied earlier, India has been concerned about the well being of children since ancient period. But in modern times the earliest law that contained any provision to regulate the employment of children in India is factory Act, 1881. It is followed by other enactments, like the Mines Act, 1901, the children (Pledging of Labour Act, 1951, the Mines Act, 1952, the Merchant Shipping Act, 1958, The Atomic Energy Act, 1962, The Beedi and Cigar Workers Act, 1966). These acts and various steps taken by state all clearly lay down the minimum age and working conditions for employing children. Offences under various acts are subject to penalties in the form of cash or imprisonment.

India, being a developing welfare state, is concerned with the well being of all the sections of the society. In 1945, two years before attaining independence, when the congress party and its allies are sure to get freedom from British Colonial Rule, a development plan called 'Bombay Plan 1945' or 'Birla-Tata Plan 1945' prepared with the mixed economy as the fundamental hub of the development. Private and public sectors joint participation in the economic set up unleashed a new democratic and progressive culture in India. The public sector is mainly given the tough task of raising infrastructure and ensuring the market for the private sector. The development of public sector provided a strong network to provide education, food, electricity and health facilities to a vast majority of the population. Education and health are primarily taken as the state responsibility. With this, lakhs of schools are set up in the country to make an easy access to the common man. But poorer
of the poor are remained deprived of these facilities particularly the children belonging to this section of the society.

Customs and the law usually hold that the work that children do alongside their parents is distinct from exploitation to which they may be subjected when they work for third parties. Indeed, this is generally so, since parents usually look after their children welfare. Therefore, much of the physical efforts, the hours of work and the boredom inflicted on the child may be reduced considerably. But however satisfactory his working environment may be, he will inevitably be concerned in the smooth running of the family undertaking and will inevitably share, with his parents, problems, preoccupations and uncertainties which are not usually the concern of children of his age. It is in the more developed countries that people first became aware of the harmfulness of child labour and of the need to introduce compulsory education and to give children the necessary opportunities for recreation. It does seem, however, that these measures are not always inspired purely by humanitarian motives. They are also designed to protect the employment and wages of adult workers. In fact it is well known that children who enter the labour force carry out work that could very well be done by an adult, that is, they usually deprive an adult of the job in question. Moreover, the child does the job for much lower a wage than an adult. For this reason many employers prefer to engage children. There is, in fact, a vicious cycle here. On the one hand, child labour increases unemployment among adults and reduces their income; and on the other hand unemployment and low wages of adults force them to put their children to work in order to boost the family income. Thus child labour can lead to simultaneous increase and decrease in the family income and net impact will depend upon many other variables.
In the developing countries, however it has unfortunately not been possible to put an end to child labour to protect children from exploitation and to safeguard the employment of adults. Despite the fact that almost all these countries have good legislation in this respect and the work children do is illegal, the child labour is still there. Not only that, the law makes no provision even for safeguarding their working conditions.

Although, central government and various states governments are aware of the situation of the child labour in the informal sector, no significant effort has been made so far to adopt a comprehensive legislation regulating the employment conditions of child labour. Unless a comprehensive legislation of a composite nature dealing with wages, hours of work, health, and safety, welfare facilities, leave and holidays, social security, refreshment, is adopted and suitable enforcement machinery is created for this purpose, nothing tangible can be achieved.

INTERNATIONAL LABOUR STANDARDS

Before the process of globalization under World Trade Organization regimes started, there are some international labour standards, which are drastically modified/revised with the WTO agreements. There are a number of international instruments imposing legal obligation on all the UN member countries to provide much needed access to educational opportunity to every child together with other forms of protection much before the ‘Social Clause’ of WTO. These are as under:

to a standard of living adequate for the child's physical, mental, spiritual, moral and social development (Article 27). In Article 28 the convention states that state parties recognize the right of child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they should, in particular make primary education compulsory and available free to all; encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need.

2. Article 28 further indicates that the state parties shall make higher education accessible to all on the basis of capacity by every appropriate means; make educational and vocational information and guidance available and accessible to all children and take measures to encourage regular attendance at schools and reduction of dropout rates.

3. Similarly, Article 32 of the convention states that state parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous, or to interfere with child's education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development. State parties shall take legislative, administrative, social and educational measures to answer the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, states parties shall in particular provide for a minimum age or minimum ages for admission to employment; provide for appropriate regulation of the hours
and conditions of employment; and provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.


These conventions have been supplemented and their guiding spirit of dignity and respect for children’s rights has been reinforced by numerous declarations adopted in International Conferences such as:


- 1990 World Conference on Education for all.

- 1995 Conference of Labour Ministers of Non-aligned Countries and the declaration that was adopted at the close of the conference.

- The Stockholm Congress on Commercial Sexual Exploitation of Children held in August 1996.

- The Third SAARC Ministerial Conference on the Children of South Asia in August 1996 and the declaration for
eliminating bonded child labour by the year 2000 with total elimination of child labour in the region by 2010.

• The declaration adopted as the clause of two-day International Conference held at Amsterdam in February 1997 (25-26 February, 1997).

• The declaration and the action programme adopted at the close of the four-day International Conference held at Oslo between 27 and 30 October 1997.

Any estimate of child labour depends on how we define ‘child’ and ‘labour’ and on the quality of statistics available. The ILO convention No. 138 specifies fifteen years as the age above which, in normal circumstances, a person may participate in economic activity. ILO Convention 182(1999) calls for ‘immediate and effective measures for the prohibition and elimination of the worst forms of child labour’, such as child slavery and all other forms of slavery or such practices.

Similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory recruitment of children for use in armed conflict or the use, procuring or offering of a child for prostitution, for the production of pornography or the pornographic performances or the use, procuring or offering of child for illegal activities such as for the production and trafficking of drugs as defined in the relevant international traits; work which by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

Article 3 (190) recommends: In determining the types of work referred to under Article 3 (d) of the convention, and in identifying where they exist, consideration should be given, inter alia to:
01. Work which exposes children to physical, psychological or sexual abuse;

02. Work underground, under water, at dangerous heights or in confined spaces;

03. Work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads.

The UN conventions and recommendations provide rules that while identical for all ratifying states, allow flexibility that could create differences across these states, each ratifying state determines specific details, for example, by establishing the minimum age for employment to work states that 15 is the general requirement, but it can be as low as 14 for developing countries (C-138, Article 2). Further some developing countries state that the age should be 16, and specify the types of work to be prohibited below 18 years of age as hazardous work (C-138, Article 3).

INDIAN CONTEXT

Constitutional Framework

States actions directed towards children are guided by fundamental legal norms. In the Indian context, these are rooted in two important documents namely:

(i) The Constitution of India; and

(ii) UN Convention on the Rights of the Child;(CRC)

The provisions concerning child labour in these two documents have been detailed below.
The Constitution of India

The universal instruments on human rights and children's rights have influenced national legislation. The Indian Constitution has a few provisions that lay down guidelines for the states on how to treat its children and young persons. They mainly relate to education, employment, growth and development of children. Indian legislation on the child related matters is quite advanced and is in conformity with the international standards.

After independence, the Indian State became fully conscious of its responsibility towards children. Consequently, this consciousness and concern is reflected in some of the principles enshrined in the Indian Constitution for protecting and promoting the rights and well-being of children. India's abiding interest in the welfare of children is an expression of the country's commitment to the welfare of its children – a commitment enshrined in the Preamble and various other Articles of the Constitution.

The concern for welfare of the children is reflected through the guidelines stated by the different Articles of the Constitution expounded below:

- **Article 15(3)** enables the state to make special provisions for women and children. Women and children require special treatment on account of their very nature. This article empowers the State to make special provisions for them.

- The Constitution (86th Amendment Act), 2001, proposed a new clause **Article 21A** after Article 21 of the Constitution which provided – "The State shall provide free and compulsory education to all children of the age of 6 to 14 years in such a manner as the State may, by law determine".
• **Article 23** prohibits traffic in human beings and beggar (form of forced labour) and other similar forms of forced labour. 'Traffic in human beings' means selling and buying men and women like goods, and it also includes immoral traffic in women and children for depraved or other purposes. This Article protects the individual not only against the State but also private citizens. It imposes a positive obligation on the State to take steps to abolish evils of "traffic in human beings" and forced labour in all its forms wherever they exist. It also prohibits the system of 'bonded labour' because it is a form of forced labour within the meaning of this article.

In pursuance of this Article, Parliament passed the 'Suppression of Immoral Traffic in Women and Girls Act, 1956', which prohibited any act related to traffic in human beings. This act is now known as "The Immoral Traffic (Prevention) Act, 1956".

• **Article 24** prohibits employment of children below the age of 14 years in factories and hazardous employment. This provision is certainly in the interest of public health and safety of life of children. This Article however, does not prohibit their employment in any harmless job or work.

In pursuance to the above duty the 'Employment of Children Act, 1938', and The Child Labour (Prohibition and Regulations) Act, 1986, are enacted.

• **Article 39(e)** makes it a duty of the State to prevent the children from entering into jobs unsuited to their age. It seeks to protect health and strength of workers and tender age of children and seeks to ensure that they are not forced by
economic necessity to enter avocations unsuited to their age or strength.

- **Article 39(f)** recommends the protection of childhood and youth against exploitation and moral and material abandonment. It also affirms to make sure that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity.

- **Article 45** directs the State to provide free and compulsory educations to all children upto 14 years of age, within the time limit of 10 years. Eight years of education to all children in the age group of 6-14 years has been envisaged as Universal Elementary Education (UEE) and reiterated in the Five Year Plans.

- The Constitution (86th Amendment) Act, 2002, added a new clause (k) to the Article 51-A of the Constitution. This provided – “Parent or guardian to provide opportunities for education to his child or ward as the case may be between the age of six and fourteen years”.

Besides the provisions that have been laid down in the above mentioned Articles a few others that address the issue about the employment of men and women have some bearing on the problem of child labour as well. For instance:

**Article 38(1)** provides that the State shall strive to promote the welfare of the people by securing and protecting effectively a social order in which justice-social, economic and political-shall inform all the institutions of national life. **Article 39(a)** states equal right of men and women to adequate means of livelihood.
Article 41 directs the State to ensure the people within the limit of its economic capacity and development: (a) employment, (b) education, and (c) public assistance in cases of unemployment, old age, sickness and disablement and in other cases of underserved want.

Article 42 requires the State to make provisions for securing just human conditions of work and for maternity relief.

Article 43 requires the State to try to secure by suitable legislation or economic organization or in any other way, to all workers, agricultural, industrial or otherwise, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities. It refers to a 'living wage' instead of a 'minimum wage'. The concept of living wage includes in addition to the bare necessities of life, such as food, shelter and clothing, provisions for education of children and insurance etc.

Article 46 directs the State to promote the education and economic interests of the weaker sections of the people, and in particular of the Scheduled Castes and Scheduled Tribes, and to protect them from social injustice and of all forms of exploitation.

Article 47 imposes the duty to raise the standard of living of the people and the improvement of public health.

Although the principle of 'Equal Pay for Equal Work' is not principally declared by our Constitution to be a fundamental right, but it certainly is a constitutional goal under Articles 14, 16, and 39(c) of the Constitution.

These provisions and similar others stated in our Constitution have an important bearing on the problem of child labour, i.e. if
these guidelines are adhered to in an effective manner then the problem of child labour can be limited to a certain extent.

The predicament of child labour emanates from social and economic crisis and thus, by achieving the constitutional goals, the children in arduous socio-economic conditions can be prevented from entering the labour market.

The Fundamental Rights such as 'Right to Equality' and Right against Exploitation' articulate the well being of children. Moreover, the Constitution (86th Amendment) Act, 2002, added 'Right to Education' to the list of Fundamental Rights. The Right to Education, being a Fundamental Right, flows directly from right to life. The right to life and the dignity of an individual cannot be assured unless the right to education accompanies it.

The Directive Principles of State Policy set out aims and objectives to be taken up by the states in the governance of the country. The idea of welfare State envisaged by our Constitution can only be achieved if the state endeavors to implement them. The 'Social and Economic Charter' and the 'Social Security Charter' of the Directives guarantee the welfare of children. The Fundamental Duties embedded in our Constitution also include provisions, which guard the interests of children.

Thus, (if read progressively) the Constitution of India is of a clear view that childhood is meant to be spent in schools and not in hazardous work environment. Also, if the Constitutional provisions related to the child wellbeing are read together, they have a potential for laying down very comprehensive guidelines for a total elimination of child labour and for protection of children from any form of exploitation.
Similarly, at the International level there exist Conventions under the UN that protect children.

**UN Convention on the Rights of the Child (CRC)**

The United Nations General Assembly proclaimed the year 1979 as the International Year of the Child with the general objectives of promoting the well-being of children drawing attention to their special needs and encouraging national action on behalf of children, particularly for the least privileged and those who work. The year 1979 was designated the International Year of the Child by the United Nations in order to focus the attention of all countries on the special needs of children, and to stimulate the sharing of international experience and resources to promote the well being of children everywhere.

In 1979, the International Year of the Child, at the request of the UN General Assembly an open-ended working Group was set up in Geneva by the Commission on Human Rights to draft a Convention by the "Target 1989". Thus, the Convention on the Rights of the child, adopted by the United Nations General Assembly in November 1989, is in principle the major policy instrument of UNICEF with respect to all aspects of child welfare.

The Convention on the Rights of the Child (CRC) was the first legally binding international instrument to incorporate the full range of human rights for children including civil and political rights as well as economic, social and cultural rights. It is important to note that the CRC was an initiative of the United Nations but was adopted by UNICEF as the framework for its own policy formulation. The CRC makes recommendations on a wide range of issues. The most
relevant to child labour include the right to education and the right to be protected from economic exploitation and work.

The definition of child labour is quite clear in the CRC— it refers to work that is mentally, physically, spiritually, morally or socially hazardous or harmful, and interferes with the child’s education. No distinction is made in the CRC between different kinds of work, i.e. between work that is hazardous and non-hazardous.

The CRC was the first and the most comprehensive instrument on children's rights that was legally a binding on all the States, which ratified it. It was unanimously adopted on 20th November 1989. The Convention is the most universally accepted human rights instrument in history and has been ratified by 191 countries. Every country in the world except two, the United States and Somalia, and was ratified by India in 1992. This implied that India accepted the legal obligation of bringing its existing laws, policies and programmes in line with the international standards as laid down by the Convention. The CRC recognized the indivisibility and inalienability of child rights and held children as subjects with rights and not merely objects of rights. The Committee on Rights of the Child provided the guiding principles for examining the implementation of the convention. These are the principle of non-discrimination (Article 2), best interest of the child (Article, 3), the right to life, survival and development (Article 6) and respect for the views of the child (Article 12).

The Convention prescribed a set of rights for the children that have been loosely categorized by many as Survival, Protection, Development and Participation rights. Survival rights would include the right to life, health, nutrition and basic care needed to sustain life; Protection rights would include the right to be protected from all
forms of abuse, exploitation, violence, cruelty, neglect and prejudice; Development rights would include the right to education, recreation and personality development, freedom of expression, decision-making and assembly.

Specifically, Articles 28, 29 and 32, deal with issues of education and child labour.

- Article 28 states, "State Parties recognize the right of the child to education and with a view to achieving the right progressively and on the basis of equal opportunity, they shall in particular make primary education compulsory and available, free to all.... take measures to encourage regular attendance at schools and the reduction of drop-out rates".

- Article 28(2) states that the State would take measures to ensure that school discipline is administered in a manner consistent with child's human dignity and in conformity with the provisions of the CRC.

- Article 29 states that education is also meant to be directed at the development of the child's personality, talents and mental and physical abilities to their fullest potential.

- Article 32(1) lays a very comprehensive understanding of child labour. It states that children have a right to be protected against 'economic exploitation and from performing any work that is likely to be hazardous or (to) interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.'

- Article 32(2) directs the State Parties to undertake legislative, administrative, social and educational measure to implement the
provisions of the minimum age or employment, and to provide for an appropriate regulation of hours and conditions of work.

By not stating the minimum age for admission to employment, the CRC has left a major loophole for the states to abuse the 'regulating' of child labour.

Thus a review of the normative framework indicates that the Constitution of India is an extremely powerful instrument against child labour. It defines a clear-cut role for children, though it may not have a fully enforceable base. This helps in directing effort towards litigation and getting the courts to expand the jurisprudential base available for cases on child labour. Similarly, the entire gamut of right enshrined in the CRC can potentially enable the state to address the most fundamental issues and the root causes of child labour and exploitation.

Legal Framework

National legislation is a key element in the government’s arsenal for combating child labour. It sets the principles, objectives and priorities for national policy. It creates specific legal rights and responsibilities and sets up the procedures for acting on complaints and making investigations. It can help to deter the exploitation of children by providing sanctions against violators and redressal (or at least release and rehabilitation) for victims. It places the authority of the state behind the protection of children.

Under law, children are entitled to special care, assistance and essential needs of children should be given the highest priority in the allocation of resources. At all times they should get a fair and equitable deal in society and government as well as non-governmental, local, national, regional and international
organizations should endeavor to promote the rights of the child. Childcare and the respect for the child's right to welfare run deep in the oriental societies.

The legislative actions undertaken by the Indian Government and correspondingly by the International Organizations will be discussed here under the following sub-sections:

**Legislation in India**

In terms of statutory prescriptions, India has by and large evolved a wide range of laws seeking to protect and promote the rights of child. There are more than 250 Central and State Laws in India, applicable to children in various spheres of life, which are regulatory, protective or correctional in nature. The following are the principal Central Laws seeking to protect the child:

1. The Apprentice Act, 1861.
2. The Guardians and Wards Act, 1890.
3. The Reformatory Schools Act, 1897.
5. The Children (Pledging) of Labour Act, 1933.
Apart from these laws, there are a host of related welfare and criminal laws, which have beneficial provisions for the care, and protection of children. Even the laws relating to commerce have protective provisions beneficial to children.

The history of child labour legislation in India is related to the history of exploitation of child labour as work for the child moved out from the home and the village field to work in factories. Some of the Acts that are dealing with the child rights are discussed below. Moreover the various stages in which the child received protection in India are as follows:

➢ Factories Act, 1881: The child was defined as a person below 12 years, minimum age of employment was 7 years; hours of work for age 7-12 years were fixed at 9 with rest-intervals and holidays.
Factories Act, 1891: Minimum age of employment was raised to 9 years, hours of work for age 9 to 14 years were fixed as 7 hours a day, restricted to daylight.

Factories Act 1911: Children's hours of work were limited to 6 in textile mills, strict supervision and certification was required, employment of children between 7 p.m. and 5.30 a.m. was prohibited.

Factories Act, 1922: Persons below the age of 15 were to be treated as children: hours of work were limited to 6 with rest-interval of half an hour; minimum age was raised from 9 to 12 years.

The Children (Pledging of Labour) Act, 1933: was passed largely as a result of the recommendations of the Royal Commission on Labour which found that in many industries, especially in carpet weaving and beedi-making a system of pledging the labour of young children to the employers by their parents or guardians existed. The act declared an agreement, oral or written, to pledge the labour of children where by the parent or the guardian of the child, in return of any payment or benefit to be received, undertook to cause or allow the services of the child to be utilized in any employment, to be void. However, an agreement made without harm to a child, and not made in consideration of any benefit other than reasonable wages to be paid for child's services and terminable at not more than a week's notice, was not deemed to be an illegal agreement. For the purpose of the Act, persons below the age of 15 years are to be treated as children. The penalty provided for the breach of the law was a fine upto Rs. 200 on the employer and Rs. 50 on the parents.
Factories Act, 1934: Minimum age of employment was fixed at 12 years and persons between 12 and 15 years were to be treated as children. Adolescent class was introduced (15-17 years of age); hours of work were restricted to 5, spread over was limited to 7.5; no employment between 7 p.m. and 6 a.m.

Employment of Children Act, 1938: The main object of this Act was "to check the abuses arising out of the employment of children in workshops which are outside the scope of factory legislation". The Act was first passed in 1938 to regulate the employment of children in occupations connected with (i) transport of passengers, goods or mails by railway, and (ii) any port authority. It was subsequently amended to give effect to the ILO Convection relating to night work of young persons employed in industry, which has been ratified by India. To prevent employment of children in hazardous employments and certain categories of unhealthy occupations, the Act prohibits the employment of children below 15 years of age in any occupation connected with the transport of passengers, goods or mail by railway, or a port authority within the limits of a port. These prohibited categories of occupations include employment in railways, particularly in construction work, catering services, track and line work as well as clearing and picking of ash-pits and cinder.

The amendment of Act of 1948 also prohibited the employment of children below the age of 14 in certain less hazardous occupations such as workshops connected with beedi-making, carpet weaving, cement manufacturing including bagging of cement, cloth printing, dyeing and weaving, manufacture of matches; explosives and fireworks; mica-cutting and splitting; tannery and wool cleaning.
Factories Act, 1948: Minimum age of employment was fixed at 14 years. A working day of 4.5 hours with a spread-over of 5 hours was prescribed. Employment during night and on hazardous occupations was prohibited. The Act distinguished between 'child', adolescent' and 'adult'. 'Child' is a person who has not completed the age of fifteen years; an 'adolescent' is a person who has completed the age of fifteen years, but is below the age of eighteen years and an adult is a person who has completed the age of eighteen years. The Act defines a young person as one who is either a child or an adolescent. A child below the age of fourteen is not allowed to work in a factory. A child above the age of fifteen and below eighteen cannot be employed to work for more than four and a half hours and cannot be employed during the night.

The Plantation Labour Act, 1951: The Act lays down that children who have not completed 12 years of age shall not be employed in plantation (in tea, coffee, rubber), which measures 10.117 hectares or more and employing thirty or more persons. Every child above 12 years of age is required to obtain a certificate of fitness (valid for a period of one year at a time) from a certifying surgeon. The Act makes provisions for education to children as a responsibility of the employer and is eligible for the housing and medical and recreational facilities.

Mines Act, 1952: Minimum age for employment in mines is fixed at 15 years. The Act prohibits employment of children below that age in any part of the mine which is below ground or in any open excavation in which any mining operation is carried on. It lays down that adolescents will not be employed for more than 4.5 hours a day. The minimum age for employment in mines is 15 years of age. The Act includes all excavations where any
operation for the purpose of searching is carried out. The Act not only prohibits the presence of children in any part of a mine, which is below ground or in any part of a mine in which any mining operation is being approved. Even an adolescent is not allowed to work in any part of a mine which is below ground, unless he has completed his 16th year and has a medical certificate of fitness for work. The certificate is valid only for 12 months.

- **Plantations Labour Act, 1957:** Minimum age for employment is fixed at 12 years under this Act.

- **The Merchant Shipping Act, 1958:** The Act prohibits the employment of children in any capacity, who are below 14 years of age, on sea-going ships, except (a) in a scholarship or training ship; or (b) in a ship in which all persons employed are members of one family; or (c) in a home made ship of less that two hundred tons gross; or (d) where such person is to be employed on nominal wages and will be in the charge of his father or other adult or a male relative.

- **The Motor Transport Workers Act, 1961:** Minimum age required for employment in every transport undertaking employing five or more workers, is 15 years. The adolescents are prohibited to work unless a certificate of fitness is granted, which is valid only for one year. An adolescent can work only for 6 hours including a rest interval of half an hour and between 10 a.m. and 6 p.m. only.

- **The Beedi and Cigar Workers (Conditions of Employment) Act, 1966:** No child who has not completed his 14th year shall be required or allowed to work in any industrial premises, where any manufacturing process connected with the making of Beedi or
Cigar is carried on irrespective of the number of persons employed. The employment of young persons between 14 to 18 years is prohibited between 7 p.m. to 6 a.m. Provisions for canteen, first aid, ventilation, and cleaning are also made under the Act.

- **State Shops and Commercial Establishment Act, 1969:** Different States have enacted their own law regulating employment of children in shops and establishments, restaurants and hotels and places of amusement and notified urban areas etc. to which the Factories Act, 1948 does not apply.

  The minimum age for employment in shops and commercial establishments is 12 years in Bihar, Gujarat, Jammu and Kashmir, Madhya Pradesh, Karnataka, Orissa, Rajasthan, Tripura, Uttar Pradesh, West Bengal, Goa, Daman and Diu, and Manipur, and 14 years in Andhra Pradesh, Assam, Haryana, Himachal Pradesh, Kerala, Tamil Nadu, Punjab, Delhi, Chandigarh, Pondicherry and Meghalaya. The minimum age of employment is 15 years in Maharasthra. There is no separate Shops and Commercial Establishments Act in Andaman and Nicobar, Arunachal Pradesh, Dadra and Nagar Haveli, Lakshdweep, Nagaland, and Sikkim.

- **Radiation Protection Rules, 1971:** Children below 18 years of age are not to be employed at places where radiation takes place.

- **The Child Labour (Prohibition and Regulation) Act, 1986:** The Children's Act was replaced with the Child Labour (Prohibition and Regulation) Act, 1986 under uniform age of 14 years. A child below the age of 14 years cannot be employed in any
establishment. The Act prohibits employment of children in 13 occupations and 57 processes contained in Part A & B of the Schedule to the Act (Section 3). Under the Act, a 'Technical Advisory Committee' is constituted to advice for inclusion of further occupations and processes in the schedule.

(i) Transport of Passengers, goods or mails by railway.

(ii) Clinker picking, clearing of an ash pit or building operation in the railway premises.

(iii) Work in a catering establishment at a railway station, involving the movement of a vendor or any other employee of the establishment from one platform to another or into or out of a moving train.

(iv) Work relating to construction of a railway station or with any other work—where such work is done in close proximity to or between the railway lines;

(v) A port authority within the limits of any port.

The Act has now laid down the minimum age of employment of children on the completion of 14 years and some of the statures that provided for the completion of 15 years have been amended so as to bring uniformity.

The Act regulates the condition of employments in all occupations and processes not prohibited under the Act (Part III). Any person who employs any child in contravention of the provisions of section 3 of the Act is liable for punishment with imprisonment for a term which shall not be less than 3 months but which may extend to one year or with fine which shall not less
than Rs. 10,000 but which may extend to Rs. 20,000 or both (Section 14). The Central and the State Governments enforce the provisions of the Act in their respective spheres.

The Juvenile Justice Act, 1986: With a view to provide a uniform pattern of justice to juveniles throughout the country, Juvenile Justice Act, 1986 was passed. The Act has brought a change in the upper age limit of juveniles (from the earlier age limit of 21 years for both males and females) to 16 years for males and 18 years for females. The act provides for the care, protection, and treatment, development and rehabilitation of neglected and delinquent juveniles and lays down a uniform legal framework to ensure that no child under any circumstances is in jail or kept in any police lockup. It provides for a different approach in the processing of the neglected juveniles, vis-à-vis the delinquents. While neglected children are produced before Juvenile Welfare Board, the delinquents are dealt with by the Juvenile Courts.

One of the avowed objectives of the Act is to bring the operation of the juvenile system in the country in conformity with the United Nations Standard Minimum Rules for the Administration of Juvenile Justice. These universally accepted principles and standards have been incorporated in various provisions of the Act. Under the Juvenile Justice Act, no delinquent can be tried in the same way as an adult under the court of criminal procedure. A delinquent juvenile can also not be charged and tried as an adult and also cannot be sentenced to death or imprisonment. If the court comes to the conclusion that the child has committed the offence charged with, then it can pass several types of orders ranging from releasing the child on probation for good conduct and placing him under the care of any
parent guardian or fit institution, or to direct that the juvenile be sent to a special home.

- **The Person with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995**: The Act provided for comprehensive coordinated community based service for the children with disabilities. Some voluntary organizations have made a beginning by educating parents, grass-root level workers and the community by generating awareness on preventions, early identification and after services for treatment of such disabilities.

- **The Juvenile Justice (Care and Protection of Children) Act, 2000**: It is an Act to consolidate and amend the law relating to juveniles in conflict with law and children in need of care and protection, by providing for proper care, protection friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation through various institutions established under this enactment.

  The Juveniles Justice Act lays down the basic principles of administering justice to juveniles and children, emphasizing developmental needs rather than criminal justice of Juveniles and brings the law in uniformity with the UN Convention on the Rights of the Child.

  While ensuring speedy disposal of cases under the Act, it seeks to create juvenile police units with a humane approach and spells out the governments file as a facilitator rather than as a doer by involving voluntary organizations and local bodies in juvenile justice and childcare. Under the Act, juvenile justice
boards and child welfare committees and homes will be set up in each district.

Most importantly, the Act separates the juvenile in conflict with law from the child in need of care and protection, and provides for effective measures and alternatives for rehabilitation and social integration. However, several NGO’s and legal luminaries have criticized the Act.

Thus, it follows that legislation pertaining to compulsory education as well as child labour has existed for over a hundred years. The enactment of the Factories Act, 1881 and the Mines Act, 1901 was, to some extent, influenced by the ratification of ILO conventions by British India. The Report of the Royal Commission of Labour (1931) led to the passage of the Children (Pledging of Labour) Act, 1933, and later the Employment of Children Act, 1938, from which the present child Labour (Prohibition and Regulation) Act, 1986, was derived. The struggle to bring about legislation providing free and compulsory education began in 1882 and by the mid 1920s, most of the provinces has enacted their laws which enabled them to provide free and compulsory education to children.

After Independence, most states had their own laws on free and compulsory education and these laws are similar in content to the old provincial laws. It is therefore worth nothing that even after almost a hundred years, there has been very little change in terms of the basic essence of the legislation related to child labour as well as education. Secondly, the laws are not linked up in their administration and continued to exist parallel to each other.
Policies in India

A Policy document is presumed to have evolved out of a process of serious engagement with the problem on the part of the Governments and its agencies. Hence, it is supposed to provide a thoughtful account of the various complexities and dimensions of the problem. In India, politics have been largely based on reports presented by the various committees constituted by the Government. A few of the important policies regarding child labour in India have been discussed below.


As a follow-up of the commitment to combat child labour, 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 that 'it shall be the policy of the state to provide adequate services to children, both before and after birth 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.'

Unfortunately, the single comprehensive resolution, namely the National Policy for Children (1974), has not been revised to include the commitments made within the context of CRC. It is pertinent to note that though the National Policy for Children did not speak the language of rights, it aims at providing free and compulsory education for all children up to the age of 14 years. In addition, it also state that no child under the age of 14 years
would be permitted to be engaged in hazardous occupations or be made to undertake heavy work. However, these laudable goals are tempered with a resignation to the 'harsh reality' that is reflected in its provision dealing with alternate forms of education for children unable to take full advantage of formal school education for whatever reasons. In terms of the specific policies, it is strange that with respect to the issues of child labour and education, the policy is formulated after the law is enacted instead of the policy document proceeding the law. Therefore, the law lacked direction and with respect to child labour, the policy get its 'vision' from this law.

In 1979, Government formed the first committee called '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 resource 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 multiple policies approach was required in dealing with the problems of working children. Based on the recommendations of 'Gurupadaswamy Committee', the child labour (Prohibition & Regulation) Act was enacted in 1986.

(ii) Central Advisory Board on Child Labour (1981)

The Central Advisory Board in Child Labour was constituted on March 4, 1981. The following being the terms of reference of the Board:
Reviewing the implementation of the existing legislation administered by the Central Government.

Suggesting legislative measures as well as welfare measures for the welfare of working children.

Reviewing the progress of welfare measures for working children.

Recommending the industries and areas where there must be a progressive elimination of child labour.

The Board was reconstituted on November 2, 1994. The Union Labour Minister serves as the Chairman of the Board. The other Members of the Board include representatives from the various sister Ministries, Members of Parliament, Non-Governmental Organizations, representatives of major trade unions and employer’s organizations.

(iii) Child Labour Technical Advisory Committee

Under Section 5 of the Child Labour (Prohibition and Regulation) Act 1986, the Government of India is empowered to constitute a Child Labour Technical Advisory Committee for the purpose of addition of occupations and processes in the Schedule to the Act. The Committee generally consists of a Chairman and members not exceeding ten. The Committee was reconstituted on 5th February 1996, under the chairmanship of Director General of Indian Council of Medical Research.

(iv) National Policy on Child Labour (1987)

Increasing attention has been paid to strengthen the enforcement machinery related to child Labour. In pursuance of
India's development goals and strategies, a National Child Labour Policy was adopted in August 1987. The idea of adopting a separate policy on child labour was not only to place the issue on the Nation's agenda, but also to formulate a specific program of action to initiate the process of progressive elimination of child labour.

The national Policy reiterates the Directive Principal of State Policy in India's Constitution. It resolves to focus general development programmes to benefit children wherever possible and have project based action plans in areas of high concentration of child labour engaged in wage/quasi-wage employment. The National Policy on Child Labour was adopted following the child Labour (Prohibition and Regulation) Act. 1986.

The Policy contained the action plan for tackling the problem of child labour. It envisaged:

- **A Legislative Action Plan:** This Policy envisaged strict enforcement of the provisions of the Child Labour (Prohibition & Regulation) Act, 1986 and other child-related legislation.

- **Focus on and Convergence of General Development Programmes for Benefiting Children Wherever Possible:** The policy envisioned the development of an extensive system of non-formal education for working children withdrawn from work and increasing the provision for employment and Income generating schemes meant for their parents. A special cell 'Child Labour Cell' was constituted to encourage voluntary organizations to take up activities like non-formal education, vocational training and provisions of health care, nutrition and education for working children.
(v) National Child Labour Projects (1988)

In pursuance of National Child Labour Policy, the National Child Labour Project (NCLP) Scheme was started in 1988 to rehabilitate child labour. The Scheme adopts a sequential approach with focus on rehabilitation of children working in hazardous occupations and processes in the first instance. Under the Scheme, a survey of child labour engaged in hazardous occupations and processes is carried out and identified child workers are then put into special schools in order to enable them to be mainstreamed into the formal schooling system.

This is the major scheme for the rehabilitation of child labour and is commonly known as NCLP. Under this scheme, Project Societies at the district level are fully funded for opening up of Special Schools or Rehabilitation Centres for the rehabilitation of child labour.

The Special Schools/Rehabilitation Centres need to provide non-formal education-vocational training, supplementary nutrition, stipend etc., to children withdrawn from employment. The child workers identified in the survey are put in the special schools and provided the following facilities:

- Non-formal/formal education
- Skilled/craft training
- Supplementary nutrition @ Rs. 5/- per child per day.
- Stipend @ Rs. 100/- per child per month.
- Health care facilities through a doctor appointed for a group of 20 schools.
Till the Ninth Plan, 100 Projects were sanctioned for covering about 2.11 lakh children in 13 states. Under the scheme, 4002 schools have been sanctioned in 100 NCLPs during the Ninth Plan and it is expected to increase to 10,000 schools during the Tenth Plan. So far 4,00,200 working children have been covered under the scheme. About 3.08 lakh children have been mainstreamed into formal education system up to now. The Scheme has been expanded to 150 more districts in the Tenth Plan, thereby covering a total of 250 districts in the country under the NCLP Scheme. On 14th January 2004, 50 new NCLPs were launched in a function held in Vigyan Bhawan for setting up of NCLPs during the Tenth Plan.

Certain important and enhanced parameters that have been introduced in the scheme now are as under:

- **Stipend**: In the existing arrangement, the stipend of Rs. 100/- per child will be disbursed every month. As per the revised scheme, the child is successfully mainstreamed into formal system of schooling. Till that period, the amount of stipend will be regularly deposited in the bank account of child. The accumulated stipend amount could be handed over to the child at the time of her/his getting mainstreamed.

- **Nutrition**: The amount for provision of nutrition to the children in the special schools has been doubled from Rs. 2.50/- per child per day to Rs. 5/- per child per day.

- **Health Component**: In the existing scheme, there was no separate budgetary provision for any health component to take care of the health-related aspects of the children. In the revised scheme an amount of honorarium (Rs. 5,000/- per month for one doctor for every 20 schools) has been provided to put in place an
institutionalized mechanism for regular and periodical effective health care of the children by a doctor. A health card in respect of every child also needs to be maintained with all the necessary entries.

- **Vocational Training**: In the existing scheme, there was no separate budgetary provision for the services of any Master Trainer for imparting training to the Children/teachers. In the revised scheme, budgetary provision (Rs. 5,000/- for one Master Trainer for each NCLP).

- **Training for Educational Teachers**: In the existing scheme, there was no separate budgetary provision for providing training to the educational teachers. In the revised scheme, budgetary provision has been provided to impart training to the teachers twice during the Tenth Plan period.

- **Survey**: In the revised scheme, provision (Rs. 2.75 lakh per survey) has been made to conduct surveys of working children two times during the Tenth Plan period.

By following the strategy enunciated above and combining this with the existing established mechanisms of enforcement, it is expected that a drastic reduction in child labour would result by the end of plan period.

The allocations made under the NCLP schemes in the last three Five year Plans by the Government have been depicted in the following Table - 5.1
Table 5.1 Plans-Wise Allocation Under NCLP Scheme

(Rupees in Lakhs)

<table>
<thead>
<tr>
<th>Plan Period</th>
<th>Allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1992-1997 (Eighth Plan)</td>
<td>1500.00</td>
</tr>
<tr>
<td>1997-2002 (Ninth Plan)</td>
<td>24960.00</td>
</tr>
<tr>
<td>2002-2007 (Tenth Plan)</td>
<td>60200.00</td>
</tr>
</tbody>
</table>

Source: Ministry of Labour, Government of India

In order to monitor the functioning of the NCLP’s, a central Monitoring Committee was formed. With an aim to supervise, monitor and evolutes the National Child Labour Projects. It had been set up under the Chairmanship of Secretary, Ministry of Labour and Employment with representative of State Governments and concerned Ministries/Departments. 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.

(vi) Strengthening of Child Labour Cell

The Child Labour Cell is entrusted with the responsibility of formulation and implementation of policy and programmes for
tackling problems of child labour. The Cell is responsible for funding and monitoring of the projects taken up under the scheme of National Child Labour Projects. The cell also renders financial assistance to voluntary organizations for taking up action-oriented projects of child labour. In addition, the Cell monitors the enforcement of the Child Labour (Prohibition and Regulations) Act, 1986 and organizes meetings of various committees, workshops, advisory boards etc.


A major Program was launched on 15th August 1994 for withdrawing child labour working in hazardous occupations and for rehabilitating them through special schools. Under the program a total of two million children were sought to be brought out of work and put in special schools where they would be provided with education, vocational training, monthly stipends, nutrition and health-checks. As a follow-up, a high powered body, the National Authority for the Elimination of Child Labour (NACEL) was constituted on 26th September, 1994 under the Chairmanship of the Minister for Labour, Governments of India.

The nature of NACEL being:

- To lay down policies and programs for the elimination of child labour, particularly in hazardous employment;
- To monitor the progress of the implementation of programs, projects and schemes for the elimination of child labour.
To coordinate the implementation of child labour related projects of the various sister Ministries of the Government of India (for convergence of services for the benefit of the families of child labour)


With the setting up of the National Authority for the Elimination of child Labour (NACEL) under the Chairmanship of the Labour Minister, Government of India, a convergence of services and schemes for eliminating child labour is being achieved. The NACEL, comprising representatives from the Central Ministries, meets the need for an umbrella organization to coordinate the efforts of the different arms of the Government for the progressive elimination of child labour.

(viii) Grant-in-Aid Scheme for Voluntary Organizations

Funds under Grants-in-Aid Scheme are sanctioned directly to NGO's for elimination of Child Labour in districts not covered by NCLP Scheme. Under the scheme voluntary agencies are given financial assistance by the Ministry of Labour on the recommendation of the State Government to the extent of 75 per cent of the project cost for the rehabilitation of working children. Voluntary organizations have been receiving funds under the scheme since 1979-80. Currently, about 70 voluntary agencies are being assisted.
(ix) Strategy for Elimination of Child Labour in Tenth Plan

Keeping in view the policy of the Government as laid down in the National Agenda and Prime Minister’s directions in the National Conference on Child Labour, the evaluation studies carried out by the V.V. Giri National Labour Institute and the approach defined in the working paper for the Tenth Plan, the strategy adopted during this plan period aimed at bringing qualitative changes in the scheme for elimination of child labour such as:

- Policy and Programmers for elimination of child labour would be continued in a more focused, integrated and convergent manner.

- Focused and reinforced action to eliminate child labour in the hazardous occupations by the end of the Plan period.

- Expansion of the NCLPs to additional 150 districts during the Plan.

- Ensuring that the NCLPs have a focused time frame of 5 years with clearly defined targets. Linking the child labour elimination efforts with the scheme of Sarva Shiksha Abhiyan of the Ministry of Human Resource Development (MHRD)-an attempt to ensure that small children in the age group of 5-8 years get directly linked to school and the older children are mainstreamed to the formal education system through the rehabilitation centers. Increased efforts to provide vocational training to the older children.

- Strengthening of the formal school mechanism in the endemic child labour areas in the country both in terms of quality and numbers in such a manner as to provide an attractive schooling system to the child labour force and its parents so that
motivational levels of both the parents and such children are high and sending these children to school becomes an attractive proposition.

- Convergence with the ongoing schemes of the Department of Education, Rural Development, Health and Women and Child Development would be critical for the ultimate attainment of the objective of elimination of child labour in a time bound manner.

- Large-scale involvement of the voluntary organizations at the district level to assist in the running of the NCLP schools. The attempt during this plan would be to encourage the running of the rehabilitation schools only through accepted and committed NGOs so that the Government machinery is not burdened with running of such schools.

Table 5.2 indicates that the budget allocation in the Tenth Plan period under various schemes for elimination of child labour as implemented by the Child Labour Division.

**Table 5.2: Allocation in the Tenth Plan Period**

**Under Child Labour Schemes**

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Name of the Scheme</th>
<th>Allocation in the Tenth Plan Period (Rupees in crores)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>National Child Labour Project Scheme (NCLP) including Grant –in-Aid to Voluntary Agencies</td>
<td>602.00</td>
</tr>
<tr>
<td>2</td>
<td>Indo US Matching Grant (renamed as INDUS Project)</td>
<td>65.00</td>
</tr>
<tr>
<td>3</td>
<td>Strengthening of Child Labour Cell</td>
<td>0.50</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>667.50</strong></td>
</tr>
</tbody>
</table>

(SOURCE: Ministry of Labour, Government of India)
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 condition of their families.

The importance of the issue of child labour in Government policies can also be brought out by taking a brief look at the budget allocations and expenditure incurred by the Government of India annually. The annual expenditure incurred under various schemes of child labour implemented by Child Labour Division during the period between the years 2000 and 2005 has been illustrated in the Table 5.3 given below:

Table 5.3: Annual Expenditure Under Schemes Implemented by Child Labour Division

<table>
<thead>
<tr>
<th>Year</th>
<th>Actual Expenditure (Rupees in crores)</th>
<th></th>
<th></th>
<th>US Grant Scheme**</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>NCLP* including Grants-in-Aid</td>
<td>Strengthening of Child Labour cell</td>
<td>Indo US Matching Grant Scheme**</td>
<td></td>
</tr>
<tr>
<td>2000-2001</td>
<td>37.98</td>
<td>0.05</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>2001-2002</td>
<td>61.86</td>
<td>0.05</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>2002-2003</td>
<td>65.10</td>
<td>0.03</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>2003-2004</td>
<td>66.77</td>
<td>0.05</td>
<td>0.57</td>
<td></td>
</tr>
<tr>
<td>2004-2005</td>
<td>81.69</td>
<td>0.05</td>
<td>10.00</td>
<td></td>
</tr>
</tbody>
</table>

*National Child Labour Project Scheme
**Project was launched on 16-02-2004 (now renamed as INDUS Project)**

A sum of Rupees 55.76 crores were released to NCLP scheme (up to 26th October, 2005) during the financial year 2005-06. Table 5.4 gives a glimpse of the funds released individually for the States during the financial year 2005-06:

The figures of the following table reveal that maximum funds have been allocated for Andhra Pradesh followed by Orissa, Tamil Nadu, West Bengal, and Rajasthan, that is the state having considerably higher extent of child labour than other parts of the country.

**Table 5.4: State-wise Release of Funds during 2005-06 (up to 26.08.05)**

(Rupees in lakhs)

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Name of State</th>
<th>Funds Released</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Andhra Pradesh</td>
<td>1313.11</td>
</tr>
<tr>
<td>2.</td>
<td>Assam</td>
<td>124.68</td>
</tr>
<tr>
<td>3.</td>
<td>Bihar</td>
<td>180.73</td>
</tr>
<tr>
<td>4.</td>
<td>Chhattisgarh</td>
<td>312.27</td>
</tr>
<tr>
<td>5.</td>
<td>Gujarat</td>
<td>29.02</td>
</tr>
<tr>
<td>6.</td>
<td>Haryana</td>
<td>17.18</td>
</tr>
<tr>
<td>7.</td>
<td>Jharkhand</td>
<td>194.21</td>
</tr>
<tr>
<td>8.</td>
<td>Karnataka</td>
<td>273.43</td>
</tr>
<tr>
<td>9.</td>
<td>Madhyapradesh</td>
<td>289.01</td>
</tr>
<tr>
<td>10.</td>
<td>Maharashtra</td>
<td>86.13</td>
</tr>
<tr>
<td>11.</td>
<td>Orissa</td>
<td>846.73</td>
</tr>
<tr>
<td>12.</td>
<td>Punjab</td>
<td>91.58</td>
</tr>
<tr>
<td>13.</td>
<td>Rajasthan</td>
<td>492.38</td>
</tr>
<tr>
<td>14.</td>
<td>Tamil Nadu</td>
<td>586.99</td>
</tr>
</tbody>
</table>
The allocation for Himachal Pradesh has not been listed in the table above. However, this does not mean that the incidence of child labour in Himachal Pradesh is insignificant. The income generation in the State depends largely on agricultural and allied activities. Consequently, it can be deduced that there might be invisible child labour. Since child labour in agricultural sector falls outside the purview of the Law, the table above does not show allocation of any funds to Himachal Pradesh. This necessitates a primary investigation of child labour, especially in the agricultural sector, in Himachal Pradesh. The statement showing the Budget allocation and actual expenditure incurred under all schemes of child labour during the period from 2000-01 to 2005-06 is portrayed through the following Table 5.5

Table 5.5: Budget Allocation and Actual Expenditure Incurred Under All Schemes of Child Labour

<table>
<thead>
<tr>
<th>Year</th>
<th>Budget Allocation (Rupees in lakhs)</th>
<th>Expenditure (Rupees in lakhs)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000-2001</td>
<td>3600.00</td>
<td>3803.69</td>
</tr>
<tr>
<td>2001-2002</td>
<td>6700.00</td>
<td>6191.67</td>
</tr>
<tr>
<td>2002-2003</td>
<td>8010.00</td>
<td>6513.77</td>
</tr>
<tr>
<td>2003-2004</td>
<td>7243.00</td>
<td>6739.66</td>
</tr>
<tr>
<td>2004-2005</td>
<td>9905.00</td>
<td>9315.80</td>
</tr>
<tr>
<td>2005-2006</td>
<td>12479.00</td>
<td>5764.00*</td>
</tr>
</tbody>
</table>

Source: Ministry of Labour, Government of India

* Expenditure incurred up to 30th June, 2005.
The Indian Government’s ban on the employment of children under the age of 14, as domestic staff or in roadside restaurants and hotels, came into force on 10 October 2006. The International Labour Organisation (ILO) estimates that in India there are 44 million child labourers – the largest under-age workforce in the world. The government added the latest jobs to its list of “hazardous” lines of work in which child labour is already banned, including mining, cigarette manufacturing and glass making. Anyone found violating the recent ban will be penalized under the Child Labour Prohibition and Regulation Act of 1986. Punishment can range from a fine of US$200-400 to a jail sentence of three months to two years. India’s Prime Minister Manmohan Singh said “let us create a moral force to build our country free of child labour, paving the way for children to enjoy the right to education”. The Ministry estimates that the ban will affect 185,000 children working as domestic help and 70,000 who work in roadside food stalls. The majority of children affected are in five Indian states – Bihar, Jharkhand, Orissa, West Bengal and eastern Uttar Pradesh. UNICEF Child protection officer, Carlotta Barcaro described the latest law as “a sign of political will and an essential step” to eliminating child labour in India. A campaigner against child labour in India, Arya Samaj, said that “under previous laws the state had to pay for the care of each child freed” and expressed concern that if children are not properly cared for they will end up continuing to work illegally. A helpline has been established and members of the public are urged to call if they suspect individuals or companies of employing under-age workers.

CONCLUSION

On the basis of the aforesaid, it evident that National Governments are, without any doubt, the essential players in the abolition of child labour. Political commitment translated into concrete policy change backed by
resource allocation in favour of children is the sine qua non for the effective abolition of child labour. Working closely with governments are the social partners – ‘employers’ and ‘workers’ organizations - who understand the realities of the workplace, and hence, play an important part in changing the state of affairs of child labour. Partnerships operate horizontally at national level and also vertically between national, regional and international players.

The list of policies and programmes presented above suffices to outline the framework of actions undertaken by Governments, International Organizations and related agencies in this field. Nevertheless, despite the increasing commitment and effort by governments, the social partners and civil society to tackle child labour, the problem remains massive. The Constitution of India provides a sound framework for tackling the issue of child labour. However, this positive environment has not been converted into an adequate legal or institutional framework for eliminating child labour. Government legislation pertaining to child labour is piecemeal and does not reflect the dimensions of the problem nor a determination to deal with it.

The focus lies mainly on prohibiting the most hazardous forms of labour and on regulating conditions of work in sectors that are considered less harmful. Family labour or agricultural labour with its allied activities has been left outside the purview of the law, which remains silent on the countless children who replace or supplement family labour on farm, in domestic chores and in the informal sector. Another striking feature of child labour policy is that it co-exists or runs parallel to the education policy with little cross-reference between the two. In fact, the objectives of the two often clash. For example, in India universal education remains an elusive goal, and India is a signatory to the ‘Declaration of Education for All’ by the year 2000. Though, discussions on policy measures to implement these goals have largely taken place without reference to child
labour. In fact, condoning child labour in non-hazardous industries and within the family setting, the government may have built in a mechanism to sabotage its own objective of universalizing elementary education (Wazir, 2002).

Putting the legal framework into place is only a first step and raising awareness a second. The next challenge is how to effectively enforce legislation. Various types of enforcement mechanisms are needed to make national legislation effective, but their proper functioning depends on both human and material resources as well as political will. Thus, the fact that implementation and enforcement of the meagre legislations, which exist, is extremely limited worsens the situation. A prime example is the continued existence of bonded labour - for adults and children - despite the Bonded Labour System Act of 1976 which frees all bonded labourers, cancels the debts against them and orders their rehabilitation by the state (Wazir, 2002).

Enforcement of any law involves other harms too, such as hitch at the implementation stage. Many times the people in charge of implementation of a scheme are not well qualified or well equipped for the particular task. People often are unable to comprehend the minutiae of the scheme or policy, hence, resulting in improper and ineffectual execution.

Furthermore, even if the children are set free from the labour activities by putting laws into force, their rehabilitation becomes a chief concern. In the month of June, 2005, close to 400 child labourers in Mumbai, 30 in Delhi, and 82 in Maharashtra, were rescued (Agarwal, 2005). Unfortunately, these children were observed to be working again with the same or new employers. This is nothing but recycling of child labour. In the words of Agarwal (2005) the laws are such that they work for the perpetuation of child labour rather than for its complete abolition. An examination of the laws brings out that no law provides rehabilitation of
child labour in the manner that it is unable to get recycled. Also, none of the laws provide for any educational opportunities for the rescued children.

Further, various other laws pertaining to poverty alleviation, rural employment, etc., are also not in consonance with the issue of child labour. Recently, the 'National Rural Employment Guarantee Act, 2005' has been passed by the Government of India, whereby a household is entitled for 100 days of work in a year within which, all adult members of a rural household have the right to demand employment (The Times of India, 2005). The National Rural Employment Guarantee Act (NREGA) 2005 states that its main objective is to provide at least 100 days of guaranteed wage employment to every household in unskilled manual work (Ministry of Law and Justice, 2005). Consequently, work for 100 days in rural areas has become a legal right. Successful effecting of such and other laws like these would definitely have a positive impact over the rural set-up in the country, leading thereby to the betterment of the households.

To quote Mr. Juan Somavia, Director General, ILO, "More working parents mean fewer working children. Child labour is linked with many factors such as poverty, adult unemployment and lack of local educational opportunities. These problems must be addressed comprehensively. So, the equation is simple: parents to work, children to school" (ILO, 2004). As a result, child labour can be curbed to a certain extent with the effective execution of laws pertaining to adult employment and poverty alleviation like the 'National Rural Employment Guarantee Act, 2005'.

Taking into account the budget allocation and expenditure incurred on various schemes and programmes for curbing child labour spells out that the Government spends a conservative amount annually. One major concern for the Government is the paucity of financial resources. Hence if the scarce funds are not fruitful it indicates wastage of national resources. Moreover, funds are not only utilized in the child labour programmes but
are also allocated for education, mid-day meal scheme, health of children, etc. Despite using a considerable amount of national resources child labour and other similar problems concerning children persist, which suggests a considerable wastage of the precious national resources.