LEGAL MEASURES TO AMELIORATE CHILD LABOUR IN MATCH AND FIREWORKS INDUSTRIES
CHAPTER IV

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As seen in the earlier chapter the child labour is a social problem that should be eliminated. All the children should be sent to the school to get education but not to the hazardous industries to toil from dawn to dusk at the risk of their health and mental as well as physical development. Hence the Government took series of legal measures. At first all the measures were aimed at only to regularize the child labour and later it passed acts to eliminate totally (the child labour). This chapter traces the various steps taken by the Government and its results.

REGULATION OF CHILD LABOUR:

The child labour is a detrimental and cancerous factor which is destroying not only the development of individual child but also the growth of a nation. Hence many sociologists advocated for its total abolition. But it is not very easy to do so since hundreds and thousands of children would be thrown out of jobs and thereby thousands of families would suffer due to low wages. Hence legal control was favoured to regulate their working place, working hours, and wages. Their work in the hazardous industries was seriously considered and kept under strict supervision of the Government.

This concept was strengthened by many International agencies like ILO. They looked upon the child labour as a social stigma. India, as a founder member country of this international forum, has to accept its suggestions, and recommendations and its principles were embodied in its legislations.
The international instruments on child labour may be divided into the following parts:

i. International Conventions and Recommendations adopted by the International Labour Conference and ratified by member State.


Age:

At first the Government of India was very particular in the restriction of entry of children into the hazardous industries. Hence from the beginning it wanted to enforce strict rules on 'age' by enacting legal measures.

The age of child employees was first regularized by the Factories Act of 1881. This is the beginning of statutory protection of children as employee in factories. It restricted the age of a child labour to “7 years” and successively it was raised to 9 and then 12 by the Factories Act of 1891 and Mines Act of 1901, respectively. Further in the year 1911 “Certificate of Age” and “Physical fitness of working children” was made compulsory by the Factories Act of 1911.

In the meantime the Government have raised the age of children to 15 inconsonance with the recommendations of the ILO Convention (No.5) 1919. But the Government after consideration of Indian condition revised their earlier act and on its own view the minimum age for the employment of children was raised from 12 to 13 by the Act of 1933 and then 14 by the Factories Act of 1948. The minimum age of working

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1 The Factories Act of 1881.
2 ibid., 1911.
3 ibid., 1922.
4 ibid., 1948.
children for employment in establishment is also governed by the Employment of Children (Amendment) Act of 1949.\textsuperscript{5}

This Act was implemented in the industries including the Match and the Fire Works Industries of Virudhungar district. In order to ascertain their age they have to produce age certificate issued by an authorized doctor. Many of the parents, who were not even tinged, violated this measure and produced false age certificate for their children. Since they did not want to loss nominal improvement of their family income, or did not want to wait for some more years to enjoy the fruits of the work of their children. This malpractice increased when the Government levied Excise Duty\textsuperscript{6} on the industries. This increased the expenditure of the company. So the factory owners have to compensate their loss by way of appointing more number of children in the place of male workers. Hence even though a child has not achieved the minimum age of 14, they fabricated false age certificate and extracted more work from them. In this connivance a large number of girls of below 14 years fell prey. As per the Frontline magazine dated 27\textsuperscript{th} January 1995, 66,000 children were working in Virudhungar and Tuticorin districts of Match industry itself by producing false certificates.\textsuperscript{7}

This practice continued as usual with the consent of the parents, industrialists and impiety of authorized doctors. On 18\textsuperscript{th} August 1950 at the time of inspection by the Labour officer at a factory in Sivakasi, it was found that many children worked under false certificates. Hence legal procedure was initiated against the company. But after sometime the owners were left free to their influence. They paid scant attention to advice. As per the Medical Report dated 15\textsuperscript{th} September 1980 issued by the District

\textsuperscript{5} The Employment of Children (Amendment) Act of 1949.
\textsuperscript{6} Interview with the Superintendent and the Deputy Chief Inspector of Factories, Sivakasi, dt.6.10.03.
\textsuperscript{7} Frontline, 27 January 1995.
Medical Officer of Ramanathapuram district many young children admitted into the Government Hospitals stated that they were the employees of Match factories due to compulsion of their parents. They further revealed that their age was below 12 when they got appointment in the factory. They accepted their malpractice. There are many cases telling the same story. Thus it is proved the violation of rules regarding the age of an employee. In such cases all people i.e. parents, children, industrialists and even medical officer were not worried violating of the provision of age as per the legal measures. Heap of superfluous records are maintained in many factories of this study area.

This impetuous violation created so many social problem on medical grounds and education. This led for drop outs from schools even at the age of ten and limited the standard of education up to 7th or 8th in this area. So it defeated the compulsory education scheme and prolonged the occurrence of child labour, as stated by the top level district educational officer.

Seriously concerned educationalists and sociologists repeatedly forced the Government to check this trend. Further this also echoed in the ILO Conventions. Hence it resolved such malpractice should be stopped with new rules and stringent measures. This was reflected in India also through various commissions and legal measures.

The press media also exposed the precarious condition of child labour in Sivakasi Match and Fire Works Industries. Numerous such reports have its telling effect on the Government and so it appointed fact finding committee appointed in 1976 by the Tamil Nadu Government under Harbans Singh, Member erstwhile Board of Revenue, studied

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8 Interview with government Doctor, Government Hospital, Virudhunagar, dt.10.11.03.
9 Interview with the officers of statistics Department, Virudhunagar District Collectorate, Virudhunagar, dt.7th November 2003.
the condition of working children in the Ramanathapuram District\(^{10}\) in which Virudhunagar was a taluk. It recommended that the violation of provision of age should be monitored by the Factory Inspector and Medical officer by paying monthly visit personally to the working spot and by maintaining the Register of the working children along with their age.\(^{11}\) Though this recommendation was strictly adhered and of course reduced this malpractice but it did not prevent it totally.

In the meantime another committee that was appointed by the Centre in 1979 under the Chairmanship of Gurubadhaswamy enquired into the condition of child labour and suitable remedies for it.\(^{12}\) It also insisted upon the thorough check up of child labour and punish the erring industrialists. But however the Government failed to stop the production of false age proof certificate though it took serious efforts that means the child labour still nourished.

**b. Working Hours:**

In the beginning their working hours were not exactly defined. But in course of time it was also brought under the purview of the Government for regularization. The Chamber of Commerce of Lancashire and Manchester also submitted petitions to the Government of India to reduce the working hours as a welfare measure. But this was looked after by the ILO and its Convention No.55 of 1919 pressed the member countries to reduce the working hours to 6 hours for children. The parents whose children were working in two separate factories on the same day by the insistence were penalized by the Factories (Amendment) Act 1926. Hence this spirit is included in the Constitution.

\(^{10}\) G.O.Ms.No.415, Labour and Employment Department, Government of Tamil Nadu, dt.4.5.76.

\(^{11}\) ibid.

\(^{12}\) The Ministry of Labour, Government of India, Resolution No.s.27025/6/78 - FAC dated the 6/7 February 1979.
In the post-independence period the framers of the Constitution deemed it necessary to make special provision for the protection of working children. While the Article 15(3) empowers the State to intervene and formulate special enactment that would uplift the special and legal status of children the Article 21 “Guarantees to each child the protection of life and personal liberty”.13

When Article 39(c) states the childhood and youth are protected against exploitation and against moral and material abandonment,14 Article 45, declares that the State must endeavor to provide free and compulsory education for all children till the age of 14.

In pursuance of the Constitutional provisions a number of Labour legislations to protect the children in the industries were passed. Most of the child workers in Virudhunagar District work for 8 or more hours and that too engaged in a hazardous occupation. Nearly 90 percent of them work for 7 – 12 hours per day while 10 percent work 13 hours or more. About 10 percent of the children leave home in the early hours of the morning i.e. about 4 a.m. and return home around 8 p.m.

While the normal working hours in the Match factory is as long as ten hour i.e. between 8 a.m. and 6 p.m. the reality is even worse. On an average, children work for 12 hours a day under firing condition. Sixty percent of the children work for six days a week and forty percent for all the seven days without a break, for months together.15 They sit in a dingy room and work continuously without any break except for lunch which they do not take more than 15 minutes and twice or thrice for nature’s call. Often they tolerate abusive languages from the supervisor if they get slow in work. They put in a nearly 12 hours working in a day-as-against the legally stipulated 4 ½ hours and are

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13 Constitutional Provision Article 15(3) Article 21
14 ibid., 39(c)
15 A respondent to the Questionnaire (Q.No.12)
away from their homes for over 15 hours. It is not the nature of the work that is distressing but what painful is the inordinate long hours that the children have to spend away from home at the work site or in between home and the factory. There are times when they have bodies ache, minds fog, hearts cry, spirits bleed on orders of the employer they work for 15 hours at a stretch.

II. UPLIFTMENT OF CHILD LABOURS

Non Formal Education:

In the process of regularization of the child labour in hazardous industries the Government passed number of acts but the abuse of child force was not stopped. Further the children were affected psychologically and physiologically and their mental faculty did not develop as suspected by sociologists. Hence the Government stressed for the rehabilitation of the child labourers by way of improving their standard of knowledge and trained them in various other professions. In order to implement the Government welfare measures as well as to find out the new means of avenue for rehabilitation and eradication of child labour, the Harbans Singh Committee was constituted.

i. Pecuniary measures:

By G. O. Ms. No 415 Labour and Employment Department, dated 4. 5. 1976 Thiru Harbans Singh, I.A.S., Member erstwhile Board of Revenue was asked to conduct in depth study covering all the aspects of the problem of child labour in various factories and industries in Ramanathapuram District and he was asked to cover the followings:

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17 ibid.
18 Report of Thiru Harbans Singh, I.A.S., Member Board of revenue the problem of child labour in various factories and industries in Ramanathapuram District, Government of Tamil Nadu, 1976, p. 30.
i. Measures for eradication of the unfair labour practice of employment of children.

ii. Providing them with suitable alternative employment and/or rehabilitation.

iii. Possibility of providing for their working at home with a facility to attend schools at least in one shift and

iv. Reduction of the resource of employment of children who have completed 14 years of age.

The Harbans Singh Committee seriously viewed the root cause for the perturbed longevity of child labour, and shroud of social evils attached with this problem and sittings, had frequent series of visiting factories and appointing various sub-committees. These committees also reviewed the various sections of working involving child labour in the Match and Fire Works Industries. After a thorough investigation it submitted its report to the Government of Tamil Nadu on 31.08.1976.

This committee gave the following suggestions and recommendation:¹⁹

Regarding the age it suggested:

1. In many cases children were being employed obtaining a certificate from the Doctors.

2. The employment of children in the fire works factories and printing press can be stopped almost immediately but in case of match industry the change over must be brought in over a reasonable long period of time.

3. The Sivakasi Chamber of Match Industry, has decided to discontinue the employment of children below 10 years with effect from 2nd October 1976.

4. After the discontinuance of employment of children below 10 years of age steps should be taken to raise the minimum age of employment beyond 10 years, by a periodical review.

Regarding the cause for child labour it gives some findings they are:

¹⁹ ibid., p.32.
1. One of the important factors forcing the parents to send their children for work was that they themselves did not get adequate wages.

2. Any effort to eliminate child labour at once bound to create inadequate economic hardship.

3. Child labour is an economic problem and should be tackled accordingly without causing hardship to the families of the child labourers and also without upsetting the industries which have created employment.

Regarding the working condition and working hours it suggested:

1. The working hours for children in match factories should be restricted to 4 1/2 hours per day. But for this purpose it is necessary to change the wage system. The piece rate system should be given way to daily wage with incentives for production.

2. Child labour is employed for the operations viz., box making, frame filling and leveling, box filling and labeling and band role pasting.

Regarding the violation of law it stated that

1. Children employed in the match factories should be entitled to all the benefits which workers were eligible for under the law.

2. The provisions of both the Factories Act and the Employment of Children Act were being violated with impunity.

3. The punishment given to the employers who violated the law relating to the Employment of Children was nominal. The Administrative authorities did not have any powers to suspend the license of a factory violating the law.

Regarding the Rehabilitation of child labour it gave the following suggestions:

1. Non-formal education should be given to the children in the factories school; attendance should be made compulsory and it should be a condition for employment in factories.

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20 ibid., p.35.
2. Co-operative match factories should be organized in the village around the match industry centres.

3. The setting up of new match factories in Sivakasi should not be allowed. New factories may be set up beyond a radius of 15 Kilometers only.

4. New cottage type of industries should be started in the villages to provide alternative employment.

5. A Board under Chairmanship of the Collector of Ramanathapuram or Sub-Collector of Sivakasi should be set up to ensure the Government directives regarding employment of child labour were fully implemented.

The report was considered by the Government and it was also placed before the State Cabinet at its meeting held on 8th February 1979 and the Cabinet had taken the following decisions to implement the recommendations of the Committee:

1. That the provisions of the relevant Acts relating to employment of children may be strictly enforced.

2. That immediate action be taken to shift the operations from factories to the villages where the children reside, by setting up worksheds in villages by employers or by co-operative societies.²¹

3. That a comprehensive scheme be worked out to give the children in the area sufficient incentives to attend school and to give them education side-by-side with their work, wherever possible.

4. That the minimum wages be revised with a view to increase the earning capacity of the workers; and

5. That a Board under the Chairmanship of the Collector of Ramanathapuram, with representatives of Employers and Labour Unions as members, be constituted to ensure welfare measures to the children employed in the factories and co-ordinate the activities of various agencies involved in mitigating the problem of child labour.

²¹ ibid., p.36.
As per Harbans Singhs Committee recommendation number of factories in Virudhunagar area started evening classes with trained teachers to educate the child labours.

In pursuance of the rehabilitation possibility of providing for their working at home with a facility to attend schools at least in shift and reduction of the rigorous of employment of children who have completed 14 years age, many schools were opened in 1. Hariram Match works, Sivakasi; 2. Standard colour Match works, Thiruthangal; 3. Durairaj Match works, Amathur; 4. Eswari Match works, Sachiyapuram; 5. Meena Match works, Sankaralingapuram; 6. Modern Match works, Viswanatham; 7. Asia Match works, Anaiyur; 8. Janaki Match works, Mudalipatti etc., and provided non-formal education to their employees in the age group of 9-14 years.

Because of the Head office of the Superintending Inspector of Factories was situated in Madurai City only, it took time to reach the factory. In the meantime the factory owners hide the child labours and gave nil report on child labour and player prances on the government officials. Hence the office of the Deputy Chief Inspectors of Factories was established in Sivakasi to inspect the factories of Sivakasi area immediately. But however they had no power to cancel the license.

The employment of children in the licensed fire works factories and printing press could easily be stopped because only the paper rolling process in fire works is done in cottage level and the remaining process should be carried only in factories since the use of chemicals outside the factory is prohibited. So obviously it is possible for elimination of child labour in fire works and printing works. But in case of match industry the change over must be brought in over a reasonably long period of time. Hence the
Sivakasi Chamber of Match Works step by step diversified the works of a match industry into number of home industry units where even the children below the age of 10 years could be employed. This was an opening for the industrialists to abuse the recommendations because the home industry was not checked by the Government.

In match works among the 17 process more than 7 process can be done outside the factory, that admits of largely possible child labour in cottage industry, it takes more time to eliminate child labour in match industries. However the Commission's report brought large scale of decrease in child labour in fire works industry. But the withdrawal of child labour in Match factories was not taken place as expected. Only some registered factories enrolled under the Chamber of Match works, Sivakasi, discontinuing the employment of children below 10 years. In most of the factories and cottage industries the child labour is prevalent commonly even to-day.

Of the recommendations of the Harbans Singh Committee, special legislation for match industry confronted with complex problem and became impossible. There was no special legislation especially for match industry.

As recommended by the Committee the setting up of new match factories around Sivakasi within the radius of 15 Km. was prohibited up to 1983 and thereby new industries were started in the villages situated beyond 15 Kms. This helped the labours to work in their village itself. Further it also helped for the growth of cottage industries and shifted the child labour thereto.

The minimum wages be revised with a view to increase the earning capacity of the workers. The wage was increased as shown in the Appendix No.I by the Tamil Nadu Government's G.O.Ms. No.1523 of Labour Department dt.30.06.1983.
A Board under the Chairmanship of the Collector of Ramanathapuram with member representatives of employers and various trade unions was constituted in the year 1980 to ensure welfare measures to the children employed in the factories and to co-ordinate the activities of agencies in mitigating the problem of child labour. This Board was entrusted with the powers of executing schemes for improvement of basic services to the women and children engaged in Match industries with the UNICEF assistance.

In pursuance of this policy the Government have formulated a scheme for improvement of basic services to the women and children engaged in Match industries in the area consisting in Sivakasi, Sattur, and Vembakkottai Blocks. Basic services have hitherto been provided to the women and children under various development schemes implemented in the area but backwardness of the area remained unchanged and therefore the Government have decided that these services be provided in an intensive manner by executing various works under one concerted scheme.

The Government of India have implemented scheme at a total cost of Rs.136.97 (inclusive of UNICEF of Rs.77.88 lakhs) during the years 1984-85, 1985-86, and 1986-87. By utilizing this grant the following works were carried out:


ii. Uniform code on child labour:

In the meantime the Government of India adopted the National Policy for children in August 1977. In this policy “it stressed that necessary alternative form of education for children who are unable to take full advantage or formal education should be given some provision”. In pursuance of their policy the National Seminar of Employment of Children was organized by the Institute of public Co-operation and Child Development in New Delhi in 1975 stressed the need for giving non-formal education to the working child. They also suggested some professional oriented education to them in order to relieve them of child labour and enable the family to compensate their loss so that the parents would not give pressure to the children to work in the factories. They also stressed that efforts should be made for evolving a ‘National Children Code’ incorporating the provisions of the children’s employment in various sectors. It also recommended that the ‘National Board’ should set up a study group or an enquiry committee to investigate the various aspects of child labour such as review of legal provisions act by act, and the implementation in each industry. And there is need to educate the employers as well as public about the legal provisions to protect the interests of children.

In the meantime the UN General Assembly adopted (the resolution 31/169) on 21st December 1976, proclaiming the year 1979 as the International year of the child. The general object in doing so was to create world-wide consciousness to promote 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 were at work.

Keeping in view the total background of the context of the International Year of the Child, the Government of India felt the need for a thorough stock-taking through the Ministry of Labour, Government of India. By its resolution a sixteen member committee under Mr. M.S. Gurubadhaswamy was set up to look into the cause in detail leading to and the problems arising out of the employment of children. The Committee studied the problem first in its broad dimension; their relation to the adequacy and implementation of the existing legal framework; and lastly about the formulation of the requisite welfare and institutional arrangements for training and other facilities for the benefit of children in employment. The Committee felt that the then existing legal framework for employment in India was rather depressed and patchy. This has been one of the prime reasons for a missing focus in the efforts which have so far been made to regulate the employment of children in some of the sectors of the economic activity. As would be pointed out in subsequent discussions, some of the laws also suffered from certain internal contradictions, and that dealing of problem of labours should be dealt in one comprehensive new law. This particular point of common legislation covering all the labours was already pronounced by Gajendragadgar Committee of 1969. Hence Gurubadhaswamy committee also felt to bring a 'Uniform Code'.

The Commission has accordingly suggested integration of labour laws which covered subjects having a common objective. In connection with this Gurubadhaswamy

25 M.S. Gurubadhaswamy Committee report on child labour in India, Ministry of Labour, Government of India, 1979, p.36.
26 ibid., p.37.
Committee gave some recommendations on the problem of child labour. This Committee recommended constitution of an Advisory Board both at Central and State levels to keep a constant surveillance on the problem of working children. It also viewed that the minimum age should be prescribed for the children for employment. It accordingly recommended that the minimum age for entry into any employment should be 15 years and that the existing laws which prescribe an age lower than this should be suitably amended. Correspondingly, the age for adolescent should be specified as between 15 and 18 years. Regarding the law and the violation it suggested,

1. that the existing laws relating to prohibition and regulation of employment of children should be consolidated into a single comprehensive one. The new legislation should adopt uniform definitions of the expression of ‘child’ and ‘adolescent’ and prescribe the ‘hours of work’ etc.27

2. that the serious attention be given towards strengthening the existing machinery for enforcement of legislation relating the employment of children and that due recognition should also be given in this regard to the role of voluntary agencies and trade unions.

3. that the penalty provided in the existing laws for violation of provisions relating to child labour should be made deterrent. The punishment for the first offence should be imprisonment which may extend to one year or the fine extending to Rs.2000/- or both. In the case of second or continuing offence the penalty should be only imprisonment and that, too, upto two years.

Regarding the rehabilitation it also suggested:

1. that concerted steps be taken within five years to achieve the objective of providing educational qualification, say eighth standard or equivalent for entry into any regulated employment.

27 ibid., p.50.
2. that stricter enforcement of the Minimum Wages Act needs to be ensured. In this regard greater participation should be sought of the entire administration machinery.

3. that a more meaningful effective educational policy is called for to take into account the followings:
   a. change of curriculum and integration of educational requirements with local crafts;
   b. greater involvement of voluntary agencies;
   c. changes adjustment in the schedule of vacations and holidays to consider with environmental requirements.

4. that more comprehensive statutory provisions for providing educational facilities for child workers and to include education as a part of labour welfare measures to be adopted by employers and arrangements for Non-formal education in areas where there is concentration of working children.28

5. that in rural areas, crèches/child care centres should be established at the school premises, or at the community centres, so as to encourage girls who have to take care of young siblings in the family to attend schools. This arrangement would also be greater help to working parents.

6. that the need for periodical medical check-up to be linked with national health scheme of child workers.

Though the Government took measures for the welfare of the child labour to mitigate their problems the lethargy of the executing officers, industrialists, the beneficiaries made it a mockery and spoil it. They did not give due respect to the recommendations of the committee. They were thrown out into the winds and continued as if they were not bothered about such measures. This derogative tendency was prevalent commonly in all the areas particularly in the dry belt of Virudhunagar district.

28 ibid.
Instead of bothering about the children’s future life they concentrated more on the immediate relief. This may be the cause for the existence of child labour.

In the meantime the printing media vociferously exposed the malfeasance, condemned and projected the own neuroses of the administration with pictorial evidence. Many lives are destined to death in the bud itself owing to road mishap and or fire accident. The working children are normally forcibly thrust into the thronged buses and to breathe polluted air. As the Hindu reported in 1982 in Thiruthangal a bus carrying towards the factory was slashed away by a sudden flood in the river Arjuna. In this incident thirty seven children lost their life. The same newspaper reported on 12th February 1982 that a fire accident was taken place in a cracker factory near Chellapatti village, twenty kilometers away from Sankarankoil in which six children charred to death. In another incident 32 children were throttled with the cruel hands of death as per the news published in The Indian Express while reporting such matters. The press media reported these matters and blamed the Government and industrialists for such incidents. Many organizations raised its voice of protest. But nothing was taken place except giving some immediate relief. This ultimately made a person named Mr. Chandrasekaran, working for the welfare of the labours, to knock the door of court and get a solution to such incidence and for total prohibition of child labour. He petitioned the Supreme Court of India against the Union of India, State of Tamil Nadu, Chief Labour Commissioner, the District Labour Commissioner. The petitioner said that he was shocked on seeing the newspaper reports on child labour. The fire works and match factories were not satisfactory and not in accordance with the provision of law stipulated

30 The Hindu, February, 1982.
for the purpose. He thoroughly studied the law relating to the labour particularly child labour and found the violation of the acts. In response to the Writ petition the State Government assured the Hon'ble Court to go in detail of implementation of Harbans Singh Committee and to suggest remedial measures.

iii. Moving towards total Abolition:

To make a study as to how far the Harbans Singh Committee decisions have been put into effect by the various agencies of the Government level. By G.O. Ms.No.618 Labour Department dated 19.3.1984, the Government of Tamil Nadu constituted a committee under the Chairmanship of Mr. N. Hari Baskar, I.A.S., to study on “child labour in any form throughout the State but prevalent in the fire and works industry in Sivakasi area”.32 The committee had 9 sittings in different places. One of the major decisions taken by this committee during the course of its deliberations was to have a survey of match factories, fire works factories and printing presses with a view to assess the actual number of establishments and the number of workers including the child labour employed in those establishments.

During the field visits, the Committee was able to find out the actual plight of the workers especially, the child labour who was put to unnecessary hardship by disturbing them from their sleep in the early hours for transporting them from their houses through the buses engaged by the match factories, to the factories concerned.

The Chamber of Commerce represented that the employment of child labour was peculiar to this industry in view of the socio-economic problems. They said that they took precautions in safeguarding the interest of children and extended various welfare amenities as were practicable to them. They further stated that due to availability of

32 Ibid., p.x.
limited transports for moving children from their residences to workspot they have to collect the children from their villages in the early hours. They were engaged for work only as per the statutory time limits. After their working hours these children have to wait for their parents to move along with them after their work. In certain cases some of the children have to wait for the buses for their return journey. They also pointed out that they paid guaranteed minimum rate of wages, i.e. Rs.7.00 + 1.02 (D.A.) for the children having 8 hours work since November, 1984. They further stated that the prohibition of child employment can be possible only if the frame filling process would be mechanized by imported machines from Japan. They also appealed that without the co-operation of the government it might not be possible for the industry alone to launch machinisation. Till such time the employment of child labour has to be continued. According to them the present practice of bringing children in the early hours disturbing them from their sleep could not be avoided due to limited bus services. They have, however, stated that if the Government were willing to divert regular route buses from 6.00 a.m to 9.00 a.m for transporting children to the workspot, it might be possible for them to curb the practice of disturbing early in the morning the children from sleep. However, they agreed to restrict the working hours from 6.00 a.m to 6.00 p.m. only in order to avoid the use of children before and after the working hours.

As agreed they extended all facilities as per the statutory requirements to the workers. Though canteens were established in major match units the response from the workmen for this scheme was not encouraging. The workers viewed that their children employed in the factory were against the provisions of canteen on the plea that their

\[33 \text{ ibid., p.24.}\]
\[34 \text{ ibid., p.26.}\]
children might squander in canteens and it would affect the total family income. Further they allowed the child workers in their units to attend classes run by the Government under the non-formal education scheme. They also extended all facilities for running the classes in the match factory itself.

They suggested that if the Government exempted them from paying excise duty they could provide welfare amenities to the works. They also appealed that they should be exempted from the payment of Employees State Insurance/Employees Provident Fund contributions as the workmen were not in favour of it.

After having a thorough study the Hari Baskar Committee gives some recommendation on child labour problem in Sivakasi area:

a. The factory should be function only from 8.00 a.m and the children should be transported to the workspot only after 6.00 a.m. The Factory Inspectorate should implement the recommendation effectively.35

b. Provision of Factories Act and other Labour enactments covering child labour should be amended to make penal provision more rigorous by imposing heavy amount of fine so that the employers may desist violating their legal obligations.

c. The Government should issue suitable instructions to the judicial officers to be firm in deciding cases relating to the violations of the provisions of factories and other labour enactments covering the employment of child labour and award maximum punishments to the employers who violate the law. The attention of the Magistrate should be specially drawn to the observation of the Supreme Court in dealing with the cases relating to labour laws.

35 Interview with the Manager of Chamber of Match works, Sivakasi, dt.4.10.03.
d. The Factory Inspectorate should ensure effective implementation of the safety and welfare provision under the Factories Act in Match and Fire Works industries. But the committee realized that refusal of license to new factories in this industry or withholding of license to extension cannot be done as any such action be questioned before the judicial forums as infringement of Article 19(1)(g) of the Constitutions. This portion of the recommendation can be implemented only by persuasion as there was no legal sanction in any legislation either under the Labour Law or under other legislations covering match industries.\textsuperscript{36}

e. More co-operative units should be opened through the Directorate of Industries and Commerce. For that purpose Government may write to the Excise Department to revive the incentive scheme which is now operating as a bar against the opening of more such units.\textsuperscript{37} These co-operative units of match industries can be started in villages so that the children would be willing to avail of the employment facilities in these units.

These recommendations were effectively implemented. The Sivakasi Chamber of Match Industries issued a circular in which it asked member units to abide by the working hours as stipulated by the committee. This working hours was followed and the Factory Inspector strictly supervised it. But at the same time this is adopted only in the registered factories. The household units are not coming under the supervision of the Factory Inspector. Regarding the punishing the law violating industrialists steps were taken to penalize the erring industrialists by way of enforcing the existing laws. Penal

\textsuperscript{36} N. Hari Baskar, op.cit., p.167.

\textsuperscript{37} ibid., p.168.
fees were collected from them and in certain cases imprisonment was also awarded. For example in 1996 a case was filed by M.C. Mehta, Petitioner in the Supreme Court on the industrialist keeping child labour in their industry against the state of Tamil Nadu and others. The Hon’ble Judge M.H. Kania levied a fine of Rs.20,000/- on the industrialists. Following this case many industrialists were punished. Since the Haribaskar Committee permitted to establish household sector under co-operative within 5 Km radius of the towns like Sivakasi numerous household units were established. Here thousands of children were recruited.

Regarding the non-formal education the District Level Committee took various steps to establish schools under the Non-formal education. In order to mobilize support this committee conducted processions, public meetings, recruit campaign camps, advertisements, award of prizes, distribution of free books, parents-teachers meeting etc.

The Labour Department, the Education Department and the Social Welfare Department etc., contributed their services to the District Level Committee. This Committee stressed that the Non-formal Education scheme for children working in match factories and other industries in Sivakasi and its suburb should be continued with the aid of UNICEF and other agencies. They received grants from the above mentioned International Organizations. 70 centres under the UNICEF programme were established to give education to more children. The Government amended the Employment of Children Act, 1938 to make a provision for such Non-formal education and job-training as may be approved by the Government in this regard. Further the working children who were released for attending classes under the non-formal education scheme were paid the

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same wages as earlier. Again all the facilities were extended to the children under the Non-formal Education Scheme too.

In order to bring all small match and fire works units a Notification under section 85(1) of the Factories Act was issued by the Tamil Nadu Government. Further more officials were appointed to enforce the factory rules and regulations effectively and curb the practice of child labour.\textsuperscript{40}

In the meantime the Central Government passed the Child Labour (Prohibition and Regulation) Act, in the year 1986 with the following objectives:\textsuperscript{41}

i. To ban the employment of children i.e., those who have not completed their fourteenth year, in specified occupations and processes;

ii. To lay down a procedure to decide modifications to the schedule of banned occupations or processes;

iii. To regularize the conditions of work of children in employment where they are not prohibited from working;

iv. To lay down enhanced penalties for employment of children in violation of the provisions of this Act, and other Acts which forbid the employment of children;

v. To obtain uniformity in the definition of ‘child’ in the related laws.

This Act defines “Child” as a person who has not completed his fourteenth year. According to this “no child shall be employed or permitted to work in any of the occupations set forth in part A of the schedule or in any workshop wherein any of the processes set forth part B of the schedule is carried on”. Provided that nothing in this section shall apply to any workshop wherein any processes is carried on by the occupier

\textsuperscript{40} ibid., p.177.
with the aid of this family or to any school established by, or receiving assistance or recognition from Government.

This Act forwarded the following with the child labour working condition of:

a) **Hours of period of work**:

i. No child shall be required or permitted to work in any establishment in exceed of such number of hours as may be prescribed for such establishment or class of establishments.

ii. The period of work on each day shall be so fixed that no period shall for more than three hours before he has had an interval for rest for at least one hour.

iii. The period of work of a child shall be so arranged that inclusive of his interval for rest, sub-section (2) it shall not be spread over more than six hours, including the time spent in waiting for work on anybody.

iv. No child shall be permitted or required to work between 7 p.m and 8 a.m.

v. No child shall be required or permitted to work overtime.

vi. No child shall be required or permitted to work in any establishment on any day on which he has already been working in another establishment.

b) **Weekly Holidays**:

Every child employed in an establishment shall be allowed in each week, a holiday of one whole day, which day shall be specified by the occupier in a notice of permanently exhibited in a conspicuous polices in the establishment and the day so specified shall not be altered by the occupier more than once in three months.

Further this Act wants to ascertain whether child labour is prevailed in any industry by way of asking the management of the factories to furnish the information regarding the child labours as follows:

1) Every occupier in relation to an establishment in which a child was employed or permitted to work immediately before the date of commencement of this Act in relation
to such establishment shall, within a period of thirty days from such commencement, send to the Inspector within whose local limits the establishment is situated. The notice should contain the following particulars, namely:-

a. the name and situation of the establishment;
b. the name of the person in actual management of the establishment;
c. the address to which communications relating to the establishment should be sent; and
d. the nature of the occupation or process carried on in the establishment.

2) Every occupier, in relation to an establishment, who employs, or permits to work, any child after the date of commencement of this Act in relation to such establishment, shall, within a period of thirty days from the date of such employment, send to the Inspector within whose local limits the establishment is situated, a written notice containing the particulars as are mentioned in sub-section (1) Explanation:

For the purpose of sub-sections (1) and (2) "date of commencement of this Act, in relation to an establishment; means the date of bringing into force of this act in relation to such establishment".

It also asks the employer to maintain register as follows:

There shall be maintained by every occupier in respect of children employed to work in any establishment, a register to be available for inspection, by an Inspector at all times during working hours or when work is being arrived on in any such establishment, showing:

a. the name and date of birth of every child so employed or remitted to work;
   hours and periods of work of any such child and the intervals of rest to which he is entitled;
b. the nature of work of any such child; and
c. such other particulars as may be prescribed.
In order to meet the social problems such as health and safety the Acts says:

The appropriate Government may, by notification in the official Gazette, make for the health and safety of the children employed or permitted to work in any establishment or class of establishments.

Without prejudice to the generality of the following matters, namely:

1. cleanliness in the place of work and its freedom from nuisance;
2. disposal of wastes and effluents;
3. ventilation and temperature;
4. dust and fume;
5. artificial humidification;
6. drinking water;
7. latrine and urinals;
8. lighting;
9. spittoons;
10. work near machinery in motion;
11. employment of children in dangerous machines;
12. instructions, training and supervision in relation to employment of children on dangerous machines;
13. fancying of machinery;
14. device for cutting of power;
15. self acting machinery; etc,

In order to implement the objectives of the Act the Government formed a committee called Child Labour Technical Advisory Committee to advise the central Government for the purpose of addition of occupations and processes to the schedule. This Committee consisting of a chairman and ten members constituted for the consideration of any particular matter.
The various welfare legal measures made its telling effect on the growth of child labour. These acts prevented the false issue of age certificate and industrialists also brought under watchful eyes of the Government in order to prevent the recruit of the children below the age of ten years. Further a temporary measures part-time schools and night schools were opened to impart education to child workers. To find out the real and practical problems of the child workers, the Government appointed special commissions. On the basis of the recommendation of this commission many welfare measures were taken. But however, these welfare measures could not stop the child labour fully though it controlled the abuse of the child labour force. Hence the Government again and again searches for various means to abolish the child labour totally. The Gurubadhaswamy Committee recommended that only concerted efforts of various Government Departments of Centre and State, NGOs, industrialists, workers and children, could abolish it. So a “uniform Code” for whole India on the abolition of child labour was evolved. Further the Hari Baskar Committee also suggested various welfare measures to curb the practice of child labour. Ultimately Child Labour (Prohibition & Regulation) Act 1986 was passed with the prime objective of “total abolition” of child labour.