NATIONAL TOOLS TO TACKLE CHILD LABOUR ABUSE

In a perception it is found that among 'multiple laws and constitutional provisions on child labour' as a part of ensuring child protection, however noted largely ineffective in tackling the problem' which is largely due to the lack of 'political and social will' and to some extent for 'practical difficulties in enforcement and loopholes in legislation'.

4:1 Provisions of the Constitution of India:

The spirit of the Constitution of India is perceptible in the great height of the Preamble itself.

In fact the Constitution of India recognizes the vulnerable position of children and their right to protection and also guarantees special attention for their safe guards, as a part of India's commitment to the protection, safety, security and well being of its entire people, including children. Some of them have strong bearing on child labour. A few important provisions are noted below.

Article 14: The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India;

Article 15(1): The State shall not discriminate against any citizen on ground only of religion, race, caste, sex, place of birth or any of them;

Article 15(3): Nothing in this article shall prevent the State from making any special provision for women and children;


Article 21: No person shall be deprived of his life or personal liberty except according to procedure established by law;

Article 21A: The State shall provide free and compulsory education for all children of the age of six to fourteen years in such a manner as the State may, by law, determine.

Article 23(1): Traffic in human beings and beggar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

Article 24: No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment;

Article 38(1): The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political shall inform all the institution of the national life;

Article 38(2): The State shall, in particular, strive to minimize the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.

Article 39: The State shall, in particular, direct its policy towards securing -

(e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;

(f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

Article 45: The State shall endeavour to provide early childhood care and education for all children until they compete the age of six years.

However, Article 45 has been substituted by the Constitution (Eighty-Sixth Amendment) Act, 2002, which received assent of the President on
December 12, 2002 and a new Article 21-A inserted providing for right of education of children.206

Article 46: The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

Article 47: The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

Article 51: The State shall endeavour to –

(c) foster respect for international law and treaty obligations in the dealings of organised peoples with one another;

Article 51-A: It shall be the duty of every citizen of India -

(k) who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.

Article 253: Notwithstanding anything in the foregoing provisions of this Chapter, Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body.

**4:2 Provisions of national legislations:**

Some important national legislations207 for protection of children relevant to child labour are noted below:

**A. The Children (Pledging of Labour) Act, 1933**

It defines (u/s 2) "an agreement to pledge the labour of a child" means

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an agreement, written or oral, express or implied, whereby the parent or guardian of a child, in return for any payment or benefit received or to be received by him, undertakes to cause or allow the services of the child to be utilized in any employment; such agreement stated as 'void' (u/s 3); parent or guardian 'shall be punished with fine which may extend to fifty rupees' (u/s 4); whoever makes such agreement with parent or guardian 'shall be punished with fine which may extend to two hundred rupees' (u/s 5); whoever employs or permits such child to be employed 'shall be punishable with fine which may extend to two hundred rupees' (u/s 6); and 'child' is a person below 15 years and 'guardian' includes person having legal custody of or control over a child (u/s 2).

B. The Factories Act, 1948

It prohibits employment of children below 14 years in factories (u/s 67); Parent or guardian or person having control or custody or benefiting from wages of the child 'shall be punishable with fine' extending to Rs 1000/- for permitting double employment (u/s 99). An amendment to this Act in 1987 has also provided imprisonment for a term extending to 2 years or with fine which may extend to Rs 1 lakh or both on violation of this Act (u/s 92). Significantly, breach of S/67 of Factories Act 1948 is linked to sections 14 and 15 of the Child Labour (Prohibition and Regulation) Act, 1986 attracts penalty u/s 14 of the Act, 1986 and not u/s 92 of the Factories Act, 1948.

C. Minimum Wages Act, 1948

It defines 'child' as a person below 14 years (u/s 2.bb); provides may be different minimum wages for adult, adolescents, children and apprentices (u/s 3.3) but now no such application in prohibited occupations and processes meaningful after CL (P&R) Act, 1986 hence sec.3(3)(a)(iii) of the Act, 1948 became insignificant. However there is imprisonment may

207a. Shaw, S.P, Encyclopedia of Laws of the Child In India, 2000, P-489, 490
207b. Ibid, P-244, 248
207c. Sekar, Helen R, Child Labour Legislation in Select Countries of South Asia, VVGNLI, Noida
207d. Shrvastav, M.P., Child Labour Laws In India, 2006, P-45
207e. Ibid, P-46
be extending to 6 months and fine may extend to Rs 500/- (u/s 22). But as relevant in the Minimum Wages Central Rules, 1950 employment of children for more than 4 1/2 hours for any day in the scheduled employment where minimum wages are fixed, is prohibited.  

D. Plantation Labour Act, 1951

It defines 'child' as a person below 14 years (u/s 2.c); no child or adolescent to work more than 27 hours a week (u/s 19.1); child below 12 years prohibited to work in any plantation (u/s 24) but now omitted as covered by CL (P&R) Act, 1986 w.e.f. 23.12.1986 (u/s 24); child or adolescent to carry token of fitness certificate (u/s 26,27); for obstructing and neglecting facility for inspection to inspector or refusing to produce register and documents (u/s 33), for contravention of provision for employment of labour (u/s 35) and for other offences (u/s 36), shall be punishable with imprisonment extending to 3 months or with fine extending to Rs 500/- or both; and for knowingly using false certificate of fitness, imprisonment extending to 1 month or fine extending to Rs 50/- or with both.

E. The Mines Act, 1952

It defines 'child' as a person below 15 years (u/s 2.c); no child to be allowed below ground in any (open cast working) in mining operation (u/s 45). Prescribes fine extending Rs 500/- for violation. Further u/s 40 of this Act, 1952 employment of children below 18 years in mining operation below the surface prohibited. But this provision i.e. sec.40 of this Act, 1952 is now covered under sec.15 of CL (P&R) Act, 1986 which attracts enhanced penalties with imprisonment, fine or both u/s 14(1) and (2) of the Act, 1986.

F. The Merchant Shipping Act, 1958

It prohibits children under 15 years, to be engaged to work in any capacity in any ship, except in certain specified cases (u/s 109). Now
capacity in any ship, except in certain specified cases (u/s 109). Now this provision (sec.109 of Act, 1958) is covered u/s 15 of the CL (P&R) Act, 1986 for which punishable with imprisonment, fine or both u/s 14 of the Act, 1986.

G. The Apprentices Act, 1961

It prohibits apprenticeship/training of a person under 14 years (u/s 3); a contract for a minor apprentice to be signed by the guardian (u/s 4); provides penalty for engaging child below 14 years (u/s 30). Violation attracts penalty of 6 months imprisonment or with fine or both.

H. The Motor Transport Workers Act, 1961

It defines ‘child’ as a person below 15 years (u/s 2.c); Motor transport undertaking means a motor transport undertaking engaged in carrying passengers or goods or both by road for hire or reward and includes a private carrier (u/s 2.g); prohibits employment of child (below 15 years) in any capacity (u/s 21). Now, this provision (S/21 of Act, 1961) is covered u/s 15 of CL (P&R) Act, 1986 for which punishable u/s 14 (a) and (b) of CL (P&R) Act, 1986 and u/s 31 (i.e. 3 months imprisonment or Rs 500/-fine or both) and sec.33 (i.e. 6 months imprisonment of Rs. 1000/- fine or both) of Motor Transport Workers Act, 1961 in case of breach or violations.

I. The Bidi and Cigar Workers (Conditions of Employment) Act, 1966

It defines ‘child’ as a person below 14 years (u/s 2.b). This prohibits employment of children below 14 years in any industrial premises manufacturing bidis or cigars (u/s 24). The breach attracted imprisonment upto 3 months and fine upto Rs 500/- or both. Now, in Bidi making process involving children has been prohibited u/s 3 of the CL (P&R) Act, 1986 and shown in Part-B of the schedule of the Act, 1986 irrespective of

207l. supra note 207c
207m. also, supra note 207j, P-210
207n. also, supra note 207d, P-45
207o. supra note 207j, P-210
207p. supra note 207d, P-47
207q. supra note 207c
Industrial or any other premises, and therefore punishable with imprisonment, fine or both u/s 14 of the CL (P&R) Act, 1986.

**J. The Bonded Labour System (Abolition) Act, 1976**

This Act is intended to prevent economic and physical exploitation of weaker sections of people. It defines 'bonded labour' as any labour or service rendered under the bonded labour system (u/s 2.f). The 'bonded labour system' is indicated as 'forced or partly forced labour' in one way or the other u/s 2(g) and includes labour rendered to repay debt and also covers to an extent 'contract labour' and 'Inter-State Migrant workmen' as given in the 'Explanation'. This Act, has abolished bonded labour system (u/s 4) and such agreement (u/s 5) and further extinguished liability to repay bonded debt in chapter III (u/s 6 to 9). Punishment for enforcing bonded labour (u/s 16), advancing bonded debt (u/s 17), enforcing custom, tradition etc. for bonded labour system (u/s 18) extends to 3 years imprisonment or fine of Rs 2000/-; for failing to restore property amounts to imprisonment to 1 year with fine Rs 1000/- or both (u/s 19) and (u/s 20) for abetment.

**K. Child Labour (Prohibition and Regulation) Act, 1986**

It defines 'child' means a person below 14 years (u/s 2.i). This prohibits employment of children in the occupations (Part A of the Schedule) and processes (Part B of the Schedule) as specified (u/s 3) in Part II of this Act; also regulates working conditions of child workers in other establishments (those not covered under Part A and Part B of the Schedule u/s 3) with regard to Part III of this Act (u/s 6).

As per this Act, 1986 punishment for contravention of sec.3 shall be imprisonment not less than 3 months and may extend to 1 year or with fine not less than Rs 10000/- may extend to Rs 20000/- or with both, for subsequent offence imprisonment may extend to 2 years (u/s 14 (1) and (2)); for failing to comply with or contravening any other provisions imprisonment extending to 1 month or fine Rs 10000/- or both (u/s 14(3)(d)).

*[207r. supra note 207d, P-47]*
As many as 15 occupations including employment of children in dhabas (road side eateries), restaurants, hotels, motels, tea shops, resorts, spas or other recreational centers and 57 processes including rag picking and slaving.\textsuperscript{207s} Further amendment has covered sixteen occupations and sixty-five processes prohibited u/s 3 of this Act\textsuperscript{207t} so far.

\textbf{L. The Immoral Traffic (Prevention) Act, 1956}

Earlier known as 'the Suppression of Immoral Traffic in Woman and Girls Act, 1956' (SITA). It defines 'child' as a person below 16 years (u/s 2.aa) and 'prostitution' means 'sexual exploitation or abuse of person for commercial purposes' (u/s 2.f).

Punishment for keeping a brothel or premises used as a brothel is R.I. not less than 1 year upto 3 years and fine Rs 2000/- and more for subsequent offences, for owner or leaser or land lord etc. for knowingly allowed to such use attracts punishment for 2 years and fine Rs 2000/- and an enhanced punishment in subsequent offences (u/s 3); imprisonment for 2 years or fine extending to Rs 1000/- or both for any person above 18 years including tout or pimp. For knowingly who lives on earnings of prostitution by other (u/s 4); procuring, inducing or taking child for prostitution attracts R.I. extending to life and not less than seven years, if committed against minors, punishment not less than 7 years extending upto 14 years (u/s 5); imprisonment not less than 7 years, for life or to 10 years also liable to fine and less than 7 years in special circumstance (u/s 6(1)); child found in brothel, to be presumed for sexual abuse unless contrary proved u/s 6(2-A); imprisonment for 7 years extending to life with fine for the offence committed against child or minor involved by anyone carrying out prostitution in or in the vicinity of public places (u/s 7); for soliciting or seducing for prostitution punishment extending 6 months and fine Rs 500/- may be extended in subsequent offences (u/s 8).

State Government may also establish protective homes and corrective
institutions (u/s 21), however as a matter of 'discretion'. But certain proposed amendments are yet to take effect.\textsuperscript{208}

**M. The Juvenile Justice (Care and Protection of Children) Act, 2000**

It defines 'Juvenile' or 'child' as person below 18 years (u/s 2(k)); 'begging' means soliciting or receiving alms in various ways (u/s 2.b); 'child in need of care and protection' means a child without proper home or means of subsistence, found begging, street child or working child, resides under threat of killing or injure or likelihood of being killed, abused or neglected with whom resides, or no one to look after for illness or diseases, parent or guardian unfit to control the child or abandoned or surrendered by parents or missing and run away child etc. likely to be grossly abused, tortured or exploited for sexual abuse or illegal acts, vulnerable to drug abuse or trafficking, to be abused for unconscionable gains, victim of any armed conflict, civil commotion or natural calamity (u/s 2.d); 'Juvenile in conflict with law' means a juvenile alleged to have committed offence at or age below 18 years (u/s 2(l)).

It provides for dealing with Juvenile in conflict with law (Chapter-II) and child in need of care and protection (Chapter-III) and in (Chapter-IV) for rehabilitation and social reintegration, among others. Also provides for Juvenile Justice Board (u/s 4), Observation Homes (u/s 8) and Special Homes (u/s 9) in relation to Chapter-II and Child Welfare Committee (u/s 29), Children homes (u/s 34) and Shelter homes (u/s 37) in relation to Chapter-III and also to provide foster care (u/s 42) temporarily for infants ultimately to be given in adoption under Chapter-IV.

In order to mainly deal with child abuses\textsuperscript{208a} this Act provides: punishments for cruelty to children and juvenile, of imprisonment extending to 6 months, or fine or both if a person having charge or control over the juvenile or child, assaults, abandons, exposes or willfully neglects him/her or procures for such purpose to cause the child/juvenile unnecessary mental

\textsuperscript{208} supra note 207, P-28
\textsuperscript{208a} ibid, P-26
or physical suffering (u/s 23); imprisonment extending to 3 years and fine for employing or using a child/juvenile, and for abetment in this regard: imprisonment extending to 1 year and fine (u/s 24); imprisonment extending to 3 years and fine for exploitation when a person ostensibly procures a child/juvenile for the purpose of any hazardous employment, keeps in bondage and withholds earning or uses such earning for his own purpose (u/s 26); and there is also alternative punishment for greater degree (u/s 28) when offence punishable also under other Acts.

Certain important amendments in 2006 noted as: u/s 2(d)(ia) child beggars included in the definition of 'child in need of care and protection'; u/s 10(1) in no case, a juvenile in conflict with law shall be placed in police lockup or lodged in jail; u/s 14(2) to direct increase the frequency of sitting of the Board; 16(1) imprisonment to juvenile shall not extend to life; u/s 21 contravention of provision dealing with prohibition of publication of name etc. leading to identification punishable with fine of Rs 25,000/-; u/s 4 & 25 Board and committee in each district within 1 year; u/s 33 speedy inquiry; u/s 62A State Government to constitute child protection unit for the state and each district.

N. The Prohibition of Child Marriage Act, 2006

This was enacted in 2007, repealing the Child Marriage Restraint Act, 1929. Except the State the J & K, it extends the whole of India, and 'applies also to all citizens India' (u/s 1). It defines 'child' as a person, if male below 21 years and if a female below 18 years (u/s 2.a) and 'child marriage' means a marriage in which either of the contracting parties is a child (u/s 2.b).

It provides, child marriage voidable at the option of contracting party and in the case of decree of nullity order to return money, valuables, ornaments and other gifts received (u/s 3); maintenance and residence for female child contracting party from male side until remarriage (u/s 4); custody and maintenance of children of child marriage shall be made by court order (u/s 5); child born out of child marriage legitimate (u/s 6); marriage of a
child, being minor, if 'taken or enticed' or by force compelled or deceitfully induced, or sold for marriage subsequently sold or trafficked or used for immoral purposes, such marriage shall be 'null and void' (u/s 12); Court to issue injunction prohibiting child marriage (u/s 13) and such marriage in violation of injunction order, 'shall be void ab initio' (u/s 14).

Punishments under this Act include: imprisonment extending to 2 years with fine extending Rs one lakh or both for male adult (above 18 years) marrying a child (u/s 9); imprisonment extending 2 years and fine extending to Rs one lakh whoever performs, conducts, directs or abets solemnizing a child marriage (u/s 10); and imprisonment extending to 2 years and fine extending to Rs one lakh for person having charge of the child or including any member of organisation or association who promotes or permits or negligently fails to prevent, however, no woman shall be punishable with imprisonment (u/s 11). Further offences under this Act shall be cognizable and non-bailable (u/s 15).

O. The Commissions for Protection of Child Rights Act, 2005


This Act provides for the National Commission for Protection of Child Rights (u/s 3) and State Commission for Child Rights for the State (u/s 17). Among some important functions of the commission (u/sec.13): (1)(c) provides to inquire in violations of child rights and recommend proceeding; (1)(d) provides to examine all factors that inhibit the enjoyment of rights of children affected by terrorism, communal violence, riots, natural disaster, domestic violence, HIV/AIDS, trafficking, maltreatment, torture and exploitation, pornography and prostitution and recommend appropriate remedial measures; 1(e) provides to look into matter of children in need of special care and protection, in distress, marginalized and disadvantaged, in conflict with law, juveniles, children without family and children prisoners
and recommend measures; (f) provides to study treaties and international instruments, review policies and programmes and recommend measures; 1(h) provides spread child rights literacy and awareness for child protection; 1(j) provides to inquire into complaints and take *suo motu* notice of matters to deprivation and violation of child rights, non-implementation of laws, non-compliance to policy, guidelines etc.

The Commission has the powers of a civil court in certain extent to deal with matter under S/13(1)(j) above and forward the case to Magistrate having jurisdiction (u/s 14); recommend the govt. for appropriate action, for grant of interim relief to victim, approach the Supreme Court or the High Courts for directions, orders or writs (u/s 15); submit annual report to Governments and special reports on urgency or importance (u/s 16).

The State Governments with concurrence of the Chief Justice of the concerned High Court, and for each district specify, a court of session to be a Children's Court for speedy trial of offences against children or of violation of child's rights (u/s 25) and also specify in every such court a Special Public Prosecutor for conducting cases in that court (u/s 26).

**P. Provincial and State Acts on Prohibition and Regulation on Employment of Child Labour**

Most of the Provincial Acts like Shops and Commercial Establishments Act, have also made provision to prohibit and regulate the employment of children.208b

However, non-uniformity has been also indicated in the way that the minimum age of employment for work varying between 12 years, 14 years and 15 years while few states having no such Acts; the hours of works also indicated between 7 hours, 6 hours, 5 hours and 3 hours per day in several states; and on prohibiting night work, children and young person allowed to work also varying between 6am and 7pm, 7am to 7pm, 7am to 9pm, 6am to 8pm, 6am to 10pm, not after 8pm, also 8am to 8pm (in winter) and 7am to

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208b. supra note 207d, P-49
The Assam Shops and Establishments Act, 1971 (received President’s assent on August 12, 1974 and Published in the Assam Gazette, Extraordinary dated 4th September, 1974), among others, provides that: 'Child' as a person below 14 years (u/s 2.2) and 'apprentice' means a person not below 12 years employed in service for training by himself or by any other person for trade or calling (u/s 2.1); 'establishment' means a shop or commercial establishment or an establishment of public entertainment or amusement (u/s 2.18).

It prohibits employment of child but allowed 'as an apprentice in such employment as may be specified by the State Government' (u/s 19); no child to work before 6am or after 7pm (u/s 20); every establishment to be registered and renewed it (u/s 36); whenever contravening any provision of this Act and any rules there under punishable with imprisonment extending to 6 months or fine extending Rs 1000/- and in subsequent 'offence' not less than 2 months and extending to 6 months (u/s 29). Offences for violation of Assam Shops and Establishment Rules, 1976 also attract penalties in Chapter-VIII of the Rules, 1976.

**Q. Indian Penal Code, 1860**

Some of the important relevant sections are enumerated below:

- Sale, etc., of obscene books, etc. (u/s 292)
- Sale, etc. of obscene objects to young persons (u/s 293)
- Abetment of suicide: Abetment of commit suicide of minor (u/s 305)
- Exposure and Abandonment: By parents or others to expose or leave the child with intention of abandonment (u/s 317)
- Of kidnapping, Abduction, Slavery and Forced Labour, viz.
  - Kidnapping for exporting (u/s 360)
  - Kidnapping from lawful guardianship (u/s 361)
  - Punishment of kidnapping (u/s 363)
- Kidnapping or maiming a minor for begging (u/s 363-A)
- Kidnapping, abducting or inducing woman to compel her marriage etc. (u/s 366)
- Procuration of a minor girl by inducement, forced or seduced to have illicit intercourse (u/s 366-A)
- Importation of girl from foreign country (u/s 366-B)
- Kidnapping or abducting for slavery etc. (u/s 367)
- Buying or disposing of any person as a slave (u/s 370)
- Habitual dealing in slaves (u/s 371)
- Selling minor for prostitution (u/s 372)
- Buying minor for prostitution (u/s 373)
- Unlawful compulsory labour (u/s 374)

- Rape (u/s 376)
- Unnatural offences (i.e. sex) (u/s 377)

Besides those indicated above, there are also certain other related legislations that include:

- Guardian and Wards Act, 1890
- Hindu Adoption and Maintenance Act, 1956
- Probation of Offenders Act, 1958
- Bombay Prevention of Begging Act, 1959
- Orphanages and other Charitable Homes (Supervision and Control) Act, 1960
- Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act 1989
- Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1987
- Young Persons Harmful Publications Act, 1956
- Women's and Children's Institution (Licensing) Act, 1956
- Registration of Births and Deaths Act, 1969
- Public Gambling Act, 1867
Our constitution has accorded a 'dignified and crucial' position to the judiciary. The role of judiciary is also significant in India to child welfare and protection. Judicial response to tackle the problem of child labour in various landmark decisions of the Apex Court of the country and several High Courts are highlighted and indicated in this part.

I. Some judgments of the Supreme Court:
A. Civil Appeal No. 8143 of 1981, Dated September 18, 1982

Between
People's Union for Democratic Rights and Others v. Union of India and Others, AIR 1982 SC 1473

In this case a writ petition was brought by way of public interest litigation in order to ensure observance of the provisions of various labour laws, in relation to workers employed in the construction work of various projects connected with the Asian Games. The matter was brought to the attention of the court by an organization formed for protecting democratic rights by means of a letter addressed to Justice Bhagwati, P.N. and subsequently treated as a writ petition in the judicial side.

The Court held among others, pointing out that 'public interest litigation' is 'intended to promote and vindicate public interest which demands that violation of constitutional or legal rights of large numbers of people who are poor, ignorant or in a socially or economically disadvantaged position should not go unnoticed or unredressed'. This court has also pointed out it as a 'strategic arm of the legal aid movement' and emphasised judgment in Judges Appointment and Transfer cases, AIR 1982 SC 149.

The pro-worker decision of this case rendered significant contribution in

209a. Ibid, P-81
several areas of labour laws, such as, *locus standi*, Public Interest Litigation (PIL), enforcement of labour laws, minimum wages, equal remuneration, and employment of children.

This court has also categorically opined, saying: "If violations of labour laws are going to be punished only by meager fines, it would be impossible to ensure observance of labour laws and the labour laws would be reduced to nullity. They would remain merely paper tigers without any teeth or claws. We would like to impress upon the Magistrates and Judges in the country that violations of labour laws must be viewed with strictness and whenever any violations of labour laws are established before them, they should punish the errant employers by imposing adequate punishment".


*Between Labourers Working on Salal Hydro Project v. State of Jammu & Kashmir and Others, AIR 1984 SC 177*

In the instant case, it was brought to the notice of this court that 'a large number of migrant workmen from different states, including the state of Orrisa, were working on the Salal Hydroelectric Projects in difficult conditions and they were denied the benefits of various labour laws and were subjected to exploitation by the contractors to whom different portions of the work were entrusted by the Central Government'.

The Court took serious note as pointed out "in the final report of the Labour Commissioner (J & K) that some minors were found to have been employed on the project site, but the explanation given was that "these minors accompany male members of their families on their own and insist on getting employed". The Court has pointed out that 'no child below the age of 14 years can be employed in construction work'.

The Court observed 'economic reasons' to child labour in which 'parents often want their children to be employed in order to be able to make two ends meet. The possibility of augmenting their meager earnings through employment of children is very often the reason why parents do not
send their children to schools and there are large drop-outs from the schools'. It was stated that 'so long there is poverty and destitution in this country, it will be difficult to eradicate child labour'. The court has directed that 'clearly, construction work is a hazardous employment and no child below the age of 14 years can, therefore be allowed to be employed in construction work by reason of prohibition enacted in Article 24 and this constitutional prohibition must be enforced by the Central Government'. The central government would do well to persuade the workmen must send their children to 'nearby school and arrange not only for the school fees to be paid but also provide free of charge, books and other facilities such as transportation'. At the same time the central government or the contractor to provide schooling for children of workers, likely to remain sometime for construction project, living at or near project site.

The court also took note on several violations of labour laws, and also directed steps that contractors failing to comply with conditions for license u/s 12 of the Contract Labour (Regulation and Abolition) Act, 1970 are guilty of criminal offence and punishable u/s 23 and 24 of the said Act.

**C. Criminal Appeal No. 300 of 1095, Dated December 20, 1986**

*Between*

**Sheela Barse v. Union of India, AIR 1986 SC 1773**

In this case, grievance was actually made about the working of a Observation Home located at Mankhurd and maintained and managed by the Children’s Aid Society, Bombay.

In the judgment, the court has reiterated India’s commitment to the UN Declaration of the Rights of the Child, 1959 and Article 24 of the International Covenant on Civil and Political Rights, 1966. Also pointed out provisions made in the Bombay Children’s Act, 1948 for compliance and regulate activities of the society apart from statutory obligations satisfying requirements under Articles 21 and 24, including the society to be seen within the meaning of ‘state’ under Article 12 of the Constitution of India.
Significantly, the Court has pointed out 'Gerontocracy in silent manner' that is 'like a young plant a child takes roots in the environment where it is placed'. The court has also indicated 'children in Observation Homes should not be made stay long' and so long they are kept occupied in 'congenial and intend to bring about adaptability in life aimed at bringing about self-confidence and picking of human virtues'. Further, 'The Juvenile Court has to be manned by judicial officer with some special training'.

The court has also observed: "A problem child is indeed a negative factor. Every society must, therefore, devote full attention to ensure that children are properly cared for and brought up in a proper atmosphere where they could receive adequate training, education and guidance in order that they may be able to have their rightful place in the society when they grow up".

D. Writ Petition (Civil) No. 1262 of 1987 and Writ Petition (Civil) No. 13064 of 1983

Between

(i) Rajangam, Secretary, District Beedi Workers' Union v. State of Tamil Nadu and others (1992) 1 SCC 221

And

(ii) R. Chadra Segaram v. State of Tamil Nadu and Others

The Supreme Court considered 'it appropriate to deal both the applications together' for related connections in which the complaint made about failure to implement labour laws, non-payment of appropriate dues to workmen, employment of child labour, non-implementation of Beedi and Cigar Workers (Conditions of Employment) Act, 1966.

The Court directed saying *inter alia* that "Tobacco manufacturing has indeed health hazards. Child labour in this trade should, therefore, be prohibited as far as possible and employment of child labour should be stopped either immediately or in phased manner to be decided by the State Governments but within a period not exceeding three years from now".
E. Writ Petition (Civil) No. 465 of 1986, Decided on October 31, 1990

Between
M.C. Mehta v. State of Tamil Nadu and Others, AIR 1991 SC 417

In this case, the petition under Article 32 of the Constitution came before the Supreme Court about the problem of employment of children in the match factories of Sivakasi in Kamarah District of Tamil Nadu State. From the affidavit of the State it was appeared to this court that 'there were 221 registered match factories in the area employing 27,388 workmen of whom 2,941 were children'.

The court took a serious view that 'employment of children with the match factories directly connected with the manufacturing process upto final production of match sticks or fire works should not at all be permitted'. Retreating Article 39(f) stated the state to direct its policy that 'childhood and youth are protected against exploitation and against moral and material abandonment'.


Between
M.C. Mehta Vs State of Tamil Nadu and Others, AIR 1997 SC 699

In this case, the appeal lies on the background saying that "Child is the father of man". The court stated that, "suo motu cognizance was taken in the present case itself when news about an 'unfortunate accident', in one of the Sivakasi cracker factories was published". It was noted in our country that 'Sivakasi was once taken as the worst offender in the matter of violating prohibition of employing child labour'. The committee constituted, as per direction of this court on August 14, 1991 reported on 11.11.1991, among others indicated Tamil Nadu government should ensure that children not to be employed in firework factories; 'one meal a day programme' in Tamil Nadu for 'school children' may be extended to 'child worker'; and to set up 'A National Commission for Children's Welfare' and the report was on record appreciated.
This court also took note of the report and recommendation submitted by Sri M. S. Gurupadaswamy on 29.12.1979. And further report of 24.6.1981 of the Labour Ministry which indicated “Extreme poverty, lack of opportunity for gainful employment and intermittency of income and low standards of living are the main reasons for wide prevalence of child labour” and at the same time, possibly child labour identifiable in organised sector, ‘forms a miniscule’ but ‘the problem relates mainly to unorganised sector’ – “the problem is universal but in our case it is more crucial”.

The court has observed: none of the official estimates included child workers in the unorganised sector, and therefore obviously gross underestimates. Estimates from various non-governmental sources as to the actual number of “working children range from 44 million to 100 million” in our country.

This court has took note of constitutional mandates under Article 24, 39(e), 39(f), 41, 45, 47 more particularly and referred to progressive judicial pronouncement such as, the Unikrishanan v. State of Andhra Pradesh, 1993 AIR SCW 863 (Stated for Article 45 in the Directive Principle towards raising right to education as fundamental right); international commitment like the CRC, 1989, among others.

But most significantly, the court has categorically pointed out with regard to exploitation of children that “their exploitation by different profit makers for their personal gain had to be first indicated” (in Para 2); and secondly, pointed out ‘Poverty as such has not stood in the way of other developing countries from taking care of child labour’ and also referred with an exception to India that ‘many countries of Africa like Zambia, Ghana, Ivory Coast, Libya, Zimbabwe with income levels lower than India, have done better in these matters’.

The court pointed out saying: “This shows that has caused the problem of child labour to persist here is really not dearth of resources, but lack of real zeal. Let this not continue”.
The court has also pointed out that "a strong case exists to invoke..., and Articles 39(e) and (f) as to non-abuse of tender age of children and giving opportunities and facilities to them to develop in healthy manner...".

The court made the concluding remark that 'Let the child of twenty first century find himself into that haven of freedom' of which our poet Laureate Rabindranath Tagore has spoken in *Geetanjali*. It is also noteworthy for the first time that rehabilitation of children from child labour find mention.

The court *inter alia* observed:

- "Sivakasi has ceased to be the only centre employing child labour. The malady is no longer confined to that place".

- "By now (child labour) is an all India evil, though its acuteness differs from area to area". So, emphasized 'concerted efforts' both of central and state governments to 'wipe out' the problem and 'travel beyond confines of Sivakasi'.

- The court avers that providing an alternative source of income to the family is a prerequisite to eradicate child labour.

- The offending employers of children must pay compensation of Rs 20,000/- as per the provisions of the Child Labour (Prohibition and Regulation) Act, 1986 for every child employed.

- The fine is to be deposited in the Child Labour Rehabilitation-cum-Welfare Fund.

- Employment should be provided to an adult in the family in lieu of the child working in a factory or mine or any other hazardous work.

- In the absence of an alternative employment, the parent/guardian will be paid the income earned on the *corpus* fund, and the suggested amount being fixed at Rs 25,000/- for each child. The payment will cease if the child is not being sent for education. In case of non-hazardous employment, the employer will bear the cost of education.

- The State's contribution/grant is fixed at Rs 5000/- for each child employed in a factory or mine or any other hazardous employment.
The sum shall be deposited in the corpus fund and the district is determined as the unit of collections.

- Penal provisions contained in the Child Labour (Prohibition and Regulation) Act, 1986 would be used where employment of child labour, prohibited by the Act, would be found. (Para-33)

- In non-hazardous jobs, inspectors to see the working hours of the child are not more than four to six hours a day and receive education at least for two hours each day and the entire cost of education is borne by the employer.

There are also several other breakthroughs in some glaring decisions of the Supreme Court of India. The apex court has shown its generosity, in Ratlam Municipality case (AIR 1980 SC 1622), and held that: “Where a legal wrong or a legal injury is caused to a person or to a determinate class of persons by reason of violation of any constitutional or legal right or any burden is imposed in contravention of any constitutional or legal provisions or without authority of law, or any such legal wrong or legal injury or illegal burden is threatened, and such person or determinate class of persons is by reason of poverty, helplessness or disability or socially or economically disadvantaged position, unable to approach the court for relief, any member of the public can maintain an application for an appropriate direction or writ or order”. In Fertilizer Corporation Kamgar Union v. Union of India, AIR 1974 SC 2177, Krishna Iyer, J., Supreme Court, also stated that: “In simple term locus standi must be liberalized to meet the challenge of time”.

In Bandhua Mukti Morcha v. Union of India, AIR 1984 SC 802, the Supreme Court not only liberalized the strict rules of locus standi, more particularly for the poor and under privileged but at the same time decried vehemently against the abuse of child laborer, shamefully the existence of bonded labour and forced labour including exploitation of fundamental rights of child workers.

In Lakshmikant v. Union of India, AIR 1984 SC 469 the court took
steps to abolish domestic service and slavery of poor children which had been in long practice emphasising rights guaranteed under Article 24.

In Vishal Jeet v. Union of India, AIR 1990 SC 141'2 the Supreme Court took serious note of child workers victimized by the rubbish practice of traffic in human being and forced labour. Female children of poor families are purchased and sold to brothel keepers for sexual exploitation to run prostitution where they are brutally treated. Similarly, huge numbers of poor children are put to forced labour like business of beggary. The Supreme Court referred to Articles 39(e) and (f) and Article 23 for protection of tender age of children from abuse, and emphasized the urgent need for welfare of children.

In Bihar Legal Support Society v. Chief Justice of India and others, AIR 1987 SC 38, the Supreme Court said: "The strategy of public interest litigation has been evolved by this court with a view to bringing justice within the easy reach of the poor and disadvantaged sections of the community...".

Earlier, in Smt. Maneka Gandhi v. Union of India, AIR 1978 SC 597, the Supreme Court enlightens right to life under Article 21 to live with freedom and dignity earned through development of human personality.

II. Some judgments of the High Courts:
A. (Allahabad High Court)


Between

Anil kumar Agarwal v. Asstt. Labour Commissioner, Mathura and Others, 1999(81) FLR 43(Alld.)

In the instant case, the court observed that:

- The Child Labour (Prohibition and Regulation) Act, 1986 u/s 16 reading with S/3 and 9 envisage a procedure to offences and enables any person, police officer or inspector to institute complaint in the court of competent jurisdiction.

- The Act imposes criminal liability upon a person engaging child labour in contravention of the provisions thereof but lists out no civil liabilities.
upon such person. In M.C. Mehta v. State of Tamil Nadu (AIR 1997 SC 699), imposed for the first time, a civil liability upon 'offending employer' to pay compensation @Rs 20,000/- per child labour to 'Child Labour Rehabilitation-cum-Welfare Fund' on the stark reality that 'children are exploited lot' as child labourer.

- Right against exploitation is guarantied under Articles 23 and 24 of the Constitution and Article 39(f) casts a duty upon the State. Infringement of fundamental right guaranteed by Article 24, 'it seems, is a tort which is actionable per se, that is without proof of actual damage and consent by the child and/or his parents is no defence and if right to education is a fundamental right, State is equally to pay compensation for not providing free education to children, upto the age of 14 years belonging to weaker section of society'.

This court has pointed out that criminal liability of the employer of child labour arises for violation of the provisions of the Act, 1986 (such as sec.14) i.e. on proof in a criminal prosecution is 'beyond reasonable doubt' while civil liability to pay compensation arises for violation of fundamental right as per M. C. Mehta's case r/w Articles 24 and 39(f) i.e. on the basis of 'preponderance of evidence'.

B. (Allahabad High Court)

Between
M/s Chhota Bhai Munnu Bhai and Co. Naini and Others v. State of Uttar Pradesh and another, 1999(82) FLR 269 (Alld.)

In the present set of cases, the employment, as alleged, of child labour, in workshop or establishment concerned, is diverse child labour, the survey reveals, engaged in occupations or in industries manufacturing steel, iron rolling mill, carpet weaving, plywood, brick klin, saree weaving, electrical goods, handloom, bangles, silver ornaments, scooter-motorcycle repair, press
binding of books, printing presses, denting and painting, hardware shops, building and labour contracts (Para-5).

The court has also indicated in two classifications that the CL (P&R) Act, 1986 prohibits employment of children in certain occupations and processes u/s 3 barring which permitted ‘occupier’ (u/s 2.vi) may be carrying out with the aid of his ‘family’ (u/s 2.v) in the category of activities in Part II; and secondly, the Act is permissive in child labour (u/s 6) but regulates the conditions of working of such child labour provided in part III and strongly indicated that the state government in its survey had not taken ‘inter-generation occupations’ into account (Para 22 and 24).

This Court has mentioned (Para 18,19,32) that the relevant portion of the order of the Supreme Court being accepted in M. C. Mehta’s case dated 10 December, 1996 and reiterated in the M. C. Mehta’s case dated 18 December, 1996, of criteria of compensation.

C. (Madhya Prades High Court)
Writ Petition Nos. 523, 526 of 1999 and 2488 of 1998 Date March 12, 1999
Between
Bhaiylal Shukla and others v. State of M.P. and Others, 1999 (83) FLR 284

In these writ petitions under Articles 226 and 227 of the Constitution of India, on common question of law and fact was whether the competent authority/inspector was mainly justified in raising the demand without show cause to the petitioner indicating violation of the Child Labour (Prohibition and Regulation) Act, 1986.

The Court has observed that in M.C. Mehta’s case, AIR 1997 SC 699 if there is violations of the provisions of the Act the employer is liable to pay Rs 20,000/- as compensation per child. But there has to be an adjudication process for determining the violation of the provisions of the Act (Para 2).
D. (In Allahabad High Court - Lucknow Bench)
W.P. No. 309 (M/S) of 2000, Dated April 11, 2000

Between

In the instant case, this court took into account the detail provisions of the Child Labour (Prohibition and Regulation) Act, 1986 and constitutional provision with several other judicial pronouncements.

The court has observed that:

- There exists civil liability of paying compensation by employers/occupiers per child for violation of provisions of the Act as per M. C. Mehta's case [1996 (2) SCC 756] and criminal liability against erring employer/occupier u/s 16 for Magistrate to impose penalties u/s 14 and 15 of the Act, 1986 (Para 13).

- The 'civil liability' is 'independent of criminal liability' as envisages under the Act. 'The two liabilities have to be determined separately' and 'both can continue simultaneously (Para 21,22).

E. (In Madhya Pradesh High Court)
Writ Petition No. 1349 of 1999, Dated August 11, 2000

Between
Panch Ram Barat v. State of Madhya Pradesh and Others, 2001 (89) FLR 1106, (2001)-II-LLJ 841 MP

In the instant case, writ petition filed under Article 226 and 227 in which the petitioner is asked to pay Rs 40,000/- under CL (P&R) Act, 1986 for employing two child laborers without giving opportunity of hearing.

The court has observed that:

- The mode adopted by the respondents is not provided in law, it renders impugned orders bad in law

- The impugned orders (of the respondents) are quashed. The petitioner shall appear before the competent authority (on 4-9-2000) and the competent authority after giving opportunity to the petitioner shall decide the matter in accordance with law expeditiously.
F. (In Allahbad High Court)  
Writ Petition No 69 of 2001, Dated January 8, 2001  
Between  
Om Prakash v. Assistant Labour Commissioner, Jaunpur and others  
In this case, on the basis of inspection report of material and facts, show cause notice issued to the petitioner by the respondent as to why 'an amount of Rs 20,000/- be not recovered from him' as per law laid down by the Apex Court in M. C. Mehta's case to which the petitioner raised objection. 
The court has observed that:  
- The entire material of inspection on record is 'all findings of fact'. 'I do not find any illegality or infirmity in the said findings' (Para 5), this court stated.  
- The court has ordered that the 'petitioner may deposit the amount in question within two months from today' and for this period, the recovery proceedings 'remain stayed'. In case of failure to deposit the amount, the respondents shall be at liberty to recover in accordance with law.  

G. (In Allahbad High Court)  
Criminal Revision No. 2324 of 2001, Dated December 6, 2001  
Between  
Ram Chander v. State of Uttar Pradesh 2002 (92) FLR 213  
This revision was directed against confirming conviction of the applicant u/s 14(1) of CL (P&R) Act, 1986 with 3 months R.I. by the Addl. Sessions Judge, Varanasi dated 16.11.2000. 
The court has observed that:  
- Penalty for violation of sec.3 r/w sec.14(1) of the said Act, 1986 shall be punishable with imprisonment fine or both for employing child (u/s 2.ii), who has not completed 14 years of age.  
- On the disputed question of age of the child (below 14 years) between an inspector and occupier (u/s 10) to be determined by a prescribed medical authority (u/s 16.2) as conclusive evidence, to be proved by the prosecution (u/s 14.1) and 'the burden of proving negative fact
that the boy, who was found working was not below 14 years of age can not be shifted on the accused’ (Para 11,12,13)

- The prosecution itself could not prove the age of the child as required by the Act, the applicant can not be compelled to fill up the lacuna of the prosecution. (Para 15)

H. (In Madhya Pradesh High Court)

W.P. No. 6380 of 2002, Dated December 4, 2002

Between

Raj Homes Pvt. Ltd. Vs State of Madhya Pradesh and another, (2003)-III-LLJ 626 MP

In the instant case, it was mainly related to provisions under sections 3 and 14 (i)(iii) of Child Labour (P&R) Act, 1986 following show cause notice and order to pay Rs 20,000/- per child labour (u/s 17) engaged by contractors in construction of houses.

The court has observed that:

- Serious note taken to M. C, Mehta’s case [1996 (6) SCC 756], Unnikrshihan’s case (AIR 1993 SC 2178), sections 3 and 14 of CL (P&R) Act, 1986 and the apex court’s views on Articles 24,39(e),(f), 41, 45 and 47 among others (Para 3) and also observation in the above said Unnikrishan’s case particularly viewed that “Abolition of child labour is definitely a matter of great public concern and significance” (Para 16).

- It is found ‘There is nothing to doubt the correctness of the report of the inspector’ as ‘the child was found working’ while ‘age of the child is not deputed’; ‘in my opinion the show cause notice given is proper and no further detailed enquiry was necessitated in the circumstance’ (Para 7); also, ‘Here, opportunity has been granted. Show cause notice was given. Petitioner submitted the reply’ (Para 8).

- The facts are totally distinguishable; opportunity of hearing offered; show cause notice given and ‘the decision is in accordance with the law laid down by the apex Court in M. C. Mehta’s case as above; “I do
not find any ground to make an interference in the writ petition”.

I. (In Madhya Pradesh High Court)

Writ Petition No. 1606 of 1997, Dated September 22, 2004

Between

Zulfikar v. State of Madhya Pradesh and another, 2005(105) FLR 332

In this writ petition under Article 226/227 of the Constitution of India, a R.R.C (Revenue Recovery Certificate) for recovery of Rs 20,000/- for engaging child labour under CL (P&R) Act, 1986 was challenged.

The court has observed that:

- It was noted that the petitioner replied in show cause that the alleged minor girl of one adult labourer came to deliver 'lunch packet' to her father at construction work (Para 4).

- Even if it is held that construction under taken by the petitioner fell within the category of establishment' in this regard 'the demand for Rs 20,000' on record shows 'any fact finding inquiry was not held whereby one can consider whether explanation offered by the petitioner was taken into account, or not and what was the basis for imposing a fine of Rs 20,000'. It may be 'what petitioner reply to show cause was plausible explanation' (Para 5).

- The demand order dated 9.9.97 issued by Tehsilder, Manawar is 'unreasonable, arbitrary and against requirement of the Act' is 'hereby quashed' (Para 5, 6).

J. (In Karnataka High Court)

Writ Petition No. 20439 of 2005 (L-WC), November 11, 2005

Between


In the instant case, the matter related to sections 3,14 and 17 of CL (P&R) Act, 1986 of criminal liability and a compensation of Rs 20,000/- in terms of Supreme Court directions in M. C. Mehta's case (AIR 1997 SC 699) for engaging child labour in a motor cycle shop. Sri K Subba Rao, learned
Senior Counsel rendered services as *amicus curiae* Counsel. Related provisions of the Constitution, Judicial pronouncements and certain legislations also considered.

The court has observed that:

- The 'civil liability to pay compensation arises' in terms of this case creating 'new rights and obligations enforceable by law in terms of directions' and 'no case made out for my interference' (Para 13,14).

- 'Penal fine is different from compensation' (Para-14). It was submitted for procedure in the light of sections 14 and 16 of the Act, 1986 (Para 13). The arguments in terms of Sections 14 and 16 do not appeal me since that stands on a different footing.

- 'Merely prohibition of child labour would not solve the problem'. Steps to be taken by welfare state 'to rehabilitate child labour for a meaningful life in terms of Article 21 of the constitution of India'. It 'has to be done by the Government' and hoped so (Para 16).

- Judgment is 'referable to compensation'. The criminal liability is to be decided on its merits (Para 18).

There are lots more decisions of such cases emphasizing various dimensions of the problem. In Murali Krishna Public School case, AIR 1966 A.P. 204, the Andhra Pradesh High Court in an epoch making decision also reflected relationship between child education to child labour in the light of Dalits children. This court held: "Right to education to Dalits is a fundamental right and it is the mandatory duty of the State to provide adequate opportunities to advance educational interests by establishing schools". Such a decision therefore, paved the way for better educational opportunities for Dalits children – 'the Dalits, hitherto neglected specimens of humanity'.

In another famous case, Anand Vardhan Chandel v. University of Delhi, AIR 1978 Delhi, the Delhi High Court held that education is a fundamental right. However, 86th amendment, 2002 of the Constitution of India under Art.21A has guaranteed the fundamental right to education.
4:4 Policy measures:

A. National Policy for Children, 1974

The Government of India in August, 1974 adopted the resolution to this National Policy for Children\textsuperscript{210} for the welfare of children.

It is stated in the 'introduction' of this policy that "The nation's children are a supremely important asset. Their nature and solitude are our responsibility. Children’s programme should find a prominent part in our national plans for the development of human resources, so that our children grow up to become robust citizens, physically fit, mentally alert and morally healthy, endowed with the skills and motivations needed by society...equal opportunities...to all children...of reducing inequality and ensuring social justice".

The resolution adopted summarily with the objectives as follows: (i) All children shall be covered by a comprehensive health programme; (ii) removing deficiencies of diet children; (iii) improving health, nutrition of expectant and nursing mothers; (iv) free and compulsory education for children upto 14 years, reduce wastage and stagnation in schools, informal education for pre-school children; (v) other form of education for these not in formal school; (vi) physical, cultural, recreational and scientific education in schools and other centers; (vii) special assistance to children of scheduled cast, scheduled tribe and economically weaker sections in rural and urban areas; (viii) socially handicapped children, who have become delinquent or have been forced to take to begging or are otherwise in distress, shall be provided education, training and rehabilitation; (ix) children shall be protected against neglect, cruelty and exploitation; (x) no children under 14 years shall be permitted in hazardous occupation or undertake heavy work; (xi) special facilities for children who are physically handicapped, emotionally disturbed or mentally retarded; (xii) priority for protection in times of distress or natural calamity; (xiii) special programmes to spot, encourage and assist

\textsuperscript{210} Shanna, Usha (ed), Child Labour in India, 2006, P-185 to 189 (quoted, Government of India order 22.8.1974)
gifted children; (xiv) laws should be, in all legal disputes, whether between parents or institutions, the interest of children are to be given paramount consideration; (xv) efforts to potential growth of children realised within the normal family, neighborhood and community environment.

It has also stressed for constituting a National Children’s Boards and similar Boards at State level, tapping resources of voluntary organisations for child welfare programmes; necessary administrative and legislative support and supports from all sections of people in society.

B. National Policy on Education, 1986

This policy sets a target whereby children attaining 11 years age by 1990, will have received five years of schooling or its equivalent in non-formal education system; 490,000 non-formal educational centers then proposed in the country.

This policy recommended centers for child labour, with special attention to working girls, part-time vocational courses after work and on holidays, educate children upto class V with an aim upto class VII wherever possible, schemes of incentives and assistance to families forcing children in wages or quasi wages employment to be worked out, scholarships to children from deprived families engaged in occupations like scavenging to ensure enrolment in education courses. Besides primary school pupils to receive regular health checks and health screening of working children at non-formal education centers.

C. National Policy on Child Labour, 1987

The National Policy on Child Labour was announced in August 1987. The policy addressed the complex issues of child labour, besides a monitoring framework, comprising three major elements:

a. Legal action plan;

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212. Policy and Programme for the Rehabilitation of Working Children and Manual for the Implementation of National Child Labour Projects, Ministry of Labour and Employment, Government of India, New Delhi; P-1 to 23,84, to 87, 90 to 91
b. Focus on general development programmes of the benefit of the families of child labour; and

c. Project-based action in areas of high concentration of child labour -

Legal Action Plan: The idea was emphasis on “strict and effective enforcement of legal provisions relating to child labour under various labour laws such as the Child Labour (Prohibition and Regulation Act), 1986, the Factories Act, 1948 and the Mines Act, 1952”.

The Technical Advisory Committee on child labour u/s 5 of CL (P&R) Act, 1986 to advise the central government for addition to occupation and processes in the schedule prohibiting employment of children below 14 years, initially in 7 hazardous occupations and 18 processes, at present increased to 16 occupations and 65 processes in the schedule so far under this Act.\textsuperscript{212a}

- Focus on general development programmes for the benefit of the families of child labour: Child labour has been considered as an ‘outcome of various socio-economic problems such as poverty, economic backwardness and illiteracy’.

In order to carry out a ‘multi-pronged attack’ to tackle the problem’ it was considered an imperative to ‘achieve convergence of the ongoing developmental schemes’ of the Ministry of Rural Development to be drawn for synergies. In the light of Article 21-A (86th Constitutional Amendment) primary education became fundamental right for 6-14 years of children, Sarva Siksha Abhiyan (SSA) being an important tool to universalise elementary education by ‘community-ownership’ of school system for children 6-14 years by 2010, a large number of children have been covered under National Child Labour Project (NCLP) schemes coordinating various health, employment generation and poverty alleviation schemes of the government.

- Project-based action on areas of high concentration of child labour: In

\textsuperscript{212a} supra note 451
addition to 'legislative action and convergence with the general development programme', this Policy also envisaged 'project based action in areas of high concentration of child labour. In this context, the National Child Labour Project (NCLP) scheme introduced in 9 identified high incidence of child labour in hazardous employment in specific sectors of industries, of which 4 are in Uttar Pradesh, 2 in Andhra Pradesh, and 1 district in each of Tamil Nadu, Rajasthan and Madhya Pradesh. The Ministry of Labour being the nodal agency for these projects, each project earmarked to be implemented by the Collector of each of the concerned district.

Institutional Framework for Monitoring and Implementation: According to the Ministry of Labour and Employment, Government of India, 'a Central Monitoring Committee was also set up for the overall supervision, monitoring and evaluation of various Child Labour Projects of the National Child Labour Projects (NCLP) under the Chairmanship of Secretary, Ministry of Labour and Employment with representation from State Governments and concerned Ministry/Departments. This continues in the 10th Plan also'. In this regard to constitute 'State Level Committees' also 'advised'.

The NCLP Society, registered under the Societies Registration Act, 1860 and functions under the Chairmanship of District Collector of the concerned district, need to send copy to the Ministry of Labour and Employment for release of funds for NCLP scheme, with main objective 'to withdraw working children in the age group 5-14 years from hazardous occupations and processes and mainstream them into the formal education system'. This project initially started with 9 districts, later expanded to 100 districts across 13 child labour endemic states by the end of 9th plan period and further extended to '150 more new districts in the 10th plan with an overall outlay of Rs 662 crores'. So far, the Ministry of Labour and Employment in 2006 indicated (in Annexure C of its publication)212b 249 districts have been covered in 21 states of the country.

212b. supra note 212, P-84 to 87
As many as 3 districts in Assam are also covered of which the district of Kokrajhar now under BTAD and the other two are Nagaon and Lakhimpur of Assam. It is also not clear how far the guidelines followed in the NCLF scheme in Kokrajhar district in 2005 as per document available.

However, NCLP scheme is targeted to cover children below 14 years in occupations of process in the schedule essentially under CL (P&R) Act, 1986 and also occupations and processes, which adversely affect their health and psyche (i.e beyond the schedule). The programme components include: (i) surveying children in hazardous occupations and processes; (ii) withdrawal of children from factory work environment through awareness and enforcing CL (P&R) Act, 1986; (iii) reintegrating them through special schools established by project society; (iv) convergence with SSA of Ministry of Human Resource Development and other Departments of State and Central Govts.; which are to be implemented by the society members drawn from NGOs, Trade Unions, Panchayat institutions etc. on periodic evaluation.

**D. National Nutrition Policy, 1993**

This policy\(^{213}\) considered, under nutrition as that which 'reduces work capacity and productivity amongst adults and enhances mortality and morbidity amongst children. Such reduced productivity translates into reduced earning capacity, leading to further poverty, and the vicious cycle goes on'. It stated vicious cycle of poverty as: Poverty-> low intake of food and nutrition-> stunted development of children and growth flatterting-> small body size of adults-> impaired productivity-> low earning capacity-> to poverty again (P-1).

Certain interventions mentioned are: Integrated Child Development Services, of 1975 (ICDS); Special Nutrition Programme; Balwadi Nutrition Programme; Wheat Based Supplementary Nutrition Programme; Mid-Day-Meals Programme for school children etc. and few others to combat nutritional deficiency diseases (Annexure 1 of the Document). Major

nutritional problems are also identified as: under nutrition, seasonal
dimensions of nutrition, and those for natural calamities and those who are
landless, inequitable market distribution and disinformation, urbanization
and special nutritional problems of hill people, industrial workers, migrant
workers and other categories besides, overweight and obesity among small
section of urban people (P-3,4).

Among many direct and indirect policy instruments, it was also
recommended to constitute an Inter-Ministerial Co-ordination Committee
in the Ministry of Human Resource Development (P-11) and National
Nutrition Council in the Planning Commission, with the Prime Minister as
President (P-12).

E. National Authority for Elimination of Child Labour, 1994

The National Authority for the Elimination of Child Labour (NAECL)
was set up in September, 1994, after the then Prime Minister of India
announced on 15th August in 1994. It was constituted under the
chairmanship of the Union Labour Minister with members from other
departments.214

Some objectives of the NAECL are: to lay down policies and programmes
for elimination of child labour, particularly in hazardous employment; to
monitor progress of implementation of programmes, projects and schemes
for elimination of child labour; and to co-ordinate child related programmes
implemented by various Ministries of the Government of India to secure
convergence of services.214a

Recognising each district, for achieving convergence services in this
context, also recommended the approach adopted in the State of Kerala
where a certain portion of plan funds was pooled for the welfare of SCs and
STs, through projects and programme largely determined at district level.214b

214. Raj, Nikhil, Tools for Convergence – A National Perspective, V. V. Giri National Labour
Institute, Noida, 2000, P-13; also, Sharma, Usha, Child Labour in India, 2006, P-249
214a. supra note 207j, P-249
214b. Raj, Nikhil, Tools for Convergence – A National Perspective, V. V. Giri National Labour
Institute, Noida, 2000, P-13
Such programmes included214c, namely, are: Community-Based Convergent Services (CBCS), Community Convergent Action (CCA), Development of Women and Children in Rural Areas (DWCRA), Area Intensive Education Programme (AIEP), National Literacy Mission/Total Literacy Campaign (NLM/TLC), District Primary Education Programme (DPEP), Education for All (EFA), Integrated Child Development Services (ICDS), Urban Basic Services Programme (UBSP), Child Survival and Safe Motherhood (CSSM) or Reproductive and Child Health (RCH), Iodine Deficiency Disorder Control Programme (IDDCP), Control of Diarrhoeal Disease-Water and Sanitation (CDD-WATSAN), Integrated Rural Development Programme (IRDP), Employment Assurance Scheme (EAS), Jawahar Rozgar Yojana (JRY), Indira Awaas Yojana (IAY), Training of Rural Youth for Self-Employment (TRYSEM), Prime Minister Rozgar Yojana (PMRY), National Child Labour Projects (NCLP), School Health Projects (SHP), Mid-Day Meal Scheme (MDMS) and Joyful Learning Programme (JLP).

F. National Health Policy, 2002

This policy215 indicated that the NHP - '83 fell far short of achieving 'Health for All by the year 2000 AD'. The NHP-2002 was attempted towards 'accelerated achievement of Public Health goals...'. It was stated, 'the current annual per capita public health expenditure in the country in no more than Rs 200/-' as a reason 'below the desirable standard' close to the end of the last decade. It was indicated that the BPL population at 26.1 per cent (rural 27.19 per cent and urban 23.62 per cent), IMR per 1000 at 70 (rural 75 and urban 44) while below 5 years mortality per 1000 at 94.9 (rural 103.7 and urban 63.1) while under 5 years morality among SCs 119.3, STs 126.6 and among other disadvantaged at 103.1 persons. It has also indicated among 'public health spending in select countries' as percent population of countries with income less than 1 dollar/day India at 44.2 per cent, China at 18.5 per cent and Sri Lanka at 6.6 per cent; infant mortality in per 1000 in India 70.

214c. ibid, P-13,14
China 31, Sri Lanka 16, United Kingdom 6 and USA at 7; per cent health expenditure to GDP of India 5.2 per cent, China 2.7 per cent, Sri Lanka 3 per cent, UK 5.8 per cent and USA 13.7 per cent; and per cent public expenditure on health to total health expenditure for India at 17.3 per cent, China 24.9 per cent, Sri Lanka 45.4 per cent, UK 96.9 per cent and USA at 44.1 per cent.

With the principal objective of achieving standard of good health' the endeavour is directed to eradicate Polio by 2005, eliminate Leprosy by 2005, eliminate Kala Azar by 2010, eliminate Lymphatic Filariasis by 2015, zero level growth of HIV/AIDS by 2007, reduce morality by 50% from TB, Malaria, other vector and water borne diseases by 2010, reduce blindness to 0.5% by 2010, reduce IMR to 30/1000 and MMR to 100/Lakh by 2010, increase public health facility to 75% by 2010, increase GDP expenditure to public health from 0.9% to 2% by 2010, increase central assistance to 25% on health spending by 2010, and state health sector budget from 5.5% to & 7% by 2005 and to 8% by 2010.

The policy prescription broadly included, enhancing financial resources, reducing inequality and imbalances, delivery of National Health Programmes, information, education and communication, involving private sectors and civil society, special care to women and child health, among others.

**G. National Charter for Children, 2004**

In this Charter216, the Govt. of India reiterated its commitment to the cause of children that 'no child remains hungry, illiterate or sick'. In order to secure child rights, enjoy happy and healthy childhood, protect children from all forms of abuse, the Government has resolved to adopt this Charter. The Government has resolved to focus with respect to children in the areas of: survival, life and liberty; promoting high standards of health and nutrition; assuring basic minimum needs and security; play and leisure; early childhood

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care for survival, growth and development; free and compulsory primary education; protection from economic exploitation and all forms of abuse in which the 'state shall move towards a total ban of all forms of child labour' (Art.8.c) apart from other protections from hazardous tasks (Art.8.a) and regulations for non-hazardous nature of work (Art.8.b) with reference to Article 8 of this Charter; and importantly protection of the girl child (Art.11). Such commitments are contained in Articles 1 to 11 of it.

Besides, this Charter has assured empowering adolescents (Art.12); equality, freedom of expression, seek and receive information, association and peaceful assembly (Articles 13 to 16); strengthening family that has stated 'every child has a right to a family' and priority of the state to 're-unifying the child with its parents' (Art.17); recognizes the role of both the parents (Art.18) in rearing children; protection of children with disabilities (Art.19); special intervention and to promote best interest, care, protection, welfare of children of marginalized and disadvantaged communities (Articles 20 and 21) in all policies and programmes; and ensuring child friendly procedures (Art.22) which includes in respect of all of the 'judicial, administrative, educational or social, should be child friendly' that also to cover the juvenile justice system for ‘children in conflict with law and for children in need of special care and protection’.

**H. National Plan of Action for Children, 2005**

Under this plan of action\(^{216a}\), it is invariably committed to 'ensure all rights to all citizens up to the age of 18 years'. It is said “The Government shall ensure all measures and an enabling environment for survival, growth, development and protection of all children, so that each child can realise his or her inherent potential and grow up to be a healthy and productive citizens. It calls for 'collective commitment and action by all sectors and levels of governments and partnership with families, communities, voluntary sectors, civil society and children themselves'.

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This Plan of Action, 2005 addresses in four sections: child survival; child development; child protection; and child participation (Para-11:P-2). Among the 12 identified key areas, expressed commitment to the target of securing for all children all legal and social protection from all kinds of abuse, exploitation and neglect; addressing and upholding the rights of children in different circumstances; ensuring child participation and choice in matters and decisions affecting their lives; and complete abolition of child labour with the aim of progressively eliminating all forms of economic exploitation of children (Para-13:P-3), among others.

Besides, the objectives are ensured for addressing children in difficult circumstances that include: protecting children against neglect, maltreatment, injury, trafficking, sexual and physical abuse of all kinds, pornography, corporal punishment, torture; education, shelter, reintegration, protecting migrant, nomadic, refugee children; intervention for children of commercial sex workers and prisoners; data collection on vulnerable children and such others and convergence of services, with multiple strategies. (P-29 to 31); preventing children in conflict with law and sexual exploitation and child pornography (P-33 to 35) child trafficking (P-35 to 37); and combating child labour, from hazardous occupations by 2007 apart from protecting children from economic exploitation. This also includes rescue and remove children below 10 years from work force by 2010; expand the list of hazardous occupations; preventing traffic of domestic workers and other abuses; implementation of Inter State Migrant Workmen Act, 1979 and the CL (P&R) Act, 1986 and ensure prosecution of offenders etc. (P-37 to 39).

Programmes and Schemes:

Some of the notable ongoing and existing programmes and schemes indicated the Ministry of Women and Child Development\textsuperscript{216b} (MWCD) towards eliminating child labour and also reiterated to deal with the problem of

\textsuperscript{216b} ibid
child abuse in India include as follows:

- National Child Labour Project (NCLP): This is mainly directed to the rehabilitation of child labour. Under the scheme, in each NCLP district special schools/rehabilitation centers for child labourer to be opened up. These are to provide non-formal education, vocational training, supplementary nutrition and stipend to children, withdrawing from employment.\(^{216c}\) It was also revised in 2003 but no major changes\(^{216d}\) brought in the scheme.

- Programme for Juvenile Justice: Mainly for children in need of care and protection and children in conflict with law. Financial assistance provided by the Government of India on proposals from States/Union Territories on 50:50 basis by the states for establishment and maintenance of various homes, staff salary, food, clothing etc. for taking care of these children.\(^{216c}\)

- Integrated Programme for Street Children: Targeted to those children without homes and family ties. Under this scheme, NGOs are supported to provide food, clothing, shelter, non-formal education, recreation, counseling, and guidance with referral services to these children and to run 24-hours drop-in shelters. It also includes components like, enrolment in schools, vocational training, occupational placement, mobilising preventive health services and reducing the incidence of drug and substance abuse, including HIV/AIDS etc.\(^{216f}\)

- CHILDLINE Service: Provides for children in distress, and more particularly those in need of care and protection for medical services, shelter, and rescue from abuse, counseling, repatriation and rehabilitation. As many as 74 urban and semi-urban centers covered

\(^{216c}\) Shaw, S.P, Encyclopedia of Laws of the Child in India, 2000, P-244,248; also, Study on Child Abuse: India 2007, P-30  
\(^{216d}\) supra note 207b, P-107 to 118  
\(^{216e}\) supra note 216a, P-30  
\(^{216f}\) ibid
with a telephone help line, number 1098, across the country.216g

- Shishu Greha Scheme: This scheme is meant to take care of and provide protection of orphans/abandoned/destitute infants or children upto 6 years and directed to promote in-country adoption of rehabilitatating them.216h

- Scheme for Working Children in Need of Care and Protection: Mainly for children working as domestic workers, at roadside dhabas, mechanic shops etc. This scheme is provided to bridge education and vocational training, medicine, food, recreation and sports.216i

- Rajiv Gandhi National Creche Scheme for the Children of Working Mothers: This scheme covers children upto 6 years. The comprehensive day care services provided include facilities like, food, shelter, medicinal, recreation etc.216j

- Pilot Project to Combat the Trafficking of Women and Children for Commercial Sexual Exploitation in Source and Destination Areas: This includes providing care and protection to trafficked and sexually abused women and children. Under several components of the scheme comprise networking with law enforcement agencies, rescue operation, temporary shelter for victims, repatriation to hometown and legal services.216k

- INDO-US Child Labour Project (INDUS): This is attempted at alleviating the problem of child labour in the country, jointly funded by Government of India and the Department of Labour in the United States of America (USDOL) with ILO working as the executing agency. It seeks to work along with two major programmes of Government of India, viz, NCLP and SSA. It is envisaged to be implemented in 10 hazardous sectors across 21 districts in 5 states of Maharastra, Madhya Pradesh, Tamil Nadu and Uttar Pradesh (5 districts in each

216g. ibid
216h. ibid
216i. ibid
216j. ibid
216k. ibid
four states) and further the State of Delhi.\textsuperscript{216L}

- The Ministry of Labour and Employment has also indicated some programmes/scheme\textsuperscript{217} linked to the NCLP scheme to benefit the families of working children for the ultimate elimination of child labour that includes:

- From the Ministry of Rural Development: Such as, Swarna Jayanti Gram Swarozgar Yojna (SGSY) with an objective to organise Self-Help Group (SHG) for a cluster approach to some income generating activities; Sampoorna Gramin Rozgar Yojana (SGRY) to provide additional wage employment in rural areas where wage payment also includes food; National Social Assistance Programme (NSAP) providing social package like old age pension, life insurance benefits and maternity benefits; Indira Awaas Yojana (IAY) providing grant for house construction to members of SCs/STs, freed bonded labour and rural poor below poverty line; and credit-cum-subsidy scheme for Rural Housing for construction of houses on part credit and part subsidy basis.

- From the Ministry of Urban Development: Such as Swarna Jayanti Shahari Rozgar Yojana (SJSRY) consisting two special schemes, viz., the Urban Self Employment Programme (USGP) and the Urban Wage Employment Programme (UWEP). This scheme provided on 75:25 funds sharing by central and state governments and implemented through urban local bodies.

- From the Ministry of Agro Rural Industries: Such as, Prime Minister's Rozgar Yojana (PMRY) for self employment ventures or economically viable projects (except direct agricultural operations); Rural Employment Generation Programme (RLEGP) to develop

\textsuperscript{216L} Study on Child Abuse: India 2007, Ministry of Women and Child Development, Government of India, P-30; also, Indus Child Labour Survey: An Analysis of Results, INDUS Child Labour Project, ILO, 2006, P-1

\textsuperscript{217} Policy and Programme for the Rehabilitation of Working Children & Manual for the Implementation of National Child Labour Projects, Ministry of Labour & Employment, New Delhi; P-9, 88 to 89
entrepreneurial skill and generate employment through financial institutions.

- From Ministry of Health and Family Welfare: Introduced Mobile Health Clinics in certain districts; Primary Health Centers in other areas to address medical needs.

- From Ministry of Tribal Affairs: Establishing Ashram Schools, Girls and Boys hostels in tribal belts through centrally sponsored schemes.

- From Ministry of Labour and Employment: This includes welfare funds for certain category of workers involved in mines, beedi making etc. and funds also for welfare schemes on health, social security, education, housing and water supply.

4:5 Summing up:

In summing up of the foregoing study in this chapter it is revealed that the Constitution of India, being the 'supreme law of the land' has placed a bounden responsibility on the state and the people to secure justice to children and ensure their protection against exploitation and abuse.

However, despite the best intentions of the founding fathers of our Constitution, large numbers of children are toiling everyday under hazardous and exploitative condition, most of them are silently facing inhuman and subhuman situations of abuses.

On the dilemma of two 'dominating views' on whether the Constitution prohibits or permits child labour, violence and abuse being implicit in child labour system, as a specific issue remains to be seen in the light of 'harsh reality' in order to abolish and ban child labour in this country. Of course, the 'fundamentalist' strategy denotes in the true spirit under Articles 24, 45 (before amendment in 2002) and 39(e) and (f) that the Constitution outlaws child labour (Mainstream: 1993:18).

Again there might be 'more than 250 legislations' to promote 'welfare of child workers and improve their working conditions in various establishments' and the 'subject of child welfare, child care and development
have been enlisted in the concurrent list' of our Constitution (Mehta and Jaswal:1997:76), but on the other hand, the harsh reality is that India has the highest number of child labourer and tops in sexual abuse of children in the world (Study on Child Abuse: India 2007).

The study also reveals child labour mostly in its 'worst forms' are hidden and inseparable from other forms. In this regard, as a part of important national tools to eradicating child labour, 'neither the Constitution nor the Child Labour (Prohibition and Regulation) Act, 1986 defines the word "hazardous" for a solid implement to prevent child labour in our country.

Again, in making it an obligation as a fundamental right to compulsory education to children from 6-14 years under Article 21A of the Constitution followed by the Right of Children to Free and Compulsory Education Act, 2009 also enacted but permitting children to work in regulated employment (not prohibited) under CL (P&R) Act, 1986 stands in antithesis to each other, or – how can child education and child labour go together? Once Justice Krishna Iyer also proclaimed “child labour is the enemy of child education”. Besides, discrimination persists reported (K. Bamzai: P-31, 32) in the leading national magazine India Today, on April 19, 2010 that RTE Act, 2009 came into effect on April 1, 2010 “excludes children under six and these between 14 and 18” as “there is no clarity on what happens to the child after class VIII, only a vague hope that they will continue” that flows from Article 21A in the Constitution as a fundamental right but Karnataka offers free education till class X and in Kerala upto class XII however, in some other states the situation is rather gloomy.

This apart, the age of a 'child' varies with different legislations and the non-uniformity is quite significant as below 14 years under Article 24 of the Constitution and under section 2(ii) of the CL (P&R), Act, 1986 compared to the international instruments and standards, such as, the UNCRC, 1989 (although India has ratified on 11.12.1992), however, section 2(k) of the Juvenile Justice (Care and Protection of Children) Act, 2000 defines 'juvenile'
or ‘child’ as person who has not completed 18 years of age.

Besides encouraging PIL, in some notable observations, the Supreme Court in Unnikrishnan v. State of Andhra Pradesh (1993) 4 SCC 111 strongly held and mounted pressure on the Government that ultimately Art.21A was inserted as fundamental right in the Constitution.

In the landmark decision in People's Union for Democratic Rights v. Union of India, AIR 1982 SC 1473 (popularly known as Asiad Case) P. N. Bhagawati; J, in the Supreme Court equating child labour with forced labour under Art.23 of the Constitution observed that it was against the tenets of the Constitution.

In the celebrated case M. C. Mehta v. State of Tamil Nadu, AIR 1997 SC 699 decided on 10.12.1996 has clearly indicated that section 14 of the CL (P&R) Act, 1986 provided criminal liability and also imposed civil liability against the offending employer. The Supreme Court has also clarified in its subsequent order on 18 December, 1996 that accepted recommendations declaring compensation in certain cases where employment of children are not prohibited but regulated. Such decisions are also strongly reiterated in the judgments of the High Courts in some states.

Further, in M. C. Mehta's case decided on 10 December, 1996 the Supreme Court has also pointed out (Para-34) that 'poverty as such has not stood in the way of many other developing countries from taking care of child labour'. However the judiciary of course, has the limitation possibly within the barriers of our legislations.

Significantly in some popular initiatives in this country, the National Policy for Children 1974 has considered that the “nation's children are supremely important asset” and ensures social justice to them. It was adopted among others that children should be protected against neglect, cruelty and exploitation.

The National Policy on Education 1986 was targeted to five years of schooling or equivalent in non-formal education of children on attaining 11
years by the year 1990. The National Policy on Child Labour 1987 announced to address the complex issue of child labour. The National Nutrition Policy, 1993 considered that under nutrition reduces work capacity and earning capacity leading to poverty, and the vicious cycle goes on. The National Authority for Child Labour 1994 was set up to eliminate child labour from hazardous employment by the year 2000, however could not be achieved. The National Health Policy 2002 indicated to achieve accelerated public health goals. The National Charter for children 2004 also stated under Article 8(c) for protection from economic exploitation and all forms of abuse in which the State shall move towards a total ban on all forms of child labour apart from protection form hazardous tasks under Article 8(a). The National Plan of Action for children 2005 is also committed to “ensure all rights to all citizens upto the age of 18 years”.

The Ministry of Women and Child Development (MWCD) and the Ministry of Labour and Employment (MOLE) are also carrying out certain programmes and schemes in convergence with other Ministry. In this regard the National Rural Employment Guarantee Act, 2005 assuring one hundred days employment to rural families should reach out to the families of child labour.

However, the proposal for the Integrated Child Protection Scheme (ICPS) by the MWCD, Government of India is still to take full effect and at the same time the draft Prevention of Offences Against the Child Bill, 2009 is yet to be enforced. The utmost priority therefore needs to address withdrawal and reintegration on rehabilitation of working children to protect against their wide spread victimisation and abuses to prevent further risk to generate delinquency or perpetuating crime against this neglected lot and that must not be sacrificed waiting for social reforms.