



## Status of Labour and Labour laws in India – A Critical Analysis

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**Abstract :** *India has a powerfully organized Labour movement, with the Indian Labour Federation comprising 97 unions with 1,500,000 members. The movement emerged from the 1918 strike movement, with strikes occurring in various parts of the country since 1918. The history of strikes in India is marked by bloodshed and the involvement of workers in strikes. The class struggle in India is a twofold struggle against native capitalists and British imperialism. Indian workers are divided into five groups: land labourers, plantation workers, mine workers, handicraft workers, and factory-going workers. The main principles of Indian Trade Unions include the status of labour as a laborer, their relation to their employer, their status as a citizen, and their status in the industrial world. The value of solidarity has led to the destruction of wage slavery. The progress of the movement has been rapid and successful, with a large number of organized members representing about 25% of the total number of factory-going workers.*

**Keywords:** *Labour laws, Labour Organization, Economic growth, Labour Movements, Labour Protection, Structural Organizations*

### **Indian Labour movement**

It is important to observe that, the Indian Labour movement is rapidly becoming revolutionary. To illustrate this, take for example, the number of strikes that have taken place in India since 1918, the history of which are written in blood. Strikes were common in the Indian factories, but they were never of a country-wide nature, and did not demonstrate any solidarity among the workers. The first instance of such a strike, took place in Bombay, known as the General Strike, in which 120,000 workers, mostly textile operators, took part. The solidarity of the masses on that occasion was shown by sympathetic strikes in other parts of the country. The strike was practically lost. About 200 workers were shot down by the soldiers.

There were no proletarian leaders at that time, and the Nationalist middle-class politicians who took the lead utilised the strike for demonstration purposes. Similarly, another strike of several hundred thousand plantation workers took place in Assam, about 2,000 miles from Bombay, three years after the general strike, and it, too, was lost, due to the Nationalist leaders exploiting it for political purposes. Once again strikers were killed. According to the report of the Government Commission appointed to inquire into the reason for labour unrest in India it was shown that in nine months, from July.1920 to March.1921, in the province of Bengal, 137 strikes took place, reacting on all branches of industry. 244,180 workers took part in these strikes, and 2,631,488 working days were



lost. Of these strikes, 110 were for higher wages and 13 were for the continuation of former strikes. A note issued by the labour officer of Bombay states that, in three months, from April to June.1921, 33 strikes took place in that town alone, involving 240,000 workers, with a loss of 500,000 working days. In the middle of the same year, a strike of 20,000 workers took place in the town of Madras. To suppress the labour movement in Madras, the Government, with the help of the capitalists, tried by all means to subdue the labourers. They imprisoned strikers, burnt their houses, and fined the unions, but the labourers were very determined in their demands. The strike ended in a compromise due to the reformist character of the leaders. This strike movement was country wide.

In the north, in 1920, a strike of over 60,000 railway workers took place; the printers struck work to show their sympathy with their railroad comrades. This strike was organised by the Punjab Labour Union. The strike of the Cawnpore Leather and Textile workers, altogether about 30,000 men, is also noteworthy. They organised themselves and put forward 21 demands, including increased wages, unemployment insurance, and a share in profits. In short, in the year 1920, altogether 2,500,000 workers were involved in the strike movement, and in many cases it ended in bloodshed. It is estimated that altogether there were 1,000 workers wounded and killed.

An important fact is that, this strike agitation was not a class-conscious revolutionary movement, but it does mark the beginning of the class struggle in India. To illustrate the growth of capitalism in India, I quote the following figures from the 15 volumes of official statistics for the year 1917. In the year

1917, there were 8,000 mills and workshops, of which 67 per cent were driven by mechanical power. The railway and tramways amount to 38,000 miles. The total industrial production was valued at £261,000,000. This is excluding handicraft work and including railways. The persons taking part in this production numbered 3,500,000; thus the production per person employed was £74 for the year. In the United Kingdom in 1907 the production per person amounted to £100. Of these workers, 327,000 formed the bureaucracy, both native and Europeans; the rest were wage earners.

The sum paid as wages amounted only to £27,000,000, or little over 10 per cent. of the production, as against 53 per cent in the United Kingdom and 50 per cent in the United States in 1907. The salaries paid amounted to £33,000,000, or £6,000,000 more than the wages of the proletarians. These salaries are due to the existence of about 28,000 European workers, whom the capitalists have to bribe with high wages in order to keep them on their side and to keep them out of the Labour movement and away from the Indian native workers. Deducting 33 per cent of the total production as cost of material and 23 per cent from wages and salaries, we can fix the profit at 44 per cent on an average. To support this, the following figures from the Labour Review of November last, may prove interesting. In one year the Indian cotton textile mills profited 100 per cent of its outlayed capital.

One factory in 1920, declared a dividend of 160 per cent on an inflated capital of £300,000, while the dividend declared becomes 500 per cent. When the original capital invested by the shareholders is taken into account, which was only £100,000. Another mill, the Ring Mills, declared a dividend of 365 per cent in the



same year. Over a dozen mills have given dividends between 100 per cent and 300 per cent and quite a number between 50 per cent and 100 per cent. The same thing was also shown in the jute and textile industry, where numerous, mills declared dividends from 150 to 330 per cent.

Dividends in sugar works were about 60 per cent, and in the oil and flour mills 140 per cent. That of publishing houses was 100 per cent., etc.

On the face of these figures it is needless to argue about the class struggle in India. These figures prove that the struggle between labour and capital in India is a struggle of a twofold character—it is both a class struggle against native capitalists and a fight against British imperialism. This explains why the class war sometimes appears in a national form. There is an idea that, the Indian workers are semi-proletarian; and that they have connection with their native villages, where they can take refuge in case of long trouble. To disprove this, I quote the following written by an Indian trade union secretary who inquired into the matter after the plantation workers' strike of last year. He writes:

—The nationalists repatriated the workers in their villages, with the result that all of them returned to the gardens and the strike was lost. I found that the repatriation of the coolies had practically resulted in sending them to death. Most of the returning emigrants had no homes, no lands. Many of them had been born in the gardens and did not even know the names of their villages. The village people absolutely refuse to have anything to do with them. The villagers find it difficult to keep themselves from starvation, and therefore, feeding the returned coolies is an impossibility. In the villages there are no industries, in which these men might

be employed, nor any kind of work be found for the day labourer. It is futile to bring away the coolies from the gardens and send them to the villages, because 50 or 60 men are leaving daily for the gardens owing to the famine conditions prevailing there.

Indian labour can be divided into five groups: (1) The land labourers, who are the largest in number—about 30,000,000. Their chronic poverty, continual semi-starvation, are well known; it is bitterly illustrated by the fact that their earnings, including unemployed days, are between £4 and £6 per year. (2) The plantation workers, whom I have already described. The planters are organised, and consequently their misery is not growing. (3) The mine workers. In the mining districts rice is the main food of the miners. The price of clothing has gone up three times, but the wages have remained the same since 1918; the average wage is 6d per day, and 300 working days a year. (4) The handicraft workers, numbering about 2,500,000 hand weavers and 8,700,000 metal wood, ceramic, and other hand labourers. Their income, according to the calculation of the India Industrial Commission of 1916-18, was, weavers £2 7s per year, and others £4 a year. (5) The factory going workers, who stand as the advance guard of the labour movement. To a certain extent the second and third groups are still the mainstay of the Nationalist leaders, whose opportunism is forcing the workers towards class-consciousness, as was proven during the plantation strikes of last year.

The main principles of the Indian Trade Unions as follows: (1) The status of labour as a labourer, his relation to his employer, and effect on the economic and industrial life of the country. (2) The status of the labourer as a citizen, as



related to the political movements and its result. (3) The status of the labourer in the industrial world, which has been rising ever since the Russian Revolution. These extracts are from the Madras Labour Union's programme. It is said that, the Union started with the first principle. —It was when the work of education was begun, when several questions were submitted by the Union men, that the second factor emerged. In dealing with the second we were face to face with the necessity of recognising the third factor.|| It is further given out that, in formulating these principles very little help was received from the educated class. —The workpeople themselves, with a culture of their own, vaguely felt, but were unable to express what was passing in their mind and what was bound up in the three factors described above.<sup>1</sup>

The value of solidarity has already been realised by the Indian workers. The president of the Madras Union, Mr. Wadia, writes —Indian labour understands that men working in the railway in Punjab, in the mills of Bombay, in the engineering shops of Bengal, are no better off than those working in the mills of Messrs. Binney & Co., Madras. The distance of a few hundred miles makes no difference in their solidarity, which alone will lead them to the final victory, the destruction of wage slavery.|| About the International he says: —The fate of the International is in the balance, what with the activities of the Second and Third, but as soon as a properly constituted International begins to work the Indian labourers will naturally ally themselves with the movement. The labourers, by themselves, are not sufficiently organised; they are not educated in the modern

method of political struggle, and, therefore, if a long, weary fight between labour and capital, between landlordism and peasantry, is to be avoided, the Indian labourer must gain moral and other support from his comrades and brothers in other parts of the world.

The Unions in India were not recognised by the capitalists at the beginning, and the government backed their attitude. But the strength of the movement has forced recognition upon both of them. In November, when the Second Congress of trade unions was to have taken place, the Mine Owners' Association opposed it, and requested the Government to send the military to disperse it, but the Government refused. Consequently, the conference went on unhampered, and the clever bourgeoisie, finding it not possible to fight labour face to face, adopted the diplomatic method and sent a deputation to make friendly relations with the workers, but not with the labour leaders. This capitalist deputation apologised for its former opposition and agreed to adopt 44 hours a week instead of 72, in addition to some other minor concessions.

The direction of this potential revolutionary labour movement in India is in the hands of people who can be classed into four groups (1) The Nationalists; (2) The Reformists; (3) The Government and capitalist agents; and (4) the leaders who have come out from the ranks of the labour class.

(1) The foremost of the Nationalist politicians interested in labour, is Mr. Lajpat Rai. He is the veteran centrist leader, a rich advocate, a journalist and landowner, but very orthodox. The same Mr. Rai in the year 1920 shamelessly

<sup>1</sup> D.C. (1990) —The Legacy of Dr. Ambedkar|| B.R. publication, New Delhi



condemned the printers' strike of Lahore because it touched his pocket. Despite this, in 1921, a year afterwards, he was elected as president of the First All-Indian Trade Union Congress. The union leaders who elected him to preside, by this action alone, demonstrated their real character. Another Nationalist labour leader is Mr. B. K. Chakrabarty, an advocate, landowner, and multimillionaire. He was the president of the Calcutta Tramway Workers' Union, one of the most virile groups of Indian workers. Dr. R. K. Mukherji, a bourgeoisie economist and professor, is a leader of a small national centrist group. He was delegated from the Bengal Unions to the First Congress of the Trade Unions. Some dozen other such advocates and professors can be shown to be interested in trade unionism; it is the fashion, at present, to become a labour leader in India.

This is due to the fact that the nationalists understand the power of the industrial labour movement and want to control it; besides, it wants to frighten the Government with the organised force of the unions for political purpose.

(2) Mr. Gandhi, the now imprisoned leader of the Indian nationalists, also tried his hand on the trade unions, but without much success. He left the labour field, after the workers of the textile mills of Ahmedabad, Gandhi's native town, refused to break the strike on terms agreed between himself and the nationalist mill owners. He said: —We must not tamper with the labourers. It is dangerous to make political use of the factory proletariat<sup>2</sup>

The most prominent leader of the

labour movement is Mr. B. P. Wadia. It was he who first started the labour unions in India. Wadia is an ex-member of the Indian Home Rule League (a moderate political organisation with a programme to achieve self- government by gradual concessional process) and a well-known theosophist. He is president of five virile unions in Madras. He says that the economic aim of the Indian labour movement is not only to get higher wages, etc., but, the ultimate destruction of wage slavery. In his opinion the international labour movement is too materialistic, and lacks a soul. This spiritual task, he contends, is a special one left for the Indian workers to develop. His reformist attitude became most marked in his evidence on labour reform, given before the Joint Parliamentary Committee, which collected material to find the best means of introducing political reforms into India. He said: —It is my considered opinion that Indian Ministers are better fitted to carry out adequate factory reforms than the Official Executive.<sup>3</sup>

The next leader in importance is the reformist Indian Labour leader, Mr. Joseph Baptista. He was president of the Second Congress of the Indian Trade Union Congress.

Four months before the Congress, on the 29th July, he addressed a mass meeting requesting them to follow the pacificism preached by Gandhi. He was met with cries of —Shame. The chairman of this meeting was Mr. Jamnadas Dwarkadas, well known member of the Bombay Mill Owners' Association, and among those present on the platform was Mr. R. Williams, chief Publicity Bureau

<sup>2</sup> *The Times*, May, 1921

<sup>3</sup> M. R., 2013 —Dr. B. R. Ambedkar. As an Economist International Journal of Humanities and Social Science

Invention, Vol. 2, Issue (3), pp24-27. Online Available [www.ijhssi.org](http://www.ijhssi.org) Volume 2 Issue 31 March 2013 pp.24-27.





officer of the Government of Bombay. This bureau was specially created to fight the revolutionary tendency of the masses. Mr. Baptista came to the forefront after Colonel Wedgewood's visit to India, and, though we do not know of any relation or agreement between them, we know that Mr. Baptista is following the policy of the very moderate I.L.P. Labour M.P., and is introducing Fabian Socialism to India. In his presidential speech he declared that: —The political policy of the Congress must steer clear of extreme Individualism and Bolshevism and follow the golden path of Fabian Socialism.

The Government and capitalist agent types of labour leaders are, Mr. Lokhande, of Bombay; Dr. Nair, of Madras and Mr. Jones, of Calcutta. Jones was the general secretary of the All-Indian Railway men's union. He was the J. H. Thomas of India, and he had to resign because his treachery became too well known. The charges against the first two are so well known that Comrade Saklatvala had to warn everybody against them recently in the *Labour Monthly*. Regarding these types of labour leaders, there are very few Indians amongst them; they are mostly Europeans residing in India. We want European assistance, but we do not desire moderate Labourism of the I.L.P. brand. It is here, that, the British Communist Party can and ought to help us directly.

The labour leaders who have come from the masses themselves are not very well known. One who has become prominent is Comrade Viswanandda, leader of the miners of Bihar. At the Second Congress he declared that —If the present misery of the workers of India is allowed to continue nothing will stop Bolshevism. Let them take due warning, because the Indian workers are determined to become the rightful owners

and rulers of the wealth produced by their labour.||

These mass leaders lack a definite viewpoint. They have picked up, here and there, some news of the Russian revolution from the bourgeois newspapers, and a few Communist ideas have influenced them. But they are our men, and we ought to gather them together for the Indian Communist Party and then push them to take leadership of the unions. This is the immediate task of the Party.

But, in India, there is no strong Communist Party, and it will take some time to create an effective one. The Internationals are not yet in touch with India, and, at the present rate no one knows how long it will take them to reach the native masses. On the other hand, as I have shown, the Indian Fabians and moderates are spending all their energy to capture the masses. That, they are somewhat successful may be seen in the growing timidity of the strike movement. The Indian workers have been flattered by the moderate labour leaders, and have been urged to be contented with the little increases in wages, etc., which were won during the time of the great strikes.

The British Labour Party is also busy with the Indian workers and their unions. These British leaders must understand, however, that the industrial victories of the English workers can only be maintained by co-operation with the Indian masses. For their own interests, therefore, the British workers must stand on common ground with their coloured comrades of India. The tie of economic interests that binds them is very close. The British Labour Party, which expects to control the governing power very soon, must stop fooling the Indian masses by pushing the Baptista moderate type of labour leader. On the other hand, the



organising radical societies in England for helping the Indian workers must show the International comrades that the real driving force in Indian emancipation rests in the organised power of the native masses.

India's experience with neoliberal reforms since 1990 shows that Dr. Ambedkar's apprehensions regarding the implications of the unfettered operation of monopoly capital, both domestic and foreign, were far from misplaced. As has been documented and written about extensively, during this period of neoliberal reforms, there has been no breakthrough in the rate of economic growth. At the same time, there has been a distinct slowing down of the rate of growth of employment and practically no decline in the proportion of people below the poverty line. Agriculture has been in a crisis for some time now and the rate of growth of industry has also been declining for several years now. At the same time, despite a slower growth of foodgrains output, the government is saddled with huge excess stocks, which it seeks to sell abroad or to domestic private trade at very low prices.

It is indeed a pity that self-styled leaders of Dalit movements, who invoke Dr. Ambedkar's name day in, and day out, do not examine carefully his views on key issues of economic policy and their contemporary relevance for the struggles of the oppressed. One may not expect much from those Dalit-based political forces which think nothing of cohabiting with the Sangh Parivar, but even many sections of the Dalit movement which proclaim a radical stance on social (and sometimes economic) issues do not raise the question of land or of the role of the state in the sharp manner in which Dr. Ambedkar does.

### **India's Other Labour Oriented**

### **Industries**

Labour Intensive Industry refers to that industry, which requires substantial amount of human labor to produce the industrial products. As the name suggests, these labor intensive industries use labor intensively. This means, the proportion in which labor is used for production is much higher than the proportion of capital.

In these labor intensive industries, labor costs are much more important than the capital costs. Labor intensive industries usually do not carry high fixed cost. On the contrary, higher percentage of variable costs is incurred in the labor intensive industries. As these industries do not involve high level of fixed cost or high level of maintenance cost, they hold high earning potential. But, in case of high level of inflation in the Economy, the labor intensive industry can suffer to some extent. This is because, in the times of high level of inflation, the laborers can reveal their unwillingness to work at the same level of wage, as inflation lowers their real earning.

Hospitality industry and coal mining industry are the industries, which hold a labor intensive industry structure. For the under developed and developing economies, labor intensive industry structure can be proved to be a better option than a capital intensive one. The countries, which are not rich and generate low level of income, labor intensive industry can bring economic growth and prosperity. In most of the cases, these low income countries suffer from scarcity of capital but are blessed with abundant labor force.<sup>187</sup> If they can use this abundant labor force properly in their industry production, then they can experience industrial growth. Supply of perfectly skilled labor to any industry can trigger the industry growth rate. In this



way, the under developed countries can improve their industrial economy without doing heavy capital investment.

Moreover, exportation of the products manufactured by labor intensive industries can strengthen the export base of any developing Country. These exports help the economies in earning foreign exchange, which can be used for importing essential goods and services. As the labor Intensive industries generate employment on a large scale, they in a way contribute to economic wellbeing.

### **Industrialisation, Structural Change and Economic Growth**

Employment has always featured as an important subject of discussion both in academic and policy making circles. It has become a matter of intense debate in recent years due particularly to a rather disappointing employment performance of the post-reform economic growth - jobless growth|| of 1990's and -zero employment growth|| with the highest ever GDP growth during 2004-05/2009-10. Increasing informalisation, casualization, and contract ualisation, have also raised the questions about the quality of most of whatever new jobs are being created. And disconnect between unemployment and poverty and between employment generation and poverty reduction has added another rather intriguing dimension to the employment debate.

Indian economy has registered a long-term employment growth of around two per cent per annum. This rate has been maintained, with some short-term fluctuations, irrespective of the rate of GDP growth. If anything, a higher economic growth in the post-reforms period has been accompanied by a slower growth in employment. Employment growth, in fact, has declined with the acceleration of the growth rate of GDP.<sup>188</sup>

Thus employment grew at around 2.4 per cent during 1972-73/83, 2.0 per cent during 1983/1993-94, and 1.84 per cent during 1993-94 – 2004-05 and only at 0.22 percent during the shorter period of 2004-05/2009-10. For 1999-2000/2009-10, the rate works out to 1.5 per cent. GDP growth during the first four periods was 4.7, 5.0, 6.27 and 9.8 percent per annum, during 1999/2000/2009-10 it average to 7.5. As a result, employment elasticity has steadily declined over the years. It was 0.52 during 1973-83, 0.41 during the next ten year period, 0.29 during 1993-94/2004-05 and 0.20 during 2000-2010. Economic reforms have not delivered on employment front as they have on the GDP front. The reason primarily lies in the slower growth of employment intensive sectors.

Among the broad sectors, for example, growth of manufacturing which has consistently shown high employment elasticity has registered a relatively slower growth than services which have low and sharply declining elasticity. Construction, no doubt, has registered high growth in GDP, as also of employment; but given low productivity of this sector, it shigh employment elasticity (often higher than one) needs to be read with caution – a decline in employment elasticity will, in fact, be desirable here. In services, communication and business services have been the fast-growing sub-sectors, both of which have low and declining employment intensity. As noted earlier, the rapid increase in exports has also not contributed much to employment growth due to a decline in the share of labor intensive products in India's merchandise exports.

Changes in the various dimensions of the structure of employment have been rather slow.





Employment has grown much faster in urban than in rural areas throughout the period since 1972-73, yet the dominance of rural areas has continued in the employment structure: they account for 72 per cent of employment in 2009-10, though their share has seen some decline from 80 per cent in 1983. Within rural areas, there have been significant structural changes: non-farm sector has grown in importance though not so much in employment as in output. The non-farm sector contributed 28 per cent of rural INDP in 1972-73; the share has increased to almost two-thirds now. Employment share of non-farm activities have increased from about 15 per cent in early 1970's to 32 per cent in 2009-10. Questions have often been asked about the nature of employment diversification in rural areas – whether it has been demand-induced or distress-driven. Situation may vary across regions as also in different years but dominant secular trend is found to be positive. More workers are attracted to non-farm activities, as they offer more stable and better paying employment than agriculture. Larger share in output than in employment, of the non-farm sector and consistently higher wages in non-agricultural than agricultural activities strongly support this pro-position.

In aggregate, structural changes in employment have not been as large as in GDP. Services have increased their share in GDP from 36 per cent in 1972-73 to 45 per cent in 1993-94 and to 59 per cent in 2009-10, corresponding increase in employment share has been much slower: from 15 per cent to 21 per cent and to 27 per cent. A much larger decline in the share of agriculture in GDP than in employment is, however, a major cause of concern. With 41 per cent share in GDP and 74 per cent in employment, average

output per worker in agriculture was already only about one-third of that in non-agriculture in 1972-73. In 2009-10 with its share in GDP reduced to 15 per cent with over 51 per cent of workers still in agriculture, the gap has widened to 1 to 6. Continuation of this pattern of structural changes has serious implications not only for equity, but also for the sustainability of a high growth rate as well. Some other changes in the structure of employment are also disconcerting.

Organised sector employment did not grow for most of the post-reform period: in fact, there was a continuous decline in it during 1997-2004. So practically all the new employment was in the unorganized sector where productivity and earnings are low. And even within the formal sector, the proportion of informal 'workers has steadily risen, due to the most new employment being in the nature of casual or contract employment<sup>189</sup>. The share of the self-employed, as expected, has declined over the years from 61 per cent in 1972-73 to 55 per cent in 1993-94 and to 51 per cent in 2009-10, thus, raising the share of the wage and salary earners in total employment. But in that group, the share of casual workers has increased from about 23 per cent in 1972-73 to 32 per cent in 1993-94 and to 33 per cent in 2009-10. The share of regular employees, considered to be qualitatively better in terms of earnings and job and social security, has remained constant at around 15 per cent.

These qualitative dimensions, in fact, pose a greater challenge, than just the quantitative expansion of employment. While in the earlier years, a two per cent employment growth was insufficient to take care of the growth of labour force at about



2.5 per cent, a decline in the rate of growth of labour force in recent years to almost 1.6 per cent has apparently reduced the magnitude of the quantitative challenge. But a high degree of under employment among several groups of workers and the fact that a large number among the employed is earning much less than the poverty line income, and therefore, needing alternative employment, suggest that the number of new jobs required to be generated will be much larger than what is indicated by the number of unemployed and additions to labour force. Employment opportunities will need to grow at over 3 per cent per annum during the 12th Plan to provide work to all by the end of the Plan period. This may be possible with a 9 per cent GDP growth and employment elasticity of 0.33. To improve productivity, especially in the informal sector, so as to meet the quality deficit, employment elasticity, could, however, decline further to about 0.25 or even 0.20. In that case, the required rate of GDP growth would be rather unrealistically high at 12 to 15 percent. A restructuring of growth would be necessary to achieve the goal of employment for all and that too only in a medium term (10-15 years) perspective. At the same time, it also needs to be noted that a faster expansion of employment opportunities with higher growth of sectors and sub sectors with higher employment intensity will contribute to enhancement of the income dimension of the quality of employment through raising demand for labour and tightening the labour market; but the other quality dimension of employment, namely, provision of social protection will need pro-active initiatives on the part of the state.

### Conclusion

Child labour is visible in various

industries. To eradicate child labour the following suggestions are made:

1. To eradicate child labour and forced labour, Art 24 of the Constitution should be amended as below: —No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other employment||.
2. The present title of Child Labour (Prohibition and Regulation) Act, 1986 should be amended as Child Labour (Prohibition and Rehabilitation) Act, so that more focus should be given to rehabilitation rather than regulation.
3. Proviso annexed to section 3 of Child Labour (Prohibition and Regulation) Act, 1986 should be amended to prevent the misuse of this provision by employers under the heading of family occupations and no exceptions should be provided. Section 3 of the Act, should be amended as, —it shall be presumed that occupier is also the employer for the purpose of the Act and the onus to prove that the child is a member of his or her family would rest on the occupier||.
4. Distinction made between Part-A and B Schedules annexed to section 3 of the Child Labour (Prohibition and Regulation) Act, 1986 shall be removed, as both Schedules namely, occupations and processes, are equally hazardous to the health of children. Therefore prohibition to employ a child should exist in both.
5. Under section 9 of the Child Labour (Prohibition and Regulation) Act, 1986, it should be made mandatory that every occupier after establishment should send a notice to the Inspector containing the



- information regarding the employment of a child, either in the affirmative or in the negative, annually.
6. The age of the child provided under Child Labour (Prohibition and Regulation) Act, 1986 i.e., 14 years should be enhanced to 18 years so as to bring it on par with United Nations Convention on the Rights of the Child, 1989.
  7. The Advisory Function of the Technical Advisory Committee under section 5(1) of the Child Labour (Prohibition and Regulation) Act, 1986 should be expanded so that it shall receive petitions from individuals etc, for addition of occupations and processes to the Schedule.
  8. The punishment for violation under section 14(3) of Child Labour (Prohibition and Regulation) Act, 1986 shall be enhanced to three months simple imprisonment or fine which may extend to fifty thousand rupees or with both.
  9. In Section 16 of Child Labour (Prohibition and Regulation) Act, 1986 a time limit from Six months to One year should be fixed for the disposal of the case so that, the aggrieved party may get relief on time.
  10. Government of India should ratify the Convention No.182 and Recommendation No.190 which deal with the —Prohibition and Immediate Action for the Elimination of the Worst Form of Child Labour|. The Convention was adopted in 1999 but the Government has not yet ratified it.
  11. The Employment of children in any other employment including Agricultural /Farm Sector should be made a cognizable offence, non- bail able and non compoundable.
  12. A separate and independent body should be constituted under Labour Ministry at Centre, State and District level for monitoring the affairs of child labourers after 14 years who were rehabilitated and mainstreamed.
  13. Every State Government shall frame Rules under the Right to Education Act, 2009 immediately for the proper implementation of the provisions of the Act.
  14. Laws on child labour and Education should be implemented in a mutually supportive way.
  15. The Judiciary should be more sensitive in dealing with child labour cases. The general rule of ‘benefit of doubt’ cannot be given to the offending employers. When guilt is proved, offending employer should be punished with imprisonment and not with fine. In punishment policy, sentence of imprisonment should be made a general rule and imposing fine should be an exception. This deters the employers. Further there is a need to increase the conviction rate.
  16. The Government should encourage the NGOs for elimination of child labour by granting proper budget periodically and accountability should be fixed on NGOs to ensure that the funds are utilized for the purpose for which it is given.
  17. To deal with apathy and indifference on the part of the law enforcing agencies in the discharge of their duties, there is need to conduct periodical orientation and training programmes to sensitize them



adequately.

18. It is suggested to give more focus on implementation and enforcement of child labour laws and other laws meant for the protection of the children. It is humbly submitted that, if all the above suggestions are implemented, the menace of child labour can be effectively tackled and eventually it can be eradicated.