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***CRY- Child Rights and You***  
**Concept Paper on Child Labour in India**

**Introduction**

Since 1980s, the civil society groups have been successful in mainstreaming the issue of child labour. There is little disagreement that a child's access to her basic rights of education and development will be limited if she is a child labourer. It follows that, under the child rights approach, inaction on the part of the state or the civil society groups to address the problem of child labour is analogous to passively accepting the denial of basic rights to children.

Although child rights framework is now acknowledged by the Indian State, it is also evident that child labour is seen more as a symptom to other social problems like poverty and unemployment, than as a problem in itself. The symptomatic vision on child labour by the State and the society precludes the possibility of the direct intervention in this regard; in fact the issue is even seen as a transitional phase until the larger problem is solved; and this provides the State and the society a *legitimate* space to accept the existence of child labour.

Besides, the issue of child labour has its historic links with social systems that are inherently unequal such as caste based occupational pattern or sexual division of labour, enforced by social norms and practices. Hence, addressing this problem necessitates challenging of *such* 'socialization process' of children that perpetuates the unequal social systems. Along with this, there is also need to appreciate the diversity in socio-cultural and economic aspects within India. This makes it difficult to craft any singular statement on child labour for the nation as a whole; so much so that the need for contextualization of the issue and the necessity to look into practicability of offered solutions, at times, dilute the vision of the total elimination of child labour.

Further, inherent to the issue are the myths surrounding it, which many a times take the issue into macroeconomic debates and nationalistic debates, such as need for macro economic stability through flexibility in labour rules; or the case of the social clause within trade rules. The issue demands therefore an analysis from political economy perspective as well as socio-cultural perspective.

Although there is much debate on the issue of child labour regarding the definitions and the approaches to address the problem, there is a general consensus that child labour should be reduced and eventually eliminated across the nation. With CRY's objective being protecting children and their rights, it is necessary to evolve an approach that does not enhance the vulnerabilities of children, in the interim, and at the same time it does not perpetuate the existing practices that are harmful to children of one or more identities.

The problem of child labour as well as the approaches to eliminate child labour is linked with the complexities of what constitutes childhood, child work and child labour as well as what causes child labour. This concept paper aims at demystifying some of these social, economic and political myths, and stimulate discussion, debate and deliberation on various aspects of child labour. This paper, further, has two functions, one, it provides a background to the national child labour research; and two, as a prelude to the policy paper on child labour, this will be a working paper for facilitating a framework on the contending aspects of the issue, and the implementation of good practices. This paper is neither a policy paper nor an approach paper; hence the paper raises questions rather than providing solutions.

## **Who is a child?**

Generally a child is defined using age criterion. A 'child' as a social being can however not be defined merely through an age criterion. Childhood has its relevance in terms of persons' social acceptance as adults; generally by providing a space for participation in social affairs with an autonomous identity. Now the question is whether the 'participation as an independent identity' becomes the classifying factor, which in turn, will mean that children cannot participate as independent members?

We know well that determining the basic dividing line between child and adult in terms of characteristics would involve analysis of diverse issues. Some examples are criteria such as puberty<sup>1</sup>, 'marriage'<sup>2</sup>, education<sup>3</sup>, acquiring skills, etc. Most of these are very particularistic to culture, and often very difficult to generalize. It is not untrue, that in certain societies, even work is a criterion for deciding adulthood status<sup>4</sup>. Here, it is not argued that our criterion should be education or work or something else to define childhood, but to make a point that a 'legal' age-based definition of child exists in a society, where children are viewed from various other perspectives, which all cannot be ignored<sup>5</sup>. A universalistic way of defining childhood may lead to developing a monolithic concept of childhood, unrelated to social aspects.

Childhood as "a social construct varies over time and space"<sup>6</sup> was never an unacceptable view. But laws have their own strengths and limitations. A legal system, with State as an impartial institution, requires a neutral standard to classify all persons into child and adult. This is supported by human obsession with quantification, measurement and precision that there is always a tendency to, in Foucaultian term, 'mathematize' social constructs. In the process, any method, other than age criterion, of defining childhood is subjected to a rigorous test of objectivity and practicability, in which any criterion rooted in social system, will fail.

Therefore, the widely accepted notion of defining children is age criterion, which, however, is also not without problems. As regards to children, especially child labour, the "rigid age criteria are of little help" because the phenomenon of child labour encompasses "(biological) juveniles doing 'adult' work and (biological) adults who are still defined in work-relations as minors.... And thus subject to various forms of

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<sup>1</sup> Once a girl attains puberty, there is a social acceptance of the girl having achieved adulthood. One common social norm- is the change in dress that the girl wears. Although in case of boys, it is not that apparent.

<sup>2</sup> Although not all persons enter this institution, the social treatment of married person vis-à-vis unmarried is very visible. For example, there is a separate invitation for the married person, while generally unmarried person (irrespective of age) is invited via his/her parents.

<sup>3</sup> Similarly, education provides a person social acceptability as adults. Especially, when education leads to a clearly specified social role such as vaid (doctor), priest etc.

<sup>4</sup> In certain societies, a child, when starts earning, especially in a female headed household, acquires the acceptability as adult member, within society. Fyfe, 1989 referring to some African countries.

<sup>5</sup> As Marx says, Society founded upon law is a legal fiction; the law must be founded upon society expressing the common interests and needs of society.

<sup>6</sup> Prout and James, 1997

exploitation and loss of autonomy which social adults do not face" (Goddard and White 1982, p. 468). While, the first case of "biological juveniles doing adult work" requires challenging certain social notions of childhood, the latter of (biological) adults still defined as minors necessitates an analysis because here the biological criterion denies (social) children their identity of 'child', and therefore protection.

Another, immediate fallout of classifying persons on the basis of age, or for that matter any classification is the acceptance of a hierarchy between child and adult institutionalised through age-based system. While adults are accepted to be in the state of (human) beings, children are believed to be in the stage of 'becoming', with child as an inferior version of the adult- "as a lovable, spontaneous, delicate being who is also simultaneously dependent, unreliable and wilful and thus, as a being who needs to be guided, protected and educated as a ward."<sup>7</sup> In other words, the fact that children need protection as well as development was unfortunately based on the premise that childhood is 'an imperfect transitional stage on the way to adulthood, normality, full socialization and humanness'.

It is important for us to understand that this basic premise was ignored and not challenged even in the rights-based approach due to a well intentioned thought that any argument for treating children other than as a dependent identity might lead to the denial of protection and development rights to the children. The fact that the Western children received all such protection and development from the State through legal instruments, based on this very premise, has strengthened this worldview of looking at children as 'dependent and inferior' entities. Although some of the instruments used in the Western countries to 'protect and develop' their children are worth replicating, there is a need to confront some of the shoddier outcomes<sup>8</sup> of such an approach. Today, the States in the Western countries regulate through legal instruments most of the relationship between parent and child, which hitherto was bracketed under social relationships. This is because the legally accepted subordination of children by adults has brought, along with protective elements, some of the exploitative elements as well. Therefore, the real challenge is to locate child rights within a premise that views child "as a physically smaller version of the adult with a different set of qualities and skills", rather than as an inferior version of the adult. Children are after all more than 47% of us.

In fact, the real test of this challenge for India lies in the present era of globalization. In this regard, one has to understand the impact of modern-day globalization on belief systems, values and culture as such. On the one hand there is a notion, rightly, that the economic globalization is adversely affecting the local communities and marginalizing the already excluded groups. On the other hand, globalization is also pictured in a positive way, that it promotes international understanding by 'dissolving cultural, social and economic barriers'. The aim is to create a 'global village', with 'standardized' cultural norms and values<sup>9</sup>. The standardization process is evidently a political process. If we

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<sup>7</sup> Ashis Nandy criticizes this view of childhood, which has been projected well in early 19<sup>th</sup> century Western literature, John Locke etc. Read Aries, *Centuries of Childhood: A social history of family life*.

<sup>8</sup> In this regard, Ashis Nandy gives an example why this worldview is dangerous- "The estimated 1000 children who die every year at the hands of their parents in Britain- or the estimated casualty rate of in the United States, ranging between 200,000 and 500,000 for physical abuse and between another 465,000 and 1,175,000 for severe neglect and sexual abuse- are not victims of mystification, black magic or false religious values or of poverty leading to neglect or murder (as in developing countries). They are victims of a worldview which sees child as an inferior, weak but usable version of the fully productive, fully performing, human beings who owns the modern world."

<sup>9</sup> If one sees the MDG declaration, there are goals as well as values. The goals are contextualized to developing countries, but values look like something that has been taken from the constitution of a Western Country.

agree that the modern-day globalization tends to be determined more by the Western history and less by the local traditions, Jenkins may be right when he says, what occurs is "the imposition of systems of symbolism and meaning upon groups or classes in such a way that they are experienced as legitimate. This legitimacy obscures the power relations which permit that imposition to be successful" (Jenkins 2001:104).

It is often stated that if adhering to a standard and universal notion of childhood can lead to healthier, improved and happier childhoods, it should not be a problem. It is also argued that although the universal standard of childhood is rooted in western notions of childhood, this does not necessarily mean it will remain Western. There is in reality a constant interaction between the global and the local. Yet, often the problem is that the CRC and the global standards are often normative rather than positivist; that is, they look at the world as it should be rather than as it is, thereby the negotiation and renegotiation takes place against a standard set by the global instruments.

The challenge is greater, when the dominant worldview of childhood gets reflected in our laws, but the corresponding instruments do not really 'protect and develop' children, and consequently children suffer from dual exploitation due to absence of rights appropriate to persons (adults) as well as absence of 'protection and development opportunities' as a matter of right. Working within a framework, created and perpetuated by a dominant political system<sup>10</sup>, it will be difficult for CRY to influence power relations. Here lies the challenge for CRY, as it, with its objective being 'social transformation', also believes that it cannot bring social change without influencing the power relations.

### **Majority Age Framework**

Although there are many Acts that define children in terms of age, one Act that forms the basis for much other important legislation is the Indian Majority Act, 1875. The Act states that from the age of 18, persons acquire the capacity to exercise all the rights of an individual. Many of the subsequent laws refer to this Act to define 'adults' as well as 'minors'. A person on attaining the age of majority automatically gets entitled to many rights such as right to voting, right to enter into a contract, right to own and manage property and right to join trade unions; and privileges such as obtaining driving license, watching some classified movies, buying restricted items like cigarettes, liquors etc, and taking membership in clubs etc.

The Majority Act defines 'minors'. The Act bases itself on the British Common Law, which states that a person who has not attained the age of majority is a person of immature judgment who requires some protection. Such a person is subject to a legal incapacity. However, it will be wrong to say that the limitations on the legal capacity of a minor aims at depriving the minors of their rights. The Common Law states such an Act is necessary to protect minors against their own inexperience and improvidence. Therefore, the "age of majority" is used to describe the age at which a person acquires the capacity and maturity to exercise all the rights, and is capable of making mature judgements.

This paper accepts this Age framework<sup>11</sup>. This means that all persons under 18 years of age have two compulsory rights in all circumstances and conditions- one, to be called and treated as 'child'; and two, to a legal guardian. This means 'child' has to be uniformly defined in all legislation and policies as persons less than 18 years of age. This also means the state should endeavour for children's right to family- biological or

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<sup>10</sup> The dominant political system includes diverse institutions, but in the neoliberal economic system, there is a confluence of ideology between the dominant interests of the state and that of the Market (economic sense). Other than the State and the Market, there are supposedly 'on the fence' agencies, which while claiming to be part of the civil society often have prescriptive rights over the State and the Market, for example, the agencies of the United Nations, the WTO, the IMF and the World Bank.

<sup>11</sup> This framework is a product of the notions of childhood that need to be selectively challenged. As a matter of strategy, we need to accept the framework retaining the space to selectively challenge some of the notions of childhood that formed premise for this Act.

otherwise. A child deprived of family should be under the direct protection of the State, but a legal guardian (a person of age 18 and above) for every such child should be notified. Moreover, children's two rights- the Right to Protection and the Right to Development, both glow by accepting this framework. With law declaring children 'incapable' and 'immature' to make accurate judgements, they have now one more reason to claim protection as a matter of right. Further, the fact that persons on reaching 18 years automatically get entitled to all rights, goes with it that the children have the right to development so as to be capable to exercise other rights, once they are adults.

However, the age criterion stipulated by the Act does not form uniform basis for defining adulthood, and therefore childhood, in all laws related to children. The legal conception of a child varies depending upon the purpose, whether it is for imposing legal disabilities (e.g. in the political rights sphere), for spelling out duties and obligations (e.g. in the juvenile justice system), for affording protection (against exploitative or hazardous employment) or for establishing eligibility to receive benefits or special services (e.g. health, education and maintenance benefits)<sup>12</sup>. For example, Section 83 of the Indian Penal Code, 1860 fixes the minimum age of criminal responsibility at 7; and any act done by a child above 7 years of age and less than 12 years will not be treated as an offence only if the child is not of sufficient maturity and understanding to judge the nature and consequences of the act. This means that IPC presumes that a child between 7-12 years can have 'sufficient' maturity; and children above 12 years surely have 'sufficient' maturity. Similarly, Section 375 while defining rape makes the consent for sexual intercourse inapplicable only for girls less than 16 years of age. Even the child development laws like free and compulsory education laws define children as persons of age less than 14 years. Therefore, the claim for protecting children against their own inexperience and improvidence is not marked in all legislation.

Similarly, if we extend the Majority Age framework to child labour, a child, who cannot enter into any contract, should also be incapable to enter into an employment contract with any employer. But, the Child labour (Prohibition and Regulation) Act, 1986 allows employment of children in non- hazardous occupation. Similarly, most of the labour legislation define 'child' as persons of age under 14 years, and not under 18 years. The irony is that on the one hand, there is no restriction on employers to engage a child of age between fourteen and eighteen in hazardous activities and children of any age in non-hazardous activities, on the other hand various labour protective legislations deny these children all privileges that normally an adult worker is entitled to. The immunity conferred upon minors from performing a contractual obligation is termed 'a shield'<sup>13</sup> for children, but here the declared incompetence of children to enter into contract is being used as 'a sword' by the dominant market forces; all in the name of protecting children against their own improvidence.

The main problem is that a child who is a 'child' for one context ceases to be a 'child' for another context. It is not wrong to treat children of different age categories differentially according to the need and the context, but the law instead of randomly defining 'child', should justify the changed age criterion, and also address the adverse impact on "left out" children due to such criterion. The primary protection for a child is to protect her right to be called a child, and be treated as such.

This paper envisions the need for uniform definition of child as person of age less than 18 years. However, data on child labour are widely available for the age group 5-14 years only. Further the principal legislation on child labour defines child as persons below the age of 14 years. Hence, for the sake of analysis, this paper mostly uses the definition of children as persons in the age group, 5-14 years.

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<sup>12</sup> See Citizens' Commission on Bonded and Child Labour in India (1995), *Background Papers*, First Convention, New Delhi.

<sup>13</sup> SC Judgement No.....

### **'Child labour'- as defined in official statistics**

The National Sample Survey and the Census, two major official sources of data on child employment, do not define 'child labour'. The figures for 'child labour' are derived from using age-wise distribution of workers. Workers are defined as "those who engage in economic activities"; and 'economic activity' is defined as "any activity resulting in production of goods and services that add value to national product". The major exclusions are 'own account' processing of primary products. Similarly, activities relating to the production of primary goods for 'own consumption' are restricted to only the agriculture sector and do not include mining and quarrying activities. Further, "activities like prostitution, begging, smuggling etc., which though fetched earnings, are, by convention, not considered as economic activities"<sup>14</sup>.

It is clear that the labour force, as defined by these sources, is associated with their contribution towards the national product based on economic accounting model. This definition of labour is narrow, as it is modelled in respect to monetary contribution to national product, so far as analysis of child labour is concerned. This may not include all work related activities performed by children that hinder their protection and development.

### **Official Data on Magnitude of Child Labour in India**

According to the National Census data<sup>15</sup>, there were 13.39 million child workers in 1951, 14.47 million in 1961, 10.66 million in 1971, 11.20 million in 1981, 12.67 million in 1991 and 12.50 million in 2001. According to the National Sample Survey (NSS) data, there were 22 million child labourers in 1983, 17 million in 1987, 13 million in 1993 and 10 million in 2000 (Kannan 2001). Trends show that the number of child workers is declining over the years, although there is a rise in child population over the same period.

The NSS data, 2000 states that there are 9.84 million working persons of age group 5-14 years. The data also provides input on some other activities that children engage in. The table below shows the percentage of children in the respective age group engaged in various activities. Each category of children is a mutually exclusive category, that is, no child is in more than one category, although in reality children may be performing more than one task. An elaborate instruction on how to assign priority while categorizing children is provided to data collectors. For example, those who attend schools, may be performing domestic duties as well, but are categorized as children attending schools. The priority is assigned based on the amount of time day spent by children on respective tasks.

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<sup>14</sup> NSSO, 2000 "Theories and Concepts"

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	<b>Rural persons (5-9)</b>	<b>Rural persons (10-14)</b>	<b>Urban persons (5-9)</b>	<b>Urban Persons (10-14)</b>	<b>Total (5-9)</b>	<b>Total (10-14)</b>	<b>Total (5-14)</b>	<b>Total (5-14)</b>
<b>Children engaged in "economic activities"</b>	0.70	9.40	0.30	4.50	0.61	8.21	4.31	9839155
<b>Attended domestic duties only</b>	0.30	3.50	0.20	3.00	0.28	3.38	1.79	4078810
<b>Attended domestic duties plus free collection of goods, tailoring, weaving for HH only</b>	0.20	2.70	0.00	0.50	0.16	2.17	1.14	2589737
<b>Children at Work</b>	1.20	15.60	0.50	8.00	1.05	13.76	7.24	16507702
<b>not able to work due to disability</b>	0.10	0.20	0.10	0.20	0.10	0.20	0.15	339227
<b>Children who are working or could not work due to disability</b>	1.30	15.80	0.60	8.20	1.15	13.96	7.38	16846930
<b>Attending schools</b>	67.10	71.10	82.40	84.80	70.43	74.42	72.37	165118628
<b>Others</b>	31.60	13.10	17.00	7.00	28.42	11.62	20.24	46182542
<b>Total</b>	<b>100.00</b>	<b>100.00</b>	<b>100.00</b>	<b>100.00</b>	<b>100.00</b>	<b>100.00</b>	<b>100.00</b>	<b>228148100</b>

From the data, it is clear that there are 16.50 million children (7.25%) who are working, including those who are engaged in domestic duties. It also shows that there are 165 million children (72%) who are attending schools.

The most interesting category of children is "others", which accounts for 46 million children. They are not attending schools, and are neither at 'work' nor are categorized as those attending domestic duties. These children are, as referred to by Rodger and Standing, those in "Idleness and unemployment", which is different from 'recreation and leisure', in the sense it is "liable to be interspersed with marginal, irregular activities that provide a modicum of income" and the idleness is the "induced sense of passivity and anomie, if prolonged, cause un-employability for many forms of regular employment" (Rodgers and Standing 1981, p. 10). Such children, without schooling, lack education, and by being idle, lack essential skills, and when adults they are almost unemployable.

These children are also called variously as "Nowhere children", "potential child labourers" and "reserve child labour force". Many NGOs, Commissions, activists and scholars bracket them as "child labourers" as they are all deprived of 'education' (Second National Labour Commission Report, MV Foundation, Human Rights Watch, Shanta Sinha, Neera Burra etc). Hence it is often claimed that the number of 'child labourers' in the country is in the range of 60-100 millions.

When the magnitude of 'child labour' is obtained not on the basis of children actually working, but on the basis of children not attending schools, although provides an essential link between the two issues of child labour and education, it also makes a presumption that reasons for children working are the same as the reasons for children not attending schools. While it can be argued that the reasons that are due to the supply factors, such as poverty, adult unemployment etc may be the same, the demand factors for child labour that have more to do with the structure of labour market in each industry is different from that of the absence or presence of schooling facilities in the vicinities or the quality of education. These two concepts of education and child labour need to be interlinked but as independent concepts, otherwise the aspects of "demand for child

labour” would never be brought to the forefront. Without addressing the structural problems in the labour market, it may not be easy to totally eliminate child labour.

Therefore using the NSS data categorization, we can include within the definition of child labour, all children engaging in economic activities as well as those performing household duties. The category of ‘others’ may not be included. It is however acknowledged that there is a need for research/survey on what these children are doing. This necessarily requires a survey with focus on ‘child labour’, rather than on contribution of labour force to national product.

### **Child Activities**

Rodgers and Standing (1981) categorized activities in which children participate into 9 categories: **domestic work; non-domestic, non-monetary work; tied or bonded labour; wage labour; marginal economic activities; schooling; idleness and unemployment; recreation and leisure; reproductive activities.** The International Labour Conference held in 1983 used this categorization to explain all the activities performed by children. The report adopted the first five categories of activities as ‘economic activities in which children participate’. In our official statistics (NSSO), tied or bonded labour, wage labour and major part of marginal activities are generally characterized as ‘labour’ or ‘work’, but domestic work is characterized as ‘domestic duties’.

Let us examine these five categories of child activities briefly.

**Domestic Work** Children undertake domestic chores in almost all societies. This may take the form of simple cleaning tasks and washing clothes to sibling-care and fetching water or collecting firewood, depending on the nature of household needs. Many of these domestic works are not imposed upon children; nonetheless often they are ‘actively’ promoted in the name of child-rearing process.

Although apparently non-exploitative, there are certain aspects of domestic work that requires investigation and analyses. The first aspect is the unfortunate status of ‘domestic chores’ itself being viewed as odd jobs or errands. These tasks most often do not come under the definition of ‘economic activities’, and are rarely reflected in the official statistics. Therefore the children performing domestic tasks are not even categorized as child workers, although they may be spending a long time on performing these tasks everyday. Related to this is the second aspect of gender stereotyping of these domestic chores. Firstly, the inferior status of domestic work within the larger category of ‘work’ matches the inferior status of woman and children within society, and therefore there is a view that entire ‘domestic work’ comes within the responsibility of women and children. Secondly, within domestic chores, there is a gender stereotyping of domestic work between boys and girls, in such a way that girls get to learn all those tasks that women are ‘supposed’ to do in the society. The ‘domestic work’ becomes a tool in the hands of the society to perpetuate the intra household division of labour between men and women, which has a wider ramification in the adult society in terms of perpetuating the inferior status of women as dependents. Thirdly, related to the first two, the domestic work may also lead to deprivation of child rights, especially for girls. Children are not sent to school or are often withdrawn from schools to act as domestic adult substitutes for performing domestic chores, especially sibling care. The child’s right to development and protection is generally overlooked because of the assumption that exploitative relations do not exist within the family (Goddard and White 1982, p. 467).

According to NSSO, 1999, approx 3.18% of rural girls (5-14 years) and 3.03% of urban girls attend ‘domestic duties only’. The corresponding figures for boys are 0.33% and 0.20%. As explained in the preceding paragraph, the gender stereotyping of domestic work is clearly visible.



**Non-domestic, Non-monetary Work:** According to the report of ILC, 1983, this forms a major part of child activity in subsistence communities, encompassing farm work, and collection of goods, tailoring, weaving etc. Although these activities are non-domestic, they are non-remunerative as well, and therefore do not qualify for being part of the conventional definition of 'labour' or 'work'. NSSO captures these activities of children as well. According to NSSO, 1999, approx 2.32% of rural girls (5-14 years) and 0.53% of urban girls are involved in such activities simultaneously performing domestic duties. The corresponding figures for boys are 0.32% and 0.00%. The gender stereotyping of such activities is again clearly visible because of non-remunerative nature of these activities.

**Bonded Labour and Wage Labour:** Bonded labour arises as one of the obligations to landlords/occupiers whereby children's labour is pledged as part-payment of the debts. The parents In need of money have no other option but to pledge children's services against a paltry sum. Although poverty and absence of livelihood options are cited as the major reasons for bonded labour, it is actually demand factors, which attribute value to child labour. The process of bonded labour has in fact been interpreted broadly by the Indian Judiciary so as to include those employments that do not provide minimum wage to the workers.

The Wage employment covers "children working as part of a family group or individually in agriculture, manufacturing and services, either on a piece rate or time rate basis, as regular or casual workers." Children as part of a family group are very common in agriculture production. In the last two decades, with greater informalization of manufacturing sector, such a system can widely be seen in manufacturing sector as well, such as in carpet-making, bidi industry etc.

In both cases, the relations of production actually play a major role in creating exploitative conditions of child labour, as children do not work within the 'protective' realm of the family, and even if they do, the external relations of production overshadows the other relations.

**Marginal Economic Activities:** These activities are "typically characterized by their irregularity and short-term nature, though some of those individuals practicing the activities may do so on a regular, long term basis" This type of work includes the selling of newspapers, sweets and other small items; running errands; shinning shoes and sorting rubbish. Most of the activities undertaken by street children as part of their livelihood needs come under this category. In most of the cases, street children are 'self employed', in the sense that children are not under one employer. However, that does not discount the incidence of exploitative elements, as children work and live under difficult circumstances.

This category also includes theft, prostitution and other activities, but due to their being illegal, the activities are positioned as a different category altogether. Especially significant is the case of prostitution, sex workers. In one instance, a CRY Fellow working in Meerut undertook a survey on child labour for the Government of Uttar Pradesh, where she included child sex workers as child labourers. However, according to her, the state government rejected the survey report on this premise.

### **Child Work and Child Labour**

This paper has all the while used the terms 'work' and 'labour' interchangeably. However, there are some who strongly advocate the need for making distinction between 'child work' and 'child labour'. G K Lieten argues that the concept of work should be used as the generic term, and would refer to "any type of work being done in any mode of employment relationship and for any purpose; it should serve as a description of the physical (or mental) involvement in a job", while the concept of (child) labour should be "restricted to the production of goods and services, including work in the household, that interfere with the normative development of children as defined in

1989 the UN Convention on the Rights of the Child". He cites ILO's view that such a distinction is important; otherwise it will "trivialize the genuine deprivation of childhood faced by the millions of children involved in the child labour that must be effectively abolished." (ILO 2002: 9). Therefore, "child work" came to be used to describe work that was not considered particularly harmful and "child labour" was used for work which was "likely to damage a children's chances of fulfilling their other rights, most importantly, education" (Crawford 2000, p. 7).

To this extent, the distinction is understandable, as they aim at preventing the trivialization of the problem of child labour. However, at times the distinction between the two categories of child work and child labour is made to emphasize the benefits of child work. ILO, in fact, goes on to say, "Millions of young people legitimately undertake work, paid or unpaid, that is appropriate for their age and level of maturity. By doing so, they learn to take responsibility, they gain skills and add to their families' and their own well-being and income, and they contribute to their countries' economies". However, such a stand has actually resulted in consolidation of interests who are demanding "right to work" for children. A few of the important international organizations (ProNats, FEZ, Germany) made a declaration in Berlin in May 2004 honouring the 'working childhood' stated that "child work is an important human right, and work allows children to resist with dignity the economic, political and suppressing model that criminalizes and excludes them"<sup>16</sup>.

Child work vis-à-vis child labour distinction is generally made based on the following parameters. Firstly, "child work" takes place within the family system; hence children would not be victims of exploitation due to relations of production. An assumption is made here that family would not extract labour out of children to the level of exploitation. However, family as a unit would still be part of those relations of production that could be exploitative; and therefore a child part of the family labour has to face those adversities caused by labour relations. The capacity of a family to absorb all the adversities is limited upon the socio-economic deprivations that the family faces. Further, 'child work' will increasingly be seen as a substitute to adult labour, so that adults are free to engage in more remunerative labour. In such cases, a child's right to protection and development will not be fully realized.

The second reason given is that child work socializes children in the cultural traditions; which is also a child's right. This requires a greater investigation, especially through a gender lens. The assumption, that "cultural traditions" have to be accepted without intruding into the inherent inequalities, might perpetuate certain historic exploitative practices. It has been argued that any abstraction of child labour from children's work accords social acceptability to some forms of child-work masking marked ideological and gender biases in society<sup>17</sup>. This has been explained in the earlier section on "domestic work".

The third reason usually given is the need for children to learn artisanal skills, and the need to protect certain artisanal traditions. This argument is strengthened by the other argument regarding "non-relevance" of school education, especially the formal education, to the employment aspects of people. This reasoning supports the need for children acquiring artisanal skills by being 'on job' from childhood. Such child work is considered as beneficial as it assures a working adulthood, which our education system does not guarantee. In this regard, one has to differentiate between 'training' and 'job', as in case of latter, a child is under pressure to contribute for the livelihood at this young age. This pressure hinders her realisation of her rights to education and development. If it is a part of training process, which can be categorized as education, the pressure on child is not so overwhelming that would lead to exploitation.

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<sup>16</sup> Final Declaration of the 2<sup>nd</sup> Meeting of the World Movement of Working Children and Adolescents, Berlin, Germany, April 19<sup>th</sup> to May 2<sup>nd</sup> 2004

<sup>17</sup> Sumi Krishna (1996), Restoring Childhood: Learning, labour and Gender in South Asia, Konark, New Delhi, p21.

Finally, child work is accepted as it is considered as a child's contribution to her own survival as well as the survival of the family. The acceptance of this argument would actually fail to recognize the failure of first, the state and then, the family to ensure a safe livelihood to children. If a child has to 'labour' for her own survival, acceptance of such child work would be indirectly accepting the denial of rights to the child.

Cannot the child work be termed exploitative if it leads to denial to children their right to play, to learn and to enjoy a 'childhood'? This theoretical debate on child work versus child labour is never ending because the difference between them is apparent greater in theory and less in practice. If 'child work' is accepted as a super set to include child work that is educational, and if child labour is abstracted from it based on the adverse effect the activity has on the child in terms of a child's right to survival, protection and development, the distinction will not legitimise any work that is not educational. Child work is child labour when it threatens the survival, protection and development of children, although it may be a part of the socialization process or the so-called on the job training in artisanal skills.

The theoretical problem in identifying a child labourer, with a universal child in mind, need not be marked in reality when there is a need to categorize a child as child labourer or not. As has been argued, a child who is 'working' and spends a considerable amount of time on work so much that it impact on her life and education can be categorized as child labourer. The NSS also categorizes children on the basis of primary activity that a child does.

Incidentally, CRY also follows this dichotomy of child labour and child work. CRY defines child labourer as "children, in the age group of 4-14 years, who are working/involved as wage earner either bonded or not, part time/full time worker, involved in any sort of economic activity that is hazardous or non hazardous, in any work shed- in-house or outside". Working children are defined as "those who are involved in any kind of economic or apparently non economic activity but working with their families as a helping hand". Additionally, there are "street children", who are defined as "who have come from their home and presently staying at the street/railway station and working/begging or not involved in any work in the institution and not connected with their homes". The differentiation is based on relations of production and nature of work place (home or outside).

An AER, in respect of its partner "ALERT" in Rajasthan, describes the problem of working children that is prevalent everywhere in the rural areas of Rajasthan. "Majority of children is involved in agriculture, cattle grazing or has to stay back in their house to look after their younger siblings, while their parents go to fields during monsoon. However, organization is still not able to devise a clear strategy for working children. For the time being NFEs with flexible timing (depending on the season) could be one possible solution for ensuring education to these children. Similarly children can be linked with open schools to ensure education right to them. Even if the income from the two main occupations is increased, problem of working children could not be resolved, as they will still be providing helping hands to their families. Creation of some alternate employment opportunity doesn't seem to a practical solution in a state where economy of most of the families depends on agriculture and cattle rearing. However, as a long run strategy, activation of *anganwadis* (where mothers could keep kids while going for work could solve problem for those who have to stay back to look after their siblings. But even this will not resolve the problem of those children who are involved in grazing and agriculture. Drought proofing of the area combined with concept of co-operative farming and better market opportunities for farmers may solve the problem in very long run, but still this strategy has to be analysed and worked out technically. And moreover, with farming being primary livelihood source, the whole idea of stopping children from working in their own fields, until they attain adulthood (i.e. age of 18 years, becomes questionable. A detailed discussion among all the partners in state is required to arrive at the best possible solution. Therefore, presently there are no specific targets or

development parameters set under protection for working children. As far as their education right is considered, it is being covered under development right.”

It is clear that CRY views child work as problem, but it differentiates child work from child labour, under the principle that “elimination of child work would require different strategy as well as solutions, as compared to child labour”. However, the fact that CRY has a definite strategy in place for eliminating child labour, but not yet so definite for child work, indicates that there is an element of prioritizing in favour of child labour vis-à-vis child work.

### **History of this distinction between child work and child labour**

In the pre-industrialized society, the principle of treating only what was done in the factory or office as labour and what was done at home as mere ‘work’ was not yet born. The origin of distinction between child work and child labour can be traced to the advent of industrialization.

The pre-industrial society had children performing work from a very young age. This work was not regarded by the then society as a form of ‘exploitation’, because the work formed part of certain ‘social norms’ that governed society. This however, does not mean that children were treated similarly as adults, or there was no discrimination (gender, caste) among children. This also does not mean that the lives of children were better than that of present day children. Children were carrying their own childhood identity as well as their social identities. But, what is being stated here is that, as children were performing activities, which included work, broadly within the realms of family and community, there were social norms that regulated these work, and unlike the present laws, such norms were evolved, practiced and enforced by the community themselves, and not through an administrative machinery, not directly accountable to the community.

Similarly, in the traditional economy of agriculture (farms, animal rearing), crafts (pottery etc.) and services (barber, etc), children were ‘socialized’ into work by adults at very early age. In this limited perspective, there was a little difference for such a child between education and work. A child working practically meant that the child was *learning* to work. However, there was a separate stream of school education, which was hardly universal- as access was denied both on the basis of caste and gender. The access was however then governed more by a set of social factors rather than by class factors.

The industrial revolution, which began in Europe, brought a major change in the nature and relation of production. It can be visualized from many of the then European literary sources, especially the Marxist ones, that the industrialization from the early nineteenth century saw the deterioration in the conditions of work in factories, when compared to pre-industrial society. The industrial mode of production gradually spread to other parts of the world. The protection enjoyed by children from the family and the community suddenly became irrelevant with children spending most of their time working in the factories, and being totally stretched and exploited by employers and supervisors.

Not only the conditions of work, but also the time and location of work started becoming standardized. With labourer herself becoming a cog in the machine, there was no qualitative difference between treatment to child or adult labourer. Children, who were working off and on at homes and at farms, were subjected to work at particular places at specific time. The 'work' started being defined under consideration of time and place. It could now be quantified in both ways- using the time taken to do the work or/and the volume of work done; and therefore children were now subjected to increased regulation by forces external to family and community<sup>18</sup>.

While the pre-industrial societies largely had their own institutions, based on family, kinship and community, for 'protecting' children from exploitation, the industrial society saw children in a place (factories) under the power domain of employers, that the family and the community cannot guarantee protection. This marked the beginning of interventions by the State through a number of legislation, mainly to set norms to govern production relationship.

The Indian Factories Act 1881 provided for the protection of children as to employment in factories by setting the minimum age of employment (at 7 years) and working hours (at 9 hrs a day). Since then the Indian State has formulated various legislation in different industries, but with the same perspective of 'child labour' i.e. to *protect children from the exploitative labour practices of employers, be in factories, mines or plantations*. 'Child labour' was always a part of 'protection' debate and not the 'development' debate. In other words, these children were to be protected and rescued first, their rehabilitation and development are not immediate issues.

The reality today is that children are exploited less by employing them in factories and more by their engagement in low-productive jobs in informal sector and agriculture, and domestic tasks. However, 'factory labour' is still the focus of child labour laws, owing to which the only one kind of labour (in factories) is condemned, while legitimising other labour practices as children's obligation to contribute to survival of households.

### **Child Labour: Rights Framework**

One shall not ignore the fact that child labour today is more in agricultural farms, household based industries, street than in factories. The law, policy and programmes see 'child labour' from the perspective of non-rural, industrial and factory-based production. Children in agriculture and family based traditional occupations were taken for granted, due to assumptions such as these work are non-hazardous and non-strenuous, and that their rights are protected within the institution of family. Therefore, all important legislation in India from Factories Act in 1881 to CLPRA, 1986, this particular view of child labour is promoted, and the problems of rural and artisanal child labour is simply not addressed because of its links to the local culture. In fact, the "family solidarity" is viewed as entirely beneficial.

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<sup>18</sup> Here community as an institution is being differentiated from economic Market as an institution. So factory owners and supervisors, who although may be part of the same community, are now seen as external to the community, because of an institutionalised exploitative relationship based on non-social factors.

This particular image of child labour is also being strengthened by many international organizations. With exploitation as the underlying aspect, UNICEF characterizes child labour as follows<sup>19</sup>: -

1. **Starting full- time Work at too Early an Age:** This happened historically in the earlier stages of industrialization in Europe where children began work in factories from nine, eight or even five years. This is still the case today in many developed countries.
2. **Working too Long:** Within or outside of the family so that children are unable to attend school, where it is available, or to make the most of school due to fatigue or lack of time. In some cases children still work 12-16 hours a day.
3. Work resulting in **excessive physical, social and psychological strains** upon the child as in the case of sexual exploitation in prostitution and pornography, work in sweatshops, as well as such dangerous work as military service and mining.
4. **Work and life on the streets** in unhealthy and dangerous conditions.
5. **Inadequate remuneration** for working outside of the family as in the case of child workers in carpet weaving who are paid US \$ 3.00 for a 60-hour week.
6. **Too much responsibility too early** as in the domestic situation where children under 10 may have to look after young brothers and sisters for a whole day thereby preventing school attendance.
7. Work **that does not facilitate the psychological and social development** of the child as in dull and repetitive tasks associated with industries like handicrafts.
8. Work **that inhibits the child's self-esteem** as in bonded labour and prostitution, and in a less extreme case the negative perception of 'street children'

Similarly, ILO has moved from its focus on Minimum Age Convention to the Worst Forms of Child Labour Convention, and states the following<sup>20</sup>

"the term the worst forms of child labour comprises:

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children."

The UN Convention on Child Rights proscribes activities that are exploitative, hazardous or damaging. Article 32 states that States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

This focus on addressing "exploitation"<sup>21</sup> has actually led to a shift towards targeting some of the worst facets of child labour such as bonded labour, forced labour, trafficking, sexual exploitation of children etc. Such targeting and prioritizing some forms of child labour for elimination is a pragmatic approach, with extreme form of child labour as

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<sup>19</sup> UNICEF (1986), *Exploitation of Working and Street Children*. Unpublished paper for the session, New York, p3-4

<sup>20</sup> Read Article 3 of ILO C182 Worst Forms of Child Labour Convention, 1999

<sup>21</sup> Denial of right to development is also exploitation. But conventionally exploitation refers to visible form of oppressive practices that have adverse impact on physical and emotional well being of children, and not on what the system is denying to the children in terms of development opportunities.

focus. But there have been concerns that such approaches are leading to addressing the problem of “poor working conditions of children”, rather than on eliminating the child labour. The dimensions of child labour are increasingly being portrayed as a continuum from acceptable child work (absence of exploitative aspects) to the worst forms of child labour. Working with such a continuum, even the conversion of the worst form of child labour to ‘acceptable’ form of child labour is being considered as a success<sup>22</sup>.

The issue of child labour is progressively more being addressed under the “Right to Protection” debate; and invariably, the focus area is the exploitative element of child labour, rather than how child labour leads to the overall denial of “Right to Development”. The understanding of exploitation is from an adult’s point of view, and the fact that a child being denied development opportunities at formative stage is by itself exploitation is not recognized.

### **Impact of Child Labour on Children**

When one theoretically defines “Child labour”, there is an attempt to simplify child labour based on the form of the labour relationship (within the family, with family but outside home, outside the family as a wage labourer or as a bonded labourer or as a working children in the street and self employed but having a multiple labour relationships) or by the type of activity (hazardous, non-hazardous, light, heavy, all following their understanding as applicable to adult labourer) or by the working condition. The above parameters cannot comprehend the effect the activity has on the child.

Child activities as categorized above can have the same description but consists of different workload, health risks and psychological impact. Hence, there is a need for a detailed examination of the type of work, the risks involved for the children and the working conditions, social vulnerabilities and gender issues etc that are inherent components of work.

Although there are studies on impact of labour on children from the traditional “hazardous” framework, little have been done on impact of labour on children’s development. Therefore, still child labour that are physically hazardous only are seen as child labour. In this regards, some micro-level studies with child development framework may offer a deeper understanding on the impact of child labour on children. Such sector wise studies need to be undertaken to comprehensively document the impact of child labour on children, especially those working in agriculture and within homes.

Similarly, in cases of children with disability, it is necessary to study the reasons for the onset of disabilities in children, especially those who are not born with disabilities. The role of child labour among the causes could be one study. There are data which show that even some of the disabled children are working. It is necessary to find out how child labour prohibits these children from accessing their rights.

Finally, children are not only one of the major victims of war, but also are ‘recruited’ as “soldiers” to defend the interests of nation, group, ethnic communities and social groups. This is an area which is not much researched in the Indian context.

### **Causes of Child Labour**

Although official data have their own definitional problems, these data provide valuable insights on demographic, gender and regional variations on child labour. Before we look into the causes of child labour, we may examine various dimensions of child labour.

#### *Rural and Urban Child Labour*

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<sup>22</sup> There are organizations that merely rescue children from factories and mines, and then do not address their rehabilitation issues. Such children start working on agriculture and informal sectors, or may even enter illegal professions.

The Table below uses the NSS, 2000 data to provide a rural/urban dimension of the issue of child labour.

<b>CHILDREN IN AGE (5-14 YEARS)</b>	<b>RURAL</b>	<b>URBAN</b>	<b>TOTAL</b>
<b>ACTIVITIES</b>			
<b>Children engaged in "economic activities"</b>	4.50	2.36	4.02
<b>Attended domestic duties only</b>	1.69	1.57	1.67
<b>Attended domestic duties plus free collection of goods, tailoring, weaving for HH only</b>	1.29	0.25	1.06
<b>not able to work due to disability</b>	0.14	0.15	0.14
<b>Children who are working or could not work due to disability</b>	7.62	4.32	6.88
<b>Attending schools</b>	63.79	80.14	67.44
<b>Nowhere Children</b>	20.98	11.22	18.80
<b>Total</b>	100.00	100.00	100.00
<b>Total in Absolute (in 1000s)</b>	190137.1	54695.85	294833.00

About 63.7% of children in the age group 5-14 years are living in rural areas. In absolute terms, rural areas account for more than 14.2 million child labourers, while urban areas have about 2.29 million child labourers. In other words, more than 86% of child labourers live in rural areas.

There is one school of thought that says that children do not go to school in rural areas because the family requires the services of child labour for their livelihood. In rural areas a large percentage of children (20.98 %) are those who are neither in school nor working; and they very well form part of the age group who should have access to free and compulsory education. These children are not directly contributing to the household income. In other words, our education system in rural areas is not able to attract even these 'non-working' children to schools. In urban areas, the percentage of nowhere children is relatively less (11.22%). An impressive 80% of children are attending schools. But the percentage of child labourers is still more than 5%. That means the education system in urban areas is able to attract more of the children in the nowhere category to the schools, rather than those from the category of working children. Hence, there is a need to revisit the strategy of 'eliminating child labour in rural areas through education', keeping in mind the education system that is in place in both rural and urban areas. The system needs to have a greater attractive package in terms of quality to motivate parents of child labourers to send their children to school rather than work. Further the system should be able to attract children themselves to retain them in schools.

In rural areas, will only 63% of children attending schools, it is very clear that rural children do not have adequate access and opportunity for schooling, but there is a greater demand for them to engage in work. It is not poverty in rural areas or merely the supply factors that augments child labour, but the poverty of state interventions, either in improving education system or in curbing the demands for child labour.

The rural bias in policies of the state is well documented and also an accepted facet of Indian policymaking and implementation. Consequently there has been an increased focus on rural areas, which is especially true in case of child labour. There needs one caveat here. The rural-urban differentiation is no longer a geographical problem because there are pockets of "rural" (here, the term that should be used is wretched) life in every urban settlement. The problem is not that rural areas are geographically non-accessible, the real problem is the absence of access of 'rural' people to political space. The



geographical dimension of rural-urban variation is irrelevant now, because of the following reasons<sup>23</sup>: -

- a) The growth of child population is substantially higher in urban areas than in rural areas. (Source: Census data 1951-1991)
- b) The percentage of child labourers in rural areas is higher, but is declining. Two reasons generally given are migration from rural to urban areas; and technological changes in agriculture in some states.
- c) The percentage of out-of school children in urban areas, which is low when compared to rural areas, is not declining when compared to previous decade. Non-participation of urban children in full-time education is growing.
- d) Two special problems of urban areas are excessive migration and therefore growth of urban slums; and higher economic inequality compared with rural areas.

### *Issues of Migration, Trafficking and Street Children*

Earlier, when we were talking about Nowhere children, we discussed about children in "idleness and unemployment", and that their idleness is "liable to be interspersed with marginal, irregular activities that provide a modicum of income". These are some of the characteristics of migrant children, who have come either as part of migrated family, or have migrated individually to cities. Their activities are irregular and short-term, and many times 'semi-legal' or 'illegal' (with the perspective of adults). Due to such nature of activities, they are not really into any specific full time work, which in fact exposes them to grave economic and moral hazards. In addition, many of these children are the product of family breakdown and domestic violence, which means that protection from the institution of family is almost negligible. Many migrant children end up as street children.

Child trafficking is a separate issue. It is the non-consensual nature of trafficking that distinguishes trafficking from other forms of migration. Again the difference is not in terms of its illegality. "All trafficking is, or should be illegal, all illegal migration is not trafficking. It is important to refrain from telescoping together the concepts of trafficking and illegal migration. At the heart of this distinction is the issue of consent"<sup>24</sup>. Further the trafficking has nothing to do with voluntary migration of persons from one place to other in search of livelihood.

Child trafficking as an issue requires detailed examination, and it is an integral part of child labour, in the sense that trafficking invariably results in commercial or/and sexual exploitation of children.

The issue of migration needs to be addressed from both the locations- places where it originates, in terms of supply factors such as poverty, illiteracy, unemployment, drought, flood, family breakdown, violence etc, and also at the destination in terms of demand factors including absence of enforcement as well as the impact of migration on children and local population and institutions.

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<sup>23</sup> For details, read "A Dynamic Profile of Child Labour in India", DP Chowdhury, ILO, 1996.

<sup>24</sup> Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, on trafficking in women, women's migration and violence against women, submitted in accordance with Commission on Human Rights resolution 1997/44, submitted in 2000.

### *Issue of Patriarchy*

The NSS, 2000 data have been used to present a clearer picture on the status of girl children at work.

Activities	CHILDREN OF AGE GROUP (5-14)					
	Number of Children (in percentage)			Number of Children (in absolute terms in 100's)		
	Boys	Girls	Total	Boys	Girls	Total
<b>Children engaged in "economic activities"</b>	4.18	3.86	4.02	52967	45618	98392
<b>Attended domestic duties only</b>	0.30	3.15	1.67	3770	37208	40788
<b>Attended domestic duties plus free collection of goods, tailoring, weaving for HH only</b>	0.25	1.92	1.06	3178	22693	25897
<b>Children at Work</b>	4.73	8.93	6.75	59915	105519	165077
<b>not able to work due to disability</b>	0.15	0.13	0.14	1931	1594	3392
<b>Children who are working or could not work due to disability</b>	4.88	9.07	6.88	61846	107113	168469
<b>Attending schools</b>	72.98	61.45	67.44	925350	725964	1651186
<b>Nowhere Children</b>	17.26	20.42	18.80	218889	241255	460205
<b>Total</b>	<b>100.00</b>	<b>100.00</b>	<b>100.00</b>	<b>1267932</b>	<b>1181444</b>	<b>2448330</b>

If one defines "child labour", merely as children's engagement in economic activities, boys outnumber girls both in relative terms (boys 54% and girls 46%) and in respect to their own population (boys 4.18%, girls 3.86%). However, the proportion changes, when we define child labour broadly to include domestic work as well. While girls form 64% of children at work, only 36% are boys. Similarly, while 8.93% of girls are at work, only 4.73% of boys are at work.

There is a mindset at work, which associates child 'labour' with boys, as it is said that boys undertake heavy work, while girls perform light tasks. The domestic work has always been characterized as a 'light' work. To give an example here, in most of the Indian villages it is very common to see girls fetching water from a nearby well. In Shankargarh, young girls of 8 years walk for two kilometers twice a day, barefooted, to fetch water from the nearby pond. These girls spend two hours everyday for this work.

The girls, totally tired, rarely get rest after the long walk, as they have to return to other household *duties*, including looking after younger siblings. This particular task is not considered as 'economic activity', as this is a free collection of water. This task is domestic work, hence is considered as 'light task'<sup>25</sup>. This work takes place under the family-supervision; hence the work is considered as non-exploitative. But from the perspective of that girl child, it can be argued that this task is as harmful to her physical self as well as from her development point of view as any other so called hazardous child labour.

<b>CHILDREN</b>	<b>RURAL</b>			<b>URBAN</b>			<b>TOTAL</b>		
<b>Age (5-14 years)</b>	<b>M</b>	<b>F</b>	<b>T</b>	<b>M</b>	<b>F</b>	<b>T</b>	<b>M</b>	<b>F</b>	<b>T</b>
<b>Activities</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>
<b>Children engaged in "economic activities"</b>	4.59	4.43	4.50	2.75	1.87	2.36	4.18	3.86	4.02
<b>Attended domestic duties only</b>	0.33	3.18	1.69	0.20	3.03	1.57	0.30	3.15	1.67
<b>Attended domestic duties plus free collection of goods, tailoring, weaving for HH only</b>	0.32	2.32	1.29	0.00	0.53	0.25	0.25	1.92	1.06
<b>Children at Work</b>	5.24	9.93	7.48	2.95	5.43	4.18	4.73	8.93	6.75
<b>not able to work due to disability</b>	0.14	0.13	0.14	0.19	0.14	0.15	0.15	0.13	0.14
<b>Children who are working or could not work due to disability</b>	5.38	10.07	7.62	3.14	5.57	4.32	4.88	9.07	6.88
<b>Attending schools</b>	70.09	56.97	63.79	83.01	77.01	80.14	72.98	61.45	67.44
<b>Nowhere Children</b>	19.15	22.89	20.98	10.71	11.84	11.22	17.26	20.42	18.80
<b>Total</b>	100.0 0	100.0 0	100.0 0	100.0 0	100.0 0	100.00	100.0 0	100.0 0	100.0 0

The table above portrays the status of double-deprived rural girl children. Only 56.97% of rural girls attend schools. Nearly 10% of rural girls are at work. In rural areas, even in case of so-called "economic activities" engagement of girls is almost at par with boys. One important feature is whether urban or rural, domestic duties are stereotyped for female gender.

Patriarchy is deep-rooted in all institutions- family, community and State. In case of girls, ideologies of gender and age interact to constrain girls to domestic work- cooking, cleaning and washing clothes, which are largely unpaid. Among families of all classes, castes, it is common to train girls early to accept such work.

The case for a special focus on girl child labourer may be made for the following reasons:

1. As per the sexual division of labour, enforced by cultural norms and values, women are supposed to do most of the domestic work. With domestic work considered more as duties rather than 'work', many girls and women are even denied the status of 'workers'. This makes difficult even identifying girl labourers, let alone addressing their problems.
2. Girl child labour is intricately linked with patriarchal culture. Hence addressing the issue of girl child labour requires special strategy including cultural intervention, especially through a stronger social legislation.

<sup>25</sup> There is a relevant quote here, "The weight of the object depends on how long the object has to be carried"

3. If domestic work is considered as work, numerically there are more girl children at work than boys.
4. The attendance in schools of girls is much less than that of boys. Hence the girls comprise a larger part of the "others" category. The challenge of educational system is how to get these girls into schools, because their being away from schools might have less to do with economic criteria, but more with the social norms.

### *Dalit and Tribal Children*

Child labour is directly linked to the social, political and economic inequalities prevalent in the society. There are parents and children who are socially conditioned to believe that education is irrelevant to them and their future, as education has nothing to do with their traditional occupations. Even today, more than two-thirds of the sewage workers belong to scheduled castes, and most of the rest to the backward castes. They and their children believe that this is their hereditary occupation. Similarly a large number of dalit children employed in agriculture as wage labourers are direct outcomes of this social discrimination. That is why most male child labourers generally do not belong to the upper castes, which constitute more than 17 per cent of Indian society. There are numerous studies to prove that a much higher proportion of scheduled caste children, compared to proportion of their population to overall population, work at a younger age for their own and their families' economic support. In these cases, the causes of they being deprived of education form the major cause for they being in child labour.

### *Inter-State variations*

<b>Percentage of usually employed* children (in 'economic activities') according to NSSO 55<sup>th</sup> Round</b>								
	<b>5-9</b>				<b>10-14</b>			
	<b>Rural</b>		<b>Urban</b>		<b>Rural</b>		<b>Urban</b>	
<b>States</b>	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>	<b>M</b>	<b>F</b>
<b>South</b>								
<b>Andhra Pradesh</b>	2.9	2.5	1.1	0.3	22.1	28.3	8.1	5.9
<b>Karnataka</b>	0.9	1.3	0.0	0.2	15.1	15.3	7.3	4.2
<b>Kerala</b>	0.0	0.0	0.0	0.0	1.1	0.2	0.5	0.4
<b>Tamil Nadu</b>	0.2	0.7	0.1	0.1	9.0	8.1	6.1	3.3
<b>A&amp;N Islands</b>	0.0	0.0	0.0	0.0	5.7	4.3	2.7	0.0
<b>Lakshadweep</b>	0.0	0.0	0.0	0.0	5.1	0.0	0.0	0.0
<b>Pondicherry</b>	0.0	0.0	0.0	0.0	0.0	0.0	0.0	2.4
<b>West</b>								
<b>Goa</b>	0.0	0.0	0.0	0.0	3.0	0.0	0.0	0.0
<b>Maharashtra</b>	0.7	1.0	0.0	0.0	8.4	8.7	2.8	1.7
<b>Gujarat</b>	0.7	0.6	0.0	0.0	11.5	11.6	2.8	4.6
<b>D&amp;N Haveli</b>	0.0	0.0	0.0	0.0	11.5	1.6	4.7	0.0
<b>Daman &amp; Diu</b>	0.0	0.0	0.0	0.0	2.5	3.2	0.0	11.4

<b>North East</b>								
<b>Arunachal Pradesh</b>	1.9	1.0	0.4	1.0	3.8	5.1	0.0	0.0
<b>Assam</b>	0.2	0.6	0.5	0	6.5	2.5	4.7	11.4
<b>Manipur</b>	0.2	0.0	0.3	0.0	3.2	0.3	0.6	0.0
<b>Meghalaya</b>	0.0	0.0	0.0	0.0	9.6	4.1	0.0	3.6
<b>Mizoram</b>	0.0	3.3	0.0	0.0	8.7	16.4	0.0	0.0
<b>Nagaland</b>	0.0	0.0	0.0	0.0	3.6	3.6	2.9	6.0
<b>Sikkim</b>	0.0	0.0	0.0	2.3	1.2	1.9	5.1	26.0
<b>East</b>								
<b>Bihar</b>	0.2	0.3	0.0	0.1	6.4	3.3	3.8	2.8
<b>Orissa</b>	0.5	0.3	0.0	0.0	7.8	10.3	2.1	1.3
<b>Tripura</b>	0.0	0.6	0.1	0.0	3.1	0.3	0.0	1.0
<b>West Bengal</b>	0.5	0.3	0.1	0.3	7.5	10.3	4.5	8.0
<b>North</b>								
<b>Haryana</b>	0.0	0.2	0.0	0.0	4.0	1.0	4.7	0.0
<b>Himachal Pradesh</b>	1.1	0.0	0.0	0.0	6.5	9.7	2.9	0.3
<b>Jammu &amp; Kashmir</b>	0.0	0.0	0.0	0.2	4.0	3.7	2.0	0.5
<b>Madhya Pradesh</b>	0.5	0.0	0.4	0.0	11.4	9.8	3.2	1.6
<b>Punjab</b>	0.5	0.3	1.4	2.2	6.8	4.2	4.5	2.3
<b>Rajasthan</b>	1.5	3.6	0.6	0.3	11.4	23.4	4.7	5.6
<b>Uttar Pradesh</b>	0.3	0.1	0.4	0.3	7.2	5.6	7.6	3.1
<b>Chandigarh</b>	0.0	0.0	0.4	0.0	1.9	1.9	1.6	0.0
<b>Delhi</b>	0.0	0.0	0.0	0.2	2.5	0.0	3.7	5.8
Source: NSSO 1999-2000								

Other than Kerala, all other large Southern states have high concentration of child labour. In fact, Andhra Pradesh stands out as one of the worst states in India. Andhra Pradesh has the highest percentage of children in labour in both the age groups in rural as well as urban areas; and also has very high concentration of rural child labour among children of age less than 9 years. The Pondicherry data shows negligible child labour in all categories except urban girls in age group 10-14 years. Similarly Lakshadweep data shows child labour only among rural boys of 10-14 years.

In the Western regions, other than Goa, all other states have almost matching concentration of child labour. The union territory of Daman and Diu has a very high concentration of girl child labour in urban areas in 10-14 years age group at 11.4%. Gujarat has high child labour among 10-14 years girls in rural areas.

There is considerable variation among the seven states in the North Eastern region, which shows the problems in bunching them together as a single group. Unlike other states in this region, Arunachal Pradesh has high percentage of rural working children in age group 5-9. In Sikkim, about 26% of urban females in the age group 10-14 are employed as against only 5.1% of urban males. Against this, the states of Meghalaya and Nagaland have negligible working children in the age group 5-9. But 3.4% of rural females in the age group 5-9 and 16.4% of rural females in the age group 10-14 are employed. These figures are substantially more than that of rural males of same age group.

In the East, Tripura has child labour concentrated mostly among rural boys and urban girls of 10-14 age group. While Tripura has fared better, West Bengal stands out as the worst case. 10.3% of rural girls and 8% of urban girls in 10-14 age group are child labourers. While Orissa is no better, Bihar data shows low concentration of child labour, especially among girls.

Among the Northern states, Rajasthan and Madhya Pradesh stand out with very high child labour population. Rajasthan especially has high percentage of girl child labour in rural areas. About 3.6% of rural girls of age group 5-9 are in labour force. In Delhi, about 5.6% of urban girls of age group 10-14 are in labour force.

The data shows that child labour is prevalent in economically developed states such as Maharashtra, Gujarat, Andhra Pradesh, Karnataka and Tamil Nadu as well as in predominantly agrarian states like Bihar, UP, Rajasthan and Orissa. It exposes a myth that child labour is a vestige of the past and it might disappear with economic development.

### *Poverty Issues*

One common perception, rightly, is that the factor of poverty being held responsible for causing and perpetuating child labour. There is no doubt that nearly all child labourers come from poor households. It is also true that, owing to disability or disease in the family, adult unemployment, and other immediate needs, poor families depend on labour services of their children for survival. Parents often have no alternative but to send their children to work. There are also cases where poverty at times forces parents to collude with employers and middlemen, and force children into vulnerabilities.

Poverty is often presented as a static construct and a vicious cycle to explain the prevalence of child labour. The concern with such arguments arises from the fact that poverty is often viewed as an independent status by itself for certain families. That the need for poverty itself to be deconstructed, and to look at its own causes in other factors such as adult unemployment, non-adherence to minimum wage legislation and absence of social security provisions etc is often ignored.

The other major problem with poverty analysis is that poverty is seen in isolation of inequality. That perpetuating of poverty is an indicator of existence of inequalities, primarily inequality of opportunities owing to other structural inequalities, is often ignored. In stead, poverty is often not cited as a causal factor but as an attribute to families, as if families have forced themselves into such situation. That the State cannot address poverty issue is seen as a predetermined conclusion. With this framework, various facets of child labour are explained. For example, Gurupadaswamy Report explains, "Because of their poverty, they (parents) want their children to fend for themselves as early as possible, much better if they become a source of income for the family". The report further states, "Additionally they (parents) perceive several advantages in child's taking up a job; the job disciplines the child, it terminates his dependency, it protects him against the infection of delinquent culture, and so on". The framework of poverty is used to justify child labour, without acknowledging the fact that poverty itself is a result of the State's inability to provide access to such families their

livelihood rights. One major reason, why child labour has not yet been perceived by the society as an abolishable social evil is because of 'poverty' being portrayed as major explanation for child labour.

### *Unemployment and absence of Minimum Wage*

One factor closely linked to the poverty issue is the presence of adult unemployment and under employment. If one goes by the official data, two things are clear. Firstly, job losses for adults are on the increase and also it is increasingly becoming difficult for the new entrants to get any job. To make things worse, the employment is growing at a decelerating rate in organized sector, where child labour is the least. Secondly, the percentage of persons below the poverty line and the ratio of unemployed persons to total population do not match, in fact official data also point to fact that those below poverty line among the unemployed is smaller than that among the employed. That means many workers are earning wages that are not good enough to have a decent standard of living. Such families would definitely require the support of additional members in earning livelihood.

The above facts prove two points. Firstly, the decelerating growth in employment is resulting in increased vulnerabilities of households forcing families to depend upon child labour for their survival. Now, child labour becomes part of labour market as cheap labour, which further declines the wage level of even the adult labourers. Secondly, there is growing informalization of labour market, which makes the minimum wage legislation almost irrelevant. With adults not being assured of minimum wage necessary to run household, and sending children to schools, the additional costs are met by sending children to work rather than schools.

Minimum Wage legislation is applicable in organized sectors of employment for firms employing specified minimum number of employees. There are **two important problems** with respect to this law.

Firstly, there needs to be a total review of the fixation of minimum wage. The Minimum Wages Act, 1948 does not define 'Minimum wages', rather it empowers the State to fix minimum wage as appropriate. As a result, minimum wages as now fixed or revised by the appropriate governments are pegged very low, interestingly 'poverty line' criterion is now informing the fixation of minimum wages under the Act.

Undoubtedly, this should not be the case. The Supreme Court in the Raptakos Bret case, directed that the Minimum Wage basket should follow a pattern whereby "Children's education, medical requirement, minimum recreation including festivals, ceremonies and provision for old age, marriages etc./ should constitute 25% of the total minimum wage." This 25% must be in addition to the wage component for satisfying the basic needs of the employees, which are Minimum Food requirements calculated on the basis of a net intake of 2700 calories per consumption unit, Minimum clothing requirement estimated at a per capita consumption of 18 yards per annum, Minimum housing requirement of 400 sq. feet per family at the rent charged by government for similar accommodation under any subsidized Industrial Housing Scheme for low-income groups, Fuel, lighting and other requirements estimated to constitute 25 percent of the minimum wage. The minimum wage legislation would actually provide a poverty alleviating wage to a poor household only if the minimum wage helps family to satisfy the above needs. In its absence, this instrument is baseless and useless.

The second important thing is the availability of work for those wages. The demand for a poverty alleviating minimum wage becomes meaningless, if the work is not available for that wage, or else if at least 20 days of employment in a month is not ensured. Here, there is a need to raise a few questions. Will employers 'voluntarily' pay a wage that is greater than market clearing wage? This is equivalent to say that employers voluntarily would not employ children! Can the government enforce the minimum wage, especially when the formal sector has less than 10% of national labour force? Here, it is frequently

stated that minimum wage is one among many labour laws that cause informalization of sectors. What is the mechanism through which the state can enforce minimum wage legislation, if the wages are on piece-rate basis? Then, will the state now decide the price of the product?

The Minimum Wage Act, 1948 becomes the first casualty of compromise, when there is a felt need for greater employment opportunities for poor as well as when there is a need for faster economic growth through enhanced production opportunities. Already, concepts of elitist workers (those who are organized through trade unions) and non-elitist workers (unorganized workers) are advanced to draw the wedge among workers. It is often stated that privileges enjoyed by organized workers are at the cost of minimum wage of unorganized workers and unemployed labour force. In other words, it is believed that there is a trade off between the needs of these two labour segments. To put it bluntly, *it is stated that* unorganized workers would get benefited only if organized workers are deprived of certain protection.

Again, in case of Export Processing Zones, the State is increasingly being pressurized to make the Minimum Wages Act inapplicable. The interests of exporters, it is often stated, are in alignment with the national interests. Isn't that mean the workers in export-processing zones when demanding minimum wages are working against the interests of the nation?

The other example is the recent Rural Employment Guarantee Bill, 2005 which guarantees 100 days of employment for rural adults at a daily wage of Rs.60/-, much less than the minimum wage. This is one of the first instances, when the state at policy level has fixed wage rate inconsistent, in fact, in violation, with the Minimum Wage Act, 1948. In this case, the 'wage' is seen as government investment on household and that too on lines of subsidies, especially when "wage paid for labour" is seen as supplementary investments to that on education and on health<sup>26</sup>. The State is to be reminded that the wage to be paid is different from investment as it is payment against labour of the workers.

The problems associated with fixation, applicability and enforcement of the minimum wages have aggravated due to the challenges of greater informalization of economy and the pressure from industrialists for labour flexibility.

#### *Demand factors: Children in Labour Market*

The issue of child labour has generally focused on the supply side factors. All these factors- poverty, adult unemployment, absence of education facilities, illiteracy, the social mindset of accepting child labour etc- have always restrained the objective of total prohibition of child labour, because of their overwhelming nature.

Child labour can be abolished effectively only if the demand of child labour is totally curbed. The labour market incidentally has a 'demand space' for child labour apparently because they are cheaper to buy. Whether, it is restaurant, mechanic shop, or for household job, children are preferred for they have to be paid very low wages, and adults generally would not agree for such low wages. In agriculture, children join their parents and work for hours for almost negligible wage. Employers have no qualms in employing children if they save in the costs. Employers also find children submissive to discipline and control. Children are forced to work for longer hours in extreme conditions. That children do not organize into trade unions and go on strike etc weigh in their favour.

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<sup>26</sup> There was an informal comment from a government official on the fixation of wage for the rural employment guarantee bill, which is "It is a matter of backward accounting. The government is "additionally" spending Rs.10 per rural HH on education (SSA) and Rs.10 per rural HH on health (NRHM). The politics of allocation makes available only a particular amount for this programme, which comes down to Rs.60 per HH."



In addition, many industries perceive the concept of 'nimble fingers' for their dependency on children due to certain inherent advantages of children. Some examples are child workers, with their soft and nimble fingers are very important for the hand knotted carpet industry<sup>27</sup>, children's low height is considered to be a positive factor in cotton and vanilla plantations, or flexibility of their body makes them a preferential labour segment in different occupations such as helpers, cleaners and servers in different industries.

Although there are studies to prove that child labour in all such industries are substitutable with adult labour, especially and unfortunately with female labour, it is true that these studies have not sufficiently informed industries and labour market. It is largely perceived by families as well as employers that there is a separate segment for child labour in labour market, which cannot be filled by adults. But, then why should an industry stop employing children, when they save a lot not only in salaries but also in associated costs, as children are less demanding? The industries would stop if they perceive it is not profitable to employ children<sup>28</sup> or if there is a law, and that law is being enforced effectively.

### *Economic Globalization Issues*

The policies emerging from neoliberal paradigm have two kinds of negative impacts on children in labour.

Firstly, the paradigm holds that the state interference introduces distortions and inefficiencies in the market, and suggests that the allocation of resources should be determined solely by supply and demand. Consequently, all social welfare policies like subsidies, food for work programmes, free primary health care, free education etc were subjected to introspection, for it is believed that they distort market, and lead to reduction in quality of services. It is also stated that administrative cost of providing such services affect the otherwise quality output from the free market. This view has direct relevance to child labour because it bases its effectiveness on a distorted historical position, which is that child labour is only an interim stage in the development process (once the country is rich, child labour will cease to exist); the validation of this ideology being the relative absence of child labour in developed countries, almost all of them have market-driven economic policies<sup>29</sup>. Whatever be the truth in developed countries, in case of India, child labour persists even in the 'modern' industries in the globalized modern economy. This has been discussed in this paper in detail later.

Secondly, this paradigm advocates the need for a deregulated and flexible labour market. Their reason being, child labour is less in formal sector but greater in informal sector, because of labour rigidity in formal sector. If all the industries are given a free hold in employing and dismissing adult labour, and there is no interference on their minimum wage, employers would not go for children, as anyway adults are more productive than children. It supports a notion that if children want to work and if there are employers who wish to employ them, the market forces should be left to decide on the employment of child workers, but employers would not employ children because, with labour flexibility, employers can depend on unorganised adult labourers, as with increased labour flexibility, there would be much more power with employers vis-à-vis workers<sup>30</sup>.

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<sup>27</sup> Mohini Gulrajani, "Child Labour and the Export Sector in the Indian Carpet Industry", in *The Exploited Child*, New Delhi p60

<sup>28</sup> For example, children of age group 0-5 years are generally not employed, as are differently abled adults in many occupations.

<sup>29</sup> Sandy Hobbs, Jim McKechnie, and Michael Lavalette, *Child Labour, A World History Companion*, ABC-CLIO, p153

<sup>30</sup> Sandy Hobbs, Jim McKechnie, and Michael Lavalette (1991), *Child Labour, A World History Companion*, ABC-CLIO, p152

Why child labour persists in globalizing economy, when many developed countries have less of child labour problem? Globalization, especially the free trade policies, is leading to a unified market; the market of the developed countries and the market of the under developed countries cannot now be treated as independent entities. The demands of market forces in the developed countries may not actually result in child labour there (obviously it has to do with their minimum age of employment legislation as well), but definitely perpetuates the existence of child labour in the developing country. The persistence of child labour in developing countries and absence of child labour in developed countries can be linked to the process of globalization that caused the setting up of sweat shops in poor countries, and has thus exported child labour practices to developing countries. With international prices of the products having a greater influence on domestic market today than ever before, although the direct exploiters of child labour are representatives of local capital, "the power and wealth of the national ruling class is tied in with the interests of the global capitalist system, which is at the heart of the child labour problem"<sup>31</sup>.

That is the reason, why even today child labour is pervasive in the industries like gems and jewellery, carpet, brass art ware, handloom, etc. that happen to be the major export-earners for India. In fact, there are evidences to show that the diamond polishing industry of Surat and hosiery industry of Tirupur have registered a fast rate of growth in child labour due to the linkages with the global economy<sup>32</sup>. Not only that, child labour has come in newly emerging occupations. One such example is the cotton cultivation, where due to the new seeds of cotton that require manual fertilization, children are being preferred because of their low height. Thousands of girls are employed in cotton plantation in Andhra Pradesh.

In addition, the Government because of the greater importance and requirement for macroeconomic stability, rather stock market stability, in the new globalized economy, is concerned for export performance, owing to which it often ignores the adverse impact of export incentives, including relaxed labour laws<sup>33</sup>. With, export-earning industries use 'child labour' as a 'competitive edge' in the international market, child labour as cost-saving device receives support not only from the 'economics' but also from the nationalist ideology.

Further, the neoliberal paradigm, which is so obsessed with the need for labour flexibility, has actually contributed to the increasing informalization of the economy. The production system itself is today characterized by a 'flexible' factory, where factories cut production cost through strategies of decentralization of production by sub-contracting, creating split units, relocation of the main or branch units and backward integration through middlemen<sup>34</sup>. The process of sub-contracting especially to home-based workers is mainly to encourage the use of child labour. This is proved, beyond doubt, in carpet industry, silk weaving industry, beedi-rolling industries. In carpet industry, the looms, which were earlier concentrated in UP, have emerged in many new regions.

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<sup>31</sup> Michael Lavalette and Steve Cunningham (2001), *Globalization and Child Labour: protection, liberation or anticapitalism?*, International Conference : Rethinking Childhood; Working Children's Challenge to the Social Sciences, Information Bulletin No.2 p8

<sup>32</sup> Mohini Gulrajani, "Child Labour and the Export Sector in the Indian Carpet Industry", in *The Exploited Child*, New Delhi p54

<sup>33</sup> Subramanian Swamy (2000), *India's Labour Standards and the WTO Framework*, Delhi

<sup>34</sup> The value chain in the production process where sub-contracting is involved include firms, contractors, sub-contractors and home workers etc. It is the number of domestic intermediaries that often put pressure on wages or piece rates remaining low for home workers. In India between the home worker and the retailer there are usually four or five intermediaries that has implications for the share of the final consumer price that accrues to the home worker. It was found that for a commodity that cost Rs.100 to a consumer, the home worker receives Rs 15 in zardozi, Rs.17 in bidi, Rs.2.3 in incense sticks (Santosh Mehrotra, "Protecting Labour locally against Capital Investing Globally: Informalisation, Feminisation and Sub-Contracted Home Work" IJLE 46(3),2003, p431)

Hence globalization policies are neither eliminating child labour from old occupation nor are they preventing child labour in new occupations. Further, the new flexible factory system has thrown up new challenges, where children work for factories from their homes. Therefore 'factories' as defined in space and time specific terms in industrialization era is no longer an ideal definition of factory as far as child labour is concerned.

### **Child Labour: Family, Community and State**

When we understand child labour through this demand-supply matrix, it would be wrong to call for poverty alleviation interventions as major intervention for elimination of child labour. Poverty itself is the result of various factors that include social discrimination and political exclusion of marginalized sections of population. As has been stated above, child labour is an outcome of one or more of the structural violence characterized by characterized by three kinds of violence, viz. gender discrimination, caste hierarchy and class prejudices. Each of this violence exacerbates the vulnerabilities of children.

#### ***Child Labour and State Responsibility***

Once, Dr. B.R.Ambedkar, Chairman of the Drafting Committee of the Constituent Assembly had stated, *"By independence we have lost the excuse of blaming the British for anything going wrong. If hereafter things go wrong, we will have nobody to blame except ourselves"*. Earlier, we blamed the colonial government; today we blame the Indian State. Are we blaming 'ourselves' for all the wrongs happening in the society<sup>35</sup>? In other words, when we blame the State for non-performing or excesses, do we blame the State as an institution external to us or as an institution internal to us?

What is State? Our Constitution provides the basic framework for governance. Part III of the constitution makes it clear that the State holds the primary responsibility for ensuring all citizens, access to all the fundamental rights and also for the fulfillment of all the promises enshrined in the constitution. Article 12 defines the State as "the Government and Parliament of India; the government and the legislature of each State and all local or other authorities within the territory of India or under the control of the Government of India". Various judicial pronouncements has interpreted the expression "State" to further include statutory bodies, statutory corporations such as insurance corporations, nationalized banks, airline corporations, electricity boards and others having the power to make binding rules and regulations. The Supreme Court accepts Judiciary as one of the arms of the State.

Despite this definition in the Constitution on what all can be brought under the category of "State", there persists a view that State is an illusive institution. Questions are raised: when we blame the State, who exactly are we blaming; or when we say State responsibility, who exactly is responsible? State is responsible, but can we make the State accountable?

Generally "the Government of the day", that is, the political executive is perceived as the external manifestation of the State. The Political executive, i.e. the council of ministers is directly accountable to the people; and through them, all other organs of the state- local administration, bureaucracy, police forces, etc are made accountable to the people. Unfortunately, this kind of accountability has its own problems. This largely depends on the electoral process. Elections are held once in five years. They are fought on multiple issues. There is little choice for the voters, especially when all major political parties

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<sup>35</sup> This question has always been relevant. Since 1991 the State- Citizen equation is disturbed by the emergence of new equation in the form of Global State and Global citizen, positively through international instruments such as Convention on human rights and child rights, and negatively through Structural Adjustment Programme and WTO rules. In one instance, when one of our cabinet ministers was asked about why the bill is being passed despite it contravening people's right to access resources, he sought refuge under "Commitments made to WTO".

have nothing different to offer. And if electoral system itself is ridden with various ills, the process of seeking accountability of the state is not really strong enough to make the State more accountable. This goes that there are certain assumptions; some of them are that marginalized sections have voice, there are no institutional roadblocks for their electoral participation, there exists a regular mechanism of building public opinion, and people are aware of their rights and duties. In the absence of these conditions, elections may not be effective to make the State more accountable.

Other than elections, the Constitution, while fixing the responsibility of the State for the realization of social, political and economic rights of the citizens, has made some of these rights justiciable under Article 32 and 226 of the Constitution. These rights are fundamental rights, and the Supreme Court has been successful in interpreting these rights broadly to include many more rights. In case of infringement of these rights, a citizen can sue the State, and take judicial remedies.

However, the recourse to judicial methods is not available for citizens for non-fulfillment of the rights enshrined in the Part IV (Directive Principles of State Policy) It is the Part IV that provides a set of economic rights such as right to work, right to livelihood and right to social security, and right of children to develop in a healthy manner and in conditions of freedom and dignity. These sets of rights are available to citizens but are subject to the State's economic capacity and development. For example, in one *child labour case*, the Supreme Court did not enforce Article 41 (right of adults to work) by stating that "We are not asking the state at this stage to ensure alternative (adult) employment in every case covered by Article 24" and in fact went on to acknowledge the government's limitation of economic capacity to realize the right. It took long years of agitation and activism, for education for children below 14 years to become fundamental right, not being subject to government's limitation of economic capacity.

Extending that, there is a view that 'State' is not a monolithic entity. There is an internal political contestation between political executive and permanent executive; between central government and state governments; between state governments and local governments; between local bureaucracy and local government; among legislature, executive and judicial arms of the State. When we say the State responsibility, do we say that these struggles are internal to the State, we are not concerned and what we want as citizens is the fulfillment of the promises made? If we accept that, then we as citizens might actually be participating in those internal contestations, and unknowingly empowering the status quo-ist forces.

Similarly, it is not that the State as an institution is not influenced by the contestation happening among citizens and among other interest groups in the society. For example, the churning and re-churning of the society in the last three decades along the caste lines have made an influence on the electoral process, the alignment of political parties, and possibly the governance.

Despite sixty years of State Responsibility, the continuation and perpetuation of the structural violence in the form of discrimination on the basis of gender, caste and class, cannot be dismissed merely as State's non-performance. The instrumentation part of the State also cannot be reduced to a technical process, that when applied would solve the socio-economic problems. We should not stop believing that the real powers, most of the time, are with persons who act in the name of the State; and they do not necessarily act as per the constitutional norms of propriety. There may necessitate changing the mindset of the people (administrators, politicians as well as masses), which sees dalits, poors and girls as expendable categories. For that, one has to strike the roots of the society, which legitimizes some of this mindset. The roots lay in socio-cultural fabric of the society- its religion and scriptures, dogmas and superstitions, which manifest themselves within households as well.

*Child Labour: Family and Community Responsibility*

As has been explained above, other than political and economic variables, socio-cultural values also play a fundamental role in how a society views children at work. In fact, Rodger and Standing argues, which may not be always true, that culture and social structures are not dependent variables, but they have independent effects in the attribution of different roles to children in different context. One example cited is that the use of child labour by poor families can be explained through a poverty framework; its use by middle income families has more to do with socio-cultural factors. The example they cited is of Islamic countries such as Sudan, where because women are secluded under the law of purdah, certain economic roles are attributed to children. Women cannot work, therefore they are "replaced" by children, mainly in street-trading. Here children's employment complements those of adult men and women; in the sense that *"they are the only persons in the society eligible for performing certain tasks"* So child labour when is required by the social structure or by cultural values, its abolition through legislation is unlikely to be effective.

Closer home, an example is the Beedi industry in Andhra Pradesh, an industry that is notified as hazardous (Srinivasa Reddy 2002:281). In the Telegana region, many families have a long history of beedi-rolling, so much that it is called a 'family occupation'. Girl children dominate the industry, constituting 90% of the workforce in Telangana. Here, beedi rolling skills is seen to improve the marriage prospects of girls. Nearing marriageable age, these girls are withdrawn from school into this encouraged form of socialization. After the passage of the special Act on Beedi industry, the industry restructured itself into domestic scale manufacturing, with children legally working within their own homes. Social customs are strong enough to evade the positive aspects of the law, because of their influence and operation at the household level.

Family's responsibility to take care of children does not emanate from any legal framework. Family, as a social institution, historically, has held the principal responsibility for taking comprehensive care of children, as children are integral part of that institution. This is well recognized in the child rights approach as right to family is one of the most important right of a child. In most cases, the exploitation of child within family is an extension of the exploitation of family, but it is not true in all cases. There are cases, where parents directly 'exploit' children in the name of socialization process, and more general cases are, when parents discriminate among children on gender basis. How else can one explain that parents are not so poor for sending boys to schools, but are poor for sending their girls to school? As per our constitution, this particular action of the parents is a violation of the fundamental right of the girl child, and this right is available to persons not only vis-à-vis state but also vis-à-vis private person. The legal remedy for child vis-à-vis her parent is already available to children, but the child does not have agency of her own to fight this exploitation. Unfortunately, this is not seen as crime by the society at large, because of patriarchy being ingrained in the mindset of the society at large. Can we have legislation that prohibits child labour within the household? Here it is not that the idea is to 'criminalize' such parents, in the eyes of the state. What is required is to 'criminalize' such parents in the eyes of the community.

How the State reacts to the concept of the State responsibility? One interesting way is through intrusion into the realm of family/household. The State which in the post 1991 era is reluctant to intervene in the Market does not find it difficult to create inroads into the social institutions. There are two recent examples. First, in the free and compulsory education bill, there is a provision that penalizes parents for children not going to school, which means that the State presumes that families are unwilling to send their children to schools. Second, in case of protection of old age persons, sons and daughters of such persons (now adults) are being penalized for not caring for old aged persons, again with the presumption that sons and daughters are unwilling to take care of their parents.

These two cases are two different cases having different implications<sup>36</sup>. One thing that is common in these two cases and such similar cases is that the institution of State is being empowered vis-à-vis family and community. These are the areas where communities should have played a role in controlling the deviant household, family, parents, sons and daughters, however, the space is now gradually being taken over by the State. In other words, the State is acquiring control over these two institutions, but is not retaining the responsibility associated with the controlling power.

## Approaches to address the problem of child labour

### Legal Approaches

The Constitution of India has an elaborate provision on rights of children. There are certain articles in the constitution that specifically address the problem of child labour, and there are others that indirectly speak about protecting children from exploitative labour.

Children in the Constitution of India	
<b>Part III Fundamental Rights</b>	
<b>Article 21</b>	<b>Protection of life and personal liberty</b> -No person shall be deprived of his life or personal liberty except according to procedure established by law.
<b>Article 21A</b>	<b>Right to Education*</b> The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.
<b>Article 23</b>	<b>Prohibition of traffic in human beings and forced labour</b> - Traffic in human beings and <i>begar</i> and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with the law.
<b>Article 24</b>	<b>Prohibition of employment of children in factories, etc.</b> -No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.
<b>Part IV Directive Principles of State Policy</b>	
<b>Article 39 (e)</b>	The State shall, in particular, direct its policy towards securing that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.
<b>Article 39 (f)</b>	The State shall, in particular, 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 against moral and material abandonment.
<b>Article 41</b>	<b>Right to work, to education and to public assistance in certain cases</b> -The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.
<b>Article 45</b>	<b>Provision for free and compulsory education for children</b> -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 (below the age of six years)*.

<sup>36</sup> In the first case, there is a clear cut reaction from the civil society, *rightly*, that this is totally unacceptable to make the poor parents liable for something that is due to state's non-performance. In the second case, this provision is not seen as the State shelving its responsibility.

<b>Part IVA Fundamental Duties</b>	
<b>Article 51A (k)</b>	<b>Fundamental Duty</b> *- It shall be the duty of every citizens of India, who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.
* <b>Inserted/amended by the 86<sup>th</sup> Constitution (Amendment) Act, 2002</b> <i>Source: The Constitution of India</i>	

The most important article in this regard is the Article 24 that explicitly prohibits employment of children up to the age of fourteen years in factories or mines or engagement of children in any other hazardous employment. This article by itself could have formed a base for the state intervention in eliminating child labour, if only the state had interpreted Article 24 in a manner to make all employments that affects realization of child's rights as hazardous to the child. Child labour has been prohibited in hazardous occupations and processes only (with physical health of children as the basis for defining hazards) by the Article 24's enabling legislation, Child Labour (Prohibition and regulation) Act, 1986. This has legitimised child labour in many other occupations, especially because the law does not seem to prescribe for any long-term vision of total elimination of child labour. Incidentally, on the day of enactment of the law, the state did not have any policy on child labour.

Article 24 does not require an enabling legislation. The Supreme Court has stated that Article 24 "embodies a fundamental right which is plainly and indubitably enforceable against everyone"<sup>37</sup>. This judgement has some important decisions. One, the Right is enforceable by itself, independent of legislation. The court declared the construction industry as hazardous to children directly interpreting Article 24. Two, the right, by virtue of its compulsive mandate, is enforceable against private individuals (employers, in this particular case, building contractors). Three, that the employer is not State (in this particular case, the Union Government, Delhi Administration and the DDA), does not absolve the State of its constitutional obligation to see that the fundamental right is not violated. And four, the State's role becomes all the more important, when the "injured party belongs to the weaker section of humanity and is unable to wage a legal battle against a strong and powerful opponent who is exploiting him"<sup>38</sup>.

Judiciary, as one of the three principal tiers of the State, is also bound by Article 37 to shape the intentions behind the rights incorporated in the Directive Principles. Article 39 (e) and (f), and 41 together guarantee a dignified childhood to all children by protecting them from economic exploitation and represent the social transformation that can bring about the total elimination of child labour. The constitution "contemplated prohibition of child labour per se"<sup>39</sup> and the SC also viewed that "abolition of child labour is definitely a matter of great public concern and social significance". But the court did not enforce the vision of the constitution by harmoniously interpreting Article 24 with Article 39 (e), (f) and 41. Instead, in 1990, the court legitimised the practice of child labour by stating that children can be employed in the so-called non-hazardous process (in this case, packing of match boxes and fireworks)<sup>40</sup>. In fact, the court stated that children should be assured of 60% of the minimum wage paid to an adult. In 1996, the court meticulously laid down the compensation package for the child withdrawn from 'prohibited' labour in the form of Rs.5000 per child or a job to an adult member of the child's family. However, the court stood short of enforcing Article 41 by stating that "We are not asking the state at this stage to ensure alternative (adult) employment in every case covered by Article 24" and in fact went on to acknowledge the government's limitation of economic capacity to realize the right. The court also closed the option for the demand for prohibition of child labour, when it stated, "We are ....of the view that till an alternative income is assured to the family, the question of abolition of child labour would remain a will-o-wisp".

<sup>37</sup> People's Union for Democratic Rights v India, AIR 1982 SC 1473 (*Asiad Case*)

<sup>38</sup> *ibid*

<sup>39</sup> p243 Justice sathe

<sup>40</sup> MC Mehta 1990



The other important article that however has hardly been used for the issue of child labour is the Article 23 that prohibits forced (bonded) labour. In this regard, one has to raise some important questions. Can a child give an informed consent to any offer of employment? If not, are there any external mechanisms that can ensure that a job is not being forced upon a child, or else will it be left to parents, guardians or employers to judge the best interests of the child? Are those parents, who themselves are bonded to various exploitative factors that include poverty, in a position to make an informed choice for the best interests of their children? If there are no mechanisms to ensure an informed consent of child for the employment, and if parents or guardians in vulnerable circumstances cannot be totally trusted with the endeavour of guarding the best interests of children, then such children in employment can equally be categorized as forced labour. However, the Bonded Labour Act does not bring the entire child labour into its ambit.

The constitution directs the state to frame policy towards securing that the tender age of children are not abused, that the economic necessity does not force citizens to enter avocations unsuited to their age or strength (Article 39) and that childhood and youth are protected against exploitation and against moral and material abandonment (Article 39f). The Constitution had also directed the state to provide free and compulsory education to all children below fourteen years within ten years from the commencement (Article 45)<sup>41</sup>. If the state had efficiently implemented these directives the child labour would not have acquired such a monstrous dimension as it has now.

One reason that has been used frequently, even by the Judiciary (M C Mehta Case) is protecting the interests of a poor family, of which the child is very much a part. It is well articulated that the family in vulnerable circumstances have no other choice but to depend on child labour and the prohibition of child labour may deprive such family of the right to livelihood. The CLPRA, 1986 does not prohibit hazardous child labour if it happens within the realm of the family. It may be due to reasoning that the interests of children will be well represented in the household decisions. However, it is also true that child labour is increasingly prevalent at the household level, with many industries following the trend of contracting out their work. Under this existing reality, although a family has all intentions to protect the children, it cannot really be entirely trusted with the responsibility of protecting the 'best interests of the child'.

The second reason, that generally opens up in a debate, including during the judicial process, is the interests of the industry and the employers. In a memorandum submitted by All India carpet Manufacturers Association to the Government, it was claimed that the child workers, with their soft and nimble fingers, are very important for the hand knotted carpet industry, and they provide strength to the carpet industry. In crafts industry like Zari, brocade work, carpet weaving, brassware etc., it is argued that craftsmen would not achieve the highest degree of sophistication unless their learning is initiated in childhood itself. The state, under duress or otherwise, has made a choice in favour of these interests, if not in policy making, at least in enforcement and implementation. It seems that the state's concern for its industries outweigh that for 'the best interests of a child'.

Another reason, cited frequently, is that a child herself often has a reason why she chooses one exploitative job over the other worse one. The elimination of the chosen alternative may effect children into worse position, especially when the alternatives available to child are few. Although the child has made a conscious choice, it cannot really be seen as the best interests of the child, when the decision deprives the child of education and leisure. Even if agreed, then it does not fit into the Majority Act framework that does not trust minors with mature judgements.

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<sup>41</sup> Read Article 45 of the Constitution of India. Vide 86<sup>th</sup> amendment act, the right to free education has been inserted in the Part III (Fundamental Rights) of the Constitution.



Laws on children suffer from contradictions, and most often, the interests of children have taken back seat. The ambiguity in laws has helped employers to use child labour as cheap labour, and has helped the State in turning blind eye to many of these practices. ***The need is a law prescribing minimum age of employment for all occupations, hazardous or non-hazardous, in all places of work, factories or farms or homes.*** Such a law would be necessary for many reasons. Firstly, once the State has made its intention clear to eliminate child labour, the first step, not necessarily the only step, is to bring about legislation to show its intention. Secondly, the presence of law on prohibition of child labour empowers the civil society to take up the issue strategically, and this broadens the options available to the civil society groups. Finally, such a law has the force to change the nature of debate from “whether to eliminate child labour” to “how to eliminate child labour”.

Here, this paper wishes to point out certain caveats. With respect to child labour, there are limitations in addressing the problem through legal approaches. Laws can be effective when there is a clear-cut relation of production. In regards to wage labourers (children), the relation is clear, and employer can be prosecuted for employing children. However, in case of family (child) labour and street children, who are largely self employed, the application of laws become problematic, as law would then end up victimizing poor parents and children.

Unfortunately, as discussed earlier, in the emerging production chain, there is increasing informalization and contracting out of work to household units. With children being employed by parents, mostly under compulsion, it becomes difficult to address this problem using legal means. Employers to circumvent laws are using this particular gap. Unfortunately, the present economic system forces a situation where, at times, parents and employers join together to circumvent legislation when economic interests of employers and social necessities of the families correspond. Laws rather than eliminating child labour, simply change the way in which children are exploited. The best example is the case of the carpet weaving industry.

### ***Eliminating Child labour through Education***

One theme, which runs into all the programmes of elimination of child labour, whether of the government or of NGOs, is the provision of education. The most important central government scheme on child labour is the National Child Labour Project (NCLP) scheme, which is but an education project, aimed at setting up bridge school for “withdrawn” child labourers. Most of the NGOs also have education related programmes for the elimination of child labour. These programmes are generally of Non Formal Education (NFE) nature.

The good thing about this approach is that theoretically a child labour is being withdrawn from labour, and is enrolled into a bridge school, and later she is mainstreamed into the formal education system. A child is not only rescued but also rehabilitated, through her induction into the development process. Secondly, such an approach strengthens the movement for universalization of elementary education through common school system, as the campaign against child labour converges into this movement.

However, in respect of programmes that are formulated for working children in a way that they can combine their work with education, there are two reasons why this cannot be an effective solution. One, “child work” occupies a large part of the child’s time so much that the child starts seeing schooling as burden, because the schooling is at the expense of child’s time for play and recreation. Two, child work affects the child’s relation to education, in the sense, that working children not only starts feeling that they are adults already, but many a times get that kind of recognition from the family and community. Owing to this, the child does not feel the need for going to school and loses patience and commitment to academic learning.

There is no denial that both these objectives- universalization of elementary education and total elimination of child labour are interlinked. However, there are some problems in the way these two objectives are linked.

Firstly, there is a presumption that success in one objective translates into success in the other objective. It is often presumed that children are not going to school because they are at work, or children are at work, because they are not going to school, or parents are not confident about the education system. One has to clearly understand that these two are not necessarily in cause-effect relationship; in fact, the causes of each of them lie in various socio-economic reasons that were discussed earlier.

Secondly, the linkages made between them has a very dangerous implication, in the sense an illusion is being created, whereby the increase in enrolment in schools is being portrayed as success stories for the elimination of child labour. It has been proved, many a times, that most of the children enrolled in the NCLP schools are not really ex-child labourers, but are those non-working out of school children, who otherwise do not have access to free education. Now what is happening is that these children, who should have become part of formal education system, are now entering bridge schools and non-formal schools. NCLP schools are actually hindering the achievements of both the objectives. Many NGOs who claim all out of school children as child labourers strengthen this particular approach of the government, whereby the success of putting some otherwise idle children into low quality schools is shown as a grand step forward for eliminating child labour.

Finally, one has to understand that causes of child labour, as well as for illiteracy among children lie in those social, economic and political reasons that get manifested in the structure of economy and production chains, which push families to vulnerabilities. Combating child labour, by keeping education as core initiative, allows the state to ignore the negative impacts of globalization. As the State is disinterested or unwilling in incurring social and economic costs for breaking this vicious cycle, it has taken recourse to short-term low-cost solutions of setting up such bridge schools, which actually are low quality education alternative for all out of school children.

In this particular sense, it can be argued that free and universal elementary education cannot be a panacea for the elimination of child labour. Education is one of the many solutions, and for the state, it is a short-term solution. Education system in the present nature, unfortunately, is a crucial tool in reproducing socio-economic class structure, especially the sexual division of labour. Hence, schooling will help the disappearance of child labour only if social relations of production will change<sup>42</sup>. Child labour is required to be addressed by a multitude of policies, especially the policies that could address the structural elements and lead to eliminating demand for child labour in the labour market.

### **Other Measures**

There have been attempts to link child labour to trade especially through an imposition of global ban on child labour products to force the elimination of the practice of child labour and protect children's rights. Such proposals come from industrialized nations, who have to protect their own domestic industry. Such a proposal does not eliminate child labour; rather it displaces child labour to unorganized sector. Secondly, the immediate impact of such global ban will affect not only the macroeconomic stability of the nation but also the non-child labour poor households in that sector. Thirdly, such proposals do not enforce any commitment to the rehabilitation of child labourers. Finally, a global initiative with focus on trade alone will rather than providing solutions to a problem that has immediate adverse impact domestically, may only veil the symptoms.

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<sup>42</sup> This argument does not anyway aim at decreasing the importance to education. Universal elementary education is a fundamental goal per se, however it is not sufficient in combating child labour.

Even in domestic front, there are proposals to prohibit buying and selling of goods made using child labour. As concerned citizens, it becomes our duty that we do not perpetuate the system that strives through child labour services. Such a prescription, although, is good in itself, there is a need to rethink on this prescription. Generally, goods are produced by combined efforts of child labour households as well as non-child labour households. In the commodity chain, child labour may be involved in one particular stage, and not in all stages<sup>43</sup>. It is better to target at that particular stage. Otherwise such a blanket prescription may have adverse impact on those poor households who are not using child labour.

Similarly, there are views that child labour problem can be addressed through corporate social responsibility. As child labour is not yet totally illegal, it is suggested that corporate sector should come out with voluntary codes which prohibit direct or indirect use of child labour. There have been attempts to inculcate the ideas of social responsibility among corporate units, however their success have been very limited. In fact, the very concept of corporate social responsibility needs to be studied and analyzed, especially when working with the mindset of rights-based approach.

## **The Way Forward**

It is perceptible that the problem of child labour does not have any readymade solution, either through legal instruments or through universal education. The problem has its roots in the structural elements discussed above, which are characterized by three kinds of violence, viz. gender discrimination, caste hierarchy and class prejudices. Each of this violence exacerbates the vulnerabilities of children. Some of this violence is result of the mindset of the people. Somewhere, we need to challenge the "religious culture" that legitimizes some of this mindset. It is necessary to engage with those religious leaders who exercise their negative influence without any accountability, and challenge their tools that perpetuate various kinds of hierarchy.

A more sustainable solution to the dominance of certain vested interests (industrialists, religious fundamentalists, patriarchal elements, certain bureaucrats and politicians) may be to build political space for the voiceless people- for them to raise their voice and to get organized. It will be a challenge to CRY to carve for itself a role in this movement building process.

The issues flagged by this paper are important and require further debate and discussion. The discussion would get major inputs from other sources as well. Firstly, there is a child labour study, which is in its second phase. The study mainly focuses on identifying good interventions by CRY and is being piloted in southern states of Tamil Nadu, Karnataka and Andhra Pradesh. This study might get deeper into many of the social factors that influence the households' decision for sending their children to work. The study report would thus provide important 'learning from past' lessons for CRY, in its move towards rights and movements based approach of bringing social transformation.

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<sup>43</sup> This particular proposal is in fact seen in similarity with other measures like prohibition of buying and selling of elephant tusks, or illegal drugs. In these cases, the product as well as the entire process of production is illegal and therefore prohibited.

Secondly, one other proposed study is on sector specific policy review on child labour, first being agriculture. The paper has flagged that child labour, although concentrated in agriculture, has not come out of the "factory" mindset of the state and society. This study would bring into life those nuanced stance of government policy that has ignored the negative impact of those policies on children. The study would base its focus on the newly emerging commercial vision of the state vis-à-vis agriculture.

Finally, this paper would act as a base paper for the practitioners and activists to react, and bring into debate those grassroot actions and non-actions that can feed into the policy paper on child labour.

(This paper will be updated at intervals. For further information, please write to [Webinfo@crymail.org](mailto:Webinfo@crymail.org) )