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## A STUDY OF CHILD LABOUR IN INDIA – GREATNESS AND CHALLENGES

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### Abstract

Children in Indian society has always been a topic less spoken or discussed. The reasons of the same can be traced back to the socio-cultural background of the country. In the world children are taken as the greatest gift to humanity. Childhood is an important stage of human development as it holds the potential to the future of any society. Children who are brought up in an environment which is helpful to their intellectual, physical and social development will go on to be responsible and productive part of the society. Thus, every society links its future to the present status of its children.

Today child has been defined differently by different agencies as per their view and there is a very large gap and contradiction in these definitions.

This paper attempts to summaries the different meaning to the word child and also give a brief overview of the magnitude of the issue from an Indian perspective.

An attempt has been made to study the government policy documents and list down the actions as proposed and implemented by Indian government in the 11<sup>th</sup> 5-year plan which has just ended in 2012.

Some suggestions collected by the author, from academicians and also from the policy and plan documents about the way of eradicating the problems, are summerised in the paper.

In the end the outline of the plan and strategies as identified are also given with author's suggestions. The paper identifies that a lot of policy plans have been worked but there is an urgent need for a social movement for this issue to really get addressed and resolved.

**Keywords:** HumanDevelopment, Potential, Intellectual.

### Introduction

Children in Indian society has always been a topic less spoken or discussed. Children in every society have always been taken as the greatest gift to humanity. Childhood is an important stage of human development as it holds the potential to the future development of any society. Children who are brought up in an environment, which is helpful to their intellectual, physical and social development go on to be responsible and productive part of the society.

If we are to engage the children in to work when they are too young for the task, we are unduly reducing their present welfare or their future income earning capabilities, either by shrinking their future external choices or by reducing their future individual productive capabilities. Generally, it is said that due to economic problems children are forced to forego educational and other development opportunities and take up jobs which mostly exploit them as they are usually underpaid and engaged in hazardous conditions. Parents send their child for a job as a desperate measure due to poor economic conditions. It is therefore no wonder that the poor households represent the largest segment contributor of child labour. One of the key aspects of child labour is that children are sent to work at the expense of education. There is a strong effect of child labour on school attendance rates and the length of a child's work day is inversely associated with their capacity to attend school. Child labour restricts the right of children to access and benefit from education and denies the fundamental opportunity to attend school. Child labour, thus, prejudices children's education and also adversely affects their health and safety.

### Who is a Child –

International Labour Organization (ILO) states, the term child labour is best defined as work that deprives children of their childhood, their potential and their dignity, and that is harmful to their physical and mental development. It refers to work that is mentally, physically, socially or morally dangerous and harmful to children, or work whose schedule interferes with their ability to attend regular school, or work that affects in any manner their ability to focus during school or experience healthy childhood. <sup>i</sup>

ILO states that child labour may be defined in different ways, and different definition would yield different estimates of child labour. According to ILO, children or adolescents who participate in work that does not affect their health and personal development or interfere with their schooling, is not child labour; rather it may generally be regarded as being something positive. Such harmless work includes activities such as helping their parents at home, assisting family or earning pocket money outside school hours and on



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holidays. Such kinds of activities may contribute to children’s development by providing them with skills and experience, and help to prepare them to be productive members of society during their adult life. <sup>ii</sup>

UNICEF definition of child labour is different. A child is involved in child labour activities if between 5 to 11 years of age, he or she did at least one hour of economic activity or at least 28 hours of domestic work in a week, and in case of children between 12 to 14 years of age, he or she did at least 14 hours of economic activity or at least 42 hours of economic activity and domestic work per week. UNICEF in another report says, "Children’s work needs to be seen as happening along a spectrum, one end being destructive or exploitative work and beneficial work - promoting or enhancing children’s development without interfering with their schooling, recreation and rest’ being the other end. And between these two ends there are vast areas of work that may or may not negatively affect a child’s development." <sup>iii</sup>

In India, The Child Labour (Prohibition & Regulation) Act, 1986 has defined the child as anyone who is “a person who has not completed his fourteenth year of age”

The law further has defined the establishment for employment as, “The “establishment” includes a shop, commercial establishment, work-shop, farm, residential hotel, restaurant, eating-house, theatre or other place of public amusement or entertainment”.

The Child Labour (Prohibition & Regulation) Act, 1986 states that employment in hazardous industries is prohibited, such industries are classified into 13 occupations and 57 processes. 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.

Also, 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 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 a vocation 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.

India's Census 2001 office defines child labor as participation of a child in any economically productive activity with or without compensation, wages or profit. Such participation could be physical or mental or both. This work 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 sale or domestic consumption. Indian government classifies child laborers into two groups: Main workers are those who work 6 months or more per year. And marginal child workers are those who work at any time during the year but less than 6 months in a year.

### Child Labour in India

It is estimated that India has the largest number of child labourers in the world. According to the Census 2001, there were 1.27 cr. economically active children in the age-group of 5-14 years. The number was 1.13 cr. during 1991 (Population Census).

### Who is a worker?

Workers in general are classified into main and marginal workers 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 90.8 lacks in 1991 to 57.8 lacks 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 22 lacks in 1991 to 68.9 lacks 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 decline in employment growth in general in the economy during the last decade.

### Magnitude of Child Labour in India

One must acknowledge that at policy level India has all along followed a proactive policy in addressing the problem of child labour and has always stood for constitutional, statutory and developmental measures that are required to eliminate child labour. The Constitution of India has relevant provisions to secure compulsory universal primary education. Labour Commissions and Committees



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have gone into the problems of child labour and made extensive recommendations. India’s judiciary, right up to the apex level, has demonstrated profoundly empathetic responses against the practice of child labour. Despite several proactive legislations, policies and judicial pronouncements, the problem of child labour persists as a challenge to the country.

The corresponding fall in boys and girls workforce during 1983 to 2004-05 is observed to have decreased from 1.206 cr. to 47.6 lacks, and 94.9 lacks to 43.1 lacks, respectively. In effect, the gender difference that existed between boys and girls (adverse against boys) during the early 1980s has almost dissipated in recent years, the difference being slowed down from 25.7 lack to roughly 4.5 lacks. However, in absolute numbers, the problem is large. As per the Census 2001, there are 1.26 crores economically active children in the age-group of 5-14 years. It was 1.13 crores in the 1991 Census.

The magnitude of child labour in India has been witnessing decline in the last two decades, both in terms of magnitude and workforce participation rates. Evidence drawn from the National Sample Survey data suggest that India’s child workforce during 2004-05 was estimated at little over 90.7 lacks as against 2.155 cr. in 1983. During this period, the number of child employment has declined by 1.248 cr. A bigger fall in child workforce is observed among boys than girls.<sup>iv</sup>

The number of working children in the major child labour endemic states as per the 1991 and 2001 Census is given below:

Sl.No.	Name of the State/UT	Census 1991	Census 2001
1.	Uttar Pradesh	14,10,086	19,27,997
2.	Andhra Pradesh	16,61,940	13,63,339
3.	Rajasthan	7,74,199	12,62,570
4.	Bihar	9,42,245	11,17,500
5.	Madhya Pradesh	13,52,563	10,65,259
6.	West Bengal	7,11,691	8,57,087
7.	Karnataka	9,76,247	8,22,615
8.	Maharashtra	10,68,418	7,64,075
9.	Gujarat	5,23,585	4,85,530
10.	Tamil Nadu	5,78,889	4,18,801
	All India total	1.13 crores	1.26 cores

Source – National census 1991 and 2001

Among the states, Uttar Pradesh accounts for a larger share of close to one fourth of all child labour in India followed by Andhra Pradesh. While Maharashtra and West Bengal respectively garnered 9 & 8 percent of India’s child employment. The share of Uttar Pradesh has dramatically shot up in one decade from less than 13% in the mid-1990s to close to 23% in 2004-05, which is a cause for serious concern. While the share of Andhra Pradesh seems to have declined quite considerably during this period.

In the age group of 5–14 years, 89.3 per cent of children were in school in 2009-10, up from 82.4 per cent in 2004-05. Further this increase was higher for girls, rising from 79.6 per cent in 2004-05 to 87.7 per cent in 2009-10. In the 15–19 years age group, 59.5 per cent of young people were in the educational system in 2009-10 as compared to 46.2 per cent in 2004-05. Once again, the increase was more for girls, from 40.3 to 54.6 per cent. In the next higher age group of 20–24 years, 22.5 per cent of boys and 12.8 per cent of girls were still in the educational system in 2009-10 against only 14.9 and 7.6 per cent, respectively, in 2004-05.<sup>v</sup>

Their distribution in some major hazardous occupations is given below:

Number of child workers (5-14 years) engaged in Hazardous Occupations as per 2001 Census

1	Pan, Bidi & Cigarettes	252574
2	Construction	208833
3	Domestic workers	185505
4	Spinning/ weaving	128984
5	Brick-kilns, tiles	84972
6	Dhabas/ Restaurants/ Hotels/ Motels	70934



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7	Auto-workshop, vehicle repairs	49893
8	Gem-cutting, Jewellery	37489
9	Carpet-making	32647
10	Ceramic	18894
11	Agarbati, Dhoop & Detergent making	13583
12	Others	135162
Total		1219470

### Causes for the Child Labour

The various government studies and policy statements and also as per different social and economic scholars the following are some of the major reasons for the problem of child labour in India. These issues become very evident from the plans of the government being targeted towards solving these issues.

1. Poverty
2. Lack of education
3. Economic uncertainties
4. Indebtedness
5. Employment (or lack of employment)
6. Landlessness at rural areas for majority of the population
7. Weak policy of legal framework
8. Weak social awareness

Government Initiatives in India – Legislation, Policy, Programmes and other Interventions the Constitutional guarantees are reflected in the policies, plans, laws and schemes on child labour. 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 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 6-14years.

Child Labour (Prohibition and Regulation) Act (1986) was the culmination of efforts and ideas that emerged from the deliberations and recommendations of various committees on child labour.

At policy level Government of India has been persuing the matter in right earnest. Some of the significant initiatives were,

- a) National Commission on Labour (1966-1969),
- b) The Gurupadaswamy Committee on Child Labour (1979)
- c) The Sanat Mehta Committee (1984).
- d) National Policy on Child Labour was formulated in 1987
- e) National Plan of action for children 2005

The three components stated in the National Policy on Child Labour are:

- a) Legislative Action Plan emphasizing strict and effective enforcement of legal provisions relating to Child Labour,
- b) Focus on General Development Programmes for benefiting children and their families, and
- c) Project-based Plan of Action focusing on areas with high concentration of child labour through implementation of National Child Labour Project.

To address the demand and supply factors including cheap and docile labour, poverty, illiteracy, indebtedness, unemployment and landlessness, that contribute to the prevalence of child labour, Government of India follows a multipronged strategy which involves strong enforcement of legal provisions relating to child labour with simultaneous efforts towards rehabilitation of children and by making efforts of raising the income levels of parents through linkages with the employment and income generation programmes and other poverty alleviation programmes of the Government.



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With the objective to implement the multi-pronged strategy the National Child Labour Project (NCLP) was first initiated in 1988, as a part of a larger Plan of Action arising out of the National Child Labour Policy. The National Child Labour Project has been strengthened by several major initiatives at national, state and district level in the country aiming at elimination of child labour. The main thrust of this scheme has been to reduce the incidence of child labour in the pockets of their concentration. Providing education through special schools and subsequently bringing them in regular schools are the major activities under the NCLP at the ground level. The working children are identified through surveys conducted by the independent agencies, and inspections conducted by the Labour Department. On the basis of their reports, children are withdrawn from labour force. These children are enrolled in the special schools which provide formal/non-formal education, vocational training, supplementary nutrition, monthly stipend, regular health check-up, etc., and are subsequently mainstreamed in formal education or selfemployment within a period of six months to three years of their enrolment in the special schools.

### Child Development in 11<sup>th</sup> Five Year Plan 2007 to 2012

The child development approach in the Eleventh Plan is to ensure that children do not lose their childhood because of work, disease, and despair. It is based on the understanding that the rights of all children, including those who do not face adverse circumstances, must be protected everywhere and at all times so that they do not fall out of the social security net. The essence of the Eleventh Plan strategy for Women Agency and Child Rights is summarized in Box.

#### Essence of the Approach

- Recognition of the right of every woman and child to develop to her/his full potential
- Recognition of the differential needs of different groups of women and children.
- Need for inter sectoral convergence as well as focused women and child specific measures through Ministry of Women & Child Development
- Partnership with civil society to create permanent institutional mechanisms that incorporate the experiences, capacities and knowledge of VOs and women’s groups in the process of development planning.

### REACHING OUT TO THE MARGINALIZED AND MOST VULNERABLE

#### Child Workers

Statistics show that the number of child workers has gone up from 1.128 cr. in 1991 to 1.266 cr. in 2001. This increase is primarily attributed to States like Uttar Pradesh, Bihar, Rajasthan, and West Bengal.<sup>vi</sup>

#### Eliminating Child Labour

Child labour as such is not illegal in India except in specific hazardous occupations. With effect from October 2006, the Ministry of Labour has included domestic work and employment in dhabas, tea stalls, and restaurants in the schedule of prohibited occupations under the Act. As a result, a large number of children may be laid off, especially in metropolitan cities and big towns. It will be necessary to take adequate measures for the protection, rehabilitation, and education of these children.<sup>vii</sup>

### RECOMMENDATIONS

In world economies where child labour has been eradicated, multi-pronged strategies were used. Stringent laws were made making child labour illegal. Also, the educational system was strengthened so that children removed from work could go to school.

#### 1. A New Definition of Child Labour

An analysis of the situation of child labour in India shows that children are working in different sectors across the country. Given the varied situations in which children are working, strategies for the elimination of child labour need to be inclusive and non-negotiable. One of the most important changes that is needed is removal of the artificial distinction between ‘child labour’ and ‘child work’.

#### 2. Amendment to the Child Labour (Prohibition & 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 Act must be non-negotiable and to do so it is suggested that the word “Regulation” should be removed so that child labour abolition becomes non-negotiable. Similarly, the penal provisions must be enhanced, employment of child labour must be deemed as a cognisable offence with imprisonment to the offending employer. So that a clear message is given that child labour will not be accepted.



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### 3. A New Policy for Child Labour

A lot of changes have been done since the child labour policy 1986. But a further relook of all the laws and policies is urgently needed. Consistency in the constitutional and legal provisions pertaining to children's rights is critical and required.

### 4. 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. It is envisaged that 45 lakh children would be benefited by this arrangement. It was envisaged in the 11<sup>th</sup> plan that 3 lakh children would benefit from this.<sup>viii</sup>

### 5. Migrant children

The NCLP needs to recognize the special situation of migrant child labourers. These could be children who have run away from home or children who migrate seasonally with their families. Given the extent of intra-state migration, educational centers have to be strengthened and the involvement of the local NGOs has to be done.

### 6. 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 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 level on a sustained basis. Required budgetary provisions for such a mass campaign must be provided by the government.

### 7. Social Mobilizes

Child labour is spread across the country; in dispersed villages and slums. The eradication of child labour cannot be the function of labour department alone. There has to be a movement which ropes in the society and the members of the society must be given a legal or official status. As proposed in the 11<sup>th</sup> plan Labour department needs to have a cadre of youth volunteers who can be trained as 'Social Mobilizes' who will be responsible for withdrawing children from work as well as monitoring school dropouts and children with irregularity of attendance.

The planning commission estimated that, if implemented, through this policy the status of more than 3 crores children would be monitored.

### 8. Survey of child labour

It is necessary that the government commissions research and surveys on different aspects of child labour in the country. This is important as to effectively abolish child labour it is necessary to remove the artificial distinction between 'child labour' and 'child work'.<sup>ix</sup>

### 9. Correction of Anomaly of Age of The Child in India as per Different Laws

Recognizing everyone below the age of 18 as children and respecting their rights was an important 11<sup>th</sup> 5-year plan initiative. The challenge is to amend all legislations and laws to ensure a uniform definition of children, as stipulated under UNCRC and JJ Act. The Child Labour Act and related legislations like The Factories Act, 1948, The Mines Act, 1952, The Plantation Labour Act, 1951, The Merchant Shipping Act, 1958, The Motor Transport Workers Act, 1961, The Beedi and Cigar Workers (Conditions of Employment) Act, 1966, The Bonded Labour System (Abolition) Act, 1976 continue to prohibit employment of children under 14 years only. The ITPA, 1956 draws heavily from the Indian Penal Code 1860, which define a child as someone who is less than 16 years of age under ITPA as well. As per different laws there are different definitions and meanings to child and child labour which needs to be corrected and a uniform legal definition has to be made.<sup>x</sup>

### CONCLUSION

The National Plan for Children 2005 would be a very good document for eradicating the child labour form India. The goals of the plan were,

1. To eliminate child labour from hazardous occupations, and progressively move towards complete eradication of all forms of



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child labour.

2. To protect children from all kinds of economic exploitation.

The plan had clearly defined the objectives and strategies for achieving the above-mentioned goals. These objective and strategies were,

### Objectives

1. To ensure regular and systematic enumeration of all child labour.
2. Institute a rights-based uniform definition of child labour and bonded child labour in existing labour laws.
3. To expand the list of hazardous occupations to facilitate progressive elimination of all forms of child labour.
4. To universalise and accelerate school enrolment, attendance and retention so that children are prevented from being employed as labour.
5. To intensify and implement strategies to protect children from economic exploitation.
6. To take immediate and effective measures to prohibit and eliminate child labour and to provide for the rehabilitation and social integration of the rescued children.
7. To prevent and prohibit trafficking of children for the purpose of labour including domestic service and other informal sectors.

### Strategies

1. Country-wide survey to ascertain the existence, prevalence and nature of child labour in both the organised and un-organised sectors.
2. Effectively enforce child labour regulatory legislation and rehabilitation of working children through enrolment in schools, bridge courses of education/life skill training/counseling etc.
3. Link the child labour elimination efforts with education measures to ensure that all children in the age group of 5-8 years get directly linked to school and the older children are mainstreamed to the formal education system through the rehabilitation centers.
4. Ensure convergence of national poverty eradication and developmental programmes aiming at prevention and progressive elimination of all forms of child labour.
5. Educate society not to employ children or economically exploit them.
6. Safeguard the health, safety and developmental rights of working children with interim protective measures.
7. Ensure involvement of committed voluntary organizations at the district level to assist.
8. Introduce bridge schools for all working children after which they have to be enrolled in the formal schools.
9. Develop mechanisms to ensure that children, presently working in the informal sector including domestic service, have access to basic nutrition, clothing, education and protection from all forms of abuse and neglect.
10. Ensure prevention of trafficking of children for domestic work and their sexual exploitation and physical and mental abuse and neglect. Establish a system for reporting of such incidents.
11. Licence & regulate placement services to ensure that children are not offered for employment
12. Ensure implementation of Inter State Migrant Workman's Act.
13. Strengthen and enforce the Child Labour (Prohibition and Regulation) Act, and the Bonded Labour System (Abolition) Act to ensure prosecution of offenders.
14. Ministries and Departments with specific child budgets and plans should ensure 100% spending and should also enhance budget in view of large child population.
15. Where no overt child budget is available in ministries and departments, the demarcation should be made of child budget, spending and monitoring.

The author feels that Government and every member of the society has to work towards the complete removal of the child labour. Especially as this has a direct bearing on the economy. And for any economy to really develop and be professional tomorrow the child of today must gain right education, environment and opportunity to develop.

In the end the author would like to give the following 2 suggestions as an appeal to all corporate and academicians for action.

1. All corporate should as a part of corporate citizenship charter give a pledge and declaration that they would not employ or encourage child labour

All educational institutions especially management institutes should include in their oath of the passing out student a



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commitment of not employing or encouraging child labour.

Any attempt has been made through this paper to look at the magnitude and the planning of government in India on the issue. There is further scope of studying the sector specific implications and importance of the same. Also, there is urgent need for studying the role and perspective of the society towards child worker specifically towards the new emerging service sectors in India. It is also suggested that a process of studying the issue from ethical and moral perspective also. Especially since the culture of a society plays the vital and important role in establishing the norms and laws.

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