CHAPTER - 7.

EFFICACY OF REMEDIAL MEASURES FOR CHILD LABOUR IN FORMAL SECTOR

After discussing about the ruthless effect on health of the working children in the preceding chapters, let us see in this chapter what measures are adopted for the removal of those children working in those hazards. The problem of child labour is of a major social issue and it is not that government is not aware about this problem. In fact, government has adopted several laws to eradicate the problem. Simply, stating the laws by the government are not the only solution of the problem but government needs to work hard on the enforcement of the laws effectively. Children are working because of several reasons and also with the support of: the society, the owners of the factories, intermediaries, artisans and even the parents of those little workers and their conditions play equal role for "little ones" to work. Therefore, alone government cannot be held solely responsible for this cause, but certainly government plays a pivotal role.

The Indian Constitution clearly says, "No child below the age of fourteen years shall be employed to work in a factory or mine or employed in any hazardous job". Now it's the time that government and other agencies should start working to prevent children from working. Strict actions should be taken against the employers and the parents as well. The government of India is concerned about the magnitude and difficulty of the working children. It has stood for constitutional, statutory and development measures that are required to eliminate child labour. Six ILO conventions related to child labour
have been ratified. Awareness programme should be conducted regularly indicating the people about the ill effects of child labour. “Child labour cannot be eliminated by focusing on one determinant, for example education, or by brute enforcement of child labour laws. The government of India must ensure that the needs of the poor are full-filled without the working of their children and if the basic cause i.e. poverty is eradicated; the need for child labour will automatically diminish. The development of India as a nation is being hampered by child labour. Children are growing up illiterate because they have been working and not attending school. A cycle of poverty is formed and the need for child labour is reborn after every generation. India needs to address the situation by tackling the basic causes of child labour through governmental policies and the enforcement of these policies. Only then will India succeed in the fight against child labour.”

Child labour emerged as an increasingly important issue in the national context in India, especially after the promulgation of the child labour (Prohibition and Regulation Act, 1986) and the Supreme Court directions on child labour in December 1996. The Child Labour Act, seeks to ban employment of children working in certain hazardous occupations; the hazardous occupations are identified and reviewed by the expert committee from time to time. The Act identified several occupations as hazardous for children and incorporated them in the Act. The Act also regulates the work of children in certain other industries. However, there is no specific or all encompassing prohibition on the work for children.

The Supreme Court directions in 1996 has given impetus for immediate identification of children in hazardous occupations and their
subsequent rehabilitation, including providing appropriate education to the released children. The Supreme Court directions have accelerated the government resolve, to identify and release the working children in hazardous occupations on priority basis throughout the country. Subsequently, a large number of working children were released from hazardous work activities, after their identification through a nation-wide survey conducted by the respective labour departments of all states and union territories.

7.1. STEPS TAKEN BY GOVERNMENT OF INDIA FOR CHILD LABOUR ELIMINATION

Government of India stands committed to the elimination of child labour in the country. Our Constitution provides for protection of children from involvement in economic activities and avocations unsuited to their age. Directive Principles of State Policy in the Constitution strongly reiterates this commitment and this is also provided for in the Fundamentally Rights.1

The issue of child labour in the hazardous industries has long been an area of concern for the Government of India. The approach of the government to curb the problem of child labour is centered on education and welfare measures. Government of India with support from the ILO’s International Programme for Elimination of Child Labour (IPEC) initiated several action-oriented programme to rehabilitate those of the released children from work, in order to prevent their re-entry into labour markets. Project based action plans in the areas of high concentration of child labour, have been introduced and implemented under the action plan of the National Child Labour Projects (NCLP), by the Ministry of Labour, Government of India.

1 Ministry of Labour and Development, 2009-10, Annual Report, pg.108
Since the children released along with the help of GOI and ILO was of varying age groups, hence their immediate integration into formal schools are considered inappropriate. Hence, GOI along with ILO are provided with appropriate and time specific orientation bridge course in special Non-Formal Education (NFE) schools, to reach, up to the level of formal schools. These orientation courses are designed through non-formal education in the NCLP special schools for the purpose to educate children up to class V Level, through an accelerated 3 years educational package and after the 3 years of NFE education, the children are integrated into formal schools at class VI level. In NFE schools, the target children working in identified hazardous occupations, who have not completed 14 years of age, were enrolled. The scheme visualizes non-formal education, vocational training, supplementary nutrition and regular health care. Stipend is also provided to the children who were withdrawn from the prohibited employments and vocations to compensate for loss in family earnings. It also envisages extension of benefits of the other state Government programmes for these school children and their families by the district administration, as far as possible.

To prevent child labour; a number of legislations and executive orders have been passed from time to time in our country. To mention a few, the first protective legislation for child labour in India, known as the Indian Factories Act was enacted way back in 1881. Then after many other like the Mines Act, 1901, India Ports Act, 1931, Tea District Emigrant Labour Act, 1937, Children Act 1938, were enacted.
7.2. EDUCATION AND OTHER MEASURES TAKEN BY THE GOVERNMENT

Some critical steps have been taken by government of India to promote the rights of children for primary education to fulfill national as well as international commitments. Major steps are:

Adoption on 93rd constitutional amendment under which the state shall provide free and compulsory education to all children of 6-14 years of age, thereby making elementary education a fundamental right of all children. This amendment enforces the moral obligation on the government and society to ensure that every child has the opportunity for primary education. This is being implemented by the SARVA SHIKSHA ABHIYAN (Education for All Mission). This scheme, with special focus on the girl child (especially girls from marginalized and disadvantaged sections) incorporates all the existing schemes and programmes in the elementary education sector and aims to bring a reduction in existing social, regional and gender gaps in elementary education through active participation of the community in Panchayati Raj Institutions and School Management, under the rights approach.

In January 2001, the Government announced the establishment of a National Child Commission to review the issues surrounding disadvantaged children and to prepare programmes for the all-round development of the child. Government also gave commitment in May 2002 at the UN General Assembly, Special Session on Children that The National Child Commission will comprise of child specialist, legal experts and experts on nutrition and psychology.
7.3. UNITED NATIONS SYSTEM AND CHILD LABOUR ELIMINATION

The UN system has also effectively view child labour, as a violation of the child’s basic rights to education, to his/her full and harmonious social, physical and mental development, and in some cases a violation of the child’s moral and physical integrity. The UN believes that child labour should not be tolerated in any form and must be prevented and eliminated. The UN systems on child labour views following measures are necessary to prevent, eliminate and rehabilitate child labour in India. UN agency in accordance with their joint action aims to supplement and compliment the government and civil society interventions. It views promoting holistic human development interventions for child labour elimination are essential. The strategies adopted for child labour elimination by the UN agencies are:

a) Ensuring appropriate legal provisions and effective enforcement of relevant laws and regulation about child labour, by providing necessary awareness and training to the official machinery.

b) Facilitating convergence of holistic human development measures related to economic, social and education for the families of child workers. The measures include, income and employment generation schemes, especially directed at women’s empowerment through entrepreneurship development schemes, thrift and credit schemes and integrated poverty alleviation and community development schemes;

c) Promoting universalization of elementary education as the principle means of preventing and eliminating child labour;

d) Generating community mobilization, participation and ownership of education interventions for all out-of school children;
e) Supporting improvements in the formal education system through the development of education infrastructure (teachers training, physical facilities and supplies) and the delivery of the good quality accessible and relevant education;

f) Imparting demand driven employable vocational skills to the adult family members of the child labourers and ensuring appropriate marketing opportunities for the products produced;

g) Conducting extensive research work on child labour issues like; assessment of the magnitude and nature of the problem and approaches for working out effective programmes;

**ILO - International Programme for Elimination of Child Labour (IPEC)**

ILO launched this Programme in 1991 to contribute to the effective abolition of child labour in the world. India was the first country to sign Memorandum of Understanding (MOU) in 1992. Under the programme there is one project called INDUS Project.

**INDUS Child Labour Project**

The Government of India, Ministry of Labour and U.S. Department of Labour signed a Joint Statement on “Enhanced Indo-US cooperation on Elimination of Child Labour” in August 2000. As a follow up to Joint Statement, INDUS Project was launched in Feb 2004. The objective of the Project is to provide a comprehensive child labour elimination model worthy of replication elsewhere in the country. It is a time bound project of 3 years duration and is being implemented in 21 districts of 5 states including U.P. (covering Aligarh, Firozabad and Moradabad).
The Project envisages direct interventions in the identified 21 districts for identification and rehabilitation of child labour. The strategy under the project is to complement and build up on the existing government initiatives. It involves working closely with two important national programmes of National Child Labour Project (NCLP) Scheme & Sarva Siksha Abiyaan (SSA) Campaign of Education for All.

7.4. INTERNATIONAL LABOUR ORGANIZATION (ILO) AND CHILD LABOUR ELIMINATION

ILO interventions have focused on adopting legal provisions, sensitizing government machinery for its implementation by providing capacity building measures and strengthening partnerships with government, employer’s organizations, workers unions and local self institutes. Its approach in making child labour public issues has made it possible to bring the issue into focus agenda of government. ILO has also focused attention on facilitating income generation opportunities for the families of the child labourer’s, to make the release of children from work sustainable. Several training programmes for imparting skills for generating additional income have been supported by the ILO. It has provided financial support for developing Transitional Education Centres (TECs) in the child labour prevalent areas (both hazardous and non-hazardous occupation) as means to mainstream the child workers into formal schools. It strongly supports imparting demand driven and employable vocational training to adolescents and adults of the child labour families, to make the drive for elimination of child labour sustainable. It aims to stop the inflow of young children into work through creating education demand for children by creating awareness for
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community participation, government initiatives and through workers union and employer’s union support and partnerships.

One of the interventions have been selected for documenting good practices of ILO in the field of child labour prevention, elimination and rehabilitation that is IASP Project.

Integrated Area Specific Approach (IASP) project targets children engaged in hazardous occupations for immediate release and rehabilitation, which was one of the major concerns of the Government of India to fulfill the directions of the Supreme Court of India. The project is implemented through the District Child societies (DLCSs), with District Magistrate as its Chairman. IASP project aims to prevent, remove and rehabilitate target children engaged in hazardous occupations in the Firozabad, glass industry and Mirzapur-Bhadhoi, carpet weaving industry.

7.5. IMPLEMENTATION OF THE IASP

Identifying target children through filed survey and making them enrolled in bridge courses in the TECs, before they are put to formal schools at an appropriate age and class.

Children are imparted with skill training to enhance their earning capacity to sustain their families, in between the age of 13-16 years.

Mobilization of community support for enrolment of children in the age group of 5-7 directly into formal schools, who otherwise would have joined the labour force

Creating favorable local environment for the target families by encouraging synergy and convergence of government services that help tackle poverty alleviation measures for the families of identified child workers
7.6. ACHIEVEMENTS

The project successfulness extended to other districts also with the equal partnership from Government of India and ILO under INDUS Project. Retention rates in formal schools have improved, indicating through social mobilization and community participation.

The lessons learnt from the project has provided significant insights to improve upon the aspects of income generation capacities for families by including adolescents, aged 14-17 years as target groups, for demand driven and employable vocational training to sustain the project concept.

Significant progress has been achieved in preventing children to enter hazardous occupations and releasing of children from the indentified hazardous occupations in the targeted areas.

7.7. CHILD LABOUR ELIMINATION – STRATEGIES UNDER ELEVENTH FIVE YEAR PLAN

In passing the 86th Amendment to the Constitution of India, education is a fundamental right. This has implications for fulfillment of the obligation of the State to ensure that every child is in school. Since most children who do not attend schools are engaged in some form of work or another, it is essential that there is a comprehensive plan to withdraw children from work and mainstream them into schools. In other words the labour department has a crucial role to abolish child labour in all its forms and ensure that children enjoy their right to education. This is indeed a challenging task, but it is attained with concentrated effort and clear perspective.
Child workers can be categorized as main workers and marginal workers\(^2\) by the population census. Census data shows that there is a decline in the absolute number as well as the percentage of children (5-14) to total population in that age group, classified as main workers from 4.3 percent in 1991 to 2.3 percent in 2001. But there was a substantial increase in marginal workers in every category of worker irrespective of sex and residence. As a result, despite the number of main workers declining from 9.08 million in 1991 to 5.78 million in 2001, the total number of children in the work force increased. A large part of the increase was accounted for by the increase in marginal workers, which increased from 2.2 million in 1991 to 6.89 million in 2001\(^3\). The trends between 1991 and 2001 of declining main child workers along with increasing marginal workers may indicate the changing nature of work done by children. According to NSSO estimates WPR for children in the 5-9 age group is negligible and for children in the age group of 1-014, it still continues to be significant though declining\(^4\).

7.7.1. RECENT PROGRAMMES AND MODIFICATION

As per Article 24 of the Constitution, no child below the age of 14 years is to be employed in any factory, mine or any hazardous employment.

Recently, with the insertion of Article 21a, the State has been entrusted with

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\(^2\) Work has been defined in the Census 2001 as ‘participation in any economically productive activity with or without compensation, wages or profit.’ Such participation could be physical and/or mental in nature. This work includes supervisory work as well as direct participation in the work. For the first time, the Census includes part-time help or unpaid work on the farm, family enterprise or in any other economic activity such as cultivation and milk production for domestic consumption as work. All persons engaged in ‘work’ as defined in the Census are considered workers. Main workers are defined as those who have worked for the major part of the reference period that is 6 months or more. Marginal workers are those who have not worked for the major part of the reference period. All those workers who are not cultivators or agricultural labourers or engaged in household industry are categorized as ‘other workers’.

\(^3\) Eleventh Five Year Plan, Abolition of child labour in India

\(^4\) Eleventh Five Year Plan, Abolition of child labour in India
the task of providing free and compulsory education to all the children in the age group of 6-14 years. Consistent with the Constitutional provisions, child Labour (Prohibition and Regulation) Act was enacted in 1986, which seeks to prohibit employment of children below 14 years in hazardous occupations and processes and regulates the working conditions in other employments. In the last 5 years, the number of hazardous processes listed in the schedule of the Act has increased from 57 occupations from 7 to 13.

7.7.2. ELIMINATION OF CHILD LABOUR- NATIONAL CHILD LABOUR PROGRAMME (NCLP)

A National policy on Child Labour was announced in 1987 which emphasized the need for strict enforcement measures in areas of high child labour concentration. In order to translate the above policy into action, the Government of India initiated the National Child Labour project Scheme in 1988 to rehabilitate the working children starting with 12 child labour endemic districts of the country. Under the Scheme, working children are identified through child labour survey, withdrawn from work and put into the special schools, so as to provide them with enabling environment to join mainstream education schools, so as to provide them with enabling environment to join mainstream education system. In these special schools, besides formal education, they are provided stipend @ Rs.100/- per month, nutrition, vocational training and regular health checkups. In addition, efforts are also made to target the families of these children so as to cover them under various developmental and income/employment generation campaigns against the evils of child labour and enforcement of child labour laws.
However, so far only 3,74,255 children have been mainstreamed under the Scheme out of which only 23,251 were from U.P.

7.7.3. REVIEW OF ELEVENTH PLAN

The Child Labour (Prohibition and Regulation) Act 1986 prohibits child labour in certain occupations and processes alone and their conditions of work are regulated in the rest. The law does not prohibit child labour if rendered for one’s own family in those areas of occupation that has been considered as hazardous. Likewise, it has not purview over the regulating the conditions of work if children working are engaged to work by the family. The law has also completely left out children working in agriculture. The following steps have taken to clearly enunciate a policy that

- No child must work- and every child attends a full time formal school’ is not negotiable and that it is a goal that is possible to achieve.

- The NCLP programme which is a consequence of the Child Labour (Prohibition and Regulation) Act, 1986 focuses on the release and rehabilitation of only such children who are employed in those industries as notified in the Act. It has so far been able to mainstream only about 3.75 lakh.

Children continue to be recruited to work in the “hazardous” sector. Many girl children are being left out of getting the benefit of the NCLP program. It is found that a new set of children have taken the place of those who have been withdrawn from work. Further it has been seen that for many practitioners on the ground it is impractical to refuse children from the same neighborhood or

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5 Burra (2007) Born Unfree: Child Labour, Education and the State in India,
the family, who are in work and out of school because they do not fall under the definition of child labour.

If there has to be an end to child labour the focus must be on total abolition of child labour and in addressing the rights of the universe of children who are out of school.

**AMENDMENT TO THE CHILD LABOUR (PROHIBITION AND REGULATION) ACT 1986**

Enforcement of the law is a key strategy. But in the case of the Child Labour (prohibition and Regulation) Act 1986, there are a number of loopholes, which makes the law ineffective. The Child Labour Act must be non-negotiable and the word “Regulation” should be removed from its title so that child labour abolition becomes non-negotiable. In the same spirit the penal provisions must be enhanced, employment of child labour must be deemed as a cognizable offence and the enforcement machinery strengthened several times over so that the message is clear that child labour will not be tolerated under any circumstances.

- **REVISED NATIONAL CHILD LABOUR PROGRAMME (NCLP)**

  **TRANSITIONAL EDUCATION CENTRES**

The current National child Labour Programme (NCLP) needs to be revamped. NCLP schools must be converted into Transitional Education Centres (TECs) which are both non-residential and residential. It is very important that the guidelines for TECs are very flexible, adapting to the local situation. Every child rescued from work would have to be brought to a local TEC and the Tec would have to accept all children who are rescued from work. These TECs must act as bridges and the children are to be
handed over to the SSA programmes. This will have to be decided on a case-by-case basis.

Each TEC should have facilitates to accommodate at least 50 children at any given point of time. It is proposed to have 30 TECs (non-residential) in each of the 600 districts in the country. These TECs would be equipped for at least 50 children at any given point of time. However, it is expected that there would be even more number of children due to the intensive campaign, awareness building as well as enforcement of law. The NCLP scheme must be flexible enough to take all such children and if necessary merge a couple of TECs in one place. It is envisaged that 45 lakh children would be benefited merge a couple of TECs in one place. it is envisaged that 45 lakh children would be benefited by this arrangement.

Some children who are rescued from work have no security in terms of their family or community and are, therefore, in a highly vulnerable position of exploitation. The residential TECs would be the first post where such rescued children would be sent. It is proposed to have 2 residential TECs in each district with 50 children in each. Even here, depending upon the demand there must be flexibility to increase the residential TECs and if necessary, modify the non-residential TECs to residential ones, within the budgets that are provided for. It is envisaged that 3 lakh children would benefit from this over five years.

7.8. CONSEQUENCES OF CHILD LABOUR PROHIBITION

If the child labour could be effectively prohibited it would result in the following consequences:
• The families and the economy would lose the income generated by their children;
• The supply of labour would fall, driving up wages for adult workers;
• The opportunity cost of a child’s working time would shrink, making staying in school (assuming schools were available) much more attractive.
• In principle, a virtuous circle would follow: with more schooling, the children would get more skills and become more productive adults, raising wages and family welfare. To the extent that the demand for labour is elastic, however, the increase in wages implies that the total number of jobs would fall.
• Reducing poverty so there is less need for children to work.
• Increasing adult’s wages so there is less need for children to work.
• Improving working conditions so that children’s health and safety is ensured.
• Reducing children’s working hours so they can attend school.
• Banning hazardous and exploitative work such as bonded labour, mining and all work that exposes children to toxic substances or extreme temperatures
• Making education more attractive and relevant to children’s needs
• The families and the economy would lose the income generated by their children; the supply of labour would fall, driving up wages for adult workers; the opportunity cost of a child’s working time would shrink, making staying in school (assuming schools were available).