CHAPTER V

LAWS RELATING TO CHILD LABOUR
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One of the major areas of protective legislation relating to children is child labour. Observations of the Whitely Commission, the Labour Investigation Committee, 1946 and various statements and observations of social reformers on the evils of existing child labour depriving the children of education and health, influenced the framers of Indian Constitution. Therefore, one of the main objectives of the Constitution is the protection of children from adverse effects on their physical and mental development.

Various legislations have been enacted both by the Central and State Governments to mitigate the problems of child labour in tune with the directives of the Indian Constitution. The most comprehensive legislation in this regard has been the Child Labour Prohibition and Regulation Act, 1986. The present chapter deals with the features of different Acts which aim at eradicating the exploitation of the child labourers, with an evaluative study of government policy.

Even before independence, the pinch of the problem of child labour had been felt. The growing concern about this social problem was instrumental in evoking various measures to combat the
problem. Historically, the problem received attention over a century ago when the Indian Factories Act, 1881 provided among other things, safeguard for children employed in factories. The Act prohibited the employment of children below seven years. Their working hours were restricted to nine hours per day. The children were to be given four holidays in a month and rest at intervals.

The Act of 1881 covered only factories employing 100 or more persons. The coverage was quite inadequate. But the act could not be enforced properly and children could not be protected from exploitation. However, the Indian Factories Act was amended from time to time. The year 1920 marked a milestone in the history of child labour laws as the Indian Factories Act was amended in order to incorporate the recommendation of the International Labour Convention for fixing up the minimum age for admitting children into employment and the duration of work for women and children. The definition of the factory was expanded to cover any premises where twenty or more persons were employed and mechanised power was used. The work time hour of children was limited by this Act to six hours a day with an interval of half-an-hour to the children employed for more than 5.5 hours. The children were required by this Act to have a medical certificate regarding their age and physical fitness for the employment.

In the 1920's and 1930's, a series of Acts were passed
for the protection of children. The Factories Act which was amended in 1922, raised the age limit to fifteen years. Similarly, the Indian Mines Act of 1923 raised the minimum age for employment in mines to thirteen years.

The Royal Commission on Labour, appointed in 1933, examined the practice of parents pledging the labour of their children by taking advances in return of bonds. A child is defined as a person who is under fifteen years of age. A parent or guardian making an agreement to pledge the labour of a child is subject to a fine up to Rs.50. The Act also states that whoever makes an agreement of pledging with the parent or guardian of a child shall be punished with fine up to Rs.200. A civilised society does not need such a law but the justification for this is that in India due to abject poverty the parents may be constrained to pledge their children for labour and such a practice existed in some parts of the country in the past. The government of India did not ban the pledging of child labour by parents, but it eliminated the system of indenture, under which adults pledged their own labour on contract.

The Employment of Children Act 1938, was the first act introduced to regulate child labour. The main object of the act is "to check the abuses arising out of employment in workshops which are outside the scope of factory legislation". The Act prohibits the employment of children below the age of fifteen in
any occupation connected with the transport of passengers, goods or mails by railway, or connected with a port authority within the limits of any port. The Act further laid down that with the exception of children employed as apprentices or trainees, no child between the age of fifteen and seventeen can be employed or permitted to work or engage in the occupation unless he is allowed a rest interval of twelve consecutive hours a day. The penalty for the breach of the act is imprisonment up to one month or fine up to Rs.500 or both.

However, it is noteworthy that before Independence, the law pertaining to the employment of children in various sectors failed to achieve its goal—the elimination of the evils of child labour. No laws with regard to child labour in agriculture, unregulated workshops, shops and commercial establishments, were passed.

The Labour Investigation Committee, in its report of 1946, remarked that the main cause of failure of the Acts was the inadequacy of the inspecting staff to enforce the provisions of the laws. The focus on protecting the children from adverse effects of their employment on their physical and mental development, was more progressively sharpened, particularly after Independence. Recognising the need for special protection to children the makers of the Indian Constitution, made a few provisions to that end. Article 15 permits the State to make any
special provision for women and children.

Article 24 states that "no child below the age of 14 shall be employed to work in any factory or mine or engaged in any other hazardous employment".

It is relevant to mention Article 23 here. It says that traffic in human beings, beggars and other similar forms of forced labour is prohibited.

Article 39 expresses that the state shall direct its policy affirming that "children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength, that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity, and that childhood or youth are protected against exploitation and against moral and material abandonment".

With a view to eradicating child labour, a good deal of legislation has been done from time to time regulating the employment of children and their working conditions. After independence, the first step taken against exploitation of child labour was the amendment of the Factories Act, 1948.

The Factories Act, 1948 prohibits employment of a child below 14 years in any factory. To safeguard the health of young persons above 14 years of age and below 18 years the act places a
few other restrictions on their employment (with regard to working hours of these young persons). The significant item of the act, are enumerated below.

According to section 2 (c) of the Factories Act, 1948 "child" means a person who has not completed his fifteen years of age. Section 22 (2) says that no young person shall be allowed to clean, lubricate or adjust any part of the prime mover or of any transmission machinery in motion. The cleaning, lubrication or adjustment would expose the young person to risk of injury from any moving part of that machine. Section 27 says that no child shall be employed in any part of a factory for pressing cotton in which a cotton opener is at work provided that if the feed-end of a cotton opener is in a room separated from the delivery-end by a partition extending to the root or to such height as the inspector may be employed on the side of the partition where the feed-end is situated. Section 67 says that no child who has not completed his 14 years shall be required or allowed to work in any factory. Section 71 (a) states that no child shall be employed or permitted to work in any factory for more than four hours a day. Section 71 (b) insists that no child shall be employed or permitted to work in any factory during night.

According to section 2 (a) of the Minimum Wages Act, 1948, "child" means a person who has not completed his fifteen years of age.
Minimum Wages (Central) Rules 1950, section 24 says that the number of hours which shall constitute a normal working day shall be four and half hours in the case of a child.

Section 2 (e) of the Mines Act 1952 says that "child" means a person who has not completed his fifteenth year. Section 45 (1) says no child shall be employed in any mine, nor shall any child be allowed to be present in any part of mine which is below ground or in any open cast working in which any mining operation is being carried on.

The Beedi and Cigar Workers Act of 1966 prohibited the employment of children under 14 in any factory manufacturing beedis or cigars.

The Child Labour (Prohibition and Regulation) Act 1986, is the culmination of the process of consideration that government has been giving to this pervasive problem of child labour. This is an act that prohibits the engagement of children in certain employments and regulates the conditions of child labour in certain other employments.

Since the First International Child Labour Convention (1919), which saw working children in terms of wage employment in formal-sector manufacturing, the world's position on child labour
has evolved and expanded over the years. It highlights non industrial work by children, and most recently, prohibits any kind of work, paid or unpaid, that is injurious to children, and to set out and protection for children who work. State parties in the convention on the Rights of the Child, for example, are required to provide a minimum age for admission to employment "having regard to the relevant provisions of other international instruments" (Article 32).

The laws outlined below are international landmarks in protecting children:

Minimum Age (industry) Convention No. 5, framed at the first session of the International Labour Organization (ILO) and ratified by 72 countries, established 14 years as the minimum age for children to be employed in any industry. It was the first international effort to regulate children's participation in the workplace and was followed by numerous ILO instruments applicable to other economic sectors.

ILO Forced Labour Convention No. 29 suppresses the use of forced or compulsory labour in all its forms. The term "forced or compulsory labour" is considered to mean all work or service extracted from any person under the threat of penalty and for which they have not offered themselves voluntarily.
International Covenant on Civil and Political Rights was formulated by the UN General Assembly in 1966 and entered into force in 1976. It reaffirms the principles of the Universal Declaration of Human Rights (1948) with regard to civil and political rights. It induces or encourages State parties to help realize these rights. Article 8 states that no one should be kept in slavery or servitude or be required to perform forced or compulsory labour.

International Covenant on Economic, Social and Cultural Rights, adopted by the UN General Assembly in 1966 and entered into force in 1976, reaffirms the principles of the Universal Declaration of Human Rights with regard to economic, social and cultural rights. Article 10 enjoins States parties to protect young people from economic exploitation and from employment in work harmful to their physical, moral and mental lives. It also commits State parties to set age limits by which child labour can be prohibited and punished by law.

ILO Minimum Age Convention No138 supersedes prior instruments applicable to limited economic sectors. The Convention obliges member States to pursue a national policy designed to ensure the effective abolition of child labour. In this connection, it establishes that no child can be employed in any economic sector below the age designated for the completion of
compulsory schooling, that is, below 15 years. The minimum age for admission to any work likely to jeopardize health, safety and morals is 18 years.

Minimum Age Recommendation No. 146 calls on States to raise the minimum age of employment to 16 years. Though not legally obligating, it is nonetheless a strong call to action on the part of the member States. Convention No. 138 and this recommendation are regarded as the most comprehensive international instruments and statements on child labour.

Convention on the Rights of the Child, enshrines a interdependent and indivisible, the full range of the civil, political, economic, social and cultural rights of all children that are vital to their survival, development, protection and participation in the lives of their societies. Because of the connection between children's rights and their survival and development, virtually all the Convention's Articles address issues such as education, health, nutrition, rest and relaxation, social security and the responsibilities of parents are all related to child labour and its effects on children. One of the tenets of the Convention is that in all actions concerning children, their best interests should be taken into consideration and children should be protected from work that threatens their health, education or development and enjoins State parties to set the minimum age for employment.
ILO proposes for discussion a new convention on hazardous child labour or the elimination of the most intolerable forms of child labour. The government of India has ratified 6 of the 11 conventions adopted by the International Labour Organisation for children and young persons.

The Minimum Age Convention (No. 138) of 1973 is one of the most significant in that it prescribed the minimum age as no less than 15 years for developed countries and fourteen years for initial fixation by developing countries. For hazardous occupations, the minimum age fixed is 18 years.

A Child Labour Cell which was originally set up in 1973 to serve the M.S. Gurupada Swamy Committee on child labour is no part of the regular ministry. It is associated with the formulation, co-ordination and implementation of policies and programmes for the welfare of child labour. The Child Labour Cell is involved in the welfare of children at work through government and non-government action.

The Child Labour Cell grants financial assistance to voluntary organisations to take up action-oriented projects for child labour. These projects would aim at measures to maintain the health of the child while at work by providing supplementary nutrition, non-formal education and vocational training to help
them better their employment.

In pursuance of one of the recommendations of the committee on child labour, the Central Advisory Board, which was set up in March, 1981, has been re-constituted in July, 1987 under the Chairmanship of the Minister of Labour to render advice on the problems of child labour. The following were the terms of reference:

1. Review the implementation of the existing legislations administered by the Central government.
2. Suggest legislative measures as well as welfare measures for the welfare of working children.
3. Review the progress of welfare measures for working children.
4. Recommend the industries and areas where there must be a progressive elimination of child labour.

Keeping in view the fact that legislation alone would not be sufficient to tackle the problem of exploitation of child labour, the government has formulated the National Policy on Child Labour which was announced in Parliament in August, 1987. The action plan under the National Child Labour Policy is set out under the following three heads:

1. The Legislative Action Plan.
2. The focusing of general development programmes for
benefiting child labour wherever possible.

3. Project-based plan of action in areas of high concentrations of child labour engaged in wage/quasi-wage employment.

In addition to the Central government's Acts, State governments also passed acts regulating the conditions of work for young people in restaurants, hotels and shops setting the age limit ranging between 12 and 15 years.

As the year 1979 was announced as the International Year of the Child, the government of India appointed a committee to analyse the prevailing legislation on child labour. The committee decided that 15 years shall be the minimum age for entering into any employment. But, the government rejected the decision. At the same time, it agreed with certain recommendations like (a) improving conditions for working children, (b) Health schemes in areas with a concentration of child labour, (c) Supplementary nutrition provided by employers to working children with tax concessions from the government and (d) The establishment of non-formal education for working children.

In his speech in Parliament in 1993, Mr. Sangma, then Union Minister for Labour said that the government has a tremendous responsibility in abolishing child labour as a populist measure. According to him, ban on child labour would
trouble the economic conditions of their dependents. So, it would not be advisable to abolish child labour.

The amendment in the Minimum Wages Act ensures that both adult and child workers should be paid equal wages. Moreover, it emphasised that children should be allowed only in non-hazardous jobs and that their job conditions should be regulated.

After a day long consultation with labour ministers from States, Mr. Sangma said that an autonomous body -- National Authority for Elimination of Child Labour -- would be set up at the country level. The Labour Minister would be the chairman and the secretary of related Central Ministries and the Planning Commission would be its members. The Chief Ministers, particularly from those states where there is a high concentration of child labour, would also be made members of the body. Similarly, Members of Parliament representing such areas would also be associated with it.

After conducting a series of meetings in August 1994, the Labour Ministry has intended to achieve the goal of liberating and rehabilitating atleast two million children working in hazardous industries out of the country's twenty million child labour force. However, the remaining eighteen million working children are not in immediate need of rehabilitation as they are working largely
with their parents. Therefore, there is not much of a possibility of their being exploited like their counterparts employed in the manufacturing sector.

On 12 December, 1994 the Minister informed that the government had already proposed to amend the Minimum Wages Act to provide equal wages to adult and child workers thereby discouraging the employment of children. He said that the amendment to be introduced in Parliament, would also stipulate less hours of work for a child worker against an adult worker. However, he points out that the government is confident of eliminating child labour at least in hazardous industries by the end of the 20th century.

National Child Labour Policy has been set up by the Union Ministry of Labour in 1987 to rehabilitate the child workers. These projects cover (a) the carpet, glass and brassware industries in Uttar Pradesh, (b) the carpet industry in Bihar, (c) the beedi-rolling industry in Orissa, (d) the slate and pencil industry in Madhya Pradesh, (e) slate and tile industry in Andhra Pradesh and (f) the match and fire works industry in Tamil Nadu. The Ministry also extends financial support to non-governmental organisations to undertake action-oriented programmes to tackle the problem of child workers.

In 1990, the United Nations Convention on the Rights of
Children 1990 provided an opportunity to respect children's rights and welfare universal. The government of India has also taken various policies and decisions to try and ensure a better life for children. Besides, various state legislatures have also passed laws for regulating the conditions of employment of children. But, the enforcement of laws is rather inadequate. Therefore, setting a high-level National Commission with powers to supervise the various laws concerning child labour, is a pre-requisite for giving a new dimension to the problem of child labour.

For effective implementation of the action plan, three important points were suggested: (a) All concessions and incentives given to industries should be withdrawn, (b) The district magistrat should be empowered to take action against the units found violating the relevant laws, (c) National Child Labour Elimination Authority should monitor the implementation of multi-crore schemes.

The Concerned for Working Children (CWC), a Bangalor based organisation, presented in November, 1985 a bill on Child Labour (Employment, Regulation, Training and Development). The bill enlisted the hazardous occupations. But, the list of such occupations was drawn almost entirely from the Employment of Children Act of 1938 and failed to include new hazardous occupations. Also, it was not clear about the conception of the term "hazardous". For instance, "rag picking" is not classifie
is a hazardous work though a number of children who collect scraps of iron, glass, paper and rags often pick up bits of food to eat and are prone to tetanus and skin diseases.

The countries which show total inaction in dealing with child labour will be in course of time given pressure by the western nations. India seems to be the prime target in this regard. The United States and Germany decided to stop importing goods from industries employing child labour. India is also very much particular about liberating children from involuntary labour.

To improve the working conditions of children in the beediworks, the Supreme Court has recently given the verdict that everyone including child workers should be insured for a minimum amount of Rs. 50,000. The premium will be paid by the respective employers. The Court also directed the Regional Provident Fund Commissioner for the implementation in the relevant statute in the areas where beedi units are located.

The Court also recommends implementation of the provisions of the Child Labour Abolition Act, 1986. A few directions to regulate the working conditions of the workers in beedi units by the Bench are listed below:

1. The labour laws including the Beedi and Cigar Workers Act should be strictly enforced to ensure the workers' legitimate
2. A government labour establishment should be set up in the area to answer the requirements of the matter.

3. Abiding by the Beedi and Cigar Workers' Rules, the system of furnishing pass-books to the home workers would be eliminated.

4. Instead, great care should be taken to ensure the maintenance of "the register system".

5. The beneficial provisions of the Beedi Workers' Welfare Cell Act, 1976 and the Beedi Workers' Welfare Act 1976 should be made operational in the area because these two acts are the legislations of the Central government.

6. The "Pass-books" should properly be maintained in the name of actual workers.

7. The welfare fund should properly be administrated and in the case of the death of a workman, appropriate assistance should be extended out of the fund as early as possible.

India by its new legislation, legalized child labour in non-hazardous employment. This appeared to be a violation of the International Labour Organization Convention on Child Labour. But, at the international level, India's new strategy of regulation of child labour rather than abolition was well
supported by the officials of the International Labour Organisation.

The important recommendations for the intervention of the states in "Jury verdict" on child labour are listed as follows:

1. The government of India being a party to the U.N. Conventions on the Right of the Child (CRC), there is need to amend Article 24 of the Indian Constitution to confirm with Article 1 of the CRC which defines a child as upto 18 years of age. The Constitution clearly sanctions the prohibition of employment of children in all areas and in all forms.

2. Along with this, all other related labour laws should be strictly implemented. Child labour cannot be categorised as 'hazardous' or 'non- hazardous'. Any form of child labour is hazardous for the healthy growth of children. The hazardous - non-hazardous dichotomy for children is a non-reality.

3. Pending amendments to the 1986 Act, the Supreme Court judgment (1996) in the case of M.C. Mehta Vs government of Tamil Nadu is to be strictly implemented by the government of Tamil Nadu.

4. While poverty is cited as an alibi for child labour, millions of children in the work force perpetuate poverty and a vicious cycle is at work. Many developing countries with
uch less resources than India much higher levels of employment of children.

In this context, the following strategies are recommended or implementation:

1. More employment opportunities and income generation avenues should be created for adults. All development programmes and anti-poverty schemes should be targeted on child labour households.

2. Enforcement of minimum wages for an adult worker without any gender discrimination.

3. The most important issue is to provide free, compulsory and quality education for all children of school-going age. The Supreme Court has held in the Mohini Jain and Unni Krishnan cases that primary education is a fundamental right and is justifiable. This should be strictly enforced. In this regard, the Tamil Nadu Compulsory Primary Education Act (1994) passed by the State Assembly should come into force at least from the academic year of 1998-'99.

4. There should be adequate budgetary allocation for compulsory primary education in the state and for the abolition of
child labour with proper plan of action and target setting.

National Convention on Child Labour recommended that no child below the age of 14 should be allowed to work in hazardous or non-hazardous industries and primary education should be made free and compulsory. A panel of judges, after hearing testimonies of child labourers from 11 sectors suggested that penalty should be imposed on employers of child labour. They regretted that even after 50 years of independence, children continue to be employed in hazardous industries. They felt that there should exist no classification of hazardous or non-hazardous industries as all of them are dangerous for children. The panel comprising Prof. Muchkund Dubey, Justice Leila Seth, Justice Rajinder Sachar, Mr. T.S. Shankaran, Prof. Yash Pal, Mr. N. Ram, Ms. Indira Jaisingh and Mr. R. Venkata Raman unanimously demanded free education, health care, social protection and complete abolition of child labour.

They said the prevailing law regarding child labour was not adequate enough to ensure complete abolition of child labour. It should be amended accordingly to make it more effective.

121 Jury verdict regarding the Public Hearing on Child Labour, Tamil Nadu: Campaign Against Child Labour, 1997.
Although the Constitution provides education to all, the government has failed to implement the law properly in the country. Therefore, the panel felt and suggested that the states should formulate their own law in an effort to eliminate child labour completely.

The Supreme Court gave directions regarding child labour to the states concerned. They are listed below:

1. A survey would be made of the aforesaid type of child labour which would be completed within six months from the date of implementation.

2. To start with, work could be taken up regarding those employments which have been mentioned in Article 24, which may be regarded as core sector, to determine which hazardous aspect of the employment would be taken as criterion. The most hazardous employment may rank first in priority, to be followed by comparatively less hazardous ones and so on. It may be mentioned here that the National Child Labour Policy as announced by the government of India has already identified some industries for priority action, and the industries identified are given below.

(a) The match industry in Sivakasi, Tamil Nadu.
(b) The diamond polishing industry in Surat, Gujarat.
(c) The precious stone polishing industry in Jaipur, Rajasthan.
(d) The glass industry in Firozabad, Uttar Pradesh.
(e) The brass-ware industry in Moradabad, Uttar Pradesh.
(f) The handmade carpet industry in Mirzapur-Bhadohi, Uttar Pradesh.
(g) The lock-making industry in Aligarh, Uttar Pradesh.
(h) The slate industry in Markapur, Andhra Pradesh.
(i) The slate industry in Mandsaur, Madhya Pradesh.

3. The employment to be given as per the direction of the Supreme Court could be dovetailed to other assured employment. Or this being done, it is apparent that its direction would not require generation of much additional employment.

4. The employment so given could as well be the industry where the child is employed, a public undertaking and would be manual in nature in as much as the child in question must be engaged in doing manual work. The undertaking chosen for employment shall be one which is nearest to the place of residence of the family.

5. In those cases where alternative employment would not be made available as aforesaid, the parent/guardian of the child concerned would be paid the income which would be earned on the corpus, which would be a sum of Rs. 25,000 for each child, every month. The employment given or payment made would cease to be operative if the child is not sent by the parent/guardian for education.
6. On discontinuation of the employment of the child, his education would be assured in a suitable institution with a view to making him a better citizen. It may be pointed out that Article 45 mandates compulsory free education for all children until they complete the age of 14 years. It would be the duty of the Inspectors to see that this call of the Constitution is carried out.

7. A district could be the unit of collection so that the executive head of the district keeps a watchful eye on the work of the inspectors. Further, in view of the magnitude of the task, a separate cell in the Labour Department of the appropriate government would be created. Monitoring of the scheme would also be necessary and the Secretary of the Department could perhaps do this work. Overall monitoring by the Ministry of Labour, government of India, would be beneficial and worthwhile.

8. The Secretary to the Ministry of Labour, government of India would appraise this Court within one year from the day of judgement about the compliance of the aforesaid directions. If the petitioner would need any further or other order in the light of the compliance report, it would be open to him to do so.

9. The Court observes that on the directions given being carried out, penal provision contained in the above noted 1986 Act would be used where employment of child labour, prohibited by the Act, would be found.
10. In so far as the non-hazardous jobs are concerned, the Inspector shall have to see that the working hours of the child are not more than four to six hours a day and he/she receives education at least for two hours each day. It would also be seen that the entire cost of education is borne by the employer.

Inspite of all these efforts taken by the government, this problem continues to exist. In connection with this, it is relevant to mention that there is a contradiction between the Articles 24, 39 and 45 of the Indian Constitution which deal with the rights of children, and the child labour (Prohibition and Regulation) Act, 1986. In other words, this act violates the Indian Constitution. According to the Articles 24 and 39 of the Indian Constitution, no child below 14 years of age shall be employed in any factory or mine or engaged in hazardous employment. They should not be forced by economic necessity to enter avocations unsuited to their age or strength. But, this act while emphasising the prohibition of child labour, justifies the regulation of this system, i.e., regulating the working conditions of child labour. This contradiction would rather complicate the issues relating to child labour as either the country would categorically or decide to regulate the working condition of the children engaged in various jobs. Therefore, this act has to be

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Supreme Court Direction, New Delhi, December, 1996.
modified according to the Constitution so as to arrive at a uniform prescription that this problem will be eradicated once for all.

PARENTS' KNOWLEDGE ABOUT LEGISLATION ON CHILD LABOUR

When the parents of child workers were asked about their knowledge regarding the employment of children below the age of 14 years in the beediworks, a large majority of them were found to be ignorant of the law that employing children in beediworks is an offence. This is presented in the following table:

TABLE 30
RESPONDENTS' BY THEIR KNOWLEDGE OF EMPLOYMENT OF CHILDREN AND BACKGROUND

<table>
<thead>
<tr>
<th>S1.No.</th>
<th>Employment of children below 14 years of age</th>
<th>No. of respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Rural</td>
</tr>
<tr>
<td>1.</td>
<td>Offence</td>
<td>32 (8.89)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3 (2.14)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>35 (7.00)</td>
</tr>
<tr>
<td>2.</td>
<td>Not Offence</td>
<td>328 (91.11)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>137 (97.86)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>465 (93.00)</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>360 (100)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>140 (100)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>500 (100)</td>
</tr>
</tbody>
</table>
A reading of the above table show that of the total number of parents, only 7 per cent of them know that employment of children below 14 years of age is an offence and 93 per cent of them are ignorant of this. Of the total number of rural parents, 8.89 per cent of them know this as an offence and 91.11 per cent of them do not know of it. Of the total number of urban parents, only 2.14 per cent of them know it as an offence and 97.86 per cent of them do not know of it.

It is clear that an overwhelming majority (over 90 per cent) of rural and urban parents are ignorant that employing children below 14 years of age is an offence. The reason is that they are illiterates. However, a limited number of parents know it as an offence. This shows that the enforcement machinery is rather inactive. It is also clear that from enacting the legislation to ensuring its effective enforcement seems to be a long and difficult process in contemporary situation in which alarming proportions of boys and girls are absorbed into work force every day.

This view is supported by the general opinion among the parents of child work force in beediworks that employing one's son or daughters below the age of 14 years is in no way undesirable in the sense that it provides supplementary income to their family. It is relevant here to refer to the statement of a mother
My husband is a drunkard. He spends all the money that he earns every day from his work. Since he cannot be corrected, I have to bear with his indifferent behaviour. My earnings from the beediworks are not sufficient to meet the basic needs of our family. Under such circumstances, I have no other go except to employ my daughter in the beediworks. If I had not done it on time, I could not have saved my family from starvation. Therefore, I do not consider the act of employing my daughter in the beediworks as illegal.

BEEDIWORKS AND LABOUR LAWS

Generally, the beedi workers in the areas surveyed are not much exposed to labour laws. Instead, they are subject to economic exploitation. Since a majority of them are illiterates, they are ignorant of the labour laws. Some of them know about one or two aspects of few labour laws but not in detail. The following table shows the awareness of parents regarding labour laws:
<table>
<thead>
<tr>
<th>Sl.No.</th>
<th>Various Legal Measures</th>
<th>No. of respondents</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Rural</td>
<td>Urban</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Aware</td>
<td>Not aware</td>
<td>Total</td>
</tr>
<tr>
<td>1</td>
<td>Minimum Wages Act, 1948</td>
<td>360</td>
<td>360</td>
<td>720</td>
</tr>
<tr>
<td>2</td>
<td>Beedi &amp; Cigar Workers Act, 1966</td>
<td>360</td>
<td>360</td>
<td>720</td>
</tr>
<tr>
<td>3</td>
<td>Beedi Workers Welfare Fund Act, 1976</td>
<td>360</td>
<td>360</td>
<td>720</td>
</tr>
<tr>
<td>4</td>
<td>Child Labour Prohibition Act, 1986</td>
<td>360</td>
<td>360</td>
<td>720</td>
</tr>
<tr>
<td>5</td>
<td>Factories Act, 1948</td>
<td>360</td>
<td>360</td>
<td>720</td>
</tr>
<tr>
<td>6</td>
<td>Payment Of Bonus Act, 1965</td>
<td>360</td>
<td>360</td>
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<td>Workmen's Compensation Act, 1923</td>
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<td>8</td>
<td>Employee's State Insurance Act, 1946</td>
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<td>Provident Fund Act, 1952</td>
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<td>Industrial Employment Act, 1946</td>
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The table clearly shows that, by and large, the beedi workers in the rural areas do not know of any law relating to child labour. In the urban areas, only four out of 140 parents know one or two acts relating to child labour. Those who know the laws are least concerned about them. The parents express that they have no time to think about the legal aspect of child labour. Their only concern is rolling the maximum number of beedis within the stipulated time. Since they are, by and large, depending upon the beediworks for their earnings, they do not mind whether the act of employing children is illegal or not.

It is important to note that nearly two-thirds of the children were able to get the pass-books only by giving a false age. For instance, a 13 year old boy reported to the beedi contractor that he was 15 years old and got a pass-book on his name. He used to collect raw material from the contractors using all his tact and return the completed beedis. The case is similar with all the children owning pass-books. However, they are not benefited by the provisions extended to them by various laws. Thus, they are subject to exploitation along with other adult workers.

In Tirunelveli District, most of the companies pay the minimum wages, but some companies pay less than the prescribed minimum wages including Dearness Allowance for 1,000 beedis. Some companies make payment once in a week or ten days. Some
other companies pay the workers at their convenience. In such companies, workers are worried about their payments. A beedi company deducts a nominal amount from the wages as compulsory deposit for their own finance company. It will not be refunded in cash. But, the beedi workers can purchase articles through this finance company and for that they have to pay a high interest to the company. The due amount will be recouped from the deposit. However, there is no interest given for their deposits. But, a meagre amount will be paid as bonus. Initially, every worker has to pay a sum of Rs. 100 to start the account in the finance company. People disclose that every week they lose Rs.8 from their wages. Most of the workers get frustrated because of this sort of exploitation. However, due to lack of employment opportunity and poverty, they are not able to switch over to other jobs.

According to section 26 of the Beedi Cigar Workers' (Conditions of Employment) Act, 1966 a beedi company grants leave wages on the basis of work done. Usually this amount is distributed to the beedi workers by the contractors. But, at the time of distribution, the contractors take 10 - 20 per cent of the leave wages as their commission and give the remaining amount to the workers after getting their signature for the total amount. In some villages, this sort of commission will go upto 50 per cent. In some other companies, no leave wage is paid, but,
signatures are obtained at the time of disbursing the bonus as if the workers had received the bonus.

According to Payment of Bonus Act, 1965 almost all beedi companies should distribute the bonus amount to the workers. But contractors deduct 10-20 per cent of bonus and pay the remainder to the workers. In some companies, two types of pass-books are maintained. However, bonus is calculated on only one pass-book account. Therefore, the workers get 50 or below 50 per cent of bonus. But, signature is obtained for the full amount of bonus. In some other companies, there is an inordinate delay in the payment of bonus. Such malpractices can be stopped if the principal employer deals with the workers directly. If this is the plight of the adults, the child workers have a rare chance of getting the benefits extended for their welfare.

According to Beedi Workers' Welfare Fund Act, 1976 some companies provide various welfare facilities to the beedi workers and their children. It provides education loan facility, scholarship and maternity benefit. Both in rural and urban areas, most of the companies provide scholarships to the beedi workers' children. Very few companies deny them such facilities. But, loan facilities and maternity benefits are extended to the workers including children.
Some of the beedi companies follow the rule of Provident Fund Act 1952. Accounts are properly maintained where the principal employer deals with the workers directly. In the case of contract agencies, some contractors are maintaining accounts properly. Some others do not do so. Two pass-books are maintained in beedi company to enter the number of beedis done in a day. Account for three or four days in a week is not entered in the original pass-book. Therefore, for these days there is no Provident Fund contribution from the employers. But, employees' contribution is deducted from their wages. If the worker enquires the contractor after three or four years about the Provident Fund, a majority of the contractors/beedi companies tell them that they have no money in their provident fund account. But, the beedi workers do not have proper evidence (pass-book entry regarding Provident Fund contribution) to prove it otherwise. A few contractors/beedi companies properly maintain accounts for the Provident Fund contribution. In some other companies, Provident Fund contribution is properly deducted, but it is not properly deposited. It seems that the labour department has not taken firm action against the contractors/beedi companies for such malpractices.

A girl of 14 years engaged in the beediworks in a village had the following complaint about her employer:
I have been doing the beediworks for the past six years. Initially, I was working with my mother. Now I have my own pass-book. For the last two years, I have been doing this work in a beedi company. Every day I make 1,000 beedis. I am getting my wage once in a week. At the time of wage distribution, my contractor will enter only 50 per cent of the work done in one pass-book and other 50 per cent of the work in some other pass-book. This is mainly to avoid the payment of bonus. Usually, bonus is calculated on the basis of actual work done. Thus, I can get only 50 per cent of bonus. Similarly, I get only 50 per cent of Provident Fund contribution from the employer instead of cent per cent. I do not get leave salary benefit from my employer. If I ask for the bonus, Provident Fund contribution and leave salary, contractors get irritated and punish us by supplying poor quality of raw material and discarding the beedis as of poor quality. Sometime, they do not supply raw material. Since we completely depend upon this work for earnings, we keep quiet.

Though the government has taken several steps to eliminate child labour, the problem continues to exist. However, the government keep taking efforts. Simultaneously, the government wants to regulate the working conditions of child labour. It is suggested that a separate monitoring unit should be set up to review the adequacy of the prevailing legislation on child labour. The minimum age, minimum wages and pre-conditions for the employment of children should be made in tune with the latest acts relating to the children.

Working hours, duration of night work and rest interval for the child workers should be taken into account seriously. Most of the units do not have uniform provisions to regulate the working hours of children. This results in the exploitation of child labour. In addition to this, they are subject to health
problems. Therefore, uniform legislation with regard to the working hours of children is an urgent need of the hour.

The fixing up of the working hours should not interfere with the children attending schools. If they are more in number, non-formal education system may be organised in their place of work. If the children are not provided with proper schooling, it will add to the problem of child labour. So, compulsory education should be made necessary to tackle the problem. Except in Melapalayam town, the beedi workers in other towns are largely home workers. The prevailing statutes do not make the parents relieve their children from work. The parents should be made aware of the seriousness of the problem and also about the future of their children. With the support of the government, various voluntary service organisations should plunge into action to create an awareness among the people about the importance of education for the poor child labourers.