CHAPTER III
LEGAL ENVIRONMENT

* Provisions of Constitution of India
* (The) children (Pledging of Labour) Act, 1933
* The Employment of Children Act, 1938
* The Indian Factories Act, 1881
* The Factories Act, 1948
* The Child Labour (Prohibition and Regulation) Act, 1986
* Various Acts related to banning and regulations of Children's work
* Conventions of I.L.O
* National Policy on Child Labour - 1987
* Child Labour Action and Supporting Project (CLASP) - 1992
Constitutional safeguards, salient features of significant Acts, provisions of other miscellaneous Acts, conventions of International Labour Organisation action plans and policies of government and non-governmental organisations relating to employment of children are given hereunder.

**Constitutional provisions:**

Constitutional Provisions of India protecting the interests of the children from adverse effects on their physical and mental development due to their employment.

**Article 15 (3)** of the Constitution lays down that "Nothing shall prevent the State from making any special provisions, for women and children"

**Article 23** of the Constitution explains that "Traffic in human beings, beggars and the other similar forms of forced labour are prohibited".

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

**Article 39 (e & f)** Directive Principles of State

39 (e) : "The tender aged children shall not be abused or forced by economic necessity to enter into avocations unsuited to their age or strength".

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39 (f): "The health and strength of workers men and women and the children and youth are protected against exploitation and against moral and material abandonment".

**Article 42** of the Constitution lays down that "the terms "Assure" and "Exploitation" will not apply to the cases where a self-employed man takes help of his family members including children for gainful activity because of economic pressure".

**Article 45** of the Constitution "directs the state to endeavor to provide free and compulsory education for all children until they complete the age of 14 years".

**Various Acts Related to Child Labour**

The following acts are considered to be the important acts having main object either to abolish or regulate child labour in India.

**(THE) Children (pledging of labour) Act, 1993.**

The Act prohibits making agreements to pledge the labour of children and taking advances from land lords.

The Act lays down that an agreement, written or oral to pledge the labour of a child below 15 years by the child's parent or guardian in return for any payment or benefit shall be avoided.¹

"The Royal Commission on Labour found evidence in such widely separated areas as Amritsar, Ahmedabad and Madras of the practice of pledging child labour, that is, the taking advances by parents or guardians on agreements written or oral, pledging the labour of their children. In some cases, the children so pledged were subjected to particularly unsatisfactory working conditions".2

An agreement made without detriment to a child and not made in consideration of any benefit other than reasonable wages to be paid for the child's services and terminable at not more than a week's notice is not deemed to be an illegal agreement.3

Provides that any parent or guardian making the Act also agreement to pledge the labour of a child shall be punished with fine up to Rs.50/- and whosoever induces a parent or guardian to make an agreement shall be punished with fine of Rs.200/- .4

The Report of Royal Commission on Labour in India (1931) was the basis of the Employment of Children Act, 1938, which listed the industries to be forbidden to children. The Commission investigated and submitted a report on the existing conditions of labour in Industrial undertakings, plantations; health and standard of living of the workers in British India. The Commission found children aged five were working for 10 to

3. Ibid., Section 4.
4. Ibid., Section 5.

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12 hours a day for very low wages. They were not provided adequate meal interval and weekly rest. Therefore the Commission recommended the fixation of maximum hours of work for children at 5 hours a day and to limit spread over to 7 1/2 hours a day. Children are to be prohibited to work in between 7 p.m. & 5.30a.m.

The Employment of Children Act, 1938

The Act imposes prohibition on the employment of children below 15 years of age in certain industrial occupations. The Act was enacted to regulate the employment of children mainly in twin occupations: Firstly, transport of passengers, goods or mail by railway\(^5\) and secondly in work connected with handling of goods under port authority within the limits of any port.\(^6\)

The Act was amended in 1951 to give effect to the I.L.O. Convention relating to the night-work of young persons employed in any industry which has been ratified by India.

It is worthy to note that the Act also prohibit the employment of children below the age of 14 in workshops connected with Bidi-Making, Carpet-Weaving, Cement manufacture (including bagging of Cement), Cloth Printing, dyeing and wearing, manufacture of matches, explosives and fire works, shell manufacture, wool cleaning, mica cutting and splitting tanning and soap manufacture.\(^7\)

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5. Section 3(a), Employment of children Act, 1938.
6. Ibid., Section 3(b).
7. Ibid., Section 3(3).
However, it is needless to point out that these provisions are inapplicable to workshops where the work is done by the occupier with the aid of his family only or to any aided or recognised school by any State Government. Moreover the State Governments have been authorised to apply the provisions of the Act to any other employment also.  

The Indian Factories Act, 1881

The first protective legislation for child labour was enacted in 1881. The Act provided for protective provisions for bidding.

1. Employment of children under seven years in factories.
2. Employment of children is in two separate factories on same day.

Limiting the working hours of children to nine hours a day, also allowing 4 days in a month as rest intervals.

In addition to the above provisions fencing was to be arranged to dangerous machines. However this Act covers the factories that employ 100 are more persons. This Act was silent about enforcement machinery and does not cover the agriculture and un-organised sector.

In 1891, there was a modification for the earlier Act with an advanced step over 1881 Act, based on the recommendation.

8. Ibid., Section 3(a).
of a factory Commission appointed by Government of India in 1890. Under this Act, the lower age is extended from 7 to 9 years and the upper age limit is also extended from 12 years to 14 years. The working hours for children were reduced from 9 hours to 7 hours per day. The children were not allowed to work at night.

Afterwards, The Factories Act, 1911, reduced the working hours of children in factories to 6 hours a day. The Act further provided that all child-workers should have in possession, a certificate of age and fitness for employment. The children were not allowed to work at night i.e., in between 7 p.m. to 5.30 a.m.

The Factories Act was once again amended in 1922 and gave effect to the International labour Conventions, on the minimum age, hours of work, night work of women and young persons.

Again The Factories Act, 1911 was amended in 1931 to bring certain minor changes for administrative purpose. The Act imposed certain penalties on the parents and guardians for allowing their children to work in two separate factories on the same day.

Various amendments took place in the Factories Act in the years 1940, 41, 44, 45, 46 and 47 which however did not touch the provisions related to child labour.
After Independence, the first step was taken regarding the amendment of the Factories Act in 1948, which raised the minimum age, for entering into employment, to 14 years.9

The Factories Act, 1948

The Act extends to the whole of India except the state of Jammu and Kashmir.

A child under this Act was defined as "A person who has not completed the fifteenth year of age ".10

An adolescent under this Act was defined as "A person who has completed his fifteenth year of age but not completed his eighteenth year".11

A young person under this Act was defined as "A person who has attained the age of fourteenth year but not attained the age of eighteenth year ".12

The Act applies to establishments employing ten or more workers with power and twenty or more workers without power.

Employment of young persons on dangerous machines

No young person shall be allowed to work at any machine to which this section applies, unless he has been fully

10. Sec. 2(e) of the Factories Act, 1948.
11. Ibid., Sec. 2(a).
12. Ibid., Sec. 2(d).
instructed as to the dangers arising in connection with machine and precautions to be observed.  

Prohibition of employment of women and children near cotton openers

No woman or child shall be employed in any part of a factory for pressing cotton in which a cotton opener is at work.  

Prohibition of employment of children

No child who has not completed his fourteenth year shall be required or allowed to work in any factory.  

Medical Examination of Children

The child who has completed the age of fourteen is allowed to work only when he obtains a certificate of fitness from the competent authority, deposits it with its manager and carries a token with him giving reference to such certificate.  

On the application of any young person or his parent or guardian coupled with the certificate of the manager of a factory or that the manager himself, it is the duty of the certifying surgeon to examine and to ascertain the fitness of child for work in a factory. A certificate of fitness may be granted by  

13. Ibid., Sec. 23.  
14. Ibid., Sec. 27.  
15. Ibid., Sec. 67.  
16. Ibid., Sec. 68.
certifying surgeon if he is satisfied that the young person has completed his fourteenth year and attained the prescribed physical standards.\textsuperscript{17}

The Act makes the occupier of a factory liable for the payment of any fee payable for a certificate which shall not be able to recover from any one else.\textsuperscript{18}

**Working hours for children**

No child shall be employed or permitted in any factory for more than four and half hours in any day and during night. ‘Night’ here means a period of twelve consecutive hours which shall include the interval between 10.00 p.m. and 6.00 p.m.

The period of work shall be limited to two shifts which shall not overlap or spread over more than five hours.

No child shall be allowed to work in any factory on any day on which he has already been working in another factory.

No female child is allowed to work in any factory except between 8 a.m. and 7 p.m.\textsuperscript{19}

**Display and maintenance of notice board**

In every factory in which children are employed, a notice of periods of work for children, showing clearly everyday the periods during which children may be required or allowed to work, shall be displayed.\textsuperscript{20}

\textsuperscript{17} Ibid., Sec. 69.
\textsuperscript{18} Ibid., Sec. 69(7).
\textsuperscript{19} Ibid., Sec. 71.
\textsuperscript{20} Ibid., Sec. 72.
Register of child workers

The Manager of every factory in which children are employed shall maintain a register of child workers, to be available to the inspectors at all times during working hours. The register shall show the name of each child worker in the factory; the nature of his work; the group if any, in which he is included; the number of his certificate of fitness. 21

The hours of work of children shall correspond with the notice displayed in the factory. 22

Annual leave with wages

The Factories Act, 1948 provides that every child worker who has worked for a period of 240 days or more in a factory during a calendar year must be allowed during the subsequent calendar year leave with wages for a number of days calculated at the rate of one day for every fifteen days of work performed by him during the previous calendar year whereas one day against twenty days in the case of others. 23

The Gurupadaswamy Committee Report of 1979 urged the Government to bring forward comprehensive legislation with a uniform definition of child to regulate the conditions of working children and also suggested the minimum age of fifteen for children in any employment. On the other hand the Sanath Mehta Committee Report of 1983 felt that since children work in totally diverse conditions all over India, it was not practical to have

21. Ibid., Sec. 73.
22. Ibid., Sec. 74.
23. Ibid., Sec. 79.
The recommendations of both the Committees were accepted only in part by the Government of India and in 1986, a new Act. The Child Labour (Prohibition and Regulation) Act, 1986 to deal with working-children was passed by parliament by which The Employment of children Act, stands repealed.

The Child Labour (Prohibition and Regulation) Act, 1986

The Act was divided into four parts. Part I deals with title, extent and definitions, part II deals with certain prohibited occupations and processes, part III deals with regulation of conditions of work of children and part IV of the Act deals with the miscellaneous provisions relating to offences, penalty, administrative procedures and few amendments of other Acts.

Salient features of the Act

1. The Act aims to prohibit children’s employment in certain occupations and processes and regulate the working conditions in other occupations.
2. It extends to whole of India.
3. Provisions like prohibition and regulation of conditions of the Act are to come into force with immediate effect.
4. ‘Child’ means a person who has not completed his fourteenth year of age.
5. Adolescent (young person) who has not completed his eighteenth year of age.

6. Under this Act, child Labour Technical Advisory committee could be constituted to advise the central Government for the purpose of identification of Industries and activities to be brought under the perview of the Act.

Occupations and processes prohibited for employment of children aged below 14 years

Occupations 24

Any occupation connected with

1. Transport of passengers or goods by railway.

2. Cinder picking, clearing of an ash pit or building operation in the railway premises.

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

4. Work relating to the construction of a railway station or with any other work where such work is done in close proximity to or between the railway lines.

5. A port authority with in the limits of any port .

6. Work relating to selling of crackers and fireworks in shops with temporary licenses.

7. Abattoirs

Processes:
1. Bidi-making
2. Carpet-weaving
3. Cement manufacture (including bagging of cement)
4. Cloth printing, dyeing and weaving
5. Manufacture of matches, explosives and fire-works
6. Mica-cutting and splitting
7. Shellac manufacture
8. Soap manufacture
9. Tanning
10. Wool-cleaning
11. Building and construction industry
12. Manufacture of slate pencils. (including packing)
13. Manufacture of products from agate
14. Manufacturing processes using toxic, metals and substances such as lead, mercury, manganese, chromium, cadmium benzene, pesticides and asbestos
15. 'Hazardous Processes' as defined in section 2c of the Factories Act 1948
16. Printing as defined in section 2 (K) (iv) of the Factories Act, 1948
17. Cashew and cashewnut descaling and processing

25. Ibid., Sec. 3, Part - B.
Regulation of conditions of work of children application

The provision of this part shall apply to an establishment or a class of establishment or a class of establishment in which none of the occupations or processes referred to section 3 is carried on.

Hours and period of work

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

(Here it is worthy to note that provisions related to minimum age, working hours, and rest intervals for children differ from Act to Act, State to State and Industry to Industry).

The term 'establishment' may be defined as "Establishment" include a shop, commercial establishment, workshop, farm, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment.

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

3. The period of work of a child shall be arranged that inclusive of his interval of rest which shall not spread over more than six hours, including the time spent in waiting for work on any day.
4. No child shall be permitted or required to work between 7 p.m. and 8 a.m.

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

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

Weekly holidays

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

Maintenance of register

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

(a) The name and date of birth of every child so employed or permitted to work.

(b) Hours and periods of work of any such child and the intervals of rest to which he is entitled.

(c) The nature of work of any such child, and

(d) Such other particulars as may be prescribed.
Display of notice containing abstract of sections 3 and 14

Every railway administration, every port authority and every occupier shall cause to be displayed in a conspicuous and accessible place at every station on its railway or within the limits of a port or at the place of work, as the case may be, a notice in the local language and in the English language containing an abstract of section 3 and 14.

Health and safety

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

Without prejudice to the generality of foregoing provisions, the said rules may provide for all or any of the following matters, namely:
(a) Cleanliness in the place of work and its freedom from nuisance.
(b) Disposal of wastes and effluents.
(c) Ventilation and temperature
(d) Dust and fume.
(e) Artificial humidification.
(f) Lighting.
(g) Drinking water.
(h) Latrine and urinals.
(i) Spittoons.
(j) Fencing of machinery.
(k) Work at or near machinery in motion.
(l) Employment of children on dangerous machines.
(m) Instructions, training and supervision in relation to employment of children on dangerous machines.
(n) Device for cutting off power.
(o) Self-acting machines.
(p) Easing of new machinery.
(q) Floor, stains and means of access.
(r) Pits, sumps, openings in floors, etc.
(s) Excessive weights.
(t) Protecting of eyes.
(u) Explosives or inflammable dust, gas, etc.
(v) Precautions in case of fire
(w) Maintenance of buildings and
(x) Safety of buildings and machinery.

Penalties

(i) Whoever employs any child or permits any child to work in contravention of the provisions of section 3 shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to one year or with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees or with both.

(ii) Whoever, having been convicted of an offence under section 3, commits a like offence afterwards, it shall not be less than six months but which may extend to two years.
(iii) Whoever:
(a) Fails to give notice as required by section 9, or
(b) Fails to maintain a register as required by section 11 or makes any false entry in any such register or
(c) Fails to display a notice containing an abstract of section 3 and this section as required by section 12 or
(d) Fails to comply with or contravenes any other provisions of this Act or the rules made thereunder, shall be punishable with simple imprisonment which may extend to one month or with fine which may extend to ten thousand rupees or with both.

Miscellaneous Acts Having Provisions in Connection with Banning and Regulation of Children’s Work

The Minimum Wages Act, 1948

The Act provides for the fixation of different minimum rates of wages for adults, adolescents, children and apprentices. It also prohibits the employment of children in mines, prohibits the presence of children in any part of a mine which is below the ground or in any open-cast working in which any mining operation is being carried out.

The Plantations Labour Act, 1951

The Act provides for the welfare of labour in plantations and regulates the conditions of work of such labour. The Act covers all tea, coffee, rubber, cinchona and cardamom plantations and using areas 10.117 hectares or more, in which 30
or more persons are employed and prohibits the employment of children under 12 years. Even an adolescent between 15 and 18 years cannot be employed for work unless he is certified fit for by a surgeon.

**The Mines Act, 1952**

The Act amends and consolidates the law relating to the regulation of labour and safety in mines. The minimum age for employment in mines above ground is 15 years. A young person who has not completed the age of 16 years cannot be allowed to work in any part of a mine which is below the ground.

**The Merchant Shipping Act, 1958**

This Act is the Principal legislative measure dealing with merchant shipping. The Act prohibits the employment of children under 15 years subject to certain exceptions. The Act also empowers the Government to make necessary rules regarding employment of young persons as and when the occasion demands.

**The Motor Transport Workers Act, 1961**

The Act provides for the welfare of motor transport workers and regulates the conditions of their work. The Act applies to every motor transport undertaking employing five or more transport workers. It also prohibits the employment of young persons under 15 years in any capacity in the motor transport undertaking.
The Apprentices' Act, 1961

The Act provides for the regulation and control of training of apprentices in trades and for matters connected therewith. No person shall be qualified or being engaged as an apprentice or to undergo apprenticeship training in any designated trades unless he is at least 14 years of age and satisfies such standards of education and physical fitness may be required.

The Atomic Energy Act, 1962

This Act provides for the development control and use of atomic energy for the welfare of the people of India and other peaceful purpose and for other connected therewith, Rule 5 of these rules prohibits the employment of persons below the age of 18 years as radiation workers, except with the prior permission of the competent authority.

The Beedi and Cigar Workers (Conditions of Employment) Act, 1966

This Act provides for the welfare of the workers in beedi and cigar establishments and regulates the conditions of their work and for matters connected therewith. The Act applies to industrial premises when any manufacturing process connected with the making of beedi or cigar or both is being or is ordinarily carried on with or without the aid of power.

Shops and Establishments Acts in Various States and Union Territories

Various State legislatures have passed Acts regulating the conditions of work of workers in shops and establishments.
These Acts apply to shops, commercial establishments, restaurants, hotels etc., and prohibit the employment of children in such establishments. These Acts regulate the daily and weekly hours of work, rest intervals, payment of wages, overtime pay, holidays with pay, annual leave, employment of children and young persons etc. The details of provisions of different State Acts are given in Table 3.1 & 3.2.

The Contract Labour (Regulation and Abolitions) Act, 1970

The Act applies to Establishments and contractors employing 20 or more workers. There are no specific provisions under the Act pertaining to employment of children. A comparative study of the above Statutes make it clear that the provisions for canteens, rest-shelters, drinking-water supply, conservancy services; first aid, bathing facilities, cleanliness for workers including child-workers are made in Factories Act, Mines Act and Beedi and Cigar workers (condition of employment) Act.

It is significant to note that The Minimum Wages Act, 1948; The Plantation Act, 1951; The Merchant Shipping Act, 1958 and The Motor Transport Workers Act, 1961 were amended in respect of minimum age of child to be employed in The Child Labour (Prohibition and Regulation) Act 1986.

The aforesaid Acts have amended the minimum age of children to fourteen years instead of the ages mentioned in those Acts earlier.
### Table 3.1
The Working Hours and Conditions for Young Persons and Children

<table>
<thead>
<tr>
<th>Act</th>
<th>Certificate of fitness</th>
<th>Maximum Weekly hours</th>
<th>Maximum Daily hours</th>
<th>Rest Interval</th>
<th>Speed Acc.</th>
<th>Overtime Night Work</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Factories Act, 1948</td>
<td>-do-</td>
<td>-do-</td>
<td>-do-</td>
<td>-do-</td>
<td>-do-</td>
<td>-do-</td>
</tr>
<tr>
<td>Mines Act, 1952</td>
<td>-do-</td>
<td>-do-</td>
<td>-do-</td>
<td>-do-</td>
<td>-do-</td>
<td>-do-</td>
</tr>
<tr>
<td>Plantation Labour Act, 1951</td>
<td>-do-</td>
<td>-do-</td>
<td>40 hours</td>
<td>-do-</td>
<td>-do-</td>
<td>-do-</td>
</tr>
<tr>
<td>Motor Transport Act, 1961</td>
<td>-do-</td>
<td>-do-</td>
<td>-do-</td>
<td>-do-</td>
<td>-do-</td>
<td>-do-</td>
</tr>
</tbody>
</table>

### Table 3.2
State-wise Special Provisions for Age, Hours of Work etc., for Young Persons Under the Shops and Commercial Establishments Act

<table>
<thead>
<tr>
<th>State or Union Territory</th>
<th>Age Permitted</th>
<th>Hours of work</th>
<th>Rest interval</th>
</tr>
</thead>
<tbody>
<tr>
<td>Andhra Pradesh</td>
<td>14 - 17</td>
<td>6 a.m to 7 p.m</td>
<td>7 per day and 42 per week overtime work not allowed</td>
</tr>
<tr>
<td>Bihar</td>
<td>12 - 18</td>
<td>7 a.m to 7 p.m</td>
<td>Children @ 5 hours per day and 30 hours per week hours of work young persons 7 hours per day and 42 hours per week</td>
</tr>
<tr>
<td>Gujarat</td>
<td>12 - 17</td>
<td>6 a.m to 7 p.m</td>
<td>6 hours per day</td>
</tr>
<tr>
<td>Jammu &amp; Kashmir</td>
<td>12 - 18</td>
<td>7 a.m to 9 p.m</td>
<td>-do-</td>
</tr>
<tr>
<td>Maharashtra</td>
<td>12 - 17</td>
<td>6 a.m to 7 p.m</td>
<td>-do-</td>
</tr>
<tr>
<td>Kerala</td>
<td>14 - 17</td>
<td>7 a.m to 7 p.m</td>
<td>5 hours per day</td>
</tr>
<tr>
<td>Madhya Pradesh</td>
<td>12 - 17</td>
<td>7 a.m to 9 p.m</td>
<td>-do-</td>
</tr>
<tr>
<td>Karnataka</td>
<td>12 - 15</td>
<td>6 a.m to 8 p.m</td>
<td>-do-</td>
</tr>
<tr>
<td>Orissa</td>
<td>12 - 15</td>
<td>Employment prohibited during night between 10 p.m to 6 a.m</td>
<td>-do-</td>
</tr>
<tr>
<td>State or Union Territory</td>
<td>Age definition</td>
<td>Permitted occupation</td>
<td>Hours of work</td>
</tr>
<tr>
<td>--------------------------</td>
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<td>--------------</td>
</tr>
<tr>
<td>Punjab</td>
<td>14 - 18</td>
<td>To be fixed by Government</td>
<td>5 hours per day and 30 hours per week</td>
</tr>
<tr>
<td>Rajasthan</td>
<td>12 - 15</td>
<td>Employment prohibited during night</td>
<td>3 hours per day</td>
</tr>
<tr>
<td>Tamil Nadu</td>
<td>14 - 17</td>
<td>6 a.m to 7 p.m</td>
<td>7 hours per day and 42 hours per week</td>
</tr>
<tr>
<td>Uttar Pradesh</td>
<td>14 - 17</td>
<td>--</td>
<td>6 hours per day</td>
</tr>
<tr>
<td>West Bengal</td>
<td>12 - 15</td>
<td>Not after 8 p.m</td>
<td>7 hours per day and 40 hours per week</td>
</tr>
<tr>
<td>Delhi</td>
<td>12 - 18</td>
<td>8 a.m to 8 p.m 6 hours per day in winter 7 a.m to 9 p.m in summer</td>
<td>1/2 an hour after 3 hours of work</td>
</tr>
<tr>
<td>Pondicherry</td>
<td>14 - 18</td>
<td>6 a.m to 7 p.m</td>
<td>7 hours per day and 42 hours per week</td>
</tr>
</tbody>
</table>

Conventions of International Labour Organisation on Child Labour

I.L.O. has adopted 18 conventions so far in respect of children and young persons regarding the minimum age, medical examination and night work.

I. The Minimum Age for Employment

There are 10 conventions made, regards to the minimum age in respect of different occupations. In this context, the conventions related to Industrial undertakings and general employment are stated here.

(1) The Minimum Age (Industry) convention (No.5) 1919

The convention, lays down that children under 14 should not be employed in any private or public industrial undertakings other than undertaking in which only family members are employed. The term "industrial undertaking" includes mines, quarries, manufacturing industries, constructions, maintenance and repairs and transport of passengers or goods by road or rail or inland waterways.

This convention was ratified and being implemented by India.

(2) The Minimum Age (Industry) convention (Revised) (No.59) 1937

This convention raised the minimum age of child for admission into Industrial establishments from 14 to 15 years.

India has not ratified this convention.

(3) The Minimum Age Convention (No.138) 1973

The convention fixed the minimum age for admission into employment at 16 years.

India has not ratified this convention but may take as norm.

II. Medical Examination

I.L.O. has adopted five conventions for making the medical examination of young persons a condition precedent for employment.

The only one convention which is related to industrial undertakings is given below.

The Minimum Age of Young Persons (Industry) Convention (No.77) 1946

Persons under the age of 18 years (16 years in case of India) should not be admitted into employment by an Industrial undertaking unless produced with medical certificate of fitness.

III. Night Work

I.L.O. has adopted three conventions in respect of night work of young persons of different occupations out of which one convention belongs to non-industrial occupation. The conventions related to Industrial undertakings are furnished here.

(1) Night Work Of Young Persons (Industry) Convention (No.6) 1919

The convention applies to Industrial undertakings. Young persons under the age of 18 years are not to be employed.
during Night in any private or public Industrial undertakings. The term "Night" signifies the period of atleast 11 consecutive hours including an interval between 10 p.m. to 5 a.m.

India has ratified this convention.

(2) Night Work of Young Persons (Industry) Convention (Revised) (No.90) 1948

This convention has revised the term 'Night' partially accordingly the term 'Night' refers to a period of 12 consecutive hours instead in the place of 11 consecutive hours.

India has ratified this convention.

National Policy on Child Labour 1987

Following the National Policy Resolution for children in 1974, a National children's Board with the Prime Minister as its president was established. A high level committee on child labour headed by Shri.M.S.Gurupadaswamy was set up on 7th February 1979 by Government of India, to look into the causes leading to and problems arising out of employment of children and to suggest suitable measures for their protection and welfare.

The report of the Committee was submitted to Government on 29th December 1979. In pursuance of one of the recommendations of the Committee, a Child Labour Technical Advisory Committee was set up in March 1981 to advise the Central Government on addition of hazardous occupations and processes.

Keeping in view that merely legislation would not be sufficient to tackle the problem of exploitation of child labour, Government of India announced a national policy in August 1987. The action plan under the policy was set out under the following three heads 28

I. The Legislative Action Plan

The provisions of child labour (P&R) Act, The Factories Act, the Mines Act will be enforced so as to particularly ensure that the children are not employed in factories or mines or in any other hazardous employment and where they are employed in non-hazardous employments or occupations to ensure that the work is regulated in accordance with part III of Child Labour (P&R) Act. The Railway administration, major ports and central and state Government departments in charge of oil-fields and Mines will be asked to review the situation arising from the enactment of child labour is not employed in prohibited occupations or employments, that the provisions set out for their health and safety, for the maintenance of registers and for regulating the period and hours of work or overtime or weekly holidays and days of rest are enforced in all establishments.

Government also bring forward legislation to delete the provisions contained in the Minimum Wages Act allowing different wages to be fixed for children, adolescents and adults. In other words, children will have to be paid the same as adult. This

will remove the economic incentive to employ child labour on lower wages.

(2) **Focusing Of General Development Programmes for Benefiting Child Labour**

Various national development programmes like IRDP, NREP, RLEGP, (Income generation); Non-Formal Education (Educational Area); school health service programme (Health Area); ICDS programme (Nutrition area) exist with wide coverage in those areas.

The intention in implementing the anti-poverty programmes is that the magnitude of the child labour problem may be reduced when the economic position of parents of the child labour is increased.

**Project-Based Plan of Action**

Under the project based plan of Action, the following specific sectors of employment where the incidence of child labour is high have been identified.

2. The Diamond polishing Industry in Surat, Gujarath.
3. The precious stone polishing Industry in Jaipur, Rajasthan.
4. The Glass Industry in Ferozabad, U.P.
5. The Brass ware Industry in Moradabad.
6. The Handmade carpet Industry in Mirzapur-Bhadohi, U.P.
7. The Lock-making Industry in Aligarh, U.P.
8. The Handmade carpet Industry in Jammu & Kashmir.
(9) The Slate Industry in Mandasur in Madhya Pradesh.
(10) The Slate Industry in Markapur in Andhra Pradesh.

The child workers involved in the above mentioned sectors of employment and geographical areas deserve priority attention because either the employments or processes in which they work are prohibited under the Factories Act or the Child Labour (P & R) Act 29

In each of the 10 project areas selected for plan of action the following elements comprise the strategy:

(1) Stepping up the enforcement of the Child Labour (P & R) Act, the Factories Act, the Mines Act. If necessary, special enforcement staff will be created.

(2) Coverage of families of child labour under the income or employment generation programmes under the overall aegis of anti-poverty programmes.

(3) Where there is a concentration of SC/ST families with child labour, a concentration of special component and Tribal sub-plans by the State Governments in each project area.

(4) Formal/Non formal education of ultimately all child labour engaged in hazardous employment, and of as many child labour as possible as may be in Non-hazardous employments. Also a stepped up programme of adult education of the parents of the working children.

Co-ordinating the activities of different Departments and Ministries of central and state Governments to benefit the child labour.

Setting up of special schools for child workers together with provision of vocational education and training, supplementary nutrition, a stipend to the children taken out from prohibited employments and health care for all children attending such special schools.\(^{30}\)

However this project-based plan of action does not cover the following areas where the incidence of child labour is also very high and the working conditions are not conductive for mental and physical development of children.\(^{31}\)

1. The carpet Industry of Rajasthan in Jaipur, Tonk, Sikar and Bikaner.
2. Handlooms in Kanchipuram in Chenglepet district and Chinalempathi in Madurai district.
4. Zari-work in Delhi and Lucknow.
5. Hosiery in Tiruppur in Coimbatore district of Tamilnadu.
6. The pottery Industry in Khurja, Bundashanpur, U.P.
7. The Beedi Industry in Tamilnadu and Murshirabad and Malda in West Bengal.

**Child Labour Action and Supporting Project (CLASP) \(^{32}\-1992\)**

The Government has launched a 926,623 dollar special programme called the Child Labour Action and supporting project.

\(^{30}\) Ibid., pp.219-220.
\(^{31}\) Ibid., pp.9-10.
in the year 1992, to enforce in the right earnest the child labour laws and to provide support for on-going and future projects. This was a three-year project intended to facilitate the implementation of the Child Labour (P&R) Act, 1986 and The National child labour policy.

In order to deal with the child labour problem and generate and sustain a community wide movement for and on behalf of the working children, the German Government has given an initial contribution of 1,378,451 DM through the I.L.O.

The programme is executed by the I.L.O. in co-operation with the Union Ministry of Labour.

Ten projects are now in progress in various areas of child labour concentration and they have opened 124 special schools have been functioning with 6,900 children on rolls. The Government is spending Rs.110 millions a year on these projects.

International Programme on the Elimination of Child Labour (IPEC)-1993

The I.L.O. has identified elimination of child labour as one of its thrust areas and a project entitled IPEC was introduced in April, 1992 and launched in India on 20th January, 1993 in consultation with several organisations and member states. The Government of Germany is the main donar agency.
The IPEC programme is being implemented simultaneously with CLASP programme in order to achieve desired results. The duration of this programme is two years more than that of the CLASP. The initial contribution made for the programme by Germany in 50,000,000 DM. 33

Objectives

The long term objective of the IPEC is the effective abolition of child labour. The programme envisages that this cannot be attained immediately and requires progressive improvements in social and economic conditions in many countries and calls for social and legislative action for the progressive elimination of child labour and its regulation during the transition period. 34

Programme strategy 35

The IPEC comprises National programmes which can constitute the major part and promotion of world wide movement against child labour. In view of the seriousness and size of the problem on the one hand and the limited resources and institutional capabilities of the participating countries on the other. The programme envisages certain prioritisation of action programme at national level. They are

(i) Preventing employment of children in hazardous work or employment.

(ii) Protecting those under 14 years of age including girls.

34. Mahveer Jain, op. cit., P. 222.
35. Ibid., p.223.
The action programme for different activity will combine to form the national programme. The execution will lie with the government or the concerned NGO’S.

The NGO to be eligible should be

(a) A society registered under the Indian Societies Registration Act, 1860; or
(b) A public trust registered under the Indian Trust Act, 1982, or
(c) A charitable company licensed under the companies Act, 1956, or
(d) A trade union registered under the Trade Union Act, 1946.

Target group

(i) Children working in factories, industrial enterprises, cottage industries and home work (includes carpet industry, Beedi-making, textile and leather industries, food processing, match-manufacturing, construction industry, other industries.)
(ii) Children working in the Service Sector (includes shops and other work places, restaurants, scavenging, rag-picking, domestic service, street vendors).
(iii) Children working in the Informal Sector (includes street children, communities and families of street children).

36. Ibid., p.225.
37. Ibid., p.223.
Duration

The project is expected to run for a period of 5 years. It is further expected that the NGO’s will have a clear idea of sustaining the project beyond the project period through other resources. 38

Guidelines for financial assistances

1. Assistance will normally not be given for capital assets such as land, vehicle, building, computer, television, air conditioner etc.

2. The organisation will normally be expected to contribute at least around 10 per cent of the total cost of the project in terms of cash, material resources, personnel services and infrastructure etc.

3. Financing will be periodical based on the performance and other factors. The selection of the programme for continuance of assistance would also depend upon the achievement against the objectives set out in the proposals.

4. If any organisation has already received or is expecting to receive any grants from some other source for the purpose for which the application is being made under the scheme, assistance will normally be made available after taking into account grants from such other source. 39

38. Ibid., p.224.