

# **PUBLIC POLICY AND CHILD LABOUR IN INDIA**

*Dissertation submitted to Jawaharlal Nehru University  
in partial fulfilment of the requirements  
for the award of the Degree of  
MASTER OF PHILOSOPHY*

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**CENTRE FOR POLITICAL STUDIES  
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Center for Political Studies  
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*DEDICATED*

*TO*

*BAPA, BOU, BULU BHAI, PAGALA BHAI,  
NUAU, BADU, BUDHI, BENGGA AND JUBA*



Centre for Political Studies  
School of Social Sciences

July 21, 1993

Certificate

Certified that the dissertation entitled, *PUBLIC POLICY AND CHILD LABOUR IN INDIA* Submitted by **Mr. Prafulla Kumar Dhal** in partial fulfillment of the requirements for the award of the degree of Master of Philosophy, has not been previously submitted for any other degree of this University or any other University and is his own Work.

We recommend that this dissertation may be placed before the examiners for evaluation.

  
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## CHAPTER - I

### Discourse On Child Labour In India

#### The problem

Child laborers are among the World's most exploited workers. Hundreds of million of children work in the fields and the factories, on street corners and in garbage dumps all over the world. Most do some form of work from their earliest years, helping around the home or running errands. But the term child labour implies. "exploitation"<sup>1</sup> - that children are working long hours for low pay, sacrificing their health, their education and their childhood.

Problem of child labour is global phenomena. It is a challenge for both the developed and developing countries. The largest number of child labours are in Asia, where in some countries they make up more than 10% of the labour force, in Africa several countries are reported to have up to 20% of their children working. And in Latin America, more than a quarter of children in some countries are thought

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1. See *Human Development Report 1993*. In its Chapter Three the Report explains about the Market and People in New Economic Order in the World, and highlights the Situation of Child Labour and importance of its eradication as the important pre-requisite for the sustainable Human Development. (New Delhi : United Nations Development Programme, Oxford University Press, 1993), p.33.



to be working . Among the Industrial countries the largest numbers are in Italy and Spain. U.S.A. has 1.2 million child laborer and as it is reported between 1983 and 1990, there was a 250% increase in violation of child labour laws.<sup>2</sup>

Poverty is the chief cause of child labour. When a family is poor, everyone has to work, every extra contribution helps. But many children work because of lack of the other opportunities, or schools might be unavailable inadequate or just too expensive.

Others are forced to work. In Pakistan, as the ILO reported 1991 estimates that half of the 50,000<sup>3</sup> children working as bonded labour in weaving industry will never reach the age of 12 years-they are victims of disease and malnutrition. In Thailand, children are bought and sold to work in private households, restaurants, factories and brothels. In Indonesia children work in electronic light bulb factories more than eight hours a day, six days a week and make a measly \$

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2. Ibid. p.33.

3. See Tom Harkin, *Child Labour Deterrence Bill 1992* (Washington, Congressional Record Senate, 1993), p.11607. The Bill contained with other things, the International Labour Organisations estimation of Child Labour in the World; Also See *World Labour Report 1992* (Geneva : International Labour Organisation, 1992), p.12.

3 per week. Conditions are no better in India where 44 million children under the age of 15 are employed.<sup>4</sup>

The employment Of Children is indeed more of an economic problem, even then the denial of opportunity to children for their proper physical development and education is an issue of a great importance, keeping in view the larger interest of the society. The phenomenon of child labour, not only closes the future of million of children in the third world countries, but it also restricts the developmental prospects of these countries drastically. The existence of child labour is a threat to over all world development, and to the solidarity and peace in the world. Eradication of child labour from the world therefore a goal which must be achieve at the earliest.<sup>5</sup>

Poverty coupled with increasing dependency ratio on account of population explosion since 1950s are pushing more children to the labour market in the poor countries. Abundant supply of work force means tight labour market in the developing

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4. Ibid., p.s11608.

5. See India Hirway, "Child Labour in Developing Economics Today" in *Towards Eradicating Child Labour* (Ahemedabad : Gandhi Labour Institute, 1991), p.49.

countries in spite of enhanced demand generated by the development programmes. Although the practice of child labour is as old as history of mankind, its continued incidence today is quite contrary to the value of modern society and requisites of human development. Indeed child labour is a disgrace for the world mankind. Inhuman exploitation is converting the child employment into slavery in the developing countries. Bonded labour constitutes slavery of adult workers. Child labour is a social evil. Child slavery is a national course.

It is precisely such problems as the special vulnerability of children, the prevalence of discriminatory practices the lack of protection, damage to education health and development and perhaps worst of all the involvement of children in illegal and dangerous work, that have given rise to legislation and policy.<sup>6</sup> These concerns have gained in importance in recent years as a result of a greater awareness of the need to recognize the rights of children including the working children, because they are increasingly exposed to forms of employment and social settings which can be dangerous both to their physical and moral development.

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6. See Assefa Bequel, "Child Labour Problems, Policies and Programmes" in *Combating Child Labour* (Geneva, International Labour Organisation, 1988), p.9.

## II PERSPECTIVES ON THE PROBLEM :

Children are employed in variety of work situations and for a wide range of reasons. There are however some specially disturbing aspect of child labour which deserved priority in policy formulation and legislative action. Firstly, a significant number and proportion of children are involved in employment at a very early age. Secondly, the phenomena of cottage and smallscale industries which use child labour as cheap and bondedlabour are directly related to economic structure of the society. In these industries child laborers are trapped in highly exploitative and abusive employment relations, which are often gone either unnoticed or accepted by the government as harse reality, since these industries do provide a major portion of foreign exchange and play a vital role for alleviating poverty in the third-world countries. In this situation child labour are exposed dangerous and hazardous activities.

However, problematiques of child labour has been explained from various theoretical point of view, which brings policy dilemma in terms of its formulation and implementation. It is imperative here to discuss those theoretical analysis for a plausible alternative approach to the problem of child labour.

There is a remarkable tendency among the social scientists to link the incidence and abuse of child labour with the authority of the adults, they exercise over the children. According to Neo-classical economic theory, the abuse of child labour is located in the misuse of parental power, the selfish preference of adults. It does not come under the sphere of functioning of the economic system itself. Children are basically sent to work, rather than choose to work. The main thrust of the neo-classical economic theory is the preference should be autonomous. For the policy prescription they argue that government should take the prohibitory or regulatory mechanisms because, children's preferences do not prevail but others however argue that children are the property of the parents as like other draught animals in the households do serve for the betterment of the family. But they have not developed any kind of plausible alternative for their arguments.<sup>7</sup>

On the other hand Marxist Economic Theory shows a strong tendency to assume that in sending children into the labour market parents do work like a slave dealers, but it

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7. See Diane Elson, "Differentiation of Child Labour in the Capitalist Labour Market", in *Development and Change* (London, 1982), vol.13, pp.479-97.

was not however the misuse of parental power that created the direct or indirect exploitation of child labour, but rather opposite, "that the capitalist mode of exploitation, by sweeping away economic foundation which corresponded to parental power, made the parental power into its misuse.<sup>8</sup> Unlike of Neo-classical economics, the Marxist Economic is concern to investigate the role of power in the production process. Implication of this analysis brings Marxist to peruse a political struggle to change the economic realities of workers lives. Because unless economic realities are changed the legislative intervention of the state as prescribed by Neo-classical economics will not be effective but Marxist economics profess two type of policies for the emancipation of child labour which leaves the policy dilemma.

1. A struggle to improve the pay and condition of child labour and to combine educational provisions with employment.

2. A struggle to secure a family wage or welfare state provision to enable a man to support his children until the

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8. See Karl Marx, *Capital*, vol.I (Harmondworth : Penguin, 1976), p.517, where the Employment of Women and Children is described as the Appropriatism of Supplementary Labour power by Capital.

age when legislation permitted them to seek employment.<sup>9</sup> However, the Marxist economic analysis based on an assumption that children do work for the supplementary income of the family,<sup>10</sup> which is not true in most of the third world countries.<sup>11</sup> For instance, child labour in India in many cases are found working where adults are unemployed but use their parental authority to control over the children's earning. Although child labour in this case are *defacto* breadwinner, they are also under the control of the father. Hence as Marxist argue that since children are minor their social dependency is facilitated by their economic dependency, does not hold the consistency in the third world countries.<sup>12</sup>

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9. See Diane Elson, "Differentiation of Children's Labour Power in the Capitalist Labour Market", *Development and Change* (London, 1982), vol. 13, pp.479-97.

10. See Marx, n.8, p.621.

11. See Elson, n.9, p.985.

12. Most of the Literature on Child Labor in India have argued that Child Labour flourishes with the high adult unemployment. At the same time see for example an Evaluation Report of Institute of Psychological and Educational Research of the Project of Education, Health and Nutritional Facilities to Child Labour in Calcutta" (National Labour Institute, Noida, 1991, Where it is observed that adult members of the family are sitting where as children regularly going to the work.

According to the Feminist Economics Theory, State maintains and legitimises the power of adults, those who have attained the age of majority over the children, those who remain as minors.<sup>13</sup> The fundamental remedy require the liberation of children from dependency and the ultimate goal of policy should be self determination for children as free and independent.<sup>14</sup> But the children's subordination through the parental authority as the basis of feminist economics has been slightly modified by the modern thinkers. The argue that social constructions of age hierarchy that is a system of seniority in which those are in junior positions are unable to achieve full social status in their own right.<sup>15</sup>

It leads an argument that emancipatory aspect of child labour is dependent upon both the general state of capitalist accumulation and the precise form in which authority is exercised over children in the capitalist labour process. But this would not be helpful for the children in the family unit or as apprentices. But the capital accumulation is likely to provide

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13. See Elson, n.9, pp.479-97.

14. Ibid., p.493.

15. Ibid.



the most fertile ground for children's resistance to exploitation by their employers.<sup>16</sup> But the trajectory of this process of resistance can be assumed as the process of capital accumulation as the effective towards the capitals changing labour requirements. Labour requirements are themselves determined by seniority system as well as by percent of profit and new technical developments. The desire of adults to preserve adult power over children, through constructing certain kind of family, certain forms education, has given children an unenviable choice between exploitation at work and subservience in home and school.<sup>17</sup>

Above discussion suggest to move the focus of the policy away from the protection of children towards, the enhancement of children's rights, and the developments of their capacities of self-determination. The fundamental remedy require the liberation of children from the dependency of seniority system.

One of the most powerful argument that the third world countries are putting forward, that because of poverty and formidable array of institutional constraints facing the governments,

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16. Ibid., p.494

17. Ibid., p.496.

immediate abolition of child labour will not be possible examination. These obstacles have led to a reassessment of the traditional approach to child labour and brought about a striking change in public policy which goes beyond exclusive reliance on legislation and enforcement and encompasses short and long term measures in such areas as the provision of health, nutrition, nonformal education etc, protection and advocacy.<sup>18</sup>

Although the constitution of India prohibited the employment of children below 14 years, in factories, and hazardous occupations, a number of acts had been enacted at both national and state level, and Art. 45 guarantees children the compulsory primary education upto 14 years, despite of above provisions government argues that child labour can not be simple wished away. The Ministry of Labour Annual Report (1983-1984) clarified the government's position, that despite of the provisions of restrictive labour laws. The practice of child labour still continues unabated because of children is of financial advantage to the employers and an economic compulsion to parents. So it will persist in the foreseeable future, given the context of poverty

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18. See Bequel, n.6, p.13.

in the country.<sup>19</sup> The goal of public policy it was felt, should be shifted from abolition to providing increase protection to child workers gradually and reducing the incidence of child labour.<sup>20</sup>

Child labour is a 'harse reality' and 'necessary evil' in India. The type of education that is now being imported in schools makes it completely unattractive to the parents of children particularly in rural areas, where children are considered as an economic asset. In the circumstances of prevailing condition in our country it would be unrealistic not to expect that children who are capable of working would be put to work. It is also a matter for consideration whether such work would not in fact provide good input to the healthy growth of these children provided it is conducted under well regulated and healthy conditions.<sup>21</sup>

Government's argument was that chronic poverty forces poor parents to put their children into the labour force. Parents

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19. See *Ministry of Labours Annual Report, 1983-84* (New Delhi: Government of India, 1985), p.54.

20. See Bequel, n.6, p.9.

21. See n.19.

do not believe that they or their children would benefit economically if their children were in school, and children acquire skills through employment not through formal education. On the other hand, government also argues that the employers prefer children to adults because they are more pliable, work for lower wages, not unionized, and have supple fingers that enable them to work more effectively than adults, and the low wages paid to children enable some industries to survive that might otherwise not be able to compete either in domestic or international markets.<sup>22</sup>

There is a normative dimension to these arguments, the state, it is argued, ought not to intervene since poor parents need income of their children. It is thus a matter of social justice that the children of the poor be allowed to work. And there is a political element to these arguments is that, powerful employers interests impede the implementation of child labour legislation or any measure that would remove children from the labour force. Thus the state ought not to act, and it can not act. Non-action of the state has both

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22. Ibid., p.13.

a moral and practiced rationale.<sup>23</sup>

It follows from these arguments that the abolition of child labour and the establishment of compulsory primary education must wait until a significant improvement in the well-beings of the poor.<sup>24</sup> As employment and income increase it will no longer be necessary for the poor to send their children to work and the benefit of education will become more apparent. A related argument is that changes in technology will eventually reduce the demand for unskilled child labour and place a premium on education. Only then will parents send their children to school to acquire the education they need to find employment. It is also argued that with an improvement in the national budget 'government will be in a better position to increase 'expenditure on primary education.

Myron Weiner in his book. "The Child and State in India", argues that poverty is not unique to India. Historical evidences prove that first world societies had substantially reduce the number of child labour through policies of compulsory

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23. Myron Weiner, *The Child and State in India* (New Delhi : Oxford University Press, 1991), p.13.

24. Ibid.

primary education. These measures were enforced, in many cases, long before household incomes had risen to a level where the children's contribution was marginal to the household's survivals. Many third world countries also have a substantially better record than India.<sup>25</sup>

The point he want to raise is that state intervention to remove children from the labour force and compel them to attend schools was in most countries politically contentious.<sup>26</sup> Weiner, however argued that opposition to state intervention was tied to the conception of children and the work, to the question of rights and obligation of the state versus rights and obligations of the parents, and the capitalist order itself. Important point he raised is that, their have been a variety of impulses leading compulsory primary education in all countries where the incidence of child labour is low.<sup>27</sup> Between official rhetoric and policy their is a vast gap, and it is puzzling why the Indian government does not do what it says to do.

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25. Myron Weiner, "Child Labour and State Intervention" *Seminar* (New Delhi), no.350, 1988, p.17.

26. *Ibid.*, p.18.

27. See Nasir Taybji, "The Plain Tails of This Raj", *Economic and Political Weekly* (Calcutta), 1991, p.1170.

Weiner argues that in spite of constitutional provisions for primary education and against child labour, neither has been successfully implemented because of a deep seated beliefs amongst civil servants and policy makers that the resolution of these problems must wait until some basic changes occur in the structure of employment,<sup>28</sup> opportunities and in the standards of primary education. As Weiner puts it that "India's low per-capita income and economic situation is less relevant as an explanation than the belief system of state bureaucracy. The belief is that the excessive and inappropriate education for the poor would disrupt existing social arrangements. And primary schools do not properly train the children of the poor to work, that the children of the poor should work rather than attend school that prepare them for service or white collar occupations, that the education of the poor would lead to increase unemployment and social and political disorder.

Mass education is not considered as essential to India's modernization,<sup>29</sup> Government instead, put resources into the government schools, state aided private schools and higher

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28. See Weiner, n.23, p.5.

29. Ibid.

education in an effort to create one educated class that is equal to educated classes of the West and that is capable of creating and managing a modern enclave economy.<sup>30</sup>

India's beliefs also confirms that education is to reinforce the social division not to breakdown it the beliefs are closely related to religious notions and to the premises that underlie India's hierarchical caste system. It is not merely India's social organisation is inegalitarian and that caste implies a system of social ranking, neither of which is unique to India. What is distinctive is a particular kind of social mobility, the mobility of groups rather than individuals. In the process group mobility, somehow, powerful force of both institution and beliefs resist change in group status. Even seculars are imbued with values of states that are deeply imbedded in Indian culture. One does not readily free from core values of ones own society.

In India education has been largely an instrument for differentiation<sup>31</sup>, by separating children according to social class for this reason those control the education system are remarkably indifferent to the low enrollment and high drop out rate among

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30. Ibid.

31. Ibid.



the lowest social classes. The result is one of the highest rates of child labour in the world one of the lowest rates in school attendance. The explanation of policy lies not in group politics nor state's interest but in the belief and values of elites that shape their political action that is Indias political culture.<sup>32</sup>

However, contradictory evidences have come up. According to Nasir Tayabji, those set of believes forms the ideological counter part to the actually prevailing a agrarian situation that the ruling political circles are interested neither in through going agricultural reforms nor in the introduction of the kind of technological base requiring mass literacy.<sup>33</sup> He reasons over, if compulsory primary education can reduce child labour why then Weiner's book end on a note of deep pessimism:

“One is left then with the pessimistic conclusion that barring a conceptual change in the thinking of those who make and implement policy and new direction in polity by the Indian government. The number of children in the labour force

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32. Ibid., p.6.

33. See Taybji, n.28, p.2530.

will not significantly decline conditions for working children will not significantly improve, school retention rate will not significantly increase and the literacy rate will continue to grow at a slow pace and will leave a large part of the Indian population illiterate will into the middle of the twenty-first century.”(34)

A point has been raised in many exhaustive studies that why ruling circles do perceive a kind of childhood for their own children which is distinctive from the children of the working class people. That this double standard is due to Indian caste system<sup>35</sup> but the point is contracted on the ground that South Asia is the black spot as far as child labour and primary education is concerned is attributable to the unmodified agrarian structure a legacy of colonialism.<sup>36</sup>

Struggle to abolish child labour is also substantially distinct from the purely political struggle,<sup>37</sup> in various countries. Experience from England, shows that predominate compulsion was for the socialization of the working class children,<sup>38</sup> in Austria,

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34. See Weiner, n.23, p.207.

35. See Taybji, n.28, p.2530.

36. Ibid.

37. Ibid.

38. Ibid.

the clergy wishing to protect children from revolutionary bourgeois; ideals of the french revolution was the primary source for the early schooling through out 19th century, in the United State politician concept of the innate depravity of children and need to overcome it though schooling provided the impetus. In Pussia militaristic Nationalist were concerned that early factory work for children reduced the labour supply for army recruitment. Compulsory primary education is a socialisation measure not a political measure.

Given the bulk of India's traditional exports still originate in the handicrafts sector, and the critical importance to the economy of whatever exportable commodities any one will buy, there is now a firm vested interest in the continued neglect of primary education. Of course, it is the time that, in the bulk of child labour employing industries are export earning, are not a factor, it is equally time that to the traditional votaries have added the high profile to increase exports for town criers. It is significant in this context that an official of the Handloom and Handicrafts Exports Corporation, which runs 200 training centers for children many well below 14 years felt that banning child labour in the carpet industry

would be suicidal for exports.

In India child labour practice is not banned in family or household enterprise. Unlike of children employed in non household sector, household sectors have not been assumed as the exploitative because the elders of the household have more positive attitudes towards the well-being of the children. But in case of girl children attitude of the elder is entirely different perhaps this may be the reason girls are outnumbering the boys in Sivakasi match factories state in this context must intervene to protect the minors.

Child labour and illiteracy are single or collectively, disgraceful features of Indian society but it is not a convincing arguments to say that they continue to exist because of series of false constructs in the policy makers mind. India's struggle for acceptance of childhood and adolescence for all is surely tied to the struggle for decent life for all.<sup>39</sup>

But the argument intensified again that the overall trends in the organisation of production in industry and agriculture is as such it facilitate and perpetuate the exploitation of

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39. Ibid.

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child labour. Small scale industries being considered as the crucial for the poverty alleviation programmes and employment guarantee programmes. Government has encouraged these industries by protecting them from large scale manufacturing sectors competition by reserving a number of industrial products and by providing technological and financial aid, and subsidies in various forms including different tax treatment. But the concept of small units and the number of items reserved for them have changed from time to time under the pressure of vested interests. The items have been decreased in the name of quality; The clandestine operation of the large industrial house through the middle men became important which tended small scale industries to use child labour to compete with them.

The fact is that, it demonstrates the ulterior political motives of the state.<sup>40</sup> For instance, Sivakasi match stick manufacturers are able to compete with multi-national like WIMCO primarily because cheap labours are being engaged, in their factories are child labours. Similarly domestic and multinational companies producing bulbs, tubes, bangles etc.

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40. Umesh Chandra Sahu, "Child Labour Legislation in India", *Economic and Political Weekly*, 1990, p.2529.

largely employ child labour and profits are estimated to be 25 percent higher because of the cheap availability of labour. The fact of 44 million child laborers in a country of high adult unemployment cannot be a 'hares reality' attributable only to poverty. The argument that since poverty cannot be abolished overnight child labour needs to be regularized in certain sectors is not valid.<sup>41</sup> India today has 55 million children to in work force and about an equal number of unemployed adults. This respective figures running since 1947 when 10 million each of child labour and joblessness grown up.<sup>42</sup>

Agriculture in India is coming under the sway of capitalism. The pattern of land owning is highly iniquitous. For in stance 50 percent of households have only 4 percent of land, about 27 percent are tenants, and another 30.4 percent are agricultural labours. The high inequity paves the way for mass use of child labour to augment family income. It is wider spread in the form of bonded labour in its various farms mostly pledged by indebted parents. Around 80 per cent of child

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41. Ibid., p.2529.

42. Ibid., p.2530.

labour are estimated to be from the schedule casts and tribes. The growth rate of primary education has been falling from 6. percent at the beginning to a mere 2 percent at present. Expenditure on elementary education has declined from 56 percent to 36 percent of the total educational expenditure between the first and sixth plans. About 40 percent of the schools have no black board 80 percent have no bench or mat, 72 percent have no books and 90 percent have no building. As against 7.2 percent of the national expenditure during the first plan the share of education has declined to a mere 2.6 percent in sixth plan and come down to around 1 percent in the first two years of the seventh plan. Compulsory schooling for children as a part of assimilative measures is deceptive.

Another dimension of the problem is that child labour legislation does not ban child labour in family enterprises. And the employers have never been retaliated by the government, because the employers have established close connection with the politicians.<sup>43</sup> Nearly 40 million child laborers do not come

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43. Ibid.

under the preview of the legislation. This is primarily because of indebtedness of their parents. Though Rural Indebtedness Act declares such exploitative practise are illegal and frees victims for the obligation to repay, no efforts have so far been made to implement it. All this shows that the political will is strongly biased in favour of the proprietary classes.

It is also argued that the vital importance of universal compulsory education upto the age of 14 is not understood by the public. It is significant that art 45 of the DPSP of the constitution had laid a burden on the state to provide compulsory primary education by 1961, i.e. within ten year of enacting the constitution a burden state has completely ignored. Child labour and compulsory education cannot co-exist. The arguments that children of the poor must contribute family income and it provides some skills more perhaps than our wretched primary school, is being defied on the ground that why the state has subsidized the education of public schools and elite government schools which perpetuate the inequalities among the children providing unequal opportunity to them.<sup>44</sup>

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44. See Dharma Kumar, "Child Labour : What Can be Done", *Seminar*, no.350, 1988, p.33.



Primary education is the one of the most unprioritized area of government of India. The issue is not of resources but of priorities.<sup>45</sup> To substantiate the point union budget may be examined. The budget 1992-93 increased the outlay for educations by Rs. 358 crore. On the other hand, the allocation for defence was up by 1,1168 crore. In 1992-93 102 out of 237 operating central public sector enterprises were lose making. The loses of these enterprises amounting to Rs 3,674 crore in 1991-92 exceeded the total anticipated expenditure of Rs. 2,961 crore on education by both the central and state sectors for 1991-92. It is not even the question of affordability that has kept education un prioritized area. For in stance, Kerala with her low per capita income of Rs. 3,389 in 1989-90, had a primary school dropout rate of 0.4 percent in 1991. On the other hand, Punjab, a relatively rich state with an estimated per capita income of Rs. 7.081 in 1989-90 had a primary school drop out route of 51 percent of in 1991. Kerala spends 25 percent of the state budget to education. On the other-hand, Punjab despite of being a wealthier

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45. Emmi Watnabe, "Education Must Take Priority", *Pioneer* (New Delhi), 1991, p.8.

state allocates only 21.8 percent of the state budget for education in 1989-90. At the level of families too, poverty is not always a constraint. The 42 round of the NSS (July 1986 and June 1987) examined the reasons for dropouts from the primary schools. Thirty six percent of rural dropouts cited participation in household economic activities or other economic reasons. But a full 43 percent said not interested in education or further study or failure as reason for discontinuing school. Both these factors indicate the poor quality of education in rural schools.<sup>46</sup>

Although constitution of India stipulated compulsory primary education for every child below 14 years, the political parties in the parliamentary democracy do not regard the constitutional directives. Most of the election manifesto's accord superficial and cursory treatment to the problems of child labour.<sup>47</sup>

The 10th General Election manifestos of six national parties reveal that except two communist parties other political parties do not consider compulsory primary education as the state policy for India.

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46. Ibid., p.8.

47. See N. Ram "The Laboured Concerns", *Economic Times* (New Delhi), September 5, 1991, p.10.

The congress (I) has two page section on education in its manifesto and there is also a calendar of promised performance. Both promise a return of low education policy formulated in 1986, with a vengeance. As the manifesto reads the priority will be given in implementing the policy to wiping out illiterate and significantly expanding investment in primary and secondary education. Black Board operation and special measure will be undertaken to reduce the dropouts rate at the primary level. It promises to provide Mid Day Meal Programme to every child in every primary school and girls will be given special drive, but the manifesto did not say anything about the primary education either to be compulsory, or mandatory or state should intensive to protect girls rights even in the matter of elementary or education and illiteracy.<sup>48</sup>

The National Front manifesto which fitted An agenda for India in the Nineties, there is a three page section on education and other reference to children, child welfare and labour this section says

“National Front regards education as an activity that must contribute to social justice, promote knowledge and excellence

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48. Ibid.

in society with equity and accelerate economic progress. It promises to accord highest priority to education both as human right and as a means of bringing about a transformation. levels a more human and enlightened society.”(49)

Although National Front promised to be committed to fulfil the constitutional mandate to the children it failed to mention free compulsory primary education to the children atleast till five years. It promised otherwise to provide the non-formal education to the working children.

BJP's manifestos says, the party views that with the rising cost of education, the existing socio, economic disparities will be perpetuated in the field of education. The BJP believes in equalization of educational opportunities and building up a system working of the genius of our heritage and the understood capacities of our youth.”<sup>50</sup>

But the CPI (M) Manifesto declares that free and compulsory primary education must be ensured by law for all children;<sup>51</sup>

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49. Ibid.

50. Ibid.

51. Ibid.

free education upto the secondary level, full state support to mass literacy campaigning to eradicate illiteracy, end the new education policy still being perused since the Rajiv Gandhi government introduced it, which is elitist and weighted against the common people acquiring education. Syllabus and curriculum to strengthening scientific temper secular, national unity and integrity. Above evidences indicate that children have no voice in the parliament to demand there rights nor the political parties are committed to it.

The government concerns seems to be weighted more in favor of commerce than the over worked underpaid exploited kids. the government shouted seriously ensure that all adult are paid the minimum wages. This will automatically result in a dramatic fall in the number of children served to work.<sup>52</sup>

All the above argument have a strong tendency to assume that societal centered argument posed by the government is not correct for India. They have challenged the government's approach on the ground that, their is a lack of political will; the employers have won the political patronage; the policy

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52. Sumir Lal, "Swept Under the Carpet", *Times of India* (New Delhi), October 28, 1990, (Sunday Special).

maker are guided by the core values of Indian social order which maintain respective class position; the compulsory primary education has never been a government's priority area; the politics of doing nothing or the policies have taken for the general development is anti children. Those arguments have provided enough insights where we can observed that the post independent policies and programme of child labour systematically eroded constitutional vision of child and child labour has been accepted on the process of modernisation process itself. This is the reason, the perpetuation of child labour goes on.

However, the phenomena child labour as its argued is the consequence of exploitive systems operating at the national and international levels. At the national level the lopsided development process in the background of exploitative socio-economic structure results in the marginalisation of the poor who are left with no option but to use of child labour as a survival strategy. Inequitable of distribution of land, poor access of the weaker sections to resources, gradual destruction of the environment, existing socio-political system all put so many constraint on the poor that they are forced to use meagre

incomes of children to support themselves. The international level the need for foreign exchange on the one hand and the stiff competition for market in developed world on the other, encourage the producer of export good in the third world to use cheap labour directly or indirectly to minimise cost and maximise profits.<sup>53</sup>

Quite often it is argued from the employers side that children are suitable for certain export oriented industries like carpet and match factories, due to their nimble finger if children will be withdrawn, not only the industry will die but very survival of the children's families will be at stake.<sup>54</sup>

### **Evolution of Public Policy in India Colonial Post Colonial and Current Global Pressure**

Before the independence the issue of child labour in India was mostly dealt by successive factories Acts. The first Indian Factories Act enacted by the Britishers in the 1881, which

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53. See Indira Hirway, "Child Labour in Developing Economies Today," *Towards Eradicating Child Labour*, (Ahemadabad, Gandhi Labour Institute, 1991), p.49.

54. See. Bholanath Barnwal, "Child Labour Justification and Remady," *Times of India*, Feb. 20, 1993, p.9.

fixed minimum age for the employment of children is seven years.<sup>55</sup> The Indian factories Act 1891, stipulated that the minimum age for child employment will be nine years and the hours of work would be seven hours per day. Night work was prohibited between 8 pm. and 5 am. The mines Act 1901 and the factories Act of 1911 first referred to the legal provisions for prohibition of child labour in dangerous process.<sup>56</sup> However, in 1908, Indian Ports Act was introduced which fixed the minimum age for handling goods in docks for a child shall be twelve years.

Partly under the influence of the International Labour Organization in the 1920's and 1930's India subsequently passed a series of acts for the protection of children. The factories Act was amended in 1922 raised the age limit to fifteen years. The Indian mines Act of 1923 raised the minimum age for employment in mines to thirteen years. The Indian ports (Amendments) Act 1931 laid down 12 years as the minimum age for employment in handling goods. The fillip which is

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55. See J. Gathia, and K. Mahajan, *Child Labour An Analytical Study*, (New Delhi, CCCL, 1992), pp.19-34.

56. Ibid., p.23.



the issue of child labour received was in fact the comprehensive report of the Royal commission on labour in 1929.

The Royal commission on labour 1929 was set up with a view to control use of child labour in bidi making and carpet weaving. In fact the British carpet factory came into existence around 1880's at Khamaria in Mirzapur district of United province. The tenarries in Amritsar district were also target of this act. The commission also found child labour accompanied on tea gardens. The commission felt that choices of education for these children were almost absent and hence commission recommended that owners of the tea plantation should contribute towards the establishment of facilities for ensuring education.

The Commission however, restricted children below ten years in the plantation jobs and below fourteen years in Ports etc. The Commission also recommended that children should not be allowed to work over-time or take work home and prohibited the pledging of children observing the economic realities of the time and child labour. It observed that child right to childhood even to education as may be available should make no appeal comparable to its earning capacity.

On the whole the commission adopted a conciliatory approach<sup>57</sup> and recommended co-operation between the government. The local authorities and the employers to develop child welfare centers and clinics for children.

In 1933 children (pledging of labour) Act prohibited pledging of a child for the purpose of getting certain work done. This was followed by the factories Act 1934 which prohibited employment of children under 12 years and prescribed employment of children between 12 and 15 for four hours a day.

However, in 1937, International Labour Organisation adopted a convention where a special article for India was inserted. It provided the back ground for the preparing the first detailed legal provisions to check exploitation of child labour. The employment of children Act 1938 was the first act devoted entirely to child labour. It listed occupations and process in which children could not be employed. The Act prohibits employment of children who have not completed 15 years of age in occupations connected with transport of passengers, goods and mails by railways; connected with cinder picking, building operation

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57. *Report of Rayal Commission On Labour 1929*, (New Delhi : Government Of India, 1990), p.29.

in railway premises. The Act prohibits the employment of children below 14 years of age in workshops connected with bidi making, carpet weaving, cement manufacturing including bagging of cement, clothe painting, dyeing, weaving, manufacturing of matches. explosives and fireworks. (sec 3(3)). The penalty for the breach of the provisions of act is simple imprisonment upto one month or fine upto 500 or both. In Uttar Pradesh. the Act has been extended to brass ware and glass bangle industries also.

In the year 1944, the Labour Investigative committee observed that child labour declined from the peak of 5.3 percent of total employment in 1923 to 0.5 percent in 1939 but showed a slight increase during war time. The committee reiterated that the employment of children between 12 and 15 years as well as below 12 years has gone down considerably since the beginning of the century.<sup>58</sup>

“The child labour aspect was pre dominant in bidi making, carpet weaving, glass and other small scale industries. The report specially referred its prevalence in the match industry in south India.

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58. Report of Labour Investigative Committee 1944, (New Delhi Government of India, 1990), p.57.

Cement industry in Rajasthan, Carpet weaving in Kashmir. The committee recommended that it is not sufficient to prohibit the employment of children but it is also essential to adopt simultaneously positive measures to wean them away from industrial employment."

### **Post independent period-factories act 1948 and the constitutional provision**

Before constitution of India set formulated the constituent Assembly felt to change the Factories Act, 1934 on the eve of independence. The Factories Act, 1934 was replaced by the factories Act 1948 which set fourteen year as the minimum age for employment in factories, defined as a premise employing at least ten persons where manufacturing is being carried on with the aid of electric power, and above twenty where no power is employed. A fitness certificate was required from a doctor for children over fourteen and under eighteen. The Act also restricted the number of continuous hours of work, night work, and the use of machinery by young persons.<sup>59</sup>

Constitution of India prohibited the employment of children.

In its Article 24 it says :

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59. *Factories Act 1948*, (New Delhi, Ministry of Labour, Government of India, 1948), File No.10, p.21.

“no child below the age of fourteen years shall be employed in any factory or mine or engaged in any hazardous employment” Art 39 promised promises that the state shall direct its policy toward ensuring that children are not abused and that citizens are not forced by economic necessity to enter into any avocations unsuited their age or strength”, “that children are given opportunities and facilities to develop in a healthy manner and conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment” Art 45 guaranteed that the state shall endeavor to provide by 1960 free and compulsory education for all children until they reach fourteen years of age.(60)

Apart from the constitutional provisions The Plantations Labour Act, provided that a child below fourteen years or an adloscent between (15-18) years can not be employed for work unless he is certified fit for work by doctor. The certificate will be validated for the period of 12 months and use of false certificate of fitness is punishable by imprisonment which may extent to one year or with fine up to Rs. 50 or both. The Act makes the provision for the education as the responsibility

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60. *Constitution of India, Art, 24 Art. 45 Art 39 (e) and Art, 39 (f).* (New Delhi : Government Of India, 1990).

of the employers and also of housing, medical and recreational facilities. The mines Act 1952, prohibits employment of person below fifteen years in any mine, the Factories Act 7, 1954 prohibited employment under seventeen at night and the Bidi and Cigar workers Act 1966 prohibited employment of children under fourteen in any factory manufacturing bidies or cigars.<sup>61</sup> In 1966, the National Commission on Labour observed that employment of children is indeed more of an economic problem than of anything else the commission recommended fixing minimum age for children into 15 years and minimum hours of work into 6 hours and arrangement for work with education.<sup>62</sup>

The National Policy for children 1974, reiterated the constitutional provisions and envisaged balance growth of children. The measures of the balanced growth of children include that no child under 17 years shall be permitted to be engaged in any hazardous occupations or be made to undertake heavy work; children

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61. S.N. Jain, Child Labour, *Journal of Indian Law Institute*, (New Delhi, 1981.vol.23 (3).

62. *Report of National Commission on Labour 1969*, (New Delhi, Government Of India, 1969), p.34.

shall be protected against neglect cruelty and exploitation.<sup>63</sup>

As national policy Resolution for children reads :

“It shall be the policy of the state to provide adequate services to children both before and after birth and through the period of their growth to ensure their full physical mental, and social development. The state shall progressively increase the scope of such services so that within a reasonable time all children in the country enjoy optimum condition for their balance growth.

In 1979, in response to United Nations General Assembly resolution proclaiming 1979 as the International year of child labour, like Government of India appointed a Committee on Child Labour to review existing legislation.

This is the turning point in the history of child labour legislation in post independent India. A new set of policies were introduced which were a major break through in the constitutional provisions. The committee established the fact that most of the legislation was not enforced because the

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63. National Policy for Children 1974, Quoted in Parveen Nangia, “Elementary Education and Child Workers in India, A Policy Perspective”, in *Towards Eradicating Child Labour*, (Ahemadabad, Gandhi Labour Institute, 1991), pp.213-21.

government had not enforced legislation banning child labour. As a statement given by labour minister, Ravindra Verma at that time,

“it is not that this is not a desirable objective but we have to think two set of problems related with a proposal for an immediate legal ban on the employment of child labour. As he pointed out, that economic problem flows from the problem of poverty and the immediate prohibition of employment of children will stop the supplementary earning of the poor families. Secondly, the administrative problems flow from the unchanged social condition which does not accept the sanctions, of the law. It needs social reforms has to be practical.”(64)

The committee also highlighted that several inadequacies in the existing administrative setup, the jurisdiction of individual inspectors was too extensive for them to keep a regular watch on activities within their purview. A single inspector covers a group of several districts; he was burdened with the responsibilities of labour legislation in general. The committee also viewed that the entire situation from laws execution to prosecutions was being overlooked because of certain inherent factors. There

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64. *National Committee on Child Labour 1979*, (New Delhi Government Of India 1979), p.54.



was in fact a vicious circle. It was also argued that if the children were not employed they will be in the streets.<sup>65</sup>

The committee nonetheless urged the government to strengthen its enforcement machinery and to make use of voluntary organisations and trade unions. The committee was of the opinion that minimum wage laws for adults should be enforced. If the parents earning increase, they would be less inclined to allow their children into service. The committee supported primary education for children but reported that serious doubts are also raised about usefulness of the present system of education which does not prepare them for future occupation. As committee stated:

Employers should be urged to include education as the necessary ingredients of labour welfare measures in their establishment; to impose cess on industry to raise funds for this purpose or alternatively to allow concessions in taxes etc. to the employers who under take to implement educational schemes.(66)

The committee fixed 15 years as the minimum age limit for the employment of children in any occupations. Government response however to the committees recommendation is positive

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65. Ibid., p.39.

66. Ibid., p.42.

except the minimum age limit. In 1983, the Planning Minister S.B.Chavan stated, the government viewed that banning child labour was not feasible due to the prevailing socio-economic condition and exigencies.<sup>67</sup> The seventh five year plan (1985-1990) took the firm step to make working condition feasible and acceptable for the children. The plan proposed a greater role for voluntary agencies in providing child workers with health care nutritional facilities and education. In (1983-84), the ministry of labour annual report considered child labour as harse reality and it is neither feasible nor opportune to prevent children from working in the present stage of economic development.

One of the important point raised by the Gurupadswamy committee (1979) was a single comprehensive child labour legislation which covers all aspects of child labour in different industries. The Sanata Meheta Committee also reiterated the point in 1986 and called for the uniform age limit for the employment of children. It is also claim that Advisory Board should be made of representatives of the governments trade unions, employers, and voluntary organisations concerned with

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67. Ibid., p.44.

working children. Similar Advisory Boards should exist in any cases of state level. The Gurpadswamy Committee also recognised that a distinction had to be made between child labour and the exploitation of child labour as, although both are a problem they are of different order.<sup>68</sup> It had underlined that in all future action dealing with child labour this basic aspect would have to be taken note of "that labour becomes an absolute evil in case of the child when he is required to work beyond his physical capacity when hours of employment interfere with his education, recreation and rest, when his wages are not equate with the quantum of work done and when the occupation he is engaged' in is dangerous to his health and safety i.e. when he is exploited."<sup>69</sup>

In 1984 Indian Ministry of Labour began to evaluate and reassess public policies towards child labour. The aim was the identify the most effective way of dealing with the problems under Indian conditions. The reassessment was based on a number of considerations:<sup>70</sup>

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68. Ibid., p.49.

69. Ibid.

70. See Ashok Narayan," National Policy on Child labour in India", in *Conbating Child Labour*, Geneva, International Labour Office, 1988), p.105.

(1) The conditions of work had been found to more exploitative where children are engaged in wage labour than they were worked with their family in their own homes.

(2) Where it was not practicable to prohibit the employment of the children, efforts were to be made to regulate the conditions of work. So that they would have received some protections and in particular were assured of reasonable wage and short working hours.

(3) Efforts were to be made to provide working children with services in order to ensure their physical and mental development.

(4) It was necessary to rehabilitate those children removed from prohibited occupations otherwise it could have been quite difficult for their families to provide them their needs.

(5) Efforts were to be made to strengthen income and employment generating programmes and education, health, nutrition and vocational training schemes in areas with high concentration of child labours.

These considerations have lead to two major development:  
The enactment of Child Labour (Prohibition and Regulation)

Act 1986 and the formulation of a National Policy on Child Labour in 1987. These two new documents emphasised on three basic objectives, (a) Legislative Action Plan. (b) The Focusing of General Development Programmes for benefiting child labour wherever possible. (c) Project based plan of Action in areas of high concentration of child labour engaged in wage in quasi-wage employment.<sup>71</sup>

(A) Legislative Action Plan : Under the Legislative Action Plan Child Labour Prohibition and Resolution Act 1986 prohibited the employment of children who were under 14 year of age in specified hazardous occupations and process. The employment of children were strictly prohibited in ten different occupations and processes, which were considered as hazardous for the children for instance, Rail and Road transport; bidi making; carpet weaving, cloth printing, dying and weaving, the manufacture of shellac matches, cement, soap, explosives and fire work, building and constructions are prominent.<sup>72</sup>

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71. Ibid.

72. National Policy on Child Labour 1987, (New Delhi : Government Of India, 1987), *Awards Digest : Journal of Labour Legislation*, (Noida, 1992), vol.18 (3-6), p.78.

The act also provided a child labour Technical Advisory Committee to advise the central government on which occupations and industrial process are prohibited where children are employed in non-hazardous occupations the work must be regulated in accordance with the provision of the act, containing paragraph third of the act which set standards and conditions with regards health work, overtime and weekly holidays.<sup>73</sup> Responsibility for policy formulation invested with ministry of labour, although implementation is carried out in collaboration with or under the auspicious of the State Government. There is also Central Advisory Board or child labour which assists the Central Government in policy issues. The board is made up of representatives of the governments, trade unions, employments, and voluntary organisation concerned with working children.<sup>74</sup>

(B) Focussing of General Development Programmes for benefiting child labour.

In conjunction with the legal majors some developmental programmes are adopted in order to address the socio-economic issues having a bearing in child labour and provide a framework

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73. Ibid., p.79.

74. Ibid., p.80.

for a concrete programmes of action. The policy encompasses action in the field of education, health, nutrition, integrated child-development and employment.

The National Policy on education in 1986, sets a target whereby all children who attain the age of 11 years by 1990 will have received five years of schooling, or its equivalent in a non-formal system of education with this goal in view, 490,000 non-formal education centers are to be opened nationally to supplement the formal education system. Since non-formal education is to be planned and organized at the local level, centers for child labour will be set up in both urban and rural areas with the involvement of local voluntary agencies and Panchaytiraj institutions the latter being self-governing organizations with the participation of the people's elected representatives.<sup>75</sup>

Funds from the National Rural employment Programme and the Rural Landless Employment Guarantee Programmes will be used on a priority basis to create the infrastructure for these centers. Efforts will be made to link the non-formal

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75. Ibid., p.81.

educational institutions with the formal education system, so as to enable child workers who have completed the former to continue their schooling in the latter.

Special attention will be given to attracting and retaining working girls at these centers. Part-time vocational courses will also be provided after work and during holidays. The centers would aim to educate children up to class V level, with arrangements for continuing up to class VIII wherever feasible.

Details of a scheme of incentives and assistance for families who are forced to involve their children in wage or quasi-wage employment are to be worked in consultation with state governments. Scholarship will be given to working children who come from especially deprived families engaged in occupations like scavenging, to ensure that they are enrolled successfully and complete the non-formal education courses.

The Action Plan also emphasized that ministry of health, and family welfare will address state government recommending that intensive medical inspection of children be taken up in those areas where child labour is prevalent. Since health and family welfare is the state government's responsibility,



the central government resorted that state government will be persuaded to arrange some special health programmes at the Non-Formal education centers for child labour.

Regarding nutritional facilities to child labours, the national policy contained with a provision that the central government will provide funds to the state government and no-governmental organizations on a priority basis.

Another important programmes was that anti-poverty programme line IRDP, NREP, RLEGP, will cover the families of child labour.

The policy anticipates and provides for specific pilot project which could establish to basis for a more vigorous national programmes of action.<sup>76</sup> A strategy will be to evolved a model comprising of a numbers of key elements. These are; (1) Stepping of the encroachment of the factories act 1984, mines act 1952 and the child labour prohibition and Regulation Act 1986. If necessary special enforcement staff will be employed for this purpose. (2) Coverage of families of child labour under the income generating programmes, under the overall aegis of anti-poverty programme. (3) A special

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76. Ibid., pp.82-83.

component and tribal sub plans by the state government will be introduced in each project area where there is a concentration of SC and ST families with child workers. (4) The provision of both formal and non-formal education, the setting up of special schools providing vocational training and supplementary nutrition for child workers and a programme of adult education for the parents of working children. The policy also anticipate a stipend for the children withdrawn from prohibited employment. (6) Coordinating the activities of different department and ministries of the central and state government has to be taken place.

Existing infrastructures run by the department of education and health will be suitably modified and incorporated into these schemes. Special funds will be allocated in order to ensure intensive coverage in the project areas of the anti-poverty, health and nutritional programmes and to provide for special schools and stipends. The additional funds will be channelled through the Ministry of labour, which will be responsible for planning and coordinating the projects, in close consultation with the state government. The first phase of the special projects is expected to cover up to 30,000 child workers.

There will be Chief Executive Officer in charge of each project area, who will work under the general supervision and direction of the administrative head of the district in which project is situated. A Child Labour Project Board will be created with representatives from the district educational health and nutrition authorities, and the voluntary agencies and Panchayatiraj institutions active in the area. This will ensure co-ordination among the various bodies executing schemes in the project area. In the view of the fact that voluntary organizations have made a major contribution to research and action-oriented programmes for working children, they are to play an important role in future projects, particularly these aimed at rehabilitating children removed from prohibited employment and these providing welfare facilities for working children.

The child labour projects will be monitored by a committee of the central Government with representatives the ministries and department concerned and from the state governments in areas where child labour projects are being implemented. The committee will meet as often as is necessary to ensure the smooth functioning of the project.

Development occurred in the field of primary education

which is also crucial to the problem of child labour. In India school leaving and minimum age for employment, as indicated in Art. 24 and Art. 45 is fourteen years. Compulsory primary education and prohibition of employment of children are analytically inter-connected.

The New National Policy of Education 1986 in its paragraph 5-12 gives a resolve as the New Education Policy will give the highest priority to solving the problem of children dropping out of school and will adopt an array of meticulous formulated strategies based on micro-planning and applied at the grass-roots level all over the country to ensure children's retention at school. This effort will be fully coordinated with the next work of non-formal education. It shall be ensured that all children who attain the age of about 11 years by 1990 will have five years of schooling or its equivalent through non-formal stream. Like wise by 1991 all children will be provided with free and compulsory education upto 14 years." The fact is that there is no reference at all in the entire document to working children."<sup>77</sup>

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77. *New Education Policy 1986*, (New Delhi : Government of India, Ministry of Education, 1987).

Nevertheless, the New Education Policy emphasizes the expansion of educational facilities, the use of persuasion and the non-formal part time education rather than compulsory education. The National Policy on Child Labour and the New National Policy of Education 1986 are analytically inter-connected which confirms that the notion of Child Labour Policy in India became ‘amelioration’, not abolition and education, ‘incentives’, not compulsion.<sup>78</sup>

The basic argument was that the type of primary education is now being imparted in schools makes it completely unattractive to the parents of children, particularly in rural areas, where children are considered as an economic asset.’<sup>79</sup>

### **Contradictory Developments in the 1990s - India is exceptional in its approaches to Child Labour**

The development in recent years in the different aspects of childhood particularly in field of compulsory primary education, health and nutrition have achieved the global consensus in

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78. M.V. Kamath, “A Theme Paper on Child Labour in India” *Seminar Organised by Indian Council for Child Welfare*. (New Delhi 1986), p.6.

79. *Ibid.*, p.8.

order to provide both protectional and promotional measures for the survival of the worlds children.

In the year 1989, a convention on the rights of the child was adopted by the General Assembly of the United Nation. Art 32 of the convention mentioned, that “state parties recognized the right of the child to be protected from the exploitation and from performing any work that is likely to be hazardous or to interfere with the child education or to be harmful to the child’s health, physical, mental, spiritual, moral, or social development.”<sup>80</sup>

Secondly, “state parties in particular take should legislative, administrative, social and educational measures to ensure the implementation the present article. To this end, and having regard to the relevant provision of other international instruments, state parties shall in particular, (a) provide a minimum ages for admission of employment. (b) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article and (c) Provide for appropriate regulation to the hours and condition of employment.”<sup>81</sup>

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80. *Convention On Rights of Children 1989*, Art. 32, (New Delhi, UNICFF 1992).

81. *Ibid.*, Art. 28.

In Art. (28) of this convention it has been reiterated to make primary education compulsory and available free to all India was a party to the convention and has ratified it.

It is now universally accepted that in a democracy education and law, are the principal instruments of socioeconomic transformation. Further there is good and sufficient empirical evidence which goes to prove that education is the most vital input for reducing economic disparities and towards bridging of social distances within and between social groups, communities and even countries.

For the first time a direct reference about child labour is made in the Human Development Report 1993. Which argues that incidence of child labour is the indicator of low level investment on children and an indicator of a form of disparities among people. It distorts functioning of the market which is, as it is considered, the only means of sustainable human development. Making market more people friendly is a global agenda. But market suffers from the distortion in the form of disparities among the people, who enter into it.<sup>82</sup>

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82. *Human Development Report 1993*, (New Delhi, Oxford University Press, 1993), p.33.

Investment in human capital raise labour productivity and it matched by a kind of technology best suited to the skills of the work force can have a multiplier effect throughout economy. Labour productivity increased by 11% a year in the Republic of Korea between 1963, and 1979, and in Thailand by 63% between 1980 and 1985. Most of this increase came from a generous investment in the education and skills of people.<sup>83</sup>

According to a latest supreme court judgement on case of Mohini Jain vs State of Karnataka, the court has categorically re-iterated that primary education to a child upto 14 years is fundamental rights of children.

Every child in India till the age of 14 years has a fundamental rights to primary education every state in the country will now have to provide schooling to all children in the age group of (5-14). Earlier Art 45 in the constitution has provision that state shall endeavor to provide free compulsory education to all children. The term endeavor does not make state is obligated to provide primary education. But the court has put onus of the government to make education available

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83. Ibid., p.33.



to every child.<sup>84</sup> The implication of the judgement will be are whether child shall be free to avail of his rights or state can compulsorily bring a child to put into the school to provide education upto the age of 14 years. The Judgement is based on an assumption that right to education flows from the right to life guaranteed under Art 21. Thus the judgement has more than its declaratory value. The real significance of the judgement in the contribution and moral pressure that it will not exist on state which has so far failed to the constitutional obligation to provide universal primary education to all children. The judiciary has thus speeded into to restores constitutional vision which the practices of power politics have lost sight during last 46 years.<sup>85</sup> The thrust of equal opportunity in education is not non-justiceable and that Directive Principle of State Policy have to be read as Fundamental Rights.

Child labour is a human tragedy. It  
is now time for the greater government  
and corporate America's responsibility

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84. Supreme Court Judgement on Mohini Jain vs State of Karnataka, The Judgement is the Landmark Judgement on the Capitation Fee and Compulsory Primary Education, (New Delhi : Supreme Court of India, 1993).

85. Ibid.

to end this tragedy - "no longer can officials in the Third World and US importers turn a blind eye to the suffering and misery of the Worlds children. No longer should American consumers provide a market for good produced by the sweat and the toil of children. We should be trying to raise the standard of living in the Third World so we can compete on the quality of our goods not misery and sufferings of those who make them. Our policy toward third world countries should promote economic growth equality and human development because it is in our interest."(86)

As Third World markets flourishes or expand so too will American Jobs and its exports. our policy should discourage Third World countries from sending kids to the assembly line and encourage to increase their spending on programmes for their children such as primary schools."

The basic argument is that what about the morality and the moral content of the items that America will import, which is made by child labour in other countries working 12 to 15 hours a day for very little pay. The main emphasis that Third World Countries do not have to wait until poverty is eradicated or they are fully developed before eliminating

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86. *Child Labour Deterrence Bill. 1993*, (Washington, Congressional Record Senate, 1993), pp.s511608-11.

the economic exploitation of children.<sup>87</sup> The other significant aspect of the bill is that United States to seek an agreement with other governments to secure an international ban on trade in the products of child labour. On the other hand, Germany and U.K. are also in the process of adopting measures to curtail imports of goods made using child labour. Germany proposes to have labelling to give customers choice on whether they want to buy goods made with child labour or not. As it is reported the European parliament is to follow suit in the work of an appeal of an international meet in Berlin October 1992 to foreign buyers not to sell or store the carpets which is made with child labour.'

International protectionist approach to human rights as it witnessed, the withdrawal of aid and stoppages of trade are powerful weapons that the North imposes over the South. This is as much as moral issue as an economic one Harkin Believes that use of child labour is the fundamental abuse of human rights.

Indian Interpretation to the Bill is that the country will lose Rs. 1000/ crore a year, it will reduce the growth of

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87. Ibid.

exports. However, it smack of arrogance to such to bring about parity in human rights situation when country are very difficult stages of economic and social development. It tries to prove that social centered approach of government of India that unless poverty is eradicated child labour will countinue is a wrong notion.

The above analysis provides an ample of avidences where we get enough reasons to critically evaluate the existing policies and programmes of child labour in order to scrutinize the existing approach and interpretation of child labour.

### **Focus and Area of the Study**

The main focus of the present study is to evaluate the public policies of child labour in India and highlight the factors responsible for the failure of above policy and programme. It is also aiming at the implication of those policies, particularly Child Labour Prohibition and Regulation Act 1986 and National Policy on Child Labour 1987 and to bring out the factors which are responsible for the continued incidence of child labour in India.

The principal objectives of the study is to understand the problem of child labour and bring out a comprehensive

public policy analysis of child labour in India. The study also keen to look at how far the new policies adopted by the government are pragmatic and practical as it is claimed by the government. Another main objective of the study is to bring out the issues which are determinants for the public policy formulation and implementation of child labour in India.

To demonstrate the above aims and objectives we have taken child labour problem in match industry in Sivakashi, Tamil Nadu as our survey area. The detail analysis about it is provided in the chapter three.

Chapter IV explains the various interpretations of public policy of child labour in India and critically examines the empirical evidences have existed in the present literatures of child labour in India. However, Chapter V contained with the concluding remarks. But it also emphasize to lead the empirical evidences towards different theoretical point of view.

## CHAPTER - II

### The Situational Analysis of Child Labour in India

Child Labour has been persisting since time immemorial, but in different forms. It has been changing in its nature and dimension with the corresponding change in social, economic, political and cultural structure of society. In the past, child labour was a part of social organisation in which all the member of the family pooled in their labour to produce for their subsistence and survival. The work of the child was accepted as a part of labour that was necessary for the reproduction of the system. This was considered as child socialisation.

In the Feudal social ordain children were working on the farms for wages and often remained as bonded labour in the land lords house along with their parents, to re-pay or to minimise the debt<sup>1</sup>.

Children to slaves were treated by the owners as potential

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1. See, Lai Ah. Eng, "The Little Workers : A Study of Child Labour in Small Scale Industries of Penang", *Development and Change*, (London, October, 1982), vol.13(4), pp.565-70.

workers.<sup>2</sup> The children, thus, were woned either worked thfor and served their masters or were sold to others. The economic vulnerability of the parents and the exploited motive of the owners for the profit, together provide the most fertile ground for the exploitation of children as a worker.

However, the issues and problems of the child labour received public attention during the Industrial Revolution. At the one end, unprecedented expansion of factory - system which required child labour as chief human labour, as an important prerequisite for its growth. At the other end plight of the factory workers as a manifestation of evils of industrial revolution in general, and plight of child labour in particular accumulated in the writings of social investigators. However exploitation of childlabour in the retrace for the surplus became common Explaining the situation of child labour during early part of Industrial Revolution Frederick Engles notes;

from the beginning of the manufacturing industry children have been employed in mills at first all most excludsively by reason of smallness of the machines which were later enlarged. Even children

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2. See Saradamani, *The Emergence of Slave Coste : Puloyas of Kerala* (New Delhi : Peoples Publishing Houses, 1980), p.54.

from the work-houses were employed in multitudes, being rented out for a number of years to the manufactures as apprentices. They were lodged, fed, and clothed in common and were, of course, completely slaves of their masters, by whom they are treated with the utmost recklessness and barbarity.(3)

Therefore, perhaps many of the modern writers on child labour traces back to the Industrial Revolution which emerged in the middle of the 18th century in England and 19th century in India.<sup>4</sup> But this argument is also being defied on the ground that child labour is a pre-capitalist and a pre-industrial labour force<sup>5</sup>. However, public concern for child labour in modern times arise not that where does it originate but they are exposed to a new kind of dangers and exploitative working conditions when they work and denial of rights of children particularly right to education health and nutrition.

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3. See, Fredrich Engles, *The Condition of Working Class in England* (Masco : Progress Publishing House, 1973), p.187.

4. See, Helen R. Sekhar, "The Child Labour Prohibition and Regulation Act 1986 : Acritique", *Awards Digest : The Indian Journal of Labour Legislation*, Noida, March-June 1992, vol 18.(3-6), p.35.

5. See, Myorn Weiner, *The Child and State in India*, (New Delhi Oxford University Press, 1991), p.33.



## Definition of the Child Labour

Child Labour has been defined in terms work types and age criterion. Although, age is "an universally accepted criterion". It differs from minimum age criterion adopted by the various acts. As defined by the International Labour Organisation

“Childlabour includes children permanently leading adult life working long hours for low wages under conditions damaging to their health and to their physical and mental development, sometime separated from their family, frequently deprived of meaningful educational and training opportunities that could open of for them of a better future.(6)

According to Constitution of India No child shall be employed to work in any factory or mine or engaged in any other hazardous employments. At the same time, the constitution has provisions for the free and compulsory primary education for all children until they complete the age of fourteen years.<sup>7</sup> It clearly indicates the minimum age of employment should be above fourteen years.

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6. See, Report of the Director General of ILO, 1983, Quoted in M.M. Rehman; *The Society Economy and Education of the Deprived*, (New Delhi, Arpan Publications, 1992), p.297.

7. See *Art. 24, Art.45 Art 39(e) And 39(F)*, Constitution of India, (New Delhi, Government of India, 1990), .p.24.

Child labour is often defined in terms of exploitation and age. According to UNICEF, childlabour starts work at too early age, working too long which affects in his education, the work causes excessive physical, social and psychological strains and the work pay the low wages.<sup>8</sup>

It is pertinent to mention here that due to definitional problem it is very difficult to get the exact figure on childlabour which sometimes affects in the evaluation of public policies. For instance the Operation Research Group, Baroda (1983), defines that "a working child is as a child falling within 5 to 15 age bracket and which at remunerating work may be paid or unpaid and busy any hour of the day within or outside the family." On the basis of this, it estimated total number of child labour in India is 44 million.<sup>9</sup> Out of these 21.0% are in urban areas and 89 percent are in rural areas, but National Sample Survey 1983 estimated that the total number of child labour by 1983 were 17.36 million.

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8. See UNICEF, "Exploitation of Working and Street Children", (New York, 1826), pp.3-4, Quoted in Alec Fyfe, *Child Labour*, (Cambridge, Polity Press, 1989), pp.8-9.

9. See Neera Burra, "Child Labour in India : Poverty, Exploitation and Vested Intrest", *Social Action*, (New Delhi, 1986), vol. 36, p.246.

and military supermacy were being challenged in trade by Germany and United States. And when a new sense of insecurity was pravoking examination of nations assets with a wider definition and larger prospectives than had been usual before. Impertance of children as future labour force and army and as parents of succeeding generation, it demands its concerns which went beyond the earlier humanitarian concern.<sup>12</sup> However, the western concept of childhood is neither a universal concept for the children of the west nor it is feasible for the poor third-world developing countries to practise the concept towards the childrens. Evidentaly America today has 1.2 million child labour and Itally and Spain considerèd as the countries where largest numbers of child labour are concentrated.<sup>13</sup> At the same time child labour is being accepted as unessential and inevitable part of the third world economy.<sup>14</sup>

In modern times the incidence of child labour and their exploitation is a global concern. Human Development Report

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12. Ibid., p.645.

13. See, *Human Development Report 1993*, (New Delhi : Oxford University Press, 1993), p.33.

14. See *Indian Ministry of Labour's Annual Report (1983-1984)*, (New Delhi, Government of India 1985), p.54.

1993 argued that the practice of child labour distorts the functioning of capitalistic market and it is detrimental to the sustainable human development.<sup>15</sup> It is the sharp reminder of the human potential that the world is wasting. The investment of the children is the best investment in human resource development and national development not just in human terms but also in hard headed economic terms. The peoples participation in development of the country is World's concern but childlabours not only indicate the low level of investment on children but it also indicate deprivation of the oppertunities for participating in the countries development. Hence, childhood to be protected and promoted for the purpose of human development that is the fundamental pre-requisites for the economic development strikes the importance. It is perhaps a radical departure from the earlier conception of the childhood as the period to be protected and promoted on the humanitarian and moral grounds.

It is also often assumed that child labour as some lingering relics or survival of a premitive, precapitalist past which represents the persistence of the traditional role of child as

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15. See, *Human Development Report 1993*, n.13, p.33.

worker and the reflection and continuation of feudalistic mode of social relation and the practice of slavery.<sup>16</sup> Therefore childlabour more truly mirrors the character of society and polity including the nature of transition than any other set of indicators.<sup>17</sup>

Another discernable tendency is that child labour is conceptualised as a kind of childrens subordination to the adults. Hence studies are often tempted to investigate the authority that the adults do exercise over children in the labour process, and the authority of adults over children within the family; and tempting to categorise adult authority in terms of patriarchy.<sup>18</sup> For instance, explaining the exploitation of child labour a neo-classical economics profound that a cause of abuse of child labour is located in the misuse of parental power, the selfish preference of adults not in the functioning

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16. See, D.L. Narayan, "Farword", in Bhagwan PD. Singh and Sukla Monthly, *Children at Work : Problems and Policy Options*, (Patana, Indian Society for Labour economics, 1993), p.VII.

17. See B.N. Juyal, "Child Labour : Who Wants it", *seminar*, (New Delhi, 1988), n.350, p.42.

18. See Diane Elson, "The Differentiation of Children's Labour Power in the Capitalist Labour Market", *Development and Change*, (London and Baverely Hills, 1982), vol.13, pp.479-97.

of economic system itself.<sup>19</sup> The marxist economics considers parents of child labour as slave-dealers but for the abuse of child labour it acques the role of power in the production process.<sup>20</sup> Unlike of the above two theoretical explanation the Feminist economics considers that the abuse of childlabour reflect that the state maintains and legitimises the power of adults-those who have attained the age of majority over children-those who remain minor. Slightly different from this conception another kind of investigation explains that instead of the subordination through parental authority it is pertinent to use a concept of social construction of an age hirarky; of a system in which those in junior possitions are unable to achieve full social status in their own right.<sup>21</sup>

Since public policy of childlabour exmanents from how the childhood is perceived,<sup>22</sup> child labour confronts researchers

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19. Ibid., p.483.

20. See Karl Marx, *Capital* vol. I, (Harmondsworth Penguine, 1976), p.519.

21. See Diane Elson, "The Diffrentation of Children Labour Power in the Capitalist Labour Market, *Development and Change*, (London, and baverely Hills, 1982), vol.13, pp.479-97.

22. See, Kuldeep Mathur, *Public Policy and Child Labour in India : Paper Presented At National Seminar on Status of Child Rights in India*, Organised by World Service Organisation, JNU Chapter, (New Delhi, March 26. 1993), (Unipublished).

with the need to re-examine a number of ingrained assumptions and moral attitudes which are not only difficult to overcome but it tends both to cloud the analysis and to lead to recommendation for action which are often proved realistic and counter-productive.

### **Numerical Prospectives and Nature of the Problem**

The World Labour Report of 1992 claims that India has 8.2 crores of children under the age groups of 5 to 14 years, out of which 4.2 crore are engaged in labour force, and 10 lakh out of them are bonded child labour engaged in labour intensive industries.<sup>23</sup> According to 1961 census the total number of child labour in India were 14.6 million but in 1971 it reduced to 10.7 million. The education may be due to the changing definition of worker during Late Sixties.<sup>24</sup> But the trend changed again in 1981 census which figured it to 13.59 million. Over the period of time the magnitudes

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23. See *World Labour Report 1992*, (Geneva, International Labour Organisation Office, 1992), p.12, see also Girish Chandra Mishra, "Can Child Labour be regulated" *National Herald*, (New Delhi, June 1993),

24. See. M.K. Sahoo : *Demographic trends in India* (Unpublished), (New Delhi, Center For Regional Development, Jawaharlal Nehru University 1993).

of child labour appears to be rising both in absolute and relative terms. In the relative term, the percentage of the child labour to the total child population in the country has gone up from 4.6% in 1971 to 5.17% in 1981 census.<sup>25</sup> According to National Sample Survey (1983) the total number of child labour in India were 17.36 million. It has gone upto 17.58 million in 1985. On the basis of this trend as it was projected the total number of child labour would be 18.17 million in 1990 and 20.15 million in 2000 A.D.<sup>26</sup>

According to 1981 census most of the child workers were engaged in agriculturs (around 80%). Most of the child workers belong to the poor landless and semilandless households which cannot afford to send their children to schools. They are forced by circumstances to work on neighbouring firms to supplement their families income which are otherwise not sufficient for sustainance.

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25. Indradeo Sharma, Bipin Kumar and K.B. Panda : Child Labour in India : An Anatomy, in Bhagwan P.D. Singh and Sukla Monthly *Children At Work, Problems and Policy Options*, ed, (Patana Indian Society For Labour Economics, 1993), pp.14-37.

26. S.S. Meheta, "Why Child Labour" in *International Sminar on Child Labour*, (Ahmedabad, Gandhi Labour Institute, December 4-7, 1987), p.17.



As it is indicated, the sectors allied to agriculture such as livestock, forestry and fishing constitute 5.67 percent of child workers. Cottage and household industries constitute the third important sector in which child workers are concentrated. About 5 lakh child workers are engaged in such industries.

Among the state Andhra Pradesh has the largest number of child labour force. Where as Kerala ranks the lowest. The spatial distribution to child labour indicates the incidents of child labour is positively co-related with poverty. It is essentially a case of social and economic under-development.<sup>27</sup> It is not merely economic and social under development which can explain the incidence of child labour in India also. In fact Kerala has lower incidence of childlabour than Punjab, Hariyana and several other states which have lower poverty ratio.<sup>28</sup> The incidence of child labour is highly dependent on the demand for labours' as depicted in the general labour participated ratio. To substantiate the point, why the state of Punjab and Haryana

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27. Sharma, n.25, pp.13-25.

28. Ibid., pp.26-37.

have one of the lowest incidence of female child labour. Both of these states have very low labour participation ratio for the females.<sup>29</sup>

Highest number of incidence of child labour is from families of scheduled caste and scheduled Tribes and incidents also more in case of poorer and backward states and the backward districts.<sup>30</sup>

Child labourers are exposed to different kind of employment relations, structures and system of remuneration. The most dramatic form of exploitation of working children are associated with wage labour. Most of the cases it has been observed child labour worked more than 14 to 16 hours a day and get only five to six rupees. They are often paid on piece-rate basis and some are unpaid. In the working side they are exposed to various kind of chemicals which are hazardous for their growth. Economic exploitation of the children based on their cheap labour, unorganised, illiterate, have no trade-

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29. See Ibid., pp.26-37.

30. See Ibid, pp.26-37; or Kanbargi Ramesh, Child Labour in Carpet Industry Mirzapur Baranashi, in Assefa Bequel, *Cambating child labour*, (Geneva, Industrial Labour Office 1988), p.105.

unions to bargain and can easily obey the masters-They are preferred to adults due to their suppling fingers which can work faster than the adults. These kind of industries are basically produce expest items. Because of these industries earn high amount of Foreign Exchange and increase growth of export goods, goverment accept child labour as neccessary evil in India. India earns Rs 1000/- crore annually from the handknotted carpets from the Mirzapur Belt alone where it is reported large number of child bonded labours are engaged in these manufacturing industries.<sup>31</sup>

Incidence of female child labour is due tothe discriminatory treatments prevailing in the rural working-class families. For instance in Shivkashi the match and fire working factories constitute with 45 thousand child labours out of which 90% are girls. Informalisation of child labour is another emportant aspect of the problem. While law is not applied to the cottage industries and family enterprises, although child labour is banned in carpet and match industries and other hazarduous industries, they are highly concentrated in the family units. It is very

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31. See Darley D'Monte, "Carpet. Makers In the Duck : Tangled Issues of Child Labour", *Times of India* (New Delhi, July 15, 1993), p.8.

difficult for the legislation to regulate the working condition in the families.<sup>32</sup>

In India the large number of adult unemployment and large number of child labour goes side by side. Child workers are largely illiterate, they are either never have been to the school or the school dropouts. They are denied two kinds of right in one form. They are the children who do not avail right to education, health, nutrition and free environment which has been guaranteed to them in the constitution. They are the labours who do not get minimum wage and better-working conditions.

Child labours are found in new lines of production. For instance small scale industries are considered by the government as the best for poverty-aliviation programme and unemployment erradication. As it was found most of the small scale industries and cottage industries are financed by nationalised banks and government. Apart from match and carpet manufacturing units the exploitation of the child labour also found in other occupations.

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32. See D.L. Narayan, "Perspectives of the Girl Child in Third World Countries", *Children At Work Problems and Policy Options*, (1993), pp.87-104, and See, Helen, R.Sekhar., *Girl Child Labour in Sivakasi*, (Noida, Child Labour cell, National Labour Institute, 1993).

in which it functions. And on the demand side, child labour is an important aspect of the cost minimizing strategy of enterprises. The level of child employment is also influenced by the volume of demand for the product of child workers, government attitudes and the employers perception are also important in influencing the level and direction of child employment.<sup>45</sup>

Therefore, policy implication may be measured in two different ways- (I) intimate link between child labour and the employment and income status of households, the provision of schemes that generate and enhance employment and income among the adult workers in a necessary condition for the reduction of child labour, and (II) the important measure is also the provision of schooling. The vital determinants are the need to expand educational facilities and improve quality of curricula and teaching methods, feeding programmes, improving nutrition facilities.<sup>46</sup>

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45. Ibid.

46. Bequel n.43, pp.1-24.

## Evaluation of Child Labour Policies in India

In Chapter three we have discussed the impact of child labour policies and programme in Sivakashi on basis of the primary data collected by author himself. Here in this section we will be analysing the evidences collected by other impirical studies. Towards this efforts, the first attempt was taken by Tamil Nadu Government itself.

Harbans Singh committee on 1976, was set up by the Tamil Nadu Government investigate the problems of child labour in the state. Recording his tabulations Harbans Singh Reported "In the absense of any reliable statistical data about the extent of the problem of child labour in the match and other factories, I through personal visits should be made tothe factories without prior notice. I found that the movement I reached a factory, work was stopped and the child laboures were seat out by the back door which was available in most cases."

Many of the children had to lindage long distances to and from work thereby spending their entire working hours away from home. Where transport was provided by the company, the vehicles were subjected to grass over crowding. Since most of children were not meationed in the employment registers,

they did not come under the employees State Insurance Scheme and were not carried for accidents which were common enough in match industry.

The lack of will on the part of the authorities to take defeneat action against those fund guild of employing children below 14 years of age in the rare instances where they have been prosecuted is also brought out in the report. As it say 'Even though proseceetion are lunched and the offerderes canvietet, the only punishment they were given is a partly fine Rs 25 or 80. Out of 11 cases of convictims reported to me only in one case was the fine Rs 50/- and another Rs 30/ - even a second in subsequent offence did not result in a heaviour fine. Such fines to say the least, have no detereat effect whatsoever.<sup>47</sup>

The Harbans singh committee found that children constituted nearly 40 to 45 percent of the total labour of employed in Match Industry. girls outnumbered the boys, the ratio is three to one. The children were worked for long hours under unsafe

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47. K.P. Sunil, "Dreams Die Young" *Illustrated Weekly of India*, (Bombay, February 23-24, 1991), pp.30-31.

conditions and on piece rate wages. the committee recommended that the problem should be tackled without causing hardship to the families of child labours and also without upsetting the industries which have created employment. The stoppage of child labour is likely to create more problems than it will solve. Threatening the existence of the industry and causing extreme hardship for the people. He also found that a widespread violation of the Factories Act and the Employment of childrens Act. Most of the children had never seen to school. They are exposed to dangerous chemicals and there are frequent accidents. The committee recommended restrictions of working hours, increased wages, benefits on a par with other workers and provisions for nonformal education. In February 1979, the Tamil Nadu government decided to implement the recommendations.

Harbans Singh's recommendation was based on an assumption that the economic distress of the people on these areas and the parents need to argument their migre income through their children's earining were responsible for the paralence of the child labour. It was found more economical because of the low wages the employrs forced that its abolition not only escalate the cost of production of the matches but would



also add to the hardship of the people.

Harbans Singh recommended that wages for child labour should be raised and it that created a hardship for the employers than the government should impose a higher excise tax on WIMCO. He wanted factory owners to more work to villages and set up sheds so that children would not have to travel long distance for so many hours. a system of non-formal job oriented education be provided to the children at the factories from eight to ten in the morning so that they could have some education even as they work.<sup>48</sup>

The task force headed by Dr. L.M. Singhvi constituted by the center to advice it on the imlemention of the child labour prohibition and Regulation Act, 1986 and on the legal action plan of the National child Labour Policy, whether concerning with the Gurupad Swamy Committee report that there were no easy or instant solutions to the problem, had voiced its fears in its report 1989, that measures to abolish child labour would make no progress unless children and their problems

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48. *Report of Harbans Singh Committee on Child Labour in Tamil Nadu, (Madras 1979).*

were accorded the highest priority. Dr. Singhvi warned that the educational strategy for the children upto the age of 14 was in a state of disarray and force and compulsory primary education appeared to be pipedream. Even operation Blackboard was a non-starter. He had also stressed the need for vocationalization and resurrection of rural education. Educational facilities to be provided to child workers by the factory employers and non-formal education should be introduced.

Making his observation on Sivakashi, Dr. Singhvi had opined that the project to children away from the hazardous conditions of the industry in 1989-90 by allcating Rs 25-25 lakh for providing non-formal education including a stipend of Rs 100 a month, did not even cover three percent of the total child labour in the match industry. He also stressed that although the state government had been asked to set up 100 non-formal educational centers in their areas, all that it had appeared to have done was to state a printing press at a cost of Rs. 11.61 lakh for enhancing the income of the child labourers families in Sivakashi. Nothing the pace of implementation of the project, he had expressed his doubts whether the goal of removing child labour in the match industry

For instance as it is reported half of the labours employed even more hazardous limestone kilns in Andhrapradesh are children mostly below ten years. Children are preferred here because of their nimble feet. Child labour seem to be eminently suitable for carrying limestone up through flight of steps to be poured in the helath of kiln. In the process, they inhale nuxious gasses emanating from the mixture of burning coal and limestone for hours seems to be supreme unconcern to the kiln owners. Government indifference in the matter emphasised by the fact that the msot of the unites have been financed by the State Bank of India.<sup>33</sup> A study conducted by Bio-chemical Engineering Department of Delhi IIT revealed that about 7500 to 10 thousand children below 14 years loosing their one hand in each year due to agricultural related injuries usually caused by powercew fodder cutters and threshers in Punjab, Haryana and Uttar Pradesh.<sup>34</sup>

However the reason for studying child labour arise two

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33. See Meena Gupta, "Special Problems of Enforcement of Child Labour Laws and Regulations", *Award Digest : Indian Journal of Labour Legislation*, (Noida, National Labour Institutes 1992), vol.18(3-6), pp.40-45.

34. The Oliver Twist, *Statesman* (New Delhi November 25, 1992), p.7.

grounds. Firstly, inspite of legislative restrictions child labour continues to exist in the prohibited industries and areas of employment, and is subjecte to very little regulation and control in the nonprohibited industries and areas of employment. On the other hand the contemporary response and analysis of differeat aspects of childhood in global context has brought out imperical evidences where child labour cannot be left isolated. Secondly, the emergence of NGO's activities in this field has exposed the entire picture of child labour to such an extent that provokes more studies about the problem. At the same time world is witnessign change in every spheres and it has been claimed world is moving towards more human. In this content there is an enormous suggestions of approaches shifting policy away from the protection of children and towards the eahancement of the childrens rights which childlabour is denied.

## CHAPTER - III

### Problem Of Child Labour in Match Industry in Sivkashi- A Micro Analysis

The Industrial town of Sivakasi produces 75% of the country's carborised matches and 90% of the crackers besides having one of the biggest printing industries in India. The International Committee of Jurists has described Sivakasi as a place with one of the largest concentrations of child labour in the world.<sup>1</sup>

In and around Sivakasi, there are about 2700 big and small match factories, nearly 200 fireworks factories and about 200 printing presses. These industries employ a labour force of 2 lakhs, out of which 75% are from scheduled castes. Men, women and children, make up, respectively, 20% 50% and 30% of the workforce. Again, among child labourers, 90% are girls. According to the 1980 Area Development Programme of UNICEF, there were about 45,269 children among, 1,06,648

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1. Helen, R. Sekhar, "Child Labour in Match Industry in Shivakashi", *Child Labour Series* (Noida, National Labour Institute, 1992) n.5, p.3.

labourers in the match industry.<sup>2</sup> The Gurupadaswamy Committee Report (1979) puts the figure of child labour in Sivakasi about 50,000. In 1986, the Government estimated that 14,121 children were employed in the match units of the National Child Labour Project areas of Sivakasi, Sattur and Vembakottai.<sup>3</sup>

### **Objective Conditions of the Area**

Sivakasi is one of the first-grade municipal towns in the Kamarajar district of Tamil Nadu. Located at 9.28' north latitude and 77.48' east longitude, Sivakasi town covers 6.89 sq. km. and has a population of 84,000 (1991 census) composed of 46,361 males and 38,466 females. The panchayat union covers 304.74 sq.km. and has a population of 1,34,758. The combined population (including migrant workers) of the Sivakasi belt (which includes both urban and rural Sivakasi, Thiruthangal municipal area and Sattur panchayat) was 3,11,000 in 1981.<sup>4</sup>

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2. C.S. Jayaram, "Tender Years Turned to Ashes", *Hindustan Times*, (New Delhi, July 23, 1991).

3. Committee On Child Labour 1993, (New Delhi : Government of India, 1979), p.54.

4. Population Census of India 1981, (New Delhi : Government of India, 1981).

Sivakasi is a drought-prone area with a dry hot climate throughout the year. The maximum and minimum temperatures are 37.5 C and 34.2 C, respectively. It has poor groundwater resources with the depth of a well varying between 7 and 14 metres. Thus, the dry atmosphere facilitates the manufacture of matches.<sup>5</sup>

### **Development of Match Industry In Sivakasi**

During 19th century, match industry developed as an outcome of several earlier experiments to discover low-priced, easy and safe way of making fire. In India, it has a long history which dates back to 1894-95 when two match manufacturing units started one at Bilaspur and another at Ahmedabad. Till 1920 matches were being imported from Sweden, Japan and Czechoslovakia. But around 1922, Sivakasi witnessed the growth of match manufacturing units. The first match manufacturing unit was set up 1923 with a joint venture of two business men from Nadar Community.<sup>6</sup>

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5. Sekhar, n.1, p.4.

6. Sekhar, n.1, p.5.

Match production in India flourished after the first world war when the Government of India imposed revenue duty on import of matches. This naturally resulted in the price hike of matches. During this time Swedish Match Company established several match factories in India and acquired 30% of the market share. The Swedish Match Company is called as WIMCO (West India Match Company). The establishment of match factories by the Swedish Company led to the eventual death of 21 Indian Companies which were Producing 33,200 gross per day totally and the import of matches from other countries came to a standstill.<sup>7</sup> This affected the economy of the country because by the Tariff Board for killing indigeuous enterprise by usinsg nefarious Methods such as (1) Threat on extinction if the Indian company refused to be absorbed or sell its prepondering interest to the Swedish Company (2) Malpractices by Propaganda to bring down the name of the Indian Companies (3) Attempts to convince the Indian consumerss that Indian matches were bad by buying the Indian matches and downgrading the quality of the same and then circulate them in the market. (4) Harassment of Indian match manufacturers by implicating

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7. R. Vidyasagar, "The Lost Childhood : In the Sweatshops of Sivakasi", *Frontline* (Madras, August 31 September 13, 1991), pp.54-61.



them in false cases of infringement of trademark Labels.

When the 21 Indian factories in North India were closing down fast, more and more Hand-made match factories were coming up in Tamil Nadu taking maximum advantage of the dry climate and scanty rainfall of the region and the availability of cheap labour from the rural areas of Tamil Nadu. In these industries the method of production was such that a part of Match manufacturing process was done at home involving all family members. This introduced a industrial culture in the area which dismanteled the social relations.<sup>8</sup>

In 1934 Government of Indian evolved three categories of match industries with the purpose of levying excise duty. This helped to compensate the loss of income through duty by import of matches from other countries. Match factories were divided into three categories :

A. Mechanised match units producing more than 5 lakh gross per year.

B. Small sector units which produce not more than 5 lakh gross per year.

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8. Sekhar, n.1, p.19.

C. Cottage sector units which produce not more than 36,500 gross per year (not more than 100 gross per day)

Regarding the excise duty there were constant changes in the structure on different size Categories of match industry over the years. Initially the major revisions took place in 1954, 1955 and 1960. The sticks content per box was standardised for the first time in 1961 as 50 sticks per box. Revision of excise duty on matches have further taken place in 1961, 1964 and 1966. The Finance Bill for the year 1979-80 has restructured the Exise Duty on matches as: Mechanised sector from Rs. 5.52 to rs. 4.50; Cottage industries, Rs. 3.36 to Rs. 1.60.<sup>9</sup>

The above rate structure holds good even today. The significant difference existing between the excise duty structure between the different size categories has been one of the most important determinants of the sizeable increase in the match units falling in cottage industries category. To substantiate, prior to 1979-80 budget there were 1,800 licensed Cottaged units in Sivakasi belt. In September 1979, the number of such units in Madurai

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9. Ibid.

and Ramnad districts alone rose to 7,400 when Khadi and Village Industries Commission (KVIC) gave licence to 5,600 units in six months. Apart from this the difference in the duty on Small Scale and cottage sectors has given rise to many other anomalies. A majority of cottage units which are reportedly 'benami' units whereby what they produce in one place is shown as being produced in two or more units to take advantage of the reduced duty.

Manufacturing of matches which had a modest beginning with 27 units in 1928 in the desert town made a phenomenal progress over the years. In tune with this growth there has taken place the massive inflow of migrant workers, both Children and adults from the neighbouring areas in search of employment in Sivakasi.<sup>10</sup>

### **Survey on Household Background of Child Labour in Sivakasi**

NB [The data was collected by a research team of National Labour Institute while the author was a member of team. However data has been used for our purpose in this study].

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10. Ibid., n.1, p.7.

All of those children whom we interviewed were between 4 and 14 years of age. Out of 115 children interviewed 6.67 percent were in 4-7 age group; 33.33 percent were in 8-11 age group and 60 percent were in 12-14 age group. It was also found that a good proportion of children of 3 years were helping their mother in match factories from rural areas and are transported by factory buses everyday. A significant proportion of children come from Sivakasi town who walk down to the factories. The migration of children alongwith their families to work in the match factories from Srivilliputhur. Theni, Sankarankovil and other villages of neighbouring district can be explained by the fact that they form 15 percent of those children interviewed.

About 90 percent of Child Labour at Sivakasi are girls. Majority of the girl child labour is supplied by the poor families whose household income is uncertain and therefore want their offspring to supplement the family income. When parents were enquired for why they sent their girl children to work 70 percent replied that their household income was low and they needed additional income. Since majority of them wanted male children to go to school, burden of earning this

additional income fell on girl children. Family size and low adult income could be important variables affecting girl child labour here. Large families tend to have low income per head which adversely affect the health and general family welfare. The adverse family size of those interviewed was 5.77 and most of the siblings were working. Among the siblings who were working, substantial chunk was accounted by female siblings. Average household income per week was Rs. 283.17 ; the contribution of girl children interviewed to this was Rs. 38.31 ; the contribution of other siblings who were in the age group of 3-14 was Rs. 39.38. Thus average weekly contribution of all child workers' in the family was Rs. 48.72.

There is strong relation between the occupational pattern of the parents and the need for children to work. Data reveals that fathers of 13 percent of children were employed in match industries, 30 percent in fire works ; 17 percent in printing press; 19 percent were engaged in occupation such as agriculture, petty shop business, other manufacturing activities, vendors etc., 3 percent are unemployed due to ill health.

Most of the mothers were employed in match (48 percent)

and fire work (18.33 percent). In case of 16 percent the mothers were unemployed because they were sick, invalid and were nursing new born baby; 16.67 percent of mothers are involved in other occupations.

About 78% percent of the children interviewed were from nuclear families where both the parents were alive; 15 percent of the girl children did not have father and 4 percent did not have mother and 3 percent of children interviewed had lost both the parents.

On discussing with the parents we came to understand that parents could not afford or did not want to send the girl children for schooling. The girl children accompany their mothers to the factories and gradually get absorbed in the labour force. They were sent to one of the match industries so that they need not be left in the village when the parents were out for work. Match factories do not really secure the girl children according to some doctors and teachers whom we interviewed. On the contrary there were several cases of verbal, physical and sexual abuse by the adult workers and supervisors of the factories.

Girl children are educationally discriminated which results in the constant influx of these children in the match industries of Sivakasi. Parents of 52 percent of children interviewed mentioned that there was no use educating girl child but wanted them to earn for their keep and for their dowry, right from their childhood. This is reflected in the educational status of the siblings. Among the males siblings belongs to the age group of 0-14, 71.4 percent were sent to school ; 17.8 percent were working in one of the factories and 10.8 percent were too young to work in the factories or to go to school. On the contrary the female siblings in the age group of 0-14, 22.7 percent were in school, 65.9 percent were working in one of the factories; 11.3 percent were neither going to school nor to work in factories because they were either too young to work or go to school. Apart from this, taking care of younger siblings so as to relieve the adults for productive employment was another major reason for them to remain at home. When male siblings are sent to school and are expected to study in the evening they are not available for domestic work. The girl children are burdened with both wage work at the factories during the day and domestic work like

feeding the cattle, assisting in cooking and other household chores after coming back from the factories.

It was found that fathers of 33 percent of child labour and mothers of 53 percent had never gone to school. The parents of the rest of the children had generally low levels of education that they studied upto 5th standard. Low level of education of the parents enable them to obtain only poorly paid jobs which keeps them along with their children in perpetual poverty. Discussions with the parents revealed that two-thirds of the parents were either illiterates or drop-outs and were forced to work in their childhood. The experience of parents in thir childhood certainly influence their attitude towards child labour. Here child labour becomes inter-generational.

Low educational status of parents is reflected by lower educational level of children. Forty four percent of girl children interviewed had never gone to school and 56 peercent were drop outs. Among 56 percent of drop outs 46 percent studied upto sixth standard. When children were asked their desire to attend school 70 percent wanted to study so that they can read busboards, to read cinema posters, to court and



to become clerks. The reasons for dropping out from school were given as they had to leave school to support the family ; no money to buy books and uniform; to walk for a long distance to attend school and parents, especially mothers did not allow them to go to school.

Child labour in Sivakasi to some extent is due to the parents disenchantment or lack of faith in the educational system as schooling does not guarantee jobs. The parents have seen children in the neighbourhood working in the match and fire works after completing 10th standard and Higher Secondary. Even to send children for lower classes parents make a conscious choice of sending male children to school and girl children at home to look after the younger siblings or sent to match industries for wage labour. It was found only one male child is sent to work for every 24 girl children. Absence of child care facilities forces the girl child to stay at home to look after the sibling which hampers school attendance and ensures her going to match industry. Summer vacations and holidays have also favoured children's entry to work in the match factories. During holiday, they accompany their friends and family members to the factory. Parents eschew children from

going to school further as they understand that schooling of children not only has a demand from their earning but also deprives them of the income accrues from child labour. The more the match industries were attended by the mother and the girl children, the less could school frequented. Children are compelled to make their choice between work and education, between begging bowl and match factory.

Attendance and enrolment are not effectively enforced by the teachers. In the 8 schools visited at different times in different days we found less than 50 percent of children in the enrolment were present. Schools do not have adequate infrastructure. Teachers were found either overworked or not found in the school during working day. Schools were situated more than three kilometers distance from some villages visited where no public transport was available. This substantiates the statement that where schools are non-existent, distant or expensive, girl children are not allowed to remain idle. Therefore, they have wage labour or domestic labour as the alternative to schooling.

Discussion with the girl children who were attending school it came to light that they were not spared from working

in the match factory. Everyday after the school they go straight to the factories to help their mother or sister to complete the day's work. They were compelled to work by their parents during the weekends even if they have exams on the following day. Secondary treatment is meted out on girl children who are going to school by their parents as they do not perceive education *per se* and the present curriculum as an image builder or status formentor. Parents consider uneducated child as an asset, the desirability on the part of children to get educated becomes an added liability on parents, in the sense that loss of earnings if the child does not work and an expenditure on education however small it may be. Many parents were hardly aware of the educational schemes. Thus children are inducted and indoctrinated in the work culture at very early age. When children are not given opportunities to develop and acquire to learn skills sthey end up getting locked in the dead-end occupation which they have taken during childhood. In Sivakasi there are many women who have been doing frame filling and box filling for the past 25 years.

### How do they come to Match Industry

Most of the girl children obtained work in the factories at the request of their parents, sisters and neighbours who were already working in the match factories. The demand for labourers especially cheap labour is high. Employers face the problem of scarcity of labour and high labour turnover. We found boards bearing "workers needed" in most of the factories. To meet the demand of 222 million gross matches in 1991 children are employed in large numbers. Some officials said : "Sivakasi is highly employment potential and it can absorb 50,000 more workers at present. Because of this, Sivakasi is beggarfree."

Employers are always on the look out to find ways and means to attract cheap labour to ensure production, to bring down the cost of production and to ensure employment stability. The agents of the employers advance loans ranging from Rs.500 to 2000 to the parents or guardians of the children. These agents ensure transporting of these children from far flung rural areas to the factories and back to their house. The agents are paid an addition of Rs. 150 to their salary for this work. Among the children interviewed 58 percent of them

are not free to leave their employment because their parents have taken loan from the factory owners.

Data reveals that 76 percent of girl children interviewed are employed in frame filling, 16 percent in box filling and 4 percent are employed in box making and another 4 percent in bandrolling. All of them are casual workers. Interview with adult women who had been working and more than 20 years reveal that they are not made permanent workers despite working for several years in the same factory.

There is a sexual segregation of labour in the match industries. There is no upward occupational mobility for female workers and they are employed only in unskilled work. Male children and adults are employed in chemical dipping, chemical mixing, side frame painting, and other process. In course of time they become foremen, accountant and manager which fetch higher salary.

Children took a short span of time for lunch break which extended from 20 to 40 minutes. Only 10 percent of children interviewed took an hour break from the work for lunch. Interview with both the employers and workers are free to

take an off any day since they are paid only for the work accomplished. Children found working on official holidays such as Republic day.

Regarding the attitude and treatment of adult workers towards child workers 25 percent reported of kind behaviour, 33 percent of harsh behaviour and 42 percent reported adult workers being indifferent to them. When enquired on the treatment of other child 83 percent felt that they were friendly; 17 percent felt that the other child workers felt jealous if they worked more than them. It is said that at times the children work with competing spirit with other child workers.

When asked about the treatment of empolyers/supervisors 3 percent said that they are kind, 86 percent reported of harsh treatment and 11 percent of being indifferent to them. This shows that the girl child workers live under constant threat from parents, adult workers, supervisors and empolyers. This sort of environment is sure to affect adversely the psychological and emotional development of the children. Often child worker is away from parental protection. This accentuates their sense of deprivation.

## Working Conditions

Ninty percent of the children interviewed said that their work place was congested; 56 percent said that the work place was not properly illuminated. Potent odour of chemical from chemical dipping section and poor ventilation were complained by 50 percent of children. According to 46 percent of children there was no drinking water in the factory premises and non-availability of toilet facilities was reported by 26 percent of children.

The normal working day in the match factory laws are ten hours, between 8 a.m. to 6 p.m., whereas on an average children worked for 12 hours daily under tiring conditions. Sixty percent of children interviewed worked for 6 days a week; 40 percent for all seven days without break for months together. It is further disturbing to note that many of these children started their day as early as 4 a.m. Instances of children working even as late as 10 p.m. was also observed by us. At times children were attracted to work more than 14 hours a day by an addition of Rs. 5. Music was used as an intexicant by the emplyers to make the women and children to work faster. In fact the loudness with which the

Tamil film songs were played acted as a catalyst in the whole working process.

According to Labour Investigative Committee 1943

The wage and earnings figures for Ramnad stand out as being exceptionally low. In this connection it may, however be pointed out that the industry there is run more on the lines of a cottage industry in this district which are virtually match town where most of the factory work is done by hand and also taken home for being completed, by the members of the family. As agricultural pursuits more or less dependent on these factories and this has resulted in the workers being forced to accept extraordinarily low rates of wages. Moreover there employed in these factories.(11)

(Government of India, Main Report, p.223.)

The wage structure in the match industry is mostly piece rated, however the modes of payment through time rated and on a contract basis are also found. As the proportion employees is negligible. Where the work done is not feasible to be quantified workers are paid time rated. The work involved in chemical mixing, chemical dipping and the work of distributing

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11. Report of *Labour Investigative Committee 1966*, (New Delhi : Government of India, 1970), p.223.



splinters, veneers the workers are paid fortnightly or monthly. They are called company workers. Mostly boys and adults are engaged for these works. Girl children are generally paid on piece rate basis that has its own oppressive logic i.e. long hours of work of high speed of low returns.

By and large the wages were paid as follows: Those who do frame filling got 0.55 p. for filling 52 sticks in 52 scales of one frame. For making 144 inner boxes they were paid 0.25 paise. For labelling 300 boxes 0.60 paise was paid. Every worker was expected to accomplish certain specified work everyday under strict supervision. Company workers are paid Rs. 100 fortnightly and the salary is deducted if they take leave. Average wage for girl children per week was Rs.38. Some childrens earning went as high as Rs.70 per week and some were earning as low as Rs. 12 per week. In some cases the status of the girl child workers was that of a helper to an adult women who usually happens to be her sister or mother and whatever work the child did was counted as the adult women's work. The child work was not paid for this.

Information collected reveals that the workers are generally

paid bonus twice a year. But the interviews revealed a totally distorted picture. Only forty percent of the children received bonus twice a year, 10 percent received once a year and 20 percent did not receive bonus at all. Thirty percent of children neither received wage nor bonus as their labour was pledged by their parents in return for an advance payment from the employer and the amount was not fully recovered so far. This is one of the ways where the employers retain the labour force.

Many adult workers interviewed felt that there should be increase in wages and permanent employment so that they can avail their basic rights. They also said that they force to send their children to work because their wage is very uncertain and children are preferred to adult workers. It would cost about Rs.32.8 million per annum if the children were to be replaced by adults in both the match and fire work industries<sup>12</sup>. But the industrialists are not willing to part with the surplus which is obvious from the fact that when the Government notified minimum wages and hike in excise units

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12. B.N. Juyal, *A Survey Report on Child Labour in India*, (New Delhi : Indian Social Institute, 1990).

were closed for a week.

A striking feature of Sivakasi is that a vast majority of the trading as well as the industrial capital is owned and controlled by a few families numbering to around twenty belonging to the Nadar Community. Apart from being traders and industrialists these families control most of the educational institutions and voluntary organisations operating in Sivakasi. This precisely brings to the forefront the 'exceedingly high' social and economic status these families enjoy. It is using this 'status' symbol that this group operates as to maximise their personal gains at the expense of the societal interest.

The very location of the industrial units in Sivakasi wear an exploitative outlook. The big industries are mainly situated in the urban areas and a large number of small units are located right in the hearts of the villages. The units in the urban areas mainly employ women and girl child workers (10-14) and the smaller units in the villages deploy mostly girl child workers below the age group of ten.

Turning to family life, the employment pattern has had a telling effect on it also. As a matter of fact, when the

parents are back from work the children are still found in the factories. As mentioned earlier, the major industrial families in Sivakasi also own and operate the shopping establishments. The operation of these establishments are turned to maximise the personal gains for them. The major 'Market day in the match industries (weekly wage in most of the Sivakasi match industries are disbursed on Saturday). Such an arrangement ensures a smooth transfer of the finances from the workers back to the industrial lobby.

Instances of industrialists using 'their power' to suppress any form of protest against them were also numerous. We learn from the village leaders that when a politician belong to a different caste raised the issue of child labour in Sivakasi, the industrialists reciprocated with strong action against the innocents of these community.

Few glaring instances of these industrialists practicing the bonded labour system were pointed to us by some senior village leaders and government officials. Those villagers who migrate from the neighbouring districts with the entire family to Sivakasi in search of living are the main targets of the industrialists to be used as bonded labour. These migrants

are initially provided with bare minimum accommodation and some money for their settlement. We came across quite a few of girl child workers in the match industries who had inherited the debts of forefathers and thus compel to sell their labour.

The welfare institutions in Sivakasi are also largely controlled by these families. The working of these institutions when compared to the few governmental institutions operating is certainly very encouraging. Visit to some of the government schools reveal that severe discrepancy existed between the enrollment in a primary school was 117, whereas the attendance averaged to 10 to 15. Instances of even the teachers engaged in the non-teaching activities especially in the process of match and fire works during the school working hours were also common.

Unlike in the case of primary institutions where there seems to be existing some balance in number of government and private schools, majority of the places of higher learning are owned by the industrialist families. They include high schools, colleges and professional institutions. An interesting observation is that a high percentage of enrolment in these institutions is from the community which the industrialists belong to. Informal discussions with some of the teachers who incidentally belong

to different communities other than that of the management revealed that the management on most occasions rejects the applications sent for admissions by other caste groups. Apart from the owning of the normal educational institutions, these families also have a major say in the functioning of the special schools which have been started to reduce the incidence of child labour.

Apart from managing the welfare institutions for their personal interest, these industrialists also voice their strength in important political decision making. whenever there has been an attempt to start any irrigation project to bring the cultivable land into operation in Kamarajar district the industrial lobby have thought otherwise. Most of the cultivable land in this district is owned by communities other than the Nadars and that precisely is the reason as to why the industrial lobby opposes vehemently any activity in this area can also hinder the smooth flow of labour to the match and fireworks industries. These factors have been quite realised by these industrialists and no wonder that they sabotage any plan for agriculture development. To be very precise, there are forty instances when the industrial lobby used their 'political strength'

to put off any discussion on starting of irrigation projects in the district in the proceedings of Tamilnadu Legislature.

All these manoeuvres by these industrialises have certainly resulted in strengthening their social and economic status. Their asset position has recorded manifold increase within the last few years. Expansion is also taking place in more or less all directions of business. Tremendous upsurge in demand, both internal and external is visible over the years. Human Values have at many times been questioned in this onslaught of industrial capital. To illustrate the gravity of the situation one needs to look at the instance wherein a particular firm which notched up a Rs.73 Crores export order and successfully executed it within the very short time span available to them.

#### **A First Hand Data on Implimentation of Government Policies and Programmes**

When parents were asked their views on sending their children to match industries it came to light that many consider it proper for the girl child to supplement the poor income of the family and to earn for their dowry right from the

start. Some of them were unwilling to send their girl children to the school even if scholarship and other helps were available. They do not feel the necessity of sending girl children to school and the alternative is to send them to match factories. According to them, laws banning or regulating child labour are utopian and have nothing to do with reality.

Employer do not feel guilty when they employ children as young as three years old. It is not the lowwage that allures the employers to engage children. Being piece rate system children and adults are paid at the same rate. Employing the children; save the children from starvation and hunger. They do feel that girl child workers occupy less space for themselves, they are obedient and loyal and complete the work in time with fear. They strongly believe that the fingers of girl children are dexterous enough to fill match frames or lead match boxes. Employers are well aware of the child labour legislation than the advocates and enforcement authorities. They know ways and means to circumvent the laws regarding child labour.

The attitude of the inspectorate staff are also responsible for poor enforcement of child labour laws. They feel it is a necessary evil. One of them said that



Prohibiting child labour might result in female infanticide. Usilampatti is not very far from Sivakasi and one fourth of girl children are from Thevar community which is a sub-group of Kallar community where this practice of female infanticide prevails.

Quote another Inspector who said:

Commission may be appointed, studies may be done, policy makers and planners may visit Sivakasi but nothing can be done about the child labour here. Can anyone change the attitude of parents who send the children to match factories? What can we do if parents want to send their children to work? They consider us as their enemies if their children are taken out of the factories. They come in group and protest, and at times threaten us.(13)

Inspectors are not convinced of the need for child Labour laws and therefore they enforce them without any zeal. It is also noticed that there is an unhealthy nexus exist between employers and the inspectorate staff in which the latter give advise to the employers to circumvent the laws, some politicians have reported.

Lack of awarness of the problem impedes enforcement of child labour legislation. Child labour was existed for seven

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13. Data is based on author's Field Work (Noida, National Labour Institute, 1991).

decades in Sivakasi and people have become used to seeing children taken in factory buses as early as 4 a.m. and made to work in the match, fireworks and printing industries long after sunset. First step for effective legislation is to convince people that children should not be exposed to chemicals for long hours anymore. Labour inspectors along with social workers can take first step in creating the awareness which will help a long way to do away with the difficulties arising out of the social environment in enforcing child labour legislation.

There are certain difficulties which have to do with the nature of child labour in match industries. Better enforcement of factories Act 1948 in the match industries resulted in the continued employment of illegal child labour forcing children to work clandestinely in work sheds of remote village where it is impossible to protect or detect them.

To evade the factories Act 1948 the employers of registered factories started nearly 1330 small cottage and home based units in several villages in and around Sivakasi where children are packed in dungeon like rooms to do frame filling bandrolling and box making. Inspectors find it difficult to enforce child labour Act because the units are numerous and unregistered.

An employer of one of these units said: "The factories are scattered in villages and factory Inspectors do not visit these factories. Even if they come they do not stay for more than 10 minute. There is no hotel or tea stall nearby to have something if they stay for long".

According to the accountant of one of the factories, that factory has not been visited by the Inspector even once. Incidentally it is this factory where we observed 25 children of 3 to 8 years working after 7 p.m. Inspectorate staff are not free from corruption. Three employers together said:

"Factory Inspectors come once in a while. But if we give them something (money) they will not disturb us".

Inspectors come across several practical problems. When the inspector visits a unit in an area where there are many units, child workers are communicated to disappear from other units. Deputy chief Inspector of factory said: "When I visit the factory I am stopped by the security guard at the gate. Before I enter he gives signal for the children to run away through the back-door".

Krishnamma, a girl worker, said: "When factory Inspectors

come to our factory, security guard will come and tell. We will run and hide in the toilet”.

Another girl child worker said:

One day labour officer came and manager asked us to get inside the room where they dump waste materials. He bolted the room from outside. Ten of us were inside and it was suffocating. There is no window in the room. The manager opened the door only after 45 minutes.(14)

Seven yearold Sankareswari working in a match factory said : “Whenever the factory inspector come we are asked to run away through the back door with a tiffin box. If we are caught by the Inspector we are asked to say that we had come to give lunch to our mother or sister working in the factory.” A woman worker of match factory said:

Unless these children of 9-12 years bring a half sari [2 meter cloth girls used to wear usually after attaining puberty] they will not be admitted in the factory by the manager. They leave it in the factory. As soon as they come for work they wear it . This is to convince the factory inspector that these children have attained the legal age limit for working though they are really not so.(15)

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14. Ibid.

15. Ibid.

None of the employers of these small units maintain records of the ledgers regarding the employment of workers. Workers are not given any pay slip. Nor were their signature obtained on any voucher.

### **Implementory Mechanisms and Enforcement Process**

So far as implementing mechanisms concern, it was observed that there were vacancies of inspector which remain unfilled for several months in the inspector's office, Sivakasi. Office of Deputy Chief Inspector of factories cover Kamarajar, pasumponmuthuramalingam and Ramanathapuram district. This area is further divided into circle I and circle II. These areas are looked after by Inspector of factories. Circle I covers Sathur Taluk except Sivakasi Municipality and circle II cover Aruppukottai, Rajapalayam Virudunagar, Srivilliputhur Taluks and Sivakashi Municipality in Sattur Taluk (Table I)

Table I

Deputy Chief Inspector Of Factories, Sivakasi	Entire Kamarajar, Pasumpon, Ramanathapuram districts.
Inspector of Factories I Circle, Sivakasi	Sathur Taluk except Sivakasi Municipality.
Inspector of Factories IInd Circle, sivakasi and Sivakasi Municipality in Sathur Taluk	Aruppukottai, Rajapalayam, Virudhunagar, Srivilliputhur Taluks
Assistant Inspector of Factories II, Sivakasi	Sattur Taluk except Sivakasi Sivakasi Municipality in Sattur Taluk
Assistant Inspector of Factories III, Sivakasi	Aruppukottai, Rajapalayam Srivilliputhur Taluks.

Out of 1386 factories in these area (including match and fireworks) there are 450 factories in circle I and 627 factories in circle II; 80 factories under Deputy Chief Inspector of Factories; 168 factories under Inspectors of Factories Sivagangai and 61 factories under Inspectors of Factories Sivagangai and 61 factories under Inspector of Factories Ramanathapuram. Out of total 1386 factories 528 are registered match factories (Table II).

Table II

## Number of Factories for Regular Inspection based on Number of Workers

	Above 1000	501- 1000	251- 500	101- 250	51- 100	below 50	Total
1. Deputy Chief Inspector of Factories, Sivakasi	1	16	62	1	-	-	80
2. Inspector of Factories I Chief Sivakasi	-	-	-	94	105	14	213
3. Inspector of Factories II Circle, Sivakasi	-	-	12	40	39	104	195
4. Inspector of Factories Sivagangai	-	-	-	12	14	142	168
5. Inspector of factories Ramanatha Puram	-	-	-	7	11	43	61
6. Assistant Inspector of Factories I, Sivakasi	-	-	-	-	68	169	237
7. Assistant Inspector of Factories III, Sivakasi.	-	-	-	3	22	193	218
Total	1	16	74	161	299	835	1386

Thus the administrative units are too vast for the Inspectorate staff to carry out their inspections effectively. In addition to the vastness of the the area of jurisdiction the inspector has to assess the situation in terms of various acts pertaining to the labour and to examine many different aspects of working conditions and of different acts (Table III)

Table III

Registered Units Inspector of match Works, Fir Works, Printing Press

	Match Works	Fire works	Printin Press
1. Deputy Chief Inspector of Factory, Sivakasi	72	16	17
2. Inspector of Factory I, Circle Sivakasi	158	214	14
3. Inspector of Factory II, circle	120	44	38
4. Assistant Inspector of Factory I, sivakasi	110	127	110
5. Assistant Inspector of factory I, Sivakasi	40	8	252
6. Assistant Inspector	28	-	4
Total	528	409	435



Table IV

## Details Of Inspections Made From 1.1.90 to 31.12/90

	Dy. Chief Inspector Sivakasi I	Inspector of factory Sivakasi	Inspector of factory II, Sivakasi	Inspector of factory Sivakasi Gangai	Inspector Ramnad	Asstt. Inspector of Factory Sivakasi	Asstt. Inspector of Factory Sivakasi	Asstt. Inspector of Factory Sivakasi
1. Factories Act	138	369	195	326	126	460	215	218
2. Payment of Wages Act	138	369	398	326	104	460	364	363
3. Minium Wages Act	75	364	284	199	56	460	251	363
4. national festival Holidays Act	138	396	328	326	126	460	364	363
5. Maternity Beniefit Act	18	106	88	111	65	155	56	123
6. Labour Welfare Fund Act	138	110	398	326	104	460	364	363
7. Contract Labour Act	-	-	-	-	-	-	-	-
8. Equal Remuneration Act	75	37	151	-	-	406	211	220
9. Conferment of Permanent Status Act	138	316	398	111	41	431	346	183
10. Payment of Subsistence Allowance Act	138	-	398	326	32	-	346	363
11. Child Labour (Prohibition & Regulation) Act	75	363	105	-	-	460	170	235

Records of Deputy Chief Inspector of Factories which shows that only 14 children were detected for the whole year of 1989 from 4 factories (table V).

Table V

## Child Labour Particulars for the Year 1989

Quarter ending	No. of factories in which Child labour detected	No. of Children found
31.8.89	1	1
30.6.89	-	-
30.9.89	-	-
31.12.89	3	13
Total	4	14

During March 1990, 9 children were found to be working in 2 factories. While in December 1990, 122 children were detected in 36 factories (Table VI).

Table VI

## Child Labour Particulars for the Year 1990

Quarter ending	No. of factories in Which C.L. detected	No. of children Found
1.8.89	1	1
30.6.89	-	-
30.9.89	-	-
31.12.89	34	122
Total	36	131

In january 48 child labourers were found to be working in 17 factores (table VII).

Table VII

## Child Labour Particulars for January 1991

Quarter ending	No. of factories in Which C.L. detected	No. of children Found
1. Dy. Chief Inspector of factories, Sivakasi	5	16
2. Inspector of factories, I, Circle, Sivakasi	4	15
3. Inspector of factories, II, Circle, Sivakasi	3	7
4. Assistant Inspector of factories I, Sivakasi	3	5
5. Assistant Inspector Factories II, Sivakasi	-	-
6. Assistant Inspector of Factories III, Sivakasi	2	5
Total	17	48

While in the month of October, 1990 only one child was detected, in November 1990, Inspector found 40 children working in 10 factories while in December 1990, 81 child labour cases found in 23 factories (Table VIII).

Table VIII

## Child Labour Particulars for January 1991

	October 1990		November 1990		December 1990	
	Factory	Child	Factory	Child	Factory	Child
1. Dy. Chief Inspector of Factories	1	1	3	11	5	19
2. Inspector of factories	-	-	3	13	9	39
3. Inspector of Factories	-	-	4	16	8	17
4. Assistant Inspector of Factories	-	-	-	-	1	6
5. Assistant Inspector of Factories	-	-	-	-	-	-
6. Assistant Inspector of Factories	-	-	-	-	-	-
Total	1	1	10	40	23	81

When this matter is discussed with the staff of the Labour Department, we came to understand that the Inspection under Child Labour (Regulation and Prohibition) Act, 1986 is carried out efficiently after the Supreme Court judgement passed in November 19, 1990 between M.C. Mehta Vs. State of Tamil Nadu and other S.C. 242. Commenting on the judgement, it was told that employing children only in the packaging units

will not solve the problem of child labour. In fact it would impede the enforcement of child labour legislation. The employers of child labour can justify employing them telling that they work in packaging section despite the fact they work in other sections where they are in contact with chemicals.

### **Enforcement of Child Labour Act**

The increasing number of factories comes in the way of even if the inspector should make intensive inspections in the types of industries like match, fireworks and printing which are likely to employ children. there are 1386 factories of this kind to be inspected by 6 inspectors.

The number of match factories keep increasing. Therefore, the Inspector who is given the responsibility of issuing licence to these ever growing number of industries finds it difficult to spend reasonable time on his inspection work.

The factory Act threatens dire consequences for those who flout its claims; three months imprisonment or Rs. 2000 fine for first offence and Rs. 4000 fine or six months rigorous imprisonment for repeat offence and Rs. 4000 fine or six

months rigorous imprisonment for repeat offences. In Sivakasi the offenders get off very lightly. No employer has yet been awarded joint term when 45 percent of workforce in fire work and match industry are children, 20 percent of them being two to five years of age. Employers normally escape by paying fines as low as Rs. 20. For instance an employer who was charged with 15 cases was fined Rs. 210 only.

Enforcement of child labour legislation becomes a difficult task when the inspector has to determine the age of the child. Parents who send their children to match industries are ignorant of birth certificate and there is no reliable evidence to prove the age of the child. Certifying physician who is supposed to issue age certificate is stationed at Madurai. He is responsible for four districts such as Pasumpon, Muthuramalingam, Kamarajar, Madurai and Ramanad. Only if he certifies that age of the child as less than 14 an inspector can take up prosecution.

For instance, in the case of inspector of factories Sivakasi circle Vs. S.S.N. Sreadhar 31.10.1989, 321/89, the inspector has detected 3 children in the factory premises. The case was launched under section 67 of Factories Act and the employer was punishable under Child Labour (regulation and Prohibition)

Act 14(1). The case was acquitted by the claim that the certifying surgeon has been appointed under Factories Act and not under Child Labour Prohibition and Regulation Act, 1986.

It is mentioned in 10 (1) of the Child Labour (Prohibition and Regulation Act that the State Government may appoint qualified medical practitioner to be certifying surgeons for the purpose of this act. The authority of the concerned inspector was also questioned that he had not been appointed for the Child Labour Act. It was stated that the age of the children is not proved beyond doubt by quoting the following; (a) A.I.R. 1939 Allahabad 708 Mohammed Vs. Quartrat and another. Where it is given, hence the statement of doctor based upon certain peculiarities such as teeth, height etc. is no more than an opinion. (b) The evidence afforded by radiological examination is no doubt a useful guiding factor for determining the age of the person but evidence is not of a conclusive and incontrovertible nature and it is subject to the margin of error.<sup>16</sup>

Cases which the Inspectors take up are dismissed at the

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16. Criminal Labour Journal, "Shanmugam Vs. Tamil Nadu" (Madras, 1984), p.1081, .



cross-examination state itself for the lack of evidence. The employers often claim that the children are present only for the purpose of bringing lunch to their parents. The parents in turn endorse the employers' version. The children were instructed to say that they are not employed but merely accompanied their parents, when they are detected by the Inspector.

Inspectors have to collect several evidences and to take the girl children to court which is next to impossible, because neither parents nor children come to the Court to give evidence. Courts normally tends to attach more importance to documentary evidence which is not there to prove that the child was working in a particular factory.

In Sivakasi almost all the cases got acquitted for the following reasons (1) Age of the child not being proved (2) Factory inspector is not considered as an authority to fix the age of the child labour, his fixing of age could not be accepted upon (3) Certifying surgeon of Inspectorate of factories having not fixed the child labour as per Modi's medical jurisprudence and toxicology based on teeth, height, girth, voice, bone growth, growth of hair etc. (Table IX).

**Table IX**  
**Enforcement of C.L. Act (P&R) As On 31.12.90**

	No. of cases launched Under Section 67 of Factories Act	Under Section 3 of C. L. Act itself	No. of cases Disposed	No. of cases convicted	No. of cases acquitted	No. of cases Withdrawn	Pending at the end of each Year
1. 1987	30	-	-	-	-	-	30
2. 1988	13	2	20	-	20	-	25
3. 1989	1	1	24	-	24	-	3
4. 1990	5	-	7	-	5	2	1

**Reasons for acquittal**

1. Age of the child labour is not proved beyond doubt.
2. Factory Inspector is not an authority to fix age of a child labour, his fixing of age cannot be accepted upon.
3. Certifying surgeon of Inspectorate of Factories not fixed and child labour as per Modi's Medical Jurisprudence and toxicology based on teeth, height, girth, bone growth etc. He has not adopted correct methods to fix the age of a child labour.

When many prosecutions are unsuccessful, Inspectors are discouraged to prosecute to avoid the risk of failure and employers are encouraged to continue to engage children. Besides the pressure from the match Industries lobbies on the Labour Department is so intense that few Inspectorate staff resigned their job. It is evident from the above facts that though there are laws to deal with child labour, implementation of the Acts tells a story of official apathy and tacit collusion with a might match industry lobby.

#### **Status of National Policy on Child Labour**

National Child Labour Project is major policy initiative by the central Government to wean away the child labour phenomenon in Sivakasi. The project is carried out with a focus on preventive measures to reduce the dependence on match factory employment. This was to be achieved by (1) Developing avenues of alternative employment which would fetch higher wage; (2) by providing financial assistance to child labour families to raise their economic level; (3) by rehabilitating child workers after taking them out of the match industries.

Under Employment Generation Scheme, Tamil Nadu Corporation for Development of Women Ltd. is running a Printing Press in Sivakasi. It employs 150 women labourers of which 75 are physically handicapped and 75 are the mothers and sisters of child labourers. Interview with the manager and 25 percent of the women revealed that they are paid less than the minimum wage and are not entitled to any benefits. They prefer to work in match and fireworks industries to the printing press as they could get higher wage there. Working in this printing press do not discourage them from sending their children to match industries.

Under Income Generation Programme to raise the economic level of the child labour families, IRDP type of loans were given to rural families where the subsidy is uniformly 1/3 of the loan. For the child labour families in urban area, loans were given under self employment programme for the Urban poor (SEPUP).

Interviews with the Government officials implementing these programmes and a number of beneficiaries revealed that there was constant interference of local politicians and elites in the running of the programmes. Because of this interference

the programmes introduced specifically for the child labour families were likely to benefit of these programmes to reach the child labour families, the beneficiary selection must be done carefully using criteria which are both specific and sensitive.

Another limitation in the programme is that the amount given to the beneficiary was under financed. The rate fixed by the NABARD for the units to be bought is much less than the market rate (Table IX).

Table X

No. of Units	Rate fixed by NABARD	Market rate
1. 21 Sheep	Rs. 6,400	Rs. 9,000
2. Plough bullock and Cart	Rs. 6,000	Rs. 10,000
3. 2 Milch Cattle	Rs. 6,400	Rs. 8,000
4. 5 Bicycles	Rs. 5,000	Rs. 7,500

This lead the beneficiary to buy less than the actual number of units and borrow the rest just to show the inspecting officer. for example only 16 sheep can be bought for Rs. 6.400 and sheep are to be borrowed. In course of time this

induce a tendency in the beneficiary to borrow all the units to show them to be inspecting officer and utilize the loan for different purpose. Commenting on these programmes the Block Development officer said:

It is better to scrap these schemes and start special schools which certainly bring down the number of children going to the match industries”.

We found that some of the government officials who were entrusted with the responsibility of implementing these schemes own match factories though not registered in their names, where children are employed in large number.

In order to rehabilitate the child labourers taken out of the match industries 26 special schools are run by 12 voluntary agencies with grants from Ministry of Labour, government of India. The Special schools are run during the normal working hours of match industries. Children in these schools are imparted non-formal education along with vocational trades like tailoring, handicraft, carpentry, book binding etc. To compensate the loss of wages of these children their parents are given Rs.100 per month. The children are given noon meal and periodical

health care. There is great demand for these schools and most of the schools are run successfully.

Many of the voluntary agencies are located in the urban or town areas and tended to work around these areas. The resources allotted to them do not reach the child labour of rural areas. Children who were not able to show good performance in few months are abruptly sent out of the school. These children go back to the match industry with the hope for future. This is mainly because of the demand for admission in these schools. Regarding vocational education, the justification is that the children don't have to be totally depending on the income from match industries.

Out of the 26 special schools three schools are managed by a voluntary agency headed by owners of match and firework industries. Given the structure of the relationship between the N.C.L.P., the project executors and the requirement of the match industry (the most important aspect being child labour) a rewarding outcome of N.C.L.P. seems quite unlikely if not impossible. This is especially so when the management of match and fire work industries and the special schools fall in the same hands.

## CHAPTER - IV

### Interpretation and Evaluation of Public Policy of Child-Labour in India

Towards beginning of the 16th century, starting with discoveries of childhood by Arie's, a tremendous role of schools and families became the rational approach to the practice of child rearing. This is perhaps the first institutional response of the state to protect children from the corrupt world of adults. The early part of the 19th century, the ideas and attitudes of the society were fast changing. Debates on childhood and the role of the state in economic and social affairs were crucial in providing a favourable climate of opinions for the state intervention in order to protect minors from the adult.<sup>1</sup> But we cannot deny the fact that the centuries of childhood had witnessed many historical upheavals, ups and downs and changed accordingly. The 18th and 19th century had witnessed

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1. Collin Hayood, *Childhood in Nineteenth Century France*, (New York, Cambridge University Press, 1988), p.13.



an unprecedented discussions of various problems accosted with childhood. Various aspects of neglected childhood attracts the attention of demographers and political economists of the time. Demography reveals infant mortality. At the same time the exploitation of child labour at shop floors and their enslavement for their parents indebtedness began to accumulate in the writings of the social investigators. At the other end a remarkable change occurred in the field of religion which threw light on decline of morality.<sup>2</sup> During the period of 1820's and 1830's the practice of child labour came under fire from a considerable quarters, appalled by the revelation of conditions in the manufacturing centers. Another important development of the period was that schools and families were accepted as useful source of skills and as for social mobility such ideas can be linked to the 18th century rationalism and importance given, for instance by Rousseau, to education and environment.<sup>3</sup> Then the state recognised the school attendance is the rights of all children.

Prior to this development in 1788; British Government

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2. Ibid., p.15.

3. Ibid., p.17.

for the first time introduced child-labour legislation to regulate working hours and conditions of work in chimney sweeping.<sup>4</sup> Between 1819 and 1846 the Factories Act posed greater and greater restrictions on the employment of children. In 1841 the Royal Commission appointed by British government revealed that child labour were indefensive and barbarously working in a most wretched and pathetic working conditions. The commission considered it as immoral and unacceptable. Since then as 19 century advanced the volume of social insurance and legislation steadily increased new concept within the Liberal Politics emerged, as a spontaneous defensive reaction against the social destructiveness due to the wrecklessness of the policy that encourage industrialisation without safeguards to wreckage that it entailed.<sup>5</sup> The speedy growth of humanitarianism and restriction on laissez faire economic practice was a coincidence. Its implication resulted in the State intervention to recognize the rights of the state to protect minors whose interests were neglected by the parents and tatters. Political-economy, it was understood should be morals science resting on experience of history and observations. State

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4. Ibid., p.18.

5. E.P. Thompson, *The Making of English Working Class*, (London, Penguin 1963), pp.331-49.

for the tutelage of childhood must accept legislation on childlabour for its abolition as responsibility.<sup>6</sup> Another observation was that with the rapid growth of industrial society the state began to interfere in very many ways in family life and in the relationship between adults and children. It was the demand of the industrial production that brought for a complement and diverse labour-force in which the establishment of acceptable patterns of adults conduct and the preparation and training of children for work were fundamental. Thus, the state became involved.<sup>7</sup>

The history of childlabour is bound of with the status of child rights, and privileges in general but rights and privileges is not provided to the children without the ideological development of childhood in the 19th century.<sup>8</sup> Due to the colonial ties most of the refereaces to child labour in recent Indian History are linked with the development in Britain.<sup>9</sup> It is however

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6. Edith Hogg, School Children as wage earners, *The Ninteenth Century England* August 1897, p.242.

7. Hayood, n.1, p.249.

8. J. Gathia, *Child Labour : An Analytical Study*, (New Delhi, CCCL 1992), pp.19-34.

9. Ibid., p.21.

necessary to understand the development in the field of childhood in Britain in order to interpret public policies on child labour in India at present because restriction on the employment of children in India was the reflection of British conception of childhood.<sup>10</sup>

Before independence, the issue of child labour in India mostly dealt by successive factories acts. Those factories acts have concentrated mainly on few aspects such as minimising working hours, increasing minimum age. The timing and content of those acts were such, those were apparently seems part and parcel of the outcome of conceptual development of 'childhood' in Europe. But unlike of the West there was no intense debate on the concept of childhood in India when the restriction of children's employment was concern of the Government. Not even, there was any reformist pressure to regulate the working hours or fix the minimum ages for the employment of children. There was also absent of rise of any middle class ideology as it happened in case of England which changed the bourgeoisie and ruling class attitudes towards the working

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10. Dhal Prafulla Kumar, *State Market and Childhood in Third World Countries*, Paper Presented at National Seminar on Status of Child Rights (New Delhi, Jawaharlal Nehru University, March 26, 1993), p.3.

class people on moral and humanitarian grounds and latter on for the national interests.<sup>11</sup>

The first Indian factories Act 1881, restricted children's employment into factories, since then legislative history in India has traversed progressively extending protection of law to the working children. The employment of children's Act 1938 was the first comprehensive Act which was effective still 1986, even after independence of India.<sup>12</sup>

Interpreting those factories Acts the Constituent Assembly of India, during the constitutional debate argued that those restriction had no significance. Since the Britishers were convinced that Indians were looked upon the system of apprenticeship as a very great privillages. The Indian factories producing goods on cheaper rates using child labour and it were enabled them to compete with the British Goods. It was not Indian labours who clamored for better canditions, but they were Britishers who were campeting with Indian factories and who were raising their selfish voice for human conditions

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11. Anna Davin, *Child Labour in Ninteenth Century Britain, Development and Change*, (London, 1982), vol.13, pp.634-51.

12. Gathia, n.7, p.20.

for labours in India.<sup>13</sup> It was through their agitation the factories Act first introduced in India 1881. Although Factories Act introduced it was for Britisher's trade to flourish and prosper not for sympathy with Indian labour.<sup>14</sup>

The Factories Act 1948 is being now even considered as the most comprehensive labour law in India. The issue of child labour in factories Act 1948 was left with all ambiguity. It was interpreted very loosely on the ground that perhaps the trickle down effect of the programmes and policies initiated by the newly independent Indian state may end child labour in long run. Secondly, different aspects of childhood particularly compulsory primary education also was crucial for, to have a complacent attitudes among the constitutional framers that if every child will be at school their will be not anyone at work. <sup>15</sup>

On 23 August, 1948, it was accepted by the Constituent Assembly that a person should be forbidden to work of

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13. S. L. Saxana, *Debate on Factories Act 1948*, (New Delhi, Constituent Assembly of India 20th August 1948), p518.

14. Ibid.

15. See *Debate on Factories Act 1948* (New Delhi, Constituent Assembly of India 20th August 1948), p521.

till age of 15 years by which whole section relating to child labour and clauses relating to it must would go away.<sup>16</sup> At the same time the Constituent Assembly also agreed that onus to make arrangements for education for all children aged 14 years devolves on Provincials as well as central Governments. Otherwise they will remain illiterate and their life will be ruined. As one of the participant in the debate stated, therefore some sort of arrangement should be established for imparting education to all children below the age of 14 years to enable them to earn their livelihood. They may be able to do something with the help of new education and thus become useful.<sup>17</sup>

Constitution of India marks in the history of India as a radical break between colonialism and freedom. Constitution has a vision of development of children.

Art 24 forbides, employment in the factories, mines and other hazardous industries. Art 45 guarantees free compulsory primary education for all children. The nature of these two articles indicate that neither of these were interpreted or debated with any seriousness. The term hazardous industries

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16. Ibid.

17. Ibid.

is clearly undefined. Therefore this became an instrument through which so many rationalizations of accepting child labour and compromising compulsory primary education takes place frequently.<sup>18</sup>

The right to education and the right to carefree childhood are the two basic demands of our young, poignant in their very simplicity. The constitution does not address itself to either of them. The right to education has no teeth as it is put in Directive Principle of State Policy. The right to a free childhood, in other words, the right not to be harnessed to wage earning is included half-heartedly.<sup>18</sup> Before independence India had already signed the International Labour Organisation conventions against certain types of work by women and children. Both were barred from night work and underground work. Children were further barred from all work in mines, railways and shipyards. But the constitution does not extend this protection to all work. Only hazardous work is forbidden. Who is to interpret this term? As a result child labour has proliferated to a remarkable degree, figures quoted ranging between 18 million to 44 million.<sup>19</sup>

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18. V. Dhagamawar, *Constitutional Perspective on Women and Children*, a Paper Presented at *Seminar on Social Change and Constitution*, (New Delhi, Jawaharlal Nehru University 1992), p.5.

19. *Ibid.* p.6.



If there was an excess of debate on the Union Civil Code, neither Art 24 which imposed a ban on certain employment for children nor Art 45 which made provisions of free and Universal Compulsory education were debated with any seriousness.

On Art 24 there was but one amendment that was tabled. Demodar Sworup Seth (U.P. General) suggested adding the words "nor shall woman be employed at night, in mines or in industries detrimental to their health." He was supported in the brief discussion by Shibani Lal Saxena who wanted the age limit for children to be raised from 14 year to 16 years.

Dr. Ambedkar dismissed the amendment in one sentence. "I do not accept the amendment moved by Mr. Damodar Sworup Seth."

The amendment on compulsory universal education was all the more bizarre, coming as it did from West Bengal. It was moved by Lakshmi Kant Moitra. The Article as drafted began:

"Every citizen is entitled to free primary education and the state shall endeavour to provide, within a period of

ten years from the commencement of this constitution, for free and compulsory education for all children until they complete the age of fourteen years.”

Lekshmi Kant Moitra wanted the words every citizen is entitled to free primary education need to be deleted. His ground for moving this amendment were that all other articles in this part began with a direction to the state such as the state shall endeavour/secure/make provision for/take steps etc. The opening clause of Article 45 was not in line with them. His second amendment was that the word “primary” should be deleted from the marginal note as the Article dealt with education.<sup>20</sup>

On the other hand Naziruddin Ahmed, also from West Bengal wanted the word primary to be introduced in the Article in keeping with the marginal note indicated said Naziruddin Ahmed, that the state intended to give primary education “the state can not undertake to give compulsory education of a secondary character.”

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20. *Constitutional Debate on Art. 24*, (New Delhi, Constituent Assembly 1948), p.561.

Dr. Ambedkar accepted L.K.Moitra's motion there upon it was adopted by the House. The entire area of child labour and primary education was dismissed within minutes. While we never tire of describing children as the future citizens of India, from the beginning we have not troubled to ensure that they arrive at that stage not only in years but also in a state of mental preparedness. The Constitution makers were no different. They blazed no new trails for us.<sup>21</sup>

Another interpretation of Art 24 is that it does not make any sense in terms of what kind of labour can the child do under the constitution but in terms of what is when the constitution forbids hazardous work for children. Art 24 clearly indicate that those policies of the state and those practices of planning which constitute a hazard-the hazard being appropriation of childhood of the child. When we read Art 24 with Art 45 it is clear that constitution vision of the child is liberal. The liberal conception of education is clearly embodied in Art 45 that a child has a right to claim on societal resources for literacy or for certain amount of education. But the practices of planning in India contradicts the model of the

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21. Dhamagawar, n.19, p.8.

constitutional conception of development of children. The result is one of the largest number of child labour in the world.<sup>22</sup>

Interpreting constitutional provisions which are crucial for the childhood of the Indian children we can observe that there was dearth of evidence to claim that those provisions have been adopted after the intense debate on childhood and role of State both in social and economic sphere as well as towards the well beings of the children. Those provisions are either adopted by the Colonial Rulers or adopted being pressurised by the contemporary response of the state system of the world for rescuing children from any sort of difficulties. It shows there is continuity of colonial approach to the child labour in India even after its independence. The post independent policies and programmes of child labour can be interpreted whether they have contained with the provisions of constitution or not.

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22. Upendra Buxi, Constitutional Rights of Children in S.C. Bhatia, *Child Labour; Socio Economic Perspectives*, (New Delhi, Oxford University 1991), p.13.

## **Interpretion of the Post Independent Policies and Programmes of Child Labour**

After independence the prominent Acts which were crucial for the child labour, were the Minimum Wages Act (Govt. of India, 1948), The Plantation Labour Act (Govt. of India, 1951), The Mines Act (Govt. of India, 1952), The Merchant Shipping Act, 1958, The Apprentices Act, 1961, The Atomic energy Act, 1962, The Beedi and Cigar Workers (Conditions of Employment) Act, 1966. Those Act were prohibitory nature and Art. 24 was the main determinant factor of those acts. But in 1986 The Child Labour Prohibition and Regulation Act for the first time introduced which in many ways did not fullfill the constitutional provision. The Child Labour (Prohibition and Regulation) Bill, 1986 was passed in both houses of Parliament and converted int an Act on 23rd December, 1986. This Act repeals the Employment of Children Act, 1983, but reproduces it schedules A&B. The Act consists of four parts. Part I contains definitions. Part II deals with prohibition of employment of children in certain occupations and processes. Part III of the Act regulates child labour in those establishments where children under 14 may be permitted to work, namely

those establishments where none of the occupations or processes of schedules A&B are carried on. Part IV lists the penalties for the violation of the Act.<sup>23</sup>

Though the previous Acts prohibited the employment of children below 14 years and 15 years in certain specified employments, there was no procedure laid down in any law for deciding in which employment, occupations or processes the employment of children should be banned. There was also no law to regulate the working conditions of children in most of the employments where they were not prohibited from working and were working under exploitative conditions. The present Act :

- i) Bans the employment of children i.e. those who have not completed their 14th year, in specified occupations and processes.
- ii) Lays down a procedure to decide modifications to the schedule of banned occupations or processes.
- iii) Regulates the conditions of work of children in employments where they are not prohibited from working.
- iv) Lays down enhanced penalties for employment of children in violation of

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23. Mahajan K.J. Gathia, Child Labour An Anatical Study, (New Delhi, CCCL, 1992), p.1.

the provisions of this Act, and other Acts which forbid the employment of children.

v) Brings out uniformity in the definition of "Child" in related laws.(24)

No fundamental changes have been incorporated in the 1986 Act and in most essential matters it is a replica of the old Employment of Children Act 1938.<sup>25</sup>

By defining child as a person who has not completed his 14th years age in Section 2 (ii) the act replace definitions of "Child" in the Minimum Wages Act, 1948, Merchant Shipping Act, 1958 and the Motor Transport Workers Act, 1961. By lowering the age for the definition of a child from 15 to 14 the constitution bench mark of 14 years was used to lower the age from the higher age for the protection of the child. This permits more children to be employment in the areas of Merchant Shipping and Motor Transport. Here constitution has been used by the parliament and Government to take away the protection of children between 14 and 15.<sup>26</sup>

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24. Ministry of Labour, *The Child Labour Prohibition and Regulation Act 1986*, (New Delhi, Government of India, 1986).

25. Helen R. Sekhar, Child Labour (Prohibition & Regulation) Act, 1986 : A Critique, (Noida, *Awards Digest : Journal of Labour Legislation*, 1992), vol.18(3-6), p.36.

26. Gathia, n.23, p.1.

The definition of "Establishment" in Section 2 (iv) lacks clarity the term include or would include in course of time, some of the activities in which the child labour need to be protected. The present definition is likely to pave way for the organised sector or units to deploy children at sub-human conditions.

Though the present act does not ban child labour in the family, the only difference is that restricts the definition of the family to include into the parent, children, brother and sister in Section 2 (v) as against the much broader definition in Section 3 (iii) of 1938 Act.<sup>27</sup>

The word "occupier" in Section 2 (vi) is not clearly defined and therefore it may not have check on the employers' agents and the contractors, who play a vital role in the employment of children.

The kprovision in Sector 3 keeps any occupation, a work or process i.e. carried on by the occupier with the aid of his family out of purview of the act. This provision has offered protection to several match manufacturing units, carpet

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27. Ibid.



manufacturing units, glass units, bidi manufacturing units to continue the exploitation under the umbrella of the family. Therefore, there is a need to add to the provision that "it shall be presumed that occupier is also the employer for the purpose of the act and shall be liable for prosecution. The onus to prove that the child is a member of his or her family would rest on the occupier."<sup>28</sup>

Though the provision attached says that nothing in this section shall apply to any workshop wherein any process carried on by the occupier with the aid of his family or to any school established by, or receiving assistance or recognition from Government, when certain occupations and processes are harmful for the health of the children it remains true even if children work as part of family entrepreneurial enterprises, state managed/ established/aided/ recognised schools. Once the occupations/ processes have been identified as hazardous for the employment of children, any exemption made thereof is to the detriment of the children.<sup>29</sup>

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28. Ibid.

29. Usha S. Nayar, "Child Labour Law : A Socio-Legal Myopia", *Indian Journal of Social Work*, New Delhi, 1989), vol.50(1-4), p.39.

Alongwith the prohibited occupations and processes which the 1938 Act listed out, the new Act includes prohibition of work in the building and construction industry after Supreme Court order in 1981. Work relating to selling of crackers and fire works in shops with temporary licenses was added in the list of occupation and manufacture of slate pencils (including packing) manufacture of products from agate and manufacruting processes using toxie metals and substances such as lead, mercury, manganese chromium, cadmium, benzene, pesticides and asbestos were inserted in the list of hazardous processes respectively by notification No. S.O. 404 (E) dated the Fifth June, 1989 published in the Gazette of India, Extraordinary.<sup>30</sup>

The Act does not include balloon factory and other factories where children are forced to work with the fire and dangerous chemicals. It is also silent on children working in agricultural sector which constitue 80% of child employment.<sup>31</sup>

The word 'hazardous' is not clearly defined in this Act and it is left to Technical Advisory Committee to define hazardous

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30. Ibid.

31. Ministry of Labour, n.24.

occupations and processes. Also there is no provision in the Act asking committee to prohibit child labour in an occupation or a process even if the request is backed up by relevant data, and no fixed time to respond to such request by the committee. Therefore, it is necessary that central Government takes up the task of revision of the 'Occupations' and 'Processes' for the purpose of making additions in the schedule in a time-bound and planned manner.

Besides, the very adjective "hazardous" is held to have purely physical implications excluding the psychological, mental and emotional dangers that a job can mean to child workers in any given work. The very fact that childhood is snatched away from a child and it forced to experience an adulthood it is not prepared for, commonalises every single economic and forced job for a child as "hazardous." Moreover the present act does not specify the minimum age of employment of children in the occupations and processes other than the prohibited ones.

Walter Fernandes has rightly observed that the present Act legalises the entry of children in the hazardous occupation by regulating their deployment in the industries that are of

course non-hazardous for adults but are hazardous for children.<sup>32</sup>

Another significant aspect of the 1986 Act is more stringent punishment for the violation under Section 14 which is within the minimum of fine Rs. 10,000/- to maximum of 20,000/- or minimum of three months of imprisonment to maximum of one year or combined both fine and imprisonment. But one should understand that earlier act was flawed not because the penalties were too light but they were rarely enforced. It is necessary that the penal provisions must be excluded from the purview of operation of the provision of the first offenders' act by inserting a specific clause to this effect and offences under the present act should be made cognisable. Besides, offences made in any act involving a Child Labour should be deemed to be offence under Child Labour (Prohibition and Regulation) Act, 1986 by inserting a suitable clause/ provisions in this act and other acts.<sup>33</sup>

Speaking about the Act the irrepressible V.R. Krishna Iyer said that the Act legitimised child labour in the name of

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32. Sekhar, n.25, p.38

33. Ibid.

pragmatism by which "a diction of the Constitution has been condradicted". Pointing out Articles 39 and 45 of the Constitution that had undertaken to protect children and provide free and compulsory education up to the age of 14, he said : "The Child Labour Act negates this constitutional guarantee and children are denied their rights of playing, learning and other childhood joys. It goes against our national child policy, the resolution of the International Labour Organisation and the United Nations Declaration on the rights of children."<sup>34</sup>

In a report submitted on December 18, 1989, the five-member task force observes: "The national policy and the action plan are in fact not two distinctive and separate documents except for two additional, somewhat cryptic, annexures appended to the action plan. The first annexure tells us that each one of the proposed ten projects would have a project director, a stenographer, two assistants, one lower division clerk and a clerk. A comparable corresponding additional staff of five (one under secretary, a stenographer...) for the miniistry of labour is provided for in the (first) annexure.

"The second annexure estimates the expenditure for project staff for one year for ten projects at Rs 38 lakhs, for additional

staff in the ministry of labour at Rs 2 lakhs, for 100 project schools of 300 children each at Rs 10 crores and for additional expenditure on poverty amelioration schemes at Rs 60 lakhs. We are unable to understand how these two skeletal annexures could transform the national policy into an action plan and how these two separate banners indeed we would be failing in our duty if we did not add that the national policy is obviously an underdeveloped and emaciated document and the so-called action plan does not deserve that evocative and reassuring nomenclature."<sup>35</sup>

A judgement was delivered by the chief justice of India, Ranganath Mishra and justice M.H.Kania in a public interest litigation filed by a Supreme Court advocate, M.C. Mehta against the state of Tamil Nadu. This related to problems connected with the employment of children in the match factories of Sivakasi in the Kamraj district of the state and is hardly good news for the estimated 44 million child labour of this country.

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34. K.P. Sunil "Dreams Die Young" *The Illustrated Weekly of India*, Weekend, (Bombay, February 23-24, 1991), p.30.

35. *Ibid.*, p.31.

The provision of Article 45 in the directive principle of state policy has till remained a far cry, and though according to this provision all children upto the age of 14 years are supposed to be in school, economic necessity forces grown-up children to seek employment. Children can therefore be employed in the process of packing," the judgement states. With this pronouncement the Supreme Court gives an indecent burial not only to Article 45 but also to article 39(f) which provides that "the state should direct its policy towards securing that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity, and that childhood and youth are protected against exploitation and moral and material abandonment.(36)

In fact, by stating that "tender hands of the young workers are more suited to sorting out the manufactured product and process it for purpose of packing" the court not only overlooks the fact that handling chemicals applied on the matchsticks is hazardous for anyone, more so children, but also backs up the spurious reasoning that the employers dish out for hiring children.<sup>37</sup>

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36. *Supreme Court Verdict on Writ Petition of Public Interests Litigation : M.C. Mehata vs State of Tamil Nadu* (New Delhi, Supreme Court of India, 1990) and also see Svati Chakravarty, "Supreme Court Verdict will aid Exploitation of Child Labour", *Sunday Observer* (New Delhi), December 1, 1990.

37. *Ibid.*

While stating that the employment of children within the match factories should not be permitted, the court justifies advocating the employment of children for packing by stating that "packing should be done in an area away from the place of manufacture to avoid exposure to accidents." It is, however, highly difficult to imagine the Sivakasi match factory owners. Who work tender hands without a break for 12 hours at a stretch and have threatened to implement the "putting out" system if child labour is banned-inflating their costs by shifting their packaging operations to a safe distance.<sup>38</sup>

The judgement also prescribes that child labourers be paid a minimum of 60 percent of the minimum wage. This literally amounts to judicial sanction for violating the law of the land which prescribes payment of minimum wages as also equal pay for the same work.

It is a well known fact that employers prefer to hire children because they are cheaper than adult labour which is also capable of organising it-self and demanding minimum wages. In fact, the match factory owners, of Sivakasi have

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38. Shela Varse, "Regularisation of Child Labour", *Times of India*, October 1991.



themselves argued that they are able to compete with multinationals like WIMCO only because they have access to cheap child labour. Highly conservative calculations show that by having to pay 40 per cent less than the prescribed minimum wage the Sivakasi match factory owners are liable to loot its 45,000 child workers out of at least Rs. 9 crore in just one year.<sup>39</sup> The Supreme Court has also deemed that special facilities be provided for improving the quality of life of the children and that statutory requirements under the Factories Act of recreation and medical attention be provided. It would, however, be wishful thinking to imagine that factory owners who with the blessings of the state have for decades callously violated the basic provisions of the Factories Act that bans the employment of children in hazardous occupation, which has led to child labourers have being killed, maimed and blinded, will now begin to provide welfare facilities.

Apart from the above analysis public policies of child labour has been interpreted as the negation to the both the constitutional vision of child as well as to the contemporary

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39. Chakravarty, n.36.

global concern for the welfare of the children. The correct interpretation of public policies of child labour may be indicated in terms of the type of policies and programme have been undertaken by the other national government as well as the new concern for different aspect of childhood.

In a comparative perspective, Child Labour Prohibition Regulation Act 1986 and the Child Labour Deterence Bill 1992 introduced in American Senate, the very concept of Morality and Humanitarian approach to the human deprivation in general and child labour in particular comming a serious scrutiny. While the former argues for the continuation of child labour on moral ground, that if child labour be eradicated their families and they themselves will be converted into destitutes. On the other hand the latter argues for the abolition of child labour on moral, social and economic ground, that child labour not only reflect the feudal mode of exploitation but it also hampers the estability of mordern society and distorts the function of market which are the reality of the mordern times.<sup>40</sup>

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40. Helen R. Sekhar and Dhal P.K., "Child Labour Prohibition and Regulation Act 1986 and Child Labour Deterence Bill 1992 : A Comparitive Peractive", (New Delhi, National Labour Institute, 1993).

It is often interpreted that policies of child labour in India are hypocritical and irrational in terms of not being implemented by the persons responsible for it.<sup>41</sup>

Going against the above interpretation it has been argued that it is more-pragmatic and practical.<sup>42</sup>

The government views the child labour legislation is more or less as an end in itself legislative action can have the effect of inducing a false sense of achievement-almost a complacency. Hence, the government impeded in the formulation and implementation of a realistic set of policies and programmes for the welfare and protection of working children, because to do so would tantamount to condoning and illegal situation.<sup>43</sup>

The goal of public policy of child labour in India is to provide increased protection to child workers and gradually reducing the incidence of child labour-the adoption of legislation

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41. Weiner, *The Child and State in India*, (New Delhi, Oxford University Press 1991), p.13.

42. Ministry of Labour, *Annual Report 1983-84*, (New Delhi : Government of India, 1985), p.54.

43. Bequel, *Combating Child Labour*, (Geneva, International Labour Office 1988), p.17.

should be and often is the first step and is for various reasons pivotal to dealing with child labour, it can play a catalytic and practical role only if it is backed by effective enforcement, is anchored to socio-economic reality and is flexible enough to facilitate action by government as well as by non-governmental organisation. The eventual abolition of child labour and the protection of working children during the transitional period require not only legislative provision but also a range of complementary interventions aimed at attacking the root causes of child labour and reducing its incidence over time.<sup>44</sup>

Therefore, child labour policy in India reckoned with two major interested parties households which in general make the key decision concerning child work-and enterprises whose decisions affect the number of child workers in the labour force and the terms and condition of their employment. The major parameter in decision making are its asset position, the employment status and wage rates of its employed members, the availability and cost of schooling and the social environment

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44. Ashok Narayan, "Child Labour Policies and Programmes : The Indian Experience", in *Combating Child Labour*, (Geneva, International Labour Office, 1988), pp.145-158.

could be achieved in the foreseeable future.<sup>49</sup> =

According to the evidence provided by the empirical studies, the Keeriyaru scheme to construct a dam in the Western Ghats to divert the west-flowing water to the east is pending clearance though it was designed in the 1950s. However, there are a number of minor irrigation schemes that could be developed. For example, reconstruction of broken checkdam at Thiruthangal (near Sivakasi) will help divert the flood waters into tanks (a lot of water flows through the rivers in Sattur taluk and drains into the sea when it rains in the Western Ghats for a few days in a year).<sup>50</sup>

It is not that the adults working in Sivakasi's industries are getting a proper deal. Their working conditions are bad. The employers are intolerant of any trade union activity. The preponderance of child labour acts as a check against such activity. Moreover, the kind of relationship the employer has with his workers weans them away from trade union consciousness- while being

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49. C.S. Jayaram, "Tender Years Turned to Ashes", *Hindustan Times* July 23, 1991.

50. R. Vidyasagar, "The Lost Childhood", *Frontline* August 31-September 13, 1991, pp.54-61.

highly exploitative, he makes use of the trappings of a patron-client relationship, with all its emotional overtones.<sup>51</sup> For example, most workers address their employers as “Annachi” (elder brother) and the Annachi attends all the functions in his labourers’ families. This relationship is reinforced every year during “Panguni Pongal” ( a festival specific to this area, celebrated during March-April) when the employers give gifts and pay new advances, setting old accounts.

According to a Committee set up by the Supreme Court of India 1990 no efforts whatsoever have been made for imparting education and creating centres for recreation and socialisation. Even consciousness on the part of the society or the employers in that direction was not there. We did not find any schools in the factory or nearby premises. There was no evidence of any formal and or informal education being imparted to the children. The children leave their houses between 4 to 6 in the morning and reach their homes by 8 in the evening. They are being paid at piece rate basis and despite the long working hours, earnings are low. In such a situation, no :

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51. Ibid., p.64.

child would be interested in availing educational, recreational and socialising facilities even if offered, leaving his or her earnings which are already very meagre. It is also pertinent to point out here that all the children, we talked to, are keen to go to school. They are working in the factories due to poverty and at the behest of their parents. Because payment is on piece-rate basis, the parents would not like their children to go for education, recreation and socialisation, leaving their work. Moreover, the extraordinarily long working hours are highly damaging to the health of the children. Even for adults such long working hours are not desirable.

The members of the committee saw the buses crowded with children and adults leaving Sivakasi between 6.30 and 8.00 p.m. for outlying villages where they reside at a distance of about 30-35 K.Ms. from Sivakasi. In such a situation, to think of any time either for education, recreation or socialisation is out of the question. Apart from the above facts, since the factories are working six days a week, (though the Committee saw some factories working even on Sundays), the children cannot attend any regular schools.<sup>52</sup>

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52. *Fact Finding Report of Supreme Court Committee, on Child Labour in Sivakasi*, (New Delhi, Supreme Court of India 1992).

The alternative method to induce a child to study and persuade the parents for sending their children to schools has been conceived by the State Government in the form of National Child Labour Project. This project is intended to cover the children till they reach the age of 14 years. Any child who has not been going to school for one year can be admitted to this school. Every child admitted in the school will be paid Rs. 100/- p.m. and provided diet costing Rs. 2/- per day. The children spend six months in the 1st, 2nd, 3rd and 4th standards and one year in the 5th standard and after that the children are supposed to go to 6th standard. Initially there was some problems in admission of the special school of the project) in the regular school because of the unusual status of the special schools. The Committee has, however, been informed that the State Government is trying to sort out the problem to ensure that those who have been in these special schools can enter regular schools in due course.

There are 27 special schools under NCL project. There is a provision for 50 to 100 children in one schools and generally there are about 50 children in each special school. This Project was established in 1986-87. In 1986 the number



of children estimated in Sivakasi area was about 45,000. Though these schools are running well, there are not enough these schools are running well, there are not enough of them and much more has to be done for providing educational facilities either formal or informal to the children working in the Match Industry and fireworks industry.<sup>53</sup>

There is hardly any provision for providing eatables. The employers do not take responsibility of all for the diet of the children. Some of the employers justify not running a canteen, as according to them parents feel that the children might spend their earnings in the canteen.

In the entire industry, all the workers are being paid on piece-rate basis and the minimum wage notification also treats it as piece-rate work.

Form the enrolment procedure it appears that the benefit of the scheme is being given to only such workers who are employees of the factories registered with Dy. Chief inspector of Factories. There are so many factories in the area which are not registered with the Inspector of Factories. There are

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53. Ibid.

large number of workers in the cottage industry. Apart from that even the registered factories are getting some work done on contract basis. Provision will have to be made for all the workers who are working any where in the Industry.

It appears from the statement of the doctors that employees of the larger units use the E.S.I. Facilities more than those of the smaller units. The workers were generally unable to use E.S.I. Dispensary because of the timings. They are paid wages on piece-rate basis and as such no workers leave the work and go for medical aid.<sup>54</sup>

Regarding the Welfare Fund the Committee was told by the State Authorities that in consultation with each other i.e. the State and the Employers, without hearing the workers and the representatives of the children, it has been decided by the employers to put Rs. 2/- per worker per annum in wage welfare Fund and the matching grant would be given by the State. This sum appears to be wholly inadequate. There are about 372 Registered Match Factories and several unregistered Match Factories. Apart from the unregistered Match Factories

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54. Ibid.

there are various factories in Cottage Sector. Some people get the work done on contract basis. No steps at all have been taken either by employers or by the government.<sup>55</sup>

However a committee formed by the Tamil Nadu government, involving the Departments of Labour, Employment, Social Welfare and Education, has recently produced a report in collaboration with the UNICEF (United Nations Children's Fund). According to the report, 90 per cent of child workers are females. The report addresses the basic issues and outlines concrete measures to eliminate child labour in a phase manner over five years. In fact, for the first time the Tamil Nadu Budget for 1993-94 mentions "abolition of child labour" and "legislation of compulsory education.

The report has come out with realistic solutions unlike its predecessors which had given only cosmetic proposals. Most important, it has involved the coordinating agencies in an integrated way. The highlight is the suggestion for three watchdog bodies -an advisory board at the State level headed by the Minister for Labour; a special board with a five-year tenure

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55. Ibid.

to coordinate the implementation of the recommendations; and district-level administrative mechanism, a special officer with the rank of Assistant Collector heading it.

The committee has pointed out that even seven years after the Child Labour Protection and Regulation Act was passed, the State Government has not implemented it - rules have not been framed, nor enforcing committees set up. The hard ground realities-most of which go against the tall claims of the government-are spelt out clearly in the report.<sup>56</sup>

From the above fact we can observe that child labour in Sivakasi is the manifestation of socio-cultural values as well as the weak economic structure of the area as such. The response from the government side through its policies and programmes do not reflect the very reality of the situation, but the implication of the policies has resulted multiplicity of approaches. A new exploitative super structure is very much visible in the infrastructures of those policies and programme.

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56. Asha Krishnakumar, "Childhood Denied : A Glimmer of Hope in Tamil Nadu", *Frontline*, June 18, 1993, p.89.

## CONCLUSION

In spite of the National Policy on Child Labour, 1987's Legislative Plan of Action, the incidence of child labour is unabated. There is even no significant change in the working condition where child labourers working condition were supposed to regulate.

Phenomena of Child Labour in Sivakashi, is not only reflects the poverty of the family, low income of the households but it also indicates one of the most important determinants factor that is the parental preference. And parental preference is not due to attitudes of parents which is more influenced by poverty. It is rather influenced by the Indian tradition. It is often argued parents are convinced that there is no use of sending their children to school on the grounds that their employment prospects are not promising. They would prefer their children to learn a skill rather than receive an education. This observation is not true in case of Sivakashi. In the match factories of Sivakashi, where women and children constitute a very large proportion of worker's, female workers

are compelled to bring their infants along with them, simply because, they can not leave them behind at home. Unlike of other instances, particularly in carpet factories in Mirzapur where children are forcefully kept in bondage, Sivakashi child workers are bonded not due to they are forced by the employer's, rather they come up childhood through a work environment where there is very less scope of being skillful and mobility in their career. This phenomena gets more aggravated and stabilised itself when the employers use a traditional methods to regulate the working conditions. For instance most of the employers address to their workers as *elder brother* irrespective of their age, caste, and social background. This relationship is reinforced every year during "Panguni Pongal" - (a festival specific to this area, celebrated during March-April) when the employers give gifts and pay new advances, settling old accounts.

Implication of this relationship may be observed in terms of weaning the workers away from trade union consciousness and making them always indebted to the employers.

The implication of public policy of child labour in India can be observed in terms of its non-implementation

as well as negative impact it has resulted. The non-implementation of legislative action plan was due to parental perception and employers manipulation of the entire work situation through their political patronage to disobey the implementary machinery and bribing the local official to not to take any action against them.

Most employers do not see themselves as law breakers when they engage children in work. On the other hand, they often honestly believe that their act of employing a child helps to alleviate the poverty of the child's family, gives the child an income to survive on, and teaches him skills that will stand him in good stead in adult life. Other employers are firmly convinced that the work for which they employ children cannot be done by adults (the "nimble fingers" theory) and it is impractical and idealistic of the Government to expect the industry to flourish if child workers are removed. The nimble fingers theory is a myth in Sivakashi. It is rather the practice of piece rate system which encourage women and children to come to the work to raise the family wage. This is more influenced by the competitive edge resulted by

piece rate system.

The parental attitude are often influenced by a kind of assumption that the child by going to the work rather than going to the school, not only does something useful but also gets an edge over others in the employment market since they earn skill out of their work. But as we have observed parental choice is the choice of father. It is more in nature of patriarchal authority in India. As a result 90% of child labour in Sivakashi are girl child. The gender discrimination is therefore, one of the most important aspect of child labour in Sivakashi strikes its importance.

Therefore, it is imperative to mention here that the practice of child labour in India is determined by the social values in the society. For instance fathers are convinced that daughters are to marry and go to their in-laws' home, and their education has no return for the family rather than only investment. On the other hand they prefer their sons to be sent to the schools.

The attitudes of some law enforcers are also responsible



for poor enforcement of child labour laws. Most labour inspectors have an underlying sympathy for needy parents who send their children out to work and do not consider it humane to prosecute the employer since it will result in the child being thrown out of work and the parents of the child being deprived of the child's earnings. These inspectors are not themselves convinced that there is any real need for child labour laws and consequently their enforcement lacks the necessary zeal. These attitudes therefore do not make the enforcement of child labour legislation easy.

One of the most important consequences of the legislative action of the government was the "informalization of child labour" viz., work involving child labour moving out of the factories and large establishments into small cottage and home based units, from out of the organised sector to the unorganised sector. As a result, even the labour laws that do apply to Labour (Prohibition and Regulation) Act, 1986, are not easy to enforce because the units are numerous and unregistered, the employer-employee relationships tenuous and changing, and frequently the unit is just a tiny family based one.

Another problem associated with the non-implementation of was that inspectors face problem to locate child labour in the units. When the inspector visits an area where there is a concentration of units employing child labour, he may find children physically present, and at work, only in the first one or two units visited. In all the other units child workers would disappear on learning of the inspector's visit. Since no records are maintained of the child workers, even when they are legitimately employed, the existence of such child workers would then be extremely difficult to prove. Since the inspector cannot visit the area day after day, moreover, the children can continue to be employed, with impunity during the intervening periods of the inspector's visits.

It is often observed that the court normally tends to attach more importance to documentary evidence and there is usually no documentary evidence to prove that the child has been working in an unit, prosecution becomes extremely difficult. In other instances court has a very nominal punishment against the employers of the child labour, either few rupees which are very easy for employers to pay or panalty in terms of

imprisonment employers do get the bail very easily. Hence, this calls for considerable persistence on the part of the enforcement machinery. Failure to obtain an order of conviction in the court discourages the enforcement machinery from taking up further prosecution and encourages employers to continue to engage children in work.

Implication of policy may be observed, that most of the policies and programmes of child labour in Sivakashi are run by the so called NGOs which are basically manned directly the employers or by their agents. So, the developmental programmes starting from poverty alleviation programme to the Irrigational facilities have very marginal impact on the people. Hence, as it is often argued, the government play a leading role in initiating and supporting the work of non-governmental organisation and also sets up programme it self for the reason that NGOs deliver welfare services and execute developmental programmes effectively at low cost, is a wrong approach. The result of this may be felt in keeping the area backward for ever, which intensifies the incidence of child labour due to poverty.

As it is argued that government prefer the employment

of children for the reason of it provides foreign exchange and the small scale policy as such that intensifies the situation, in case of Sivakasi this argument dose not hold the evidences which can prove it. The issue, of course, is that of these units providing adult employment in an otherwise work-scarce area. Since full adult employment is the key to damming the supply of child labour support to these units assumes importance.

### **Suggestion**

From the above findings we may come to the conclusion that the phenomena of child labour is the reflection of the underdeveloped social structure and economic condition. At the same time factors like gender discrimination, attitudes of employers and implementing agencies can not be ignored. For the above factors following suggestion may be drawn.

There can be no compromise on the issue of child labour in hazardous occupations. The law has to be enforced strictly

to remove children from such occupations;

so long as children are compelled to work in non-hazardous employment, efforts must be made to protect their conditions of work and health, and to see that that benefit from the relevant labour laws and are not made to work long hours;

administrative measures will have to be adopted by the government to rehabilitate those children who have been removed from hazardous employment and to provide welfare services for children who continue to work in permitted occupations. The National Child Labour Policy deals with this aspect. However, it must be remembered that it is very difficult to provide services for all the children removed from employment and all those working in permitted occupations, partly because such programmes are very costly and partly because child labour is widely dispersed;

a general awareness concerning the exploitation of child labour will a general awareness concerning the exploitation of child labour will a general awareness concerning the exploitation of child labour will have to be developed nationally so that

vested interests may be broken and parents come to realise that the short-term benefits of sending their children to work are far outweighed by the long-term deprivation to which they are exposed. The role of programmes aimed at raising social awareness and changing attitudes cannot be minimised.

It has been also observed that the division of the hazardous and non-hazardous working conditions as it is done by the national committee on child labour, 1979, and later on in National Policy on child labour, 1987, it has not only dilutes the constitutional obligations towards the children but it has also brought a large scale implication on shifting the child labour to cottage units which negates the constitutional obligation to provided a care free child hood and provide them education health and nutrition.

Apart from this one of the most important observation is that there is a lack of parity between the policies have been taken up by the government to fulfill the different developmental aspect of children in India. For instance Supreme Court of India the field of child labour gives judgement in terms of regularising it on the other hand in the field of primary

education it is committed to say it should be compulsory. It tempts critics to raise the issue in favour of eradication of child labour. At the same time it is an undeniable fact that primary education and abolition of child labour are analytically interconnected. Hence it needs to bring a parity between these two aspect when government takes the policy measures.

Another suggestion may be feasible for the child labour in Sivakasi is that liberation of women in general and improvement of deprived caste and deprived class of people. This role may be given to women organisation and the trade unions.

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