

ABOLITION OF CHILD LABOUR IN INDIA

Strategies for the Eleventh Five Year Plan

Executive Summary

INTRODUCTION

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 can be attained with concerted effort and a clear perspective.

1.2 Child Labour in India

India continues to host the largest number of child labourers in the world today. According to the Census 2001, there were 12.7 million economically active children in the age-group of 5-14 years. The number was 11.3 million during 1991 (Population Census) thus showing an increase in the number of child labourers. Workers in general are classified into main and marginal workers¹ by the population census. *Census data shows that there is a decline in the absolute number as well 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. 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. This is also to be seen in the context of decelerating employment growth in general in the economy during the last decade.

According to NSSO estimates WPR for children in the 5-9 age group is negligible and for children in the age group of 10-14, it still continues to be significant though declining.

¹ 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. And 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'.

1.3 Magnitude of Child Labour across States

There is across the board decline in the incidence of child labour in the Southern and Western Indian States and UTs between 1991 and 2001. However, there has been an increasing trend in the Eastern and North Indian States and UTs. While the Kerala and Tamil Nadu stories are well known, it is heartening to see that the state of Andhra Pradesh, that had a dubious distinction of having the largest child labour force in the country, shows very remarkable reduction in work-force participation, along with a dramatic increase in the enrollment of children in school.

Surprising is the case of Himachal Pradesh, which has shown significant increases in school attendance and in literacy levels.² However, there is a dramatic increase in the percentage of children in the age-group 5-14 years who are classified as workers, both main and marginal

1.4 Nature and extent of child labour and child work: Findings of the Time-use survey³

The Department of Statistics, Government of India, organized a pilot time use survey in six states of India between July, 1998, and June, 1999. This study was conducted in Haryana, Madhya Pradesh, Gujarat, Orissa, Tamil Nadu and Meghalaya. The time-use survey shows that boys and girls spend 21.46 hours a week on SNA activities, which is about 47 percent of the time spent by an adult on SNA activities. Girls (6-14) participate in extended SNA activities much more than participant men of all ages. Thus, while girls spend 13.01 hours on household management, 10.64 hours on community services and 11.17 hours on care activities, the corresponding data on time spent by men are 6.76 hours, 7.99 hours and 6.12 hours respectively.⁴

More significantly, analyzing the data Indira Hirway states that “more than 32 percent ‘nowhere’ children, who do not go to school, are largely engaged in economic or in extended economic activities. In the case of girls, their low attendance in school is not only due to their participation in economic activities but also due to the responsibilities borne by them in extended SNA activities.”⁵

2. EXISTING PROGRAMMES FOR REHABILITATION OF CHILD LABOUR

2.1 Legal Framework

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. Further, Article 39

² The Himachal Pradesh story has been well documented by Anuradha De, Claire Noronha and Meera Samson in “Primary Education in Himachal Pradesh: Examining a Success Story” in R. Govinda (edited) (2002) **India Education Report**, op.cited, pp.297-311.

³ This section draws extensively from Neera Burra (2007) **Born Unfree. Child Labour, Education and the State in India**, Oxford University Press, New Delhi

⁴ Ibid.p.98

⁵ Ibid.

requires the States to direct its policy towards ensuring that the tender age of children is not abused and that they are not forced by economic necessity to enter avocations unsuited to their age or strength. Recently, with the insertion of Article 21A, the State has been entrusted with 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 18 to 57 and occupations from 7 to 13.

2.2 National Child Labour Programme

A National Policy on Child Labour was announced in 1987 which emphasised 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 system. In these Special Schools, besides formal education, they are provided stipend @ Rs.100/- per month, nutrition, vocational training and regular health check ups. 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 programmes of the Government. The Scheme also envisages awareness generation campaigns against the evils of child labour and enforcement of child labour laws.

It is seen that the level of enforcement in the States of Tamil Nadu, Andhra Pradesh, Maharashtra & West Bengal is encouraging, whereas that in UP, Rajasthan, Madhya Pradesh & Orissa it is very low.

However, so far only 3,74,255 children have been mainstreamed under the Scheme. The State-wise break up is as follows:

State	No. of children mainstreamed
Andhra Pradesh	1,73,297
Bihar	10,704
Jharkhand	10,231
Karnataka	10,467
Madhya Pradesh	2,314
Chhattisgarh	4,171
Maharashtra	8,235
Orissa	63,237
Rajasthan	11,371
Tamilnadu	39,523
Uttar Pradesh	23,251
West Bengal	16,086
Punjab	1,368
Total	3,74,255

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

ILO launched IPEC Programme in 1991 to contribute to the effective abolition of child labour in the world. India was the first country to sign MOU in 1992. The INDUS Project envisages direct interventions in the identified 21 districts spread across five states for identification and rehabilitation of child labour. The strategy under the project is to complement and build up on the existing government initiatives.

3.. REVIEW OF PRESENT APPROACH – SOME ISSUES

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 no purview over regulating the conditions of work if children are engaged to work by the family. The law has also completely left out children working in agriculture. The first step is 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 achieve⁶.

The NCLP programme which is a consequence of the Child Labour (Prohibition & 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. 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 neighbourhood or 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 then 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.

4. RECOMMENDATIONS FOR ABOLITION OF CHILD LABOUR

In most societies where child labour has been eradicated, multi-pronged strategies were used. Stringent laws were passed which made child labour illegal. In addition the educational system was strengthened so that children removed from work could go to school.

4.1 INCLUSIVE DEFINITION OF CHILD LABOUR

An analysis of the situation of child labour in India provided in Part I of this document shows that children are working in different sectors across the country. They are to be found working in. Given the varied situations in which children are working, strategies for the elimination of child labour need to be inclusive and non-negotiable. In order to effectively abolish child labour it is necessary to remove the artificial distinction between 'child labour' and 'child work'.

⁶ Burra (2007) *Born Unfree: Child Labour, Education and the State in India*, op.cited

4.2 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 cognisable 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.

4.3 A NEW NATIONAL CHILD LABOUR ERADICATION POLICY

Several changes have occurred since the drafting of the National Child Eradication Labour Policy in 1987. A re-examination of all the laws and policies pertaining to working children is critical. There must be consistency in the constitutional and legal provisions pertaining to children’s rights especially their right to education and well-being.

4.4 REVISED NATIONAL CHILD LABOUR PROGRAMME (NCLP)

4.4.1. 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 programme. This will have to be decided on a case-by-case basis.

Each TEC should have facilities 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’s 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 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 TEC’s 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.

4.4.2 Migrant children

The NCLP needs to recognize the special situation of migrant child labourers. These could be children who have runaway from home or children who migrate seasonally with their families. Given the extent of intra-state migration, additional TECs must be set up in states/districts from where families migrate and linkages must be established with local schools so that children have a residential facility when their parents move out for work. Temporary TECs could also be set up in areas where people migrate for work such as to the brick kilns, salt pans, sugar cane areas, to name a few. Local NGOs could be supported to run these temporary TECs so that children get health and education facilities and are not roped into work.

4.4.3. NCLP Project Society at District level

Each district would continue to have a District Child Labour Project Society under the NCLP program with the District Collector as its Chairperson and a committee that assists and advises the staff. It would have to however expand its operations to going beyond running of special schools. It would add the component of an intense social mobilisation through the social mobilisers, along with taking up the TECs.

4.4.4. Social Mobilisation

Given that eradication of child labour is not an easy task, preventive strategies are more sustainable in the long run. One of the major preventive strategies, which must feature in any national child labour eradication policy, is the role of social mobilization and community participation. It is vital to ensure that children stay at home and go to formal government schools rather than leave home to work full time.

There has to be a national campaign to invoke public interest and large-scale awareness on this issue, there is a need for an extensive awareness generation campaign launched over a period of time at the Centre and State on a sustained basis. Required budgetary provisions for such a mass campaign must be provided for in 11th Plan.

4.4.5. Social Mobilisers

Child labourers are spread across the country; working in dispersed villages and slums. The eradication of child labour cannot be done by the labour department alone, as it is so under-staffed. Labour department needs to have a cadre of youth volunteers who can be trained as 'Social Mobilisers' who will be responsible for withdrawing children from work as well as monitoring school dropouts and children with irregularity of attendance. It is understood that if such children are not tracked they would join the labour force as child labour.

It is proposed to have 5 social mobilisers in each of the 6202 Blocks in the country. Each of the social mobilisers would be responsible for 200 children and it is envisaged that through their activity the status of more than **3 crore** children would be monitored.

4.4.6 Survey of child labour

It is necessary that the government commission research and surveys on different aspects of child labour in the country. This is important since the last countrywide enumeration

of the working children was held in 2001 Census and the incidence of child labour may have undergone change since then with population growth and the large-scale migration of workforce.

5 .SYNERGY BETWEEN ALL CONCERNED DEPARTMENTS

Ministries and departments have different roles to play in order to ensure that children removed from work are properly rehabilitated and do not go back into the work force.

5.1. Department of Labour

The department of Labour's function is to identify and rescue child labour and ensure that all the children who are out of school in an area are covered; Enforce law- and action against employers of children; Counsel rescued children and mainstream them into formal schools; Coordinate all the concerned departments of education, police, youth, welfare panchayat raj, and women and child development and establish protocols for collaborative action; Establish TECs for children rescued from labour.

5.2. Department of Education

The department of education has the task of integrating all out of school children which includes child labour and school dropouts into the school system and ensure that children enjoy their right to education. Their function is to prevent children from joining the labour force the education department must ensure that all children in the 5-8 years age group are enrolled and retained in schools; through SSA pay attention to children in the 9-14 age groups like child labour, migrating children, street children, domestic child workers and school dropouts and never enrolled children and provide for residential and non-residential bridge courses, seasonal hostels, mobile schools and work-site schools for children who migrate with their families must from the very beginning be linked to a formal government school.

5.3. Department of Home/Police

The role of the police is, booking the right cases under the Child Labour Act and all other relevant Acts; take complaints all missing children and track them and follow up in the best interest of the child and their right to education.

5.4. Department of Youth Affairs

The Nehru Yuvak Kendra Sangatanas (NYKS) under the Ministry of Youth Affairs and Sports has a huge network of youth clubs across the country. They must spearhead a campaign against child labour and for children's right to education in the entire country.

5.5. Department of Panchayat Raj

The Ministry for Panchayat Raj /Rural Development is to ensure that all gram panchayats fully monitor the status of children in their area. It must also provide training for the gram panchayats to track children and protect their rights

5.6. Department of Women and Child Development

The Ministry must strengthen Child line and expanded to every district of the country. A Juvenile Justice Board and a Child Welfare Committee (CWC) must be set up in every district as required in the JJ Act of 2000. There is a need for the Labour department to coordinate its activities with the CWC.

5.7. Involvement of Judiciary

There has to be an orientation for the judiciary and establishment of procedures for making the courts child friendly. Children must not be allowed to make forays to the Court till they turn hostile. There is a need to also establish mobile courts for quick and timely action to rescue children and book cases.

5.8. Role of Gram Panchayats

At the level of gram panchayats, children would not be statistics but will have specific names. If children are not found in the village or with their family, there must be an immediate enquiry into their whereabouts. As a first step they must lodge a police complaint and pursue the matter till children are found and rescued from whatever location they might be in. A list of all such children who are not in the families must be drawn up and consolidated at the mandal/block/ and district level. It must be monitored at the State level and reviewed systematically.

5.9 Vocational Training for children in 15-18 years age group

The Labour Department should assist children who have completed Class X to get vocational training by linking them up to local ITIs, NGO run vocational training programmes and private sector initiatives. They should not run vocational training centers as the track record of vocational training centers set up by the labour departments is extremely poor. The labour department should instead help older children to get placements in the job market.

6. TRAININGS

Youth volunteers, gram panchayats, school teachers, officers of labour department and so on must all be given training about child labour and their respective roles in abolition of child labour. Training modules are to be prepared on the issue of child labour and education. All the participants must have a legal literacy and have a full knowledge of children's rights and their entitlements, the role of various departments, and awareness of the schemes and programs meant for children.

7. STRUCTURES AND PROCESSES FOR MONITORING RESCUE, RELEASE AND MAINSTREAMING OF CHILDREN

7.1 Formation of Task Force at Block/District level

7.2 Constitution of State Monitoring Committee to review problems and issue specific guidelines and circulars.

7.3 National Committee to Review Program

7.4 Inter ministerial committee