

## Chapter-12

## CHILDREN AND WORK

## INTRODUCTION

12.1 Elimination of Child Labour is an area of concern and of commitment for the Government of India. The framers of the Indian Constitution consciously incorporated relevant provisions in the Constitution to secure compulsory universal elementary education as well as protection of children

from involvement in economic activities and in avocations unsuited to their age. After the recent Constitutional Amendment, Right to Education for children below the age of 14 years is now a Fundamental Right. **Box-1** postulates the various constitutional provisions which aim at protecting children from employment.

<b>CONSTITUTIONAL PROVISIONS</b>		<b>Box-1</b>
<p><b><u>Article 21 A</u></b></p> <p><b>Right to Education</b></p> <p>The State shall provide free and compulsory education to all children of the age of 6 to 14 years in such manner as the State, by law, may determine.</p> <p><b><u>Article 24</u></b></p> <p><b>Prohibition of employment of children in factories, etc.</b></p> <p>No child below the age fourteen years shall be employed in work in any factory or mine or engaged in any other hazardous employment.</p>	<p><b><u>Article 39</u></b></p> <p><b>The State shall, in particular, direct its policy towards securing:-</b></p> <p>(e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.</p>	

12.2 Consistent with the constitutional provisions, the country has also enacted statutory and implemented developmental measures required for eliminating child labour.

12.3 However, despite the efforts of the Government the problem of child labour, which is mainly an outcome of economic deprivation and illiteracy, still remains fairly considerable. According to the figures made available by the Registrar General of India in 2001, there were 1.26 crore working children (5-14 years) in our country as compared to 1.13 crore in 1991. State wise distribution of child labour population shows that Uttar Pradesh (0.19 crore) has the highest child

labour population in the country, followed by Andhra Pradesh (0.14 crore), Rajasthan (0.13 crore) and Bihar (0.10 crore). More than 90 per cent of the child labor is engaged in rural areas in agriculture and allied employments like cultivation, agricultural labour, live-stocks, forestry and fishery.

### LEGAL PROTECTION OF CHILDREN AT WORK

12.4 The policy of the Government is to ban employment of children below the age of 14 years in factories, mines and hazardous employments and to regulate the working conditions of children in other employments. The Child Labour (Prohibition & Regulation)

Act, 1986 seeks to achieve the above objective. The Act prohibits employment of children in occupations and processes listed in part-A & B of the Schedule to the Act. It also regulates the working conditions of children in other employments (which are not prohibited under the Child Labour (Prohibition & Regulation) Act, 1986).

12.5 The Act provides for constitution of the Child Labour Technical Advisory Committee (which is a body of experts) to advise the Central Government on additions of occupations and processes to the Schedule of the Act. The Committee consists of a Chairman and such other members, not exceeding 10, as may be appointed by the Central Government. During the last five years, the number of hazardous occupations listed in the Schedule of the Act has increased from 7 to 13 and processes from 18 to 57 on the recommendations of the Technical Advisory Committee.

12.6 The State Government is the appropriate Authority for implementing the Child Labour (Prohibition and Regulation) Act, 1986. The Department of Labour through its inspectorate mechanism is the enforcement authority in the State.

### **SUPREME COURT JUDGMENT ON CHILD LABOUR**

12.7 The matter regarding elimination of child labour has also been deliberated by the Hon'ble Supreme Court. The Supreme Court of India, in its judgment dated 10.12.1996 in Writ Petition (Civil) No.465/1986 has given certain directions regarding the manner in which the children working in the hazardous occupations are to be withdrawn from work and rehabilitated. The Hon'ble Court also gave directions on the manner in which the working conditions of the children working in non-hazardous occupations are to be regulated and improved upon.

12.8 The important directions given in the judgment dated 10.12.1996 include (a) completion of the survey of children working

in hazardous employments within a period of six months; (b) payment of compensation amounting to Rs.20,000/- by the offending employer for every child employed in contravention of the provisions of the Act; (c) giving alternative employment to an adult member of the family in place of the child withdrawn from the hazardous occupations or payment of an amount of Rs.5,000/- for each child employed in hazardous employment by the appropriate Government; (d) payment of interest on the corpus of Rs.25,000/- (Rs.20,000/- to be paid by the employer and Rs.5,000/- to be contributed by the appropriate Government) to the family of the child withdrawn from work; (e) provision of education in a suitable institution for the child withdrawn from work; (f) constitution of the Child Labour Rehabilitation-cum-Welfare Fund; (g) constitution of a separate cell in the Labour Department of the appropriate Government for the purpose of monitoring.

12.9 In a related judgment on 07.05.1997, the Supreme Court in Writ Petition Civil No.12125/84 and 11643/85- Bandhwa Mukti Morcha, etc. (Petitioner) V/s UOI & Ors. (Respondents) has also given a number of directions on the identification, release and rehabilitation of child labour. The Court, inter alia, directed Government of India to convene a meeting with the State Government to evolve principles/policies for progressive elimination of employment of children below 14 years in all the employments consistent with the scheme laid down in Civil Writ Petition No.465/86. These directions were given by the Court in the context of employment of children in the carpet industries in the State of U.P. In this case, the court issued the following directions to the State Government of Uttar Pradesh:

- Investigate into the conditions of employment of children;
- Issue such welfare directions as are appropriate for total prohibition of employment below 14 years of age; and
- Provide facilities like education, health, sanitation, nutritious food, etc.

12.10 The implementation of the directions of Supreme Court is being monitored by the Ministry of Labour & Employment and compliance of the directions is reported to the Hon'ble Court on the basis of information received from the State/UT Governments from time to time.

### **NATIONAL CHILD LABOUR POLICY**

12.11 The constitutional and legislative provisions providing protection to children against employment also found an echo in the National Child Labour Policy announced in 1987. The policy addresses the complex issue of child labour in a comprehensive, holistic and an integrated manner. The action plan under this policy is multi-pronged and mainly consists of: -

- (i) A legislative action plan;
- (ii) Focuses on general development programmes for the benefit of the families of children; and
- (iii) Project-based action plan in areas of high concentration of child labour.

12.12 In pursuance of this policy, the Ministry of Labour and Employment has been implementing the National Child Labour Project Scheme (NCLPs) which is a project-based action programme. Under the programme, 12 National Child Labour Projects (NCLPs) were initiated during the 7<sup>th</sup> Plan with the objective of withdrawing and rehabilitating children working in identified hazardous occupations and processes. These 12 NCLPs were in Andhra Pradesh (Jaggampet and Markapur), Bihar (Garwah), Madhya Pradesh (Mandsaur), Maharashtra (Thane), Orissa (Sambhalpur), Rajasthan (Jaipur), Tamil Nadu (Siva Kashi) and Uttar Pradesh (Varanasi - Mirzapur - Bhadoi, Moradabad, Aligarh and Ferozabad).

12.13 Later, a major programme for withdrawing children working in hazardous occupations and rehabilitating them through special schools was launched on 15 August,

1994. As a consequence of this and the Supreme Court judgment, 64 area-based projects were sanctioned in addition to the 12 continuing projects. By the end of the 9<sup>th</sup> Plan, the NCLP scheme was extended to 100 districts in 13 States.

12.14 The Government has approved the continuation of existing 100 NCLPs during the 10<sup>th</sup> Plan. It has also approved setting up of additional 150 NCLPs. Therefore, in the 10<sup>th</sup> Plan, the scheme will cover 250 districts in 20 States. All the 150 additional districts have been identified and efforts are already underway to implement the scheme in the newly identified districts. List of the districts taken up under the NCLP Scheme are at **Table-12.1**. The outlay for the 10<sup>th</sup> Plan has also been increased to Rs.667 crore (this includes Ministry of Labour and Employment's contribution to INDUS project) as compared to Rs.250 crore in the previous plan period.

### **NATIONAL CHILD LABOUR PROJECT (NCLP) SCHEME**

12.15 The NCLP scheme is a Central sector scheme. Under the scheme project societies are set up at the district level under the Chairpersonship of the Collector/District Magistrate for overseeing the implementation of the project. Instructions to involve civil society and NGOs have also been issued.

12.16 The project aims at withdrawing and rehabilitating children working in identified hazardous occupations and processes through special schools and finally mainstreaming them to the formal education system. Each special school provides for enrolment of 50 children. There is a provision of two educational instructors and one vocational instructor for every special school. A stipend of Rs.100 per month is paid to each child and mid-day meals at the rate of Rs.5 per child per day are also provided. Besides this, vocational training and health check-ups are essential components of the scheme.

12.17 Till September 2004-2005, 4077 special schools have been sanctioned with an overall coverage of 203850 children. From the inception of the scheme, 3.22 lakh children have so far been mainstreamed.

### STRATEGY IN THE 10<sup>TH</sup> PLAN

12.18 Child labour is commonly understood to be the result of economic deprivation and widespread illiteracy. Therefore a multi-pronged, integrated and holistic approach is required to tackle the problem. Considering the nature and magnitude of the problem, a gradual and sequential approach has been adopted to withdraw and rehabilitate children beginning with the children working in hazardous occupations and processes.

12.19 In the 10<sup>th</sup> Plan, the policies and programmes for elimination of child labour will be continued in a more focused manner. During the period it has to be ensured that all children working in identified hazardous occupations and processes as acknowledged by the survey conducted by the project society are withdrawn and mainstreamed to the formal education system. The commitment of the Government would be to ensure effective enforcement and subsequent mainstreaming of child labour at the district level in such a manner as to achieve the total elimination of child labour in the hazardous sectors by the end of the 10<sup>th</sup> Plan period.

12.20 Efforts on eliminating child labour have been strengthened in the 10<sup>th</sup> Plan by linking them with the Sarva Siksha Abhiyan of the Ministry of Human Resource Development. As part of this, child workers in the age group 5 - 8 years will be directly mainstreamed through formal schools. Working children in the age group of 9 - 14 years would be mainstreamed through the special schools of NCLPs to formal education system. Besides this, during the 10<sup>th</sup> Plan, the formal school mechanism would be strengthened both in terms of quality and numbers.

12.21 In addition to the above, convergence

with the on-going schemes of other Ministries/Departments such as Ministry of Health, Ministry of Rural Development/Social Justice etc. at the State, District, Mandal and Micro level would be critical for the attainment of the objective of elimination of child labour, in a time-bound manner.

12.22 The NCLP scheme has also been revised to include/strengthen certain important parameters. The revised scheme provides for:

- one master vocational trainer for each NCLP district. This will strengthen the vocational training component of the scheme.
- one medical doctor for every 20 schools to take care of the primary health needs of the children.
- the amount for provision of nutrition to the children in the special schools has been doubled from Rs.2.50 per child per day to Rs.5.00 per child per day.
- As against the earlier arrangement of disbursing the stipend of Rs.100/- per child per month, in the revised scheme, the monthly stipend will be deposited regularly in the bank account of the child and disbursed to her/him as a lump sum amount at the time of her/his mainstreaming into the regular schools.
- Large-scale involvement of the voluntary organizations at the district level to assist in the running of NCLP schools. The attempt during this Plan would be to encourage the running of the rehabilitation schools only through accepted and committed NGOs so that the Government machinery is not burdened with running of such schools.

12.23 By following the strategy enunciated above and combining this with the existing established mechanism of enforcement, it is expected that a drastic reduction in child labour would result by the end of the Plan period.

### EVALUATION OF THE NCLP SCHEME

12.24 A Central Monitoring Committee has been set up for the overall supervision, monitoring, evaluation of the National Child Labour Projects under the Chairmanship of Secretary, Ministry of Labour and Employment with representatives of State Governments and concerned Ministries/ Departments. State Governments have also been advised to set up State Level Monitoring Committees similar to the Central Monitoring Committee. Action is also being taken at the district and the State level to monitor the pace and progress of operationalisation of NCLPs. Detailed instructions have been issued to Project Societies, regarding the manner of operationalisation of projects, selection and training of teachers, curriculum, course content and textual material, evaluation of learning outcomes, mainstreaming of children etc.

12.25 A comprehensive exercise to evaluate the NCLPs in the country was conducted by independent agencies in 2001. Fifty NCLPs were covered in the first phase. The evaluation exercise was coordinated by the V.V. Giri National Labour Institute, Noida. The recommendations of the evaluation exercise have been taken into account while preparing the strategy for the 10<sup>th</sup> Plan.

12.26 The major findings and recommendations were that:

- in most areas, the community has welcomed the opening of the NCLP schools.
- provision of mid-day meal and stipend are important motivational factors for parents to send their children to the special schools.
- local attempts to link training of teachers/ instructors to the District Primary Education Programme (DPEP) or have them systematically trained through DIET/DRUs in the district have had a positive impact on the quality of teaching.
- although districts were free to choose between formal or non formal education method in the 9<sup>th</sup> Plan, it was found that for districts that were using formal

syllabus the transition of children from the NCLP centres to mainstream education was much easier.

- adequate and timely supply of appropriate teaching-learning material was essential. The evaluation report emphasized the need to examine the desirability of having uniform curricula at the national level or at least the State level.
- tests to assess the learning achievements of children to facilitate their entry to formal schools need to be conducted systematically.
- once children are mainstreamed to formal schools, it would be necessary to have a plan of action to ensure a 'follow up' or tracking of these children to monitor their progress in schools and provide them help in case they are unable to cope with the curricula.
- there is a mix of part-time and full-time Project Directors in a project society. The availability of a full-time Project Director is found to provide a momentum to the activities of the NCLP Scheme.
- a number of NCLP districts have effectively converged with programmes of the Ministry of Human Resource Development. However, convergence with the Ministry of Rural Development needs to be strengthened.

#### **INTERFACE WITH THE COLLECTORS/ PROJECT DIRECTORS**

12.27 The Ministry has been organizing workshops on a regular basis to review the functioning of the existing NCLP scheme. During the current financial year, workshops were organised in September, 2004 for the 100 existing districts that were under implementation during the 9<sup>th</sup> Plan and are to continue in the 10<sup>th</sup> Plan and also for the 50 new districts that were included in the scheme in January, 2004.

12.28 During the workshop the Project Directors were explained the genesis of child labour elimination efforts in India and were told about the importance of understanding

the definition of child labor in practical terms. Emphasis was placed on the role that the project society must play in withdrawing, rehabilitating and finally mainstreaming the working children. It was pointed out that the focus of the scheme was to survey and identify children working in hazardous occupations and processes, withdraw the identified children from the factory/work environment and rehabilitate them through special schools and finally mainstream them into the formal education system. The project directors were explained about the need to strive for convergence with other developmental schemes in the district, such as Rural Development Programmes. On vocational training, it was pointed out that special attention should be placed in involving local craftsmen as master trainer in skills/trades which are economically viable in the district, for training the children. The Project Directors were urged to take steps and implement the enhanced parameters of the revised scheme.

#### **ASSISTANCE TO VOLUNTARY ORGANIZATIONS**

12.29 During 2004-05, under the Grants-in-aid scheme, 87 voluntary organizations/NGOs are being financially assisted to the extent of 75% of the project cost, for taking up action-oriented projects for rehabilitation of working children. Periodic reports from the assisted NGOs, field visits by official of the Central and State Governments play an important role in monitoring these projects.

#### **NATIONAL RESOURCE CENTRE ON CHILD LABOUR (NRCCL)**

12.30 The National Resource Centre on Child Labour (NRCCL) was set up in V.V. Giri National Labour Institute in Noida, U.P. in March, 1993 with financial support from the Ministry of Labour and UNICEF. The Centre has been entrusted with the task of documentation, publication and creation of a data bank on child labour, research and training, media management and technical support services, etc. The main objective of

the Centre is to assist the National and State Governments, NGOs, policy makers and other social groups in the field of child labour through a research, training, technical support, advocacy, media management, documentation, publication and dissemination to various target groups towards progressive elimination of child labour in India. Some of their major research activities include evaluation of the Grants-in-aid scheme of this Ministry in West Bengal and a case study on child labour in slaughter houses and allied activities. NRCCL has also been conducting orientation and sensitization programmes for personnel involved in child labour projects.

#### **INTERNATIONAL PROGRAMME ON THE ELIMINATION OF CHILD LABOUR (IPEC)**

12.31 The International Programme on the Elimination of Child Labour is a global programme launched by the International Labour Organisation in December, 1991. India was the first country to join it in 1992 when it signed a Memorandum of Understanding (MOU) with ILO. The MOU that expired on 31.12.1996 has thereafter been extended from time to time and has recently been extended till September, 2006. The long-term objective of IPEC is to contribute to the effective abolition of child labour. Its immediate objectives are:

- Enhancement of the capability of ILO constituents and NGOs to design, implement and evaluate programmes for child labour;
- To identify interventions at community and national levels which could serve as models for replication; and
- Creation of awareness and social mobilization for securing elimination of child labour.

12.32 At the international level, IPEC has a Programme Steering committee consisting of representatives of the ILO, the donors and participating countries. At the national level in India, there is a National Steering Committee of which the Secretary, Ministry

of Labour and Employment is the Chairman. This is tripartite in composition with representation from NGOs as well. The National Steering Committee met twice in 2004 i.e. on 2<sup>nd</sup> July and 24<sup>th</sup> August 2004.

12.33 IPEC-India has in the period spanning 1992-2002 supported over 165 Action Programmes. The Government of India and the US Department of Labour have also initiated a US\$ 40 million project aimed at eliminating child labour in 10 hazardous sectors across 21 districts in five States namely, Maharashtra, Madhya Pradesh, Tamil Nadu, Uttar Pradesh and NCT of Delhi. This project, popularly known as INDUS, is being implemented by ILO. An estimated 80,000 children will be withdrawn and rehabilitated through this project. Support activities will also be directed to 10,000 families of former child workers. (List of the 21 districts is at **Table-12.2**).

12.34 Besides this, ILO has also implemented phase I of the State-based Project in Andhra Pradesh. The National Steering Committee has also approved Phase-

II of the AP Project. In the second phase the project will focus on two most child labour endemic districts in the State i.e. Mehboobnagar and Kurnool. The Project will also focus on the special problems of urban areas and attempt to evolve a strategy for Hyderabad city.

12.35 In recent times, it has been impressed in various fora, including the meeting of the IPEC Programme Steering Committee, that IPEC activities should be conducted in conjunction with national policies, priorities and programmes of the recipient Member States. The concerned Member States should be fully aware of activities undertaken under IPEC. All proposals recommended by the National Steering Committee must be processed expeditiously and sanctions communicated in time, backed by timely release of funds. It has also been impressed that it is essential to augment funding of IPEC activities in India and that contributions should be towards core funding rather than specific projects.

<b>Table-12.1</b>			
<b>STATE-WISE LIST OF NCLP DISTRICTS</b>			
<b>Sl.No.</b>	<b>Name of the State</b>	<b>Names of the Districts</b>	
1.	Andhra Pradesh	Existing District	Anantapur, Chittoor, Cuddapah, East Godavari, Guntur, Hyderabad, Karimnagar, Kurnool, Medak, Nalgonda, Khammam, Nellore, Nizamabad, Markapur, Ranga Reddy (including M.V. Foundation), Srikakulam, Vizianagaram, Visakapatnam, Warangal, West Godavari, Mehboobnagar, Adilabad
		New District	Krishna
2.	Bihar	Existing District	Nalanda, Saharsa, Jamui
		New District	Katihar, Araria, Gaya, Purba Champaran, Paschim Champaran, Madhepura, Patna, Supaul, Samastipur, Madhubani, Darbhanga, Muzaffarpur, Nawada, Khagaria, Sitamarhi, Kishanganj, Begusarai, Banka, Saran, Purnea, Bhagalpur.

3.	Jharkhand	Existing District	Garwah, Sahibganj, Dumka, Pakur, West Singhbhum (Chaibasa)
		New District	Gumla, Palamu, Ranchi, Hazaribagh
4.	Karnataka	Existing District	Bijapur, Raichur, Dharwad, Bangalore Rural, Bangalore Urban
		New District	Belgaum, Koppal, Tumkur, Davanaere, Haveri, Mysore, Bagalkot, Chitradurga, Gulbarga, Bellary, Kolar, Mandya
5.	Madhya Pradesh	Existing District	Mandsaur, Gwalior, Ujjain
		New District	Barwani, Rewa, Dhar, East Nimar, Rajgarh, Chhindwara, Shivpuri, Sidhi, Guna, Betul, Shajapur, Ratlam, West Nimar, Jhabua
6.	Chhattisgarh	Existing District	Durg, Bilaspur, Rajnandgaon, Surguja, Raigarh
		New District	Dantewada, Raipur, Korba
7.	Maharashtra	Existing District	Solapur, Thane
		New District	Pune, Ahmadnagar, Sangli, Kolhapur, Jalgaon, Nandurbar, Nanded, Nasik, Yavatmal, Dhule, Beed
8.	Orissa	Existing District	Angul, Bargarh, Bolangir, Deogarh, Gajapati (Udayagiri), Ganjam, Jharsuguda, Kalahandi, Koraput, Malkangiri, Mayurbhanj, Nabarangpur, Nuapada, Rayagada, Sambalpur, Sonapur, Cuttack, Balasore
		New District	
9.	Rajasthan	Existing District	Jaipur, Udaipur, Tonk, Jodhpur, Ajmer, Alwar
		New District	Jalor, Churu, Nagaur, Chittaurgarh, Banswara, Dhaulpur, Sikar, Dungarpur, Bharatpur, Bikaner, Jhunjhunun, Bundi, Jhalawar, Pali, Bhilwara, Ganganagar, Barmer
10.	Tamil Nadu	Existing District	Chidambaranar (Tuticorin), Coimbatore, Dharamapuri, Vellore, Pudukkottai, Salem, Tiruchirapalli, Tirunelveli
		New District	Krishnagiri, Chennai, Erode, Dindigul
11.	Uttar Pradesh	Existing District	Varanasi, Mirzapur, Bhadohi, Bulandshahar (Khurja), Saharanpur, Azamgarh
		New District	Muzaffarnagar, Gonda, Kheri, Bahraich, Balrampur, Hardoi, Barabanki, Sitapur, Faizabad, Budaun, Gorakhpur, Kushinagar, Maharajganj, Siddharthnagar, Rae Bareli, Unnao, Sultanpur, Fatehpur, Shravasti, Pratapgarh, Basti, Sonebhadra, Mau, Deoria, Banda, Ghazi bad, Jaunpur, Rampur, Bareilly, Lucknow, Meerut, Etawah, Agra, Gazipur, Mathura

12.	West Bengal	Existing District	Burdwan, Dakshin Dinajpur, Midnapore, North 24-Parganas, South 24-Parganas, Uttar Dinajpur, Murshidabad, Kolkata
		New District	Maldah, Bankura, Purulia, Birbhum, Nadia, Hugli, Haora, Jalpaiguri, Koch Bihar, East Midnapore
13.	Punjab	Existing District	Jalandhar, Ludhiana, Amritsar
14.	Jammu and Kashmir	New District	Jammu, Srinagar, Udhampur
15.	Arunachal Pradesh	New District	Lower Subansiri
16.	Assam	New District	Nagaon, Kokrajhar, Lakhimpur
17.	Goa	New District	Goa
18.	Uttaranchal	New District	Dehradun
19.	Gujarat	Existing District	Nil
		New District	Surat, Panchmachal, Bhuj, Banas Kantha, Dohad, Vadodara, Bhavnagar, Ahmedabad, Rajkot
20.	Haryana	Existing District	Nil
		New District	Gurgaon, Faridabad, Panipat
21.	Mizoram	Existing District	Nil
		New District	Aizwal

Table-12.2

## LIST OF DISTRICTS COVERED UNDER INDUS PROJECT (21)

Sl.No.	Name of the State	Names of the Districts
1	Madhya Pradesh	Damoh, Sagar, Jabalpur, Satna and Katni (5)
2	Maharashtra	Amravati, Jaina, Aurangabad, Gondia and Mumbai Suburban (5)
3	Uttar Pradesh	Moradabad, Allahabad, Kanpur Nagar, Aligarh and Ferozabad (5)
4	Tamil Nadu	Kanchipuram, Thiruvannamallai, Tiruvallur, Nammakkal and Virudhunagar (5)
5	Government of NCT Delhi	(1)

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