

TOILING SOULS

CL-21

CAMPAIGN AGAINST CHILD LABOUR



A REPORT

ON

INTERVENTIONS FOR THE ERADICATION OF CHILD LABOUR, FOCUSING ON DOMESTIC AND HOTEL SECTORS

Published by :



CAMPAIGN AGAINST CHILD LABOUR
CENTRAL SECRETARIAT

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A report on interventions for the eradication of child labour focusing on domestic and hotel sectors

Published by :

Campaign Against Child Labour - Central Secretariat
C/O RLHP, No.5, II Stage, Gayathripuram,
Udayagiri Post, Mysore 570 019
Ph : 0821 452094
Telefax : 0821 451216
E-mail : caclcs@sancharnet.in; rlhp@sancharnet.in
Website : www.caclindia.org

Published in October 2001

Cover Photo Courtesy : RLHP, Mysore

Design by : Baburaj & Raghavendra

Compilation : CACL - Central Secretariat team

Printed at : Ramya Udyama Offset Printers
Chamundipuram, Mysore - 4
Ph : 0821 331267

OUR THANKS

A major effort was made by CACL to understand and gauge the magnitude of the child labour problem in the domestic and hotel sectors through a series of consultations at the southern, eastern and western regions. Active involvement and interaction of the participants brought to the fore many aspects of the issue of child labour in the domestic and hotel sector. Case studies shared at the consultation shed light on the hidden toil of these underprivileged children, their vulnerability to abuse and exploitation.

We have made concerted efforts to bring out a document that will provide a factual and comprehensive coverage of the imminent and burning issue of child labour, particularly in the domestic and hotel sectors. We hope this compilation of all the three reports will prove to be an enlightening reading experience.

CACL is thankful to all the participants, resource persons, all state convenors and host organizations for their valuable contributions at the consultation without which this publication would have been impossible. We are also thankful to all our friends who helped us to compile this report.

Let us carry forward our struggle to get justice for these TOILING SOULS, ensure these children get their rights and live in dignity.

Joy Maliekal & Team
CACL - Central Secretariat

Context :

Child Labour in the domestic work sector is hidden, invisible, UN-recognized legally and is extremely hazardous to the health and life of a child labourer. In the past 3 years, CACL has been rudely confronted with case after case, where children in domestic work have been subjected to beating, biting (for sexual pleasure), sexual abuse, burn injuries, battering and killing. The children face a similar fate in the hotel and catering establishments too. They constitute the other half... that is simply invisible and unheard of, among our policy makers, legislators, bureaucrats, enforcement authorities and the general public. We believe there must be comprehensive review of the political-economic and sociological angles that allow children to be brutally beaten up and even killed in this inhuman manner.

Though Child Labour in agriculture and home sectors not being covered by the CLPR Act has been highlighted on many occasions, the work hazards in domestic and hotel sectors have not been perceived to its full extent. It was in this context that CACL decided to hold three regional consultations in the southern, western and eastern regions, so that a more comprehensive picture of the extent and nature of child in domestic and hotel sector would emerge. These consultations were held as follows:

- 1) Southern Regional Consultation at Kochi, Kerala - 29 & 30 January 2001
- 2) Eastern Regional Consultation at Bhubneswar, Orissa - 17 & 18 February 2001
- 3) Western Regional Consultation at Gwalior, Madhya Pradesh - 16 & 17 March 2001

The consultations focussed on the problems, alternative approaches, Government policy review and public action. These consultations helped to build a good strategic action-plan and helped in developing actions to the government, to include the hotel and domestic work sectors in the list of hazardous occupations and the immediate implementation of All India services rules amendment i.e. Government to prohibit the employment of children below the age of 14 years as domestic servants by any government employee.

NGO representatives, Government officials, lawyers, academics and like-minded citizens were invited for each consultation. The outcome of these consultations helped further develop specific action-plans for CACL to evolve a nation-wide strategy.

The objectives of the consultations were:

- To facilitate experience sharing on interventions by grassroots organizations
- To identify lacunae in policies and legislation pertaining to above sectors
- To recommend policy changes and legislative reforms

- To bring a national policy on child labour in hotel and domestic sectors
- To develop common regional mass education, mobilization programme

The history of Child labour in the country was traced and some perspectives shared:

1. In ancient times, slaves who were from the so-called lower castes, the Sudras, chiefly performed domestic work. They lived by serving the so-called upper castes, in the Varnas, helping them maintain their ritual purity [Indian social institute, (Daws, 1995)]. Later Indian society, stratified by caste and class, organized personal services including domestic help through the "jajmari" system (Widge, ISI) [it was a common practice for royalty to purchase domestic workers. For instance, the Peshwas, erstwhile rulers of Maharashtra who were eventually defeated by the British, bought Kunbi women to wash clothes and utensils (Pawar, 1994)].
2. Industrialization brought changes in the lifestyles of people, especially in the urban areas which led to the increase in demand for domestic workers with many women from the middle-class taking up jobs outside the home to supplement their income. Domestic help became a main table necessity. However, the stigma attached to this occupation because of the menial nature of work as well as its association with traditionally undervalued responsibilities of women, ensures that it falls to the lot of poor, historically victimized backward sections of society.
3. The low social and economic status of domestic work has an adverse impact on the womens marital prospects. Women who return to their villages after working as domestics in the city of Indore, Madhya Pradesh report that they are looked at with suspicion and marriage proposals for them are turned down. Domestic labour is the only avenue of employment for these women, because unlike men, they do not have friends who can vouch for them.
4. The overwhelming majority of domestic workers are women, there were 6.8 lakh female workers (Shramshakti, 1988). A 1980 National survey by the Catholic Bishops Conference of India (hereinafter referred to as CBCI survey) found that 78% of domestic workers in 12 towns/cities across 12 districts in 8 states were female. (Pereira, 1984). A 1988 survey estimated that there were approximately 3 ½ lakh in the domestic work sector. (Government of Maharashtra, 1998). A significant number of this female labour force consists of single women.
5. Child Labour: An invisible part of the domestic work force is children. The

CBCI survey revealed that overall one-sixth of workers was children with Karnataka having the highest percentage (30.48%) and Calcutta, Kerala and Ranchi, Bihar, the lowest percentage (16%). In Mangalore alone, 43% of male domestics were boys below 15 years. The 1997 Government survey estimated that 105 of the domestic work force in Maharashtra comprised children. A 1994 survey of 200 domestics in Anna Nagar, Madras, found little girls doing the work (Mrinalini, 1990). Another study revealed that in Delhi, 10-year-old girl begins domestic work independently and by the age of fourteen is working in at least four homes (Widge, 1990). The age of the child makes him/her utterly dependent on the employer as they also lack support structures outside the workplace as they are often surrendered by parents to agents and employers, to whom they offer obedient, uncomplaining service. In return, they are subject to abuse and harassment and denied wages on the specious claim that they have been 'adopted' by the employer concerned.

6. Unorganized workers: The national commission of Labour (1969) described unorganized labour as those who have not been able to organize in pursuit of a common objective because of constraints such as:
 - (a) Casual nature of employment
 - (b) Ignorance and illiteracy
 - (c) Small size of establishment with low capital investment per person employed
 - (d) Scattered nature of establishments and
 - (e) Superior strength of the employer operating singly or in combination

7. Domestic workers vis-à-vis the law: Domestic workers do not fall within the purview of the following legislation:
 - the Workmen's Compensation Act, 1923
 - Payment of Wages Act, 1936
 - The Provision of Minimum Wages Act, 1948
 - Weekly Holiday Act, 1942
 - Maternity Benefit Act, 1942
 - Personal Injury compensation Act, 1963
 - Gratuity Act, 1978

Child domestic workers are excluded from CLPRA 1986

In this background, CACL's position on related issues are summarized below:

1. A child is any one below 18 years.
2. Definition of child labour: Any occupation, or process, hazardous or non-hazardous, with or without wages, within or outside family, irrespective of

number of hours, is child labour since it deprives the child from normal physical, mental, spiritual & emotional growth and denies the child her/his Rights.

3. Any child out of school is a potential child labourer
4. Child labour has several causes. While poverty is a major cause, it is not the only one. In fact child labour causes poverty
5. There are several other factors such as (lack of) land reforms, inequitable distribution of resources, (lack of) Right to work [to address adult unemployment] lack of provision for minimum living wages for adults, debt driven monetary/fiscal policies, pro-nuclear-anti poor policies of the government, profit motive of employers, complete absence of enforcement of child labour laws, etc.
6. Multiple causes must be addressed at multiple levels with multiple strategies. Law alone can do nothing. It is essential for a peoples movement to spearhead the eradication of child labour.
7. Child labour in India is a problem to be addressed within India. International interest in the problem must be directed towards extending solidarity to the movement against child labour. All efforts to impose trade-based sanctions on India linked to (child) labour standards must be opposed & discouraged.
8. The Government must come up with a concrete pro-poor and pro-agriculture growth policy to encourage retention of people in villages & discourage mass migration due to unbridled urbanization.

CACL's experiences in direct intervention

India has witnessed a number of horrifying cases of torture of child domestic labourers. Either of hypotheses may be true

- a) There has been sudden increase in the incidents of child domestic workers being tortured, battered, sexually abused and killed.
- b) This phenomenon is not new; only media reports on such cases have increased considerably.

Whatever may be the situation, the truth is that employers are going scot-free despite evidence that can potentially be vital proof of their guilt. Often, it has been our experience that collection of hard/corroborated facts & evidence is extremely crucial. Activists intending to intervene must not restrict themselves to merely rescuing the child - though that is primary. There must be a comprehensive mix of interventions. To illustrate this, one needs to look at cases that we have taken up in the recent past.

CASE STUDIES

Case Study I

Sumitra employed in Minister's House

Ten-year-old Sumitra was sent to the house of then Karnataka Minister of State for Women & Child Welfare Smt. Vimalabai Deshmukh, as a housemaid by the Bangalore-based organization Sumangali Sevashrama. Sumitra was going to school at village Bakkasandra of Channapatna taluk in Bangalore rural district. She lost both her parents at a tender age. An elder cousin Shivanamma brought her to the Sumangali Sevashrama on 12 July 1999 where it was hoped, she could be fed and taught to read and write. But when Shivanamma returned to the city to meet Sumitra a few days later, she was not in the Ashram. Shivanamma contacted CACL, through VIKASA, a Bangalore-based NGO. CACL members visited the Sevashram and found that Sumitra had been sent to the Minister's house in Bijapur.

Upon pressure from CACL, Sevashrama authorities brought back Sumitra and handed her over to Shivanamma on 25 September 1999. When asked what she did in the Minister's house, Sumitra said that she would get up at 5 a.m. everyday and wash vessels, sweep and swab the entire house. Sumitra was working in two houses (another, a relative of the Minister) in these two months. Though she was interested in reading and playing, she was not allowed to.

The head of the Sevashrama, Susheelamma acknowledges that they had sent Sumitra to the Minister's house in the belief that she will be adopted and that Sumitra's relatives were in the know of it. But Shivanamma denied that.



Sumitra, who worked as domestic help in Minister Vimlabai Deshmukh's House narrating her story during the Southern Region Consultation

CACL's inquiries and investigations revealed that Sumitra was supposed to have been "adopted" by the Minister. On further enquiry, the ashrama authorities failed to produce documentary evidence to support adoption hypothesis. The Women and Child Welfare Department has ordered an internal investigation into the incident. We are awaiting their report. At present, Sumitra is at a shelter run by APSA, a member organization of CACL, where she is pursuing her education.

The Ex-Minister has slapped a legal notice upon CACL for making false allegations and attempting to malign her reputation. The notice also warns of legal action against CACL for making baseless charges against her.

Yet CACL continues in its efforts to bring the ex-minister to justice and strategies are being worked out accordingly. In October 1999 CACL filed a P.I.L in collaboration with P.U.C.L-K. The following have been demanded:

- 1. An impartial investigation into the activities of Sumangali Sevashrama specially its role in facilitating adoption of children.**
- 2. Ms.Vimlabai Deshmukh's alleged actions are inquired into and action be taken, according to law.**
- 3. If the guilt of Sumangali Sevashrama and Ms. Vimlabai Deshmukh are proved, they have to be booked, to undergo the process of law.**
- 4. Adequate compensation to be paid by the Minister and the Ashram to the guardians of Sumitra, to enable her education and rehabilitation as an immediate step.**

5. **The Government of Karnataka shall immediately issue an order prohibiting employment of children below 14 years as domestic servants in the residence of government employees right from Ministers to the last grade employee - providing for disciplinary action against those who violate the same.**

Case Study II Geeta Ganapathi Gowda

On 24 May 1999, a 12-year-old girl, Geeta Ganapathi Gowda, a housemaid died under mysterious circumstances. Geeta was working at the house of Mr. Somnath Kamat (employee of Ballarpur industries, Binaga, Uttara Karnataka) and Sudha Kamat employee of State Bank of India) for 1 ½ years. On the fateful day, it was reported that Geeta's body was found hanging in the bathroom of her employer's house. She was reported to have committed suicide.

Our investigations found that Geeta was subjected to harassment and torture by her employers. The employers allegedly suspected her after the theft of jewellery from the house. It was also found that there was no police complaint lodged regarding the theft of the jewellery. This clearly indicates that the maid was falsely accused of stealing jewellery.

Police booked a case of unnatural death and arrested Mr. Somnath Kamat and his wife, Ms. Sudha Kamat, on the charges of abetting suicide of a child. The couple were remanded to judicial custody. But Ms. Sudha Kamat was released on bail soon after since she had to feed her baby. Later it was found that Ms. Sudha Kamat lied to the police just to get bail. The baby is three years old.

The fact-finding team after making an in-depth investigation found that: As per the police complaint the girl hanged herself in the bathroom, but when the bathroom was inspected it was found that the bathroom was very small (5ft x 3ft) and the pipe to which Geeta hanged herself (as reported) was at a height of 6ft 8 inches and protruded to a length of only 1 ½ inches from the wall.

At the reported time of incident, parents, sisters, and the brother-in-law of Mr. Kamat were present in the house. In spite of so many persons being in the house no one tried to save the girl. This raises doubts about the authenticity of suicide. The body of Geeta was removed from the rope before the arrival of police at the place of incident.

According to eyewitness and the father of the deceased Mr. Ganapathi Gowda, the

body had finger marks on the neck region confirming strangulation. This proves that she was killed and then hanged to give a twist to the case.

Geeta's father also disclosed to the members of the fact-finding team that Geeta was ill-treated and harassed after she was accused of stealing jewellery. She was tortured, physically abused and was not allowed to meet her parents, he added.

To demand justice to the parents of the girl who died and punish all those responsible for the death of 12-year old Geeta, CACL submitted representations to the Chief Minister, Home Minister, Superintendent of police, Deputy Commissioner of the District, local political leaders, seeking fair and impartial enquiry of the incident and justice to the victim's family. They also sent representations to RBI, SBI and to the Ballarpur industries.

To build awareness and gain wide publicity to the incident in order to get justice, book the culprits, and evoke a response from the community and the Government, a Press Conference was held in Karwar, which was attended by the national and local news papers.

Case Study III Radha - Suicide or Murder?

Radha, a 12-year old girl was an orphan child brought to Mumbai by her employers from Bihar as domestic help. Nothing much is known about her beyond this. She died after she fell from the 8th floor on 23-12-1998.

Her employer, Mr.V.C.Sharma is an employee of the Customs Department, Government of India. Mr. Sharma has a wife and two children.

The Incident : Radha fell from the 8th floor at around 10.26 pm though the Sharma stays on the 4th floor. Mr. Atul Sharma heard a 'thud' but could not actually see what had happened. But he could recognize that a body was lying outside. He saw a body lying and realized what had happened.

No blood stains, no yelling : Mr. Atul Sharma testified to the fact that at the site of Radha's dead body, there were no external blood stains from her body. Additionally he expressed surprise at the fact that though he clearly heard the body fall with a thud, there was no scream or cry that he heard just before the fall.

Police's response : The Saki Naka police have registered this as an accident case, based on the statement of a four-year-old son of the Sharma's.

Munni before Radha : Mr. and Mrs. V.C Sharma had employed another girl Munni (age not known). The Sharmas used to put the mattress outside their house, where Munni used to sleep.

Mrs. Sharma beat them regularly : The liftman and the safai kamgaar stated before the Task Force that Mrs. Kumkum Sharma was the perpetrator of the wounds and injuries suffered by both Munni and Radha. During her statement given to the Task Force, the safai kamgaar used the term "murder" on all the three occasions while referring to Radha's death.

Munni and Radha's plight : The liftman, Mr. Tukaram Mungal, is also a witness to burn wounds on Munni's arms, cheeks and neck. Similarly, one day, Radha was sitting on the fourth floor stairs and was seen crying.

Radha never went to the eighth floor : Another interesting statement was made by the liftman, that (during his presence/duty) Radha never went to the eighth floor in the past.

A curious fact : Another fact seems un-related but is significant. Mr. and Mrs. Sharma, reside in Flat no.401. Flat No.402, which is opposite that of Mr. And Mrs. Sharma's is the only flat in the whole colony, where one room window did not have a grill. The flat consisted of an open window, though all the other houses were fixed with grills. Another fact highlighted by two residents and the lift man is that soon after Radha's death, the resident at flat no.402 called for a workman the next day, and fixed the grill on the window.

A factual inconsistency : The statement taken by the police says Radha fell off the eighth floor. This is basically inconsistent with the Post Mortem Report that states that the "height of fall" is 30 to 35 feet.

The PMR speculates that Radha might have died before having dinner. In connection with this is another fact that Radha's time of death is confirmed by witnesses to be 10.27 p.m. what needs to be probed is why Radha was on an empty stomach at that time in the night. More importantly, a probe on whether Radha really died at 10.27 p.m. is essential.

This session included strong inputs in the form of slide photos of the children, evidences in the form of FIR, PMRs, Birth/age certificates, coroner's reports, proof of child's residence, proof of wages earned/accumulated by the child, etc.

Also included was a theoretical input on the framework in which CACL intervenes in such instances.

Level of Intervention

By CACL	Tasks by the coordinators/ investigating team	Remark (Time frame)
Direct intervention	Visit places of incidents, interact with employer/child, contact police, rescue child,	Must be a crisis response-within ½ days
Community mobilization	Inform community through meetings, facilitate discussion, motivate leaders to take position, take action, organize dharnas, protest meetings, etc.	Must be a short-term plan for ½ weeks
Lobbying & Advocacy	Document the process from day one, prepare fact-sheet, publish a fact finding report, petition NHRC, the Government (state/ local/ central) address the president/P.M/ CM/ Labour Minister/ address press/prepare press kits, etc.	Must start from day one & continue for 3/6 months till justice is achieved
Networking	Inform other NGOs, lawyers, setup a team for investigation, document the process, link with NGOs which run shelters, place the children in such shelters for long term rehabilitation.	Must be both short and long term to strengthen the campaign process

Case studies from each region were also discussed in the respective regional workshops to highlight the specific problems of the region and find possible ways to overcome them.

A brief note on each of the Regional consultations and the participants' recommendations follow.



THE SOUTHERN REGIONAL CONSULTATION

In the Southern Regional Consultation held at Kochi on January 29 & 30, 2001, Mr. Baby Paul, state convenor of CACL, Kerala lamented on the alarming increase of child labour in Kerala, a state that is considered a role model of development

Mr. Joy Maliekal, National Convenor of CACL briefed the gathering about CACL and its activities in the country. He said that 5000 members were actively working in 16 states towards eradicating child labour. Many cases of violence have been reported in the Hotel and Domestic sectors. Employers have their own justifications and loopholes and thereby manage to escape punishment. For the last four years, we have been able to file cases and as a result, culprits in some cases have been punished. But unfortunately there is no law with regard to hotel and domestic sectors and therefore, we are not able to take action. Mr. Maliekal said that 75% of the child labour force is in the agro-based sector. These children are forced to work at employers' houses looking after cattle, caring for children, running errands and so on. Similarly, children in the hotel sector are forced to work in the employer's house after the work in the hotel is over. Hotel sector and Domestic sectors are very large in India, where lakhs of children toil without any rest and security. Their labour is invisible.



Mr. Joy Maliekal, Convenor, CACL - Central Secretariat delivering the Keynote address at the Southern region consultation on child labour in Domestic and Hotel sectors.

Mr. Maliekal pointed out the constitutional provisions and Supreme Court judgment regarding child labour. Though there are clear instructions, there is still a steady increase in child labour. Kerala government may deny the presence of child labour in the state, but there is a remarkable presence of child labour in Kerala, especially in the Hotel and Domestic sectors. The children who work as labourers may not necessarily be locals. Children are brought to work from Karnataka, Tamil Nadu and Andhra Pradesh. No child should be brought to any state to work as a child labourer. Child is a child irrespective of his language, he stressed.

Mr. Maliekal pointed out that children in the Domestic sector were low paid. This was noticed by the ILO convention in 1999. Children in the Hotel and Domestic sectors are the worst affected. They undergo day to day torture and humiliation not known to the outside world. Therefore we say work in the Hotel and Domestic sectors are hazardous. There is an urgent need of looking at the hotel and domestic sector more seriously and ensuring the guilty get punished.

He ridiculed the integrity of government officials in dealing with child issues. An example of a senior official in the education department keeping a seven-year old girl child as domestic help was enumerated. He urged the government to ban child labour in both Hotel and Domestic sectors with immediate effect. He said that now CACL has started focussing on these. The presentations of case studies on these sectors may help understand the gravity of child labour in both sectors, he hoped.

Subsequently, Mr. K N Mohanan, Regional Joint Labour Commissioner of Kerala inaugurated the Consultation by writing "Children have the right to get love, affection and education" on the black board. The child labourers, Sumithra and Kumar, who shared the dais expressed their feelings on the board.

Mr. Mohanan, in his inaugural address, underlined the importance of education that has to be provided to all children, irrespective of their origin. Poverty is one of the reasons for child labour. In the first decade of post independent India, child labour was common in Kerala, especially in fisheries, coir industry, tyre industry etc. There have been reports that child labour is still present in Kerala. As part of the ILO convention, we had a thorough search in Kerala for child labourers, but could not find any. He said that since the employers wanted to make more margins, they use child labourers who never speak for their rights or ask for more wages. Here the relatives bring the children from various parts of the country by giving some advance to their parents. In the domestic sector, the government has no jurisdiction. Therefore interference in that sector is difficult. However, he stressed that it is essential to have an action plan jointly with the voluntary sector to create awareness among the public about the child labour.



*Fr. Chacko Narimattom and the children Sumitra and releasing the dossier on child labour in domestic and hotel sectors
'But..... the other half'*

Later, Fr. Chacko Narimattom, director of Pastoral Orientation Centre (POC) who presided over the inaugural function, released alongwith rehabilitated children a Dossier on Child Labour in Domestic and Hotel sectors - "But ...the other half," prepared by the Central Secretariat of CACL. While addressing the gathering, Fr. Narimattom pointed out that the Church has always condemned child labour as detrimental to a child's full growth as a person. It denies the personhood of the child. The Church has always advocated freedom of children. He concluded that he had been part of the campaign to eradicate child labour.

Mr. Mathews Philip of CACL-Karnataka Advocacy Unit, Bangalore while proposing a vote of thanks, expressed deep anguish over the alarming growth of child labour as the by-product of globalisation and tourism in Kerala. Mr. Raghavendra of CACL-CS facilitated the programme.

Sessions :

Mr. Sony George, Co-ordinator, CRRC, Bangalore while speaking about child labour and the CACL position, outlined the origin and development of Child labour laws and the role of the state. He said that despite the first declaration on child in 1959, a convention in this regard to formulate principles and regulations was held only in 1989. India ratified the Convention on the Rights of the Child on 11 December 1992. Poland was the pioneer to introduce the convention of this kind. In the convention, there are Preamble and Articles that give directions to the signatories about the implementation of its directives and regulations. While Preamble deals with intention and state of affairs, the Articles outline the rights of child such as survival, protection, promotion and participation. Article 43 to 54 clearly specify

what should be done to stop child abuses. The convention clearly states the responsibility of the state to protect the child. The NGOs can be of help in the process of stopping child abuses at three levels of intervention such as 1) child rights restitution activity, 2) creation of awareness about child rights and 3) Policy influencing.

Mr. Sony George described the legislations regarding child abuse such as Child labour prohibition and regulation act (CLPRA), Juvenile Justice Act etc. All laws talk about different age groups of children. There is no unifying act regarding child's age. Indian Penal Code says it is under 7 years. Juvenile Justice Act is the only act that comes to our aid. Protection and care of children are state responsibilities. A legal campaign like CACL could intervene effectively in different ways to stop child abuse, he concluded.



Mr. Thomas Jayaraj, Convenor, CACL - Tamilnadu, presenting a critique on the CLPRA 1986

The session on presentations was chaired by Mr. Thomas Jayaraj, State convenor of CACL, Tamil Nadu. Two case studies were presented from Hotel and Domestic sectors. The case study by the Bangalore group done in the Hotel sector in and around Bangalore revealed the sorry and cruel situation of children in hotels. The other case study was on domestic girl children done in Mysore city by Mrs. Usha P.A. The study threw light on the plight of girl children in the domestic sector. Both studies had coincidental similarities as to their work, free time, harassment and health problems.

Mr. Niranjana of the National Law school of India University Bangalore subsequently presented the strategies to eliminate child labour. He presented his ideas with the help of transparencies. He said every child outside the school is a potential child labourer. If children are in the school upto 14 years, there will be no question of child labour, according to the constitution. He suggested some strategies to eradicate child labour such as :

- Identifying children who are outside the school,
- Withdraw the children from work place
- Enroll children of age of 5,6,7 years
- Conduct necessary bridge courses
- Retain them till 10th standard.

Mr. Niranjan also suggested improvement of infrastructure, quality of education, contact between teachers and children, school betterment committee to be restructured and reorganized. It is necessary to ensure that parents of the students are in the committee, he concluded.

While presenting her views, Ms. Geetha G. Menon told participants to prepare the case in conformity with the existing laws, and said loopholes should be closed to prevent the chance of escape by the culprit. She made it clear that an emotional appeal would not find place in the court, therefore only legal appeal must be made. The medical reports of the children who are affected carry value and similarly the statements of the children in the court. Ms. Menon suggested that all the basic groundwork be done before approaching the press. She also stressed the urgent need of sensitization of judges in this regard.



Ms. Geeta Menon, Advocate, giving a presentation on the legal aspects
Other panelists - (From left) Mr.P.P.Baburaj, Mr.Thomas Jayaraj,
Dr.Niranjan Aradhya and Mr.Girish

Sr. Mary Joseph of Vatsalya Bhavan, a trust of Sneha Bhavan, Kochi presented stories of two domestic girl children in Kochi. The children Ramya, 12 years and Thulasi, 14 years who were present on the dais explained their own stories of harassment during their domestic work. The girl children are now living in Vatsalya Bhavan, learning classical dance and going to school. They were brought by an agent from Andhra Pradesh for domestic help. Later they were released from bondage by the Vatsalya Bhavan.

On the second day, there were presentations from Tamil Nadu, Andhra Pradesh and Kerala. Mr. Antony of Rajagiri College of Social Work presented his study on child labour done in parts of Ernakulam district of Kerala. The presentations of studies have thrown light on the following aspects.

Exploitation of child labourers in the Hotel Sector :

The major aspects of the exploitation may be summarized as :

- **Long hours of work - 90% of them work from 5am to 11 pm. Everyday.**
- **Low wages or no wages paid. (60% receive wages of less than Rs. 200/- per month) A new phenomenon observed has been the removal of children after one month of work in any hotel/ restaurant by the middlemen. The middlemen take Rs 50 to Rs 250 per child being provided to the hotel owner and through this rotation of children he is able to make money.**
- **No facilities for rest and leisure provided to the child workers.**
- **No adequate places for sleep and hence exposed to sexual abuse by the owners and other workers.**
- **Lack of hygiene at the work place and the related health hazards.**
- **60% of children stated to have been physically abused.**
- **The cleaning operations and constant contact with water and detergents lead to many dermatological problems:**

There have been cases of bonded labour as well, since the parents or guardians were paid some advance, which acts like loan bondage for the child.

Exploitation of Domestic Child Labourers :

The nature of exploitation varies with the nature of employment. The employment of children as domestic aid could be classified in to Live-in-maids/servants and visiting servants. In the first case the child lives with the family. In the case of the visiting maids, the child goes to a house only for a period of one or two hours and completes the prescribed job in that time frame. The child may visit 2 to 6 houses in a day. While the first is a widely practiced mode of functioning, the conditions of work and nature of exploitation is never visible to the public eye. The studies done in most of the cities point to the fact that 90% of the children employed in the domestic sector in the urban areas are girls. The exploitation of the children happen in the forms described below:

- Long hours of work. (6am to 10pm in 70% cases).
- Physical abuse
- Sexual abuse
- Lack of Rest and leisure

CACL has compiled 18 cases of death of domestic child labourers in the last 5 years. These cases are those, which have been reported in the media and hence could only be a very small fraction of the cases. This points to the very hazardous nature of domestic labour.

The extent of the problem :

Various studies presented at the consultation point to very high incidence of child labour in the domestic and hotel sector.

Hotel Sector :

The employment of children in the hotel sector is very high in the states of Karnataka, Tamil Nadu and Andhra Pradesh. Kerala has reported a very high incidence of child labour in the sweets and confectionery industry concentrated in the northern districts of the state. Recently the Kerala Police at Trivandrum released a group of 12 children in the age group of 6 to 12 years, being trafficked to Palakkad from Tirunelveli in Tamil Nadu to be employed in the sweet industry. The owners had paid the parents of the children advance money. The incidence of child labour in the sweet industry in Karnataka has also been reported from Bijapur. Here also the children have come from the state of Tamil Nadu.

The failure of agriculture and loss of job opportunities in this sector and the failure of the traditional cottage industries have forced many to migrate to cities in search of jobs. These migrants are forced to send their children for employment.

The number of children running away from homes to the glamour of metropolitan cities has also increased. Once they reach the cities they are whisked away by middlemen who supply child labourers to the hotels. These middlemen take Rs 50 to Rs.250 per child supplied to the hotel. The number of children employed in hotels across the four southern states could be anywhere between one lakh to three lakhs.

Domestic Sector :

The rising demand for domestic help in urban centers has led to an increasing number of children being pressed into domestic labour. There are two kinds of domestic child labourers the residential ones and the non-residential domestic helps. The scenario in rural areas is also the same especially within state of Kerala. The increasing number of families with children working away from home and the older parents staying alone, demand the presence of some help in the family. Unscrupulous middlemen take advantage of this by giving promises to the parents of poor children and lure them away for employment. It is estimated that there are over 50,000 such

children employed in Kerala alone. Most of these children come from Tamil Nadu, Karnataka and Andhra Pradesh. In the last one-year many cases of children running away from their homes of employment and police cases being registered have happened.

The non-resident domestic help comes from the urban slums and in most cases the women who do this job introduce their children also the same kind of work. The studies done by Arunodaya in Chennai points to this mode of operation. However the trends in Kerala is seemingly different. The poor parents prefer to send their children as residential domestic help. The case studies presented in the consultation by Snehalaya point to this direction.

The money earned in domestic work usually does not reach the hands of the children as the parents collect these amounts.

The case studies presented in the consultation consisted mostly of children who were in domestic labour. However the case studies from Andhra Pradesh proves the extreme violence leading to the death of children employed in the hotel sector. Similar cases have been reported in Karnataka and the state chapter of the Campaign had sent fact-finding missions to study the details and take necessary steps.

Current Intervention Strategies :

A number of participants in the consultation had been directly involved in developmental activities for the children in domestic and hotel sectors. The work with the children currently in domestic sector consists of providing them education and recreation facilities. Life skills education is also being imparted.

The experiments in organizing domestic workers have been going on for over a decade in the country. Delhi, Chennai, Mumbai have made significant progress in these aspects. The Domestic workers Forum set up in these cities are expanding to other cities as well. This is a noteworthy progress as this will lead to lesser number of children getting into the domestic labour sector.

The recent incidence of killings of many old couples in the cities of Delhi and Bangalore could be seen as an opportunity to press for the registration of the name, age and address of the employees in each household. This option could be used to get an approximate number of children getting employed in the domestic labour sector.

The strategy used by Arunodaya in Chennai, to reach out to children in the domestic sector through the maids is also reported to be successful. The study done by them has been published and hence the details may be had from there.

Ms. Geetha G. Menon and Ms. Rosy George, Advocate from Bangalore reviewed the presentations of case studies and extensively spoke about the experiences with regard to Domestic and Hotel sectors. Mr. Mathews Philip of CACL-K Advocacy Unit chaired the session. The excerpts of the their views are the following:

Legal Remedies :

The laws governing child labour in India are dismal and the existing laws make it impossible to ensure legal remedies for the exploited child domestic labour. This is mainly due to the fact that the existing laws concentrate on child labour in various industries and establishments and does not include domestic work.

To enforce the laws the following will be helpful:

1. Identification: A method using the indicators prescribed by the IPEC to identify the child domestic labour has to be used to identify the areas where concerted action can be taken for protecting the child domestic labour namely:

- Incidence and magnitude
- Child Labourers (Number both paid and un-paid)
- Work by employer, payment status
- Work by location of employment status (i.e. who work at home vs. away from home)
- Work by sector of employment
- Average hours worked per week
- Distribution of hours worked per week
- Average months worked per year
- Net school enrolment ratio
- Never attended school and school drop out rate
- Labourer students, student labourers
- Child labour by family size, gender, household socio - economic status
- Reason for child labour

2. Legal remedies : The biggest draw back for enforcement of any law including the latest amendment of the Central Civil Service Rules is the inability to prove the employment of child domestic labour. The absence of any agreement in writing and the reluctance of the parents of such children to come forward due to poverty and other economic reasons make it difficult to come to the rescue of the child domestic worker. The cases would have to be brought within the existing framework of laws to ensure non-exploitation of this invisible worker.

Amendments required for the CLPRA, 1986 :

Mr.Thomas Jayaraj, Convenor, CACL, Tamil Nadu spoke about the loopholes and the changes to be made in the CLPR Act, 1986. A major challenge is to strengthen the campaign, advocacy and lobbying for amending the 1986 Act. The following are the main changes required as per a consensus statement of a seminar organized by Tamil Nadu NGO's, in which many Government officials also participated.

1. The preamble of the Child Labour Act should detail the rights of children enshrined in the UN Convention including the right to Education and other Constitutional guarantees for the promotion of a statute prohibiting employment of all children below 14 years.
2. The statute should guarantee that all children below 14 years of age should be prohibited from employment. For this, there is sufficient sanction in the constitutional provisions and Supreme Court Judgements.
3. The employment of young persons between 15-18 years only must be regulated. A separate part detailing the rights of young persons in employment should form part of the Act. This section of children has special childhood and development needs and are often victims of abuse and exploitation and they need special protection. Beside this, all rights of adult workers should apply to them. The right to education and welfare shall be given paramount importance.
4. There should be no exemption for household based employment of children. An establishment has to be redefined to include household based labour. This will be applicable even for establishments employing young persons.
5. The onus of proof regarding proof of age of the child should be shifted on the occupier as contained in the Factories Act. It should be mandatory for all occupiers to have a birth certificate and maintain registers. This is applicable to both prohibited and regulatory sections. The need for a medical authority to certify should be dispensed with.
6. Definition of 'hazardous' should not be Industry based but child based.
7. 'Child Labour' and 'Child Work' should be clearly defined.
8. Joint Task Force at District level consisting of Eminent Citizens, Social Workers and concerned officials of the Labour Department should monitor the effective enforcement of the Act.

The group discussions conducted concentrated on the aspects of possible direct intervention by the voluntary sector and the possibilities of action as a network. The two groups formed on a random basis discussed the aspects for domestic workers and children employed in the hotels. The lists prepared by both groups were then synthesized into a smaller set of areas where the network could directly intervene. The abridged points of action are as follows:

DOMESTIC

1. Research
2. Community Awareness
3. Resource mapping
4. Special cell for domestic workers
5. Working towards strong child friendly policies, legislations and enforcement
6. Promoting lawyers collectives.
7. Inter state co-ordination.

HOTEL

1. Through Forum Police, Judiciary
2. Community Awareness
3. Training
4. Legal Intervention
5. Inclusion of Hotel Sector in CLPRA
6. Using Legal Forums
7. Research
8. Networking
9. Research National Level
10. Regional Commissions
11. World Tourism
12. UN
13. Hoteliers Association.

At the end of the Consultation, a few recommendations were made by the participants as follows :

- 1) **Immediate ban of Child Labour in Domestic and Hotel sectors**
- 2) **Include Hotel and Domestic sectors in the CLPR Act 1986 as hazardous.**
- 3) **All India Services Rule that prevents children's employment in officials houses everywhere. Enquiries into officials' houses should be conducted and action taken against erring officials.**
- 4) **Make changes in All India Services Rule**
- 5) **Include the elected representatives also under the All India Services Rule.**

The Consultation concluded with a note of special thanks to the CACL-Kerala chapter for co-ordinating the event.



THE EASTERN REGIONAL CONSULTATION

The Eastern Regional Consultation was held at Bhubaneswar on February 17 & 18, 2001. The Consultation was inaugurated by the eminent trade union leader and MP, Mr. Ramachandra Kuntia. Regional Labour Commissioner, GOI and Director of State Institute of Family and Health Welfare was the Chief Guest.



Mr. Ramchandra Kuntia, eminent trade union leader and MP delivering the inaugural address at the Eastern Region Consultation on Child Labour in Domestic and Hotel Sectors

Mr. Ramachandra Kuntia expressed the opinion that eradication of child labour was possible only if the NGOs, Government and trade union activists formed an alliance and worked together towards this goal. He also said that child labour in domestic and hotel sectors was hidden and said that awareness should be created among the employers and also the public. The Government was taking steps to eradicate child labour and would be successful only with the cooperation of all the departments and child rights groups.

The Regional Labour Commissioner spoke of the laws relating to child rights and child labour and pointed out the loopholes.

After the inaugural address, the CACL group initiated discussions on CACL Networking strategies, issue of child labour, and children in hotel and domestic sectors.

A Case Study

Child Labour in Kolkatta / Howrah Region

There has been a big debate the world over on the subject of child labour. While the Western world and the international agencies like the International Labour Organization (ILO) have been demanding abolition of child labour, the problem still exists in the Third World countries. There is widespread existence of child labour in highly populated countries like India mainly because of poverty where the whole family has to work for survival.

According to the ILO estimate - published in June 1996 - 44.6 million children between 10 and 14 years which accounted for around 13 percent of the region's child population were working in Asia. In its 1995 **State of the Children** Report, UNICEF said that there were 14 million child labourers in India, an estimate that is considered to be on the lower side. Where the government's estimate is 18 million, the commission on Labour Standards (headed by Dr. Subramaniam Swamy) put the figure at 25 million. According to the Commission, this figure is increasing at the rate of the 25 per cent annum and is presently estimated to be around 40 million.

A significant proportion of the children (above 6-7 years) are part of the labour force. They are paid very low wages and usually work under very poor and sub-human working conditions. A survey carried out by **AMDA-CMDA** in the year 1994 on child labour came to the following conclusions:

1. On an average, children contribute only 14% of the total family income. However, amongst the poorest the low levels of household income implies that the marginal liability of children is very high.
2. Low bargaining power of children leads to very low wages and large working hours. Small hotels and restaurants in the informal sector often employ them for as long as 10 hours a day for a monthly income of around Rs.300/-.
3. Typical jobs for children are in areas of rag picking, domestic work, waiters, traditional craft (zari work)etc.

It can be seen that about 28% of the total population constitution of the labour force belong to the age group 5-14 years. About 35.2% of the child labourers are found to be girls. The highest participation of female child labour may be explained by the fact that the female children are preferred as domestic helping hands because of their low wages.

Though no proper survey has yet been undertaken, there are a lot of girls in Calcutta and other metropolises who are involved in the sex trade. These girls are likely to be affected by HIV and other communicable diseases and their whole life may be spoiled.

A survey was carried out by the Calcutta NGO Forum in some parts of Howrah where it was found that employment of child labourers are mostly concentrated in small shops and restaurants. Among the 100 child labourers interviewed, about 70 percent were found to be working in small shops and hotels. After serving more than 14-16 hours a day, they only get a meager salary of Rs.10/- Rs.20/- per day.

Some of them (1%-2%), however go to street children education centers at night. The survey also revealed that due to their small pay packets, some of the child labourers involved themselves in various types of illegal work. The girl children mostly engaged themselves in domestic work as maidservants. After putting in work for around 10 to 20 hours and sometimes more, they get a salary varying between Rs.70 to Rs. 200 per month. It would be significant here to mention that these child labourers have migrated from the rural areas of West Bengal and Bihar and have come to the city in search of employment.

Keeping in view the fact that child labour is a reality, there is an imperative need to tackle the problem both at the Central and the State level through a coordinated plan of action. However, it is apparent that most State Governments are completely negligent and callous towards the problem of child labour and allows poor children to be exploited in all forms.

This has to change and for this the NGOs and CBOs have to play a crucial role in pressurizing the Government to implement labour laws and look after the welfare of the child.

CLPRA of 1986 - A critique

Prof. Pradeep Sarkar, Head of Post Graduate Department of Law, Utkal University, Orissa gave a detailed presentation of the loopholes of the CLPRA. He stressed that the Act differentiates between hazardous and non-hazardous sectors which leaves almost 60% of child labourers outside the purview of this law. Even when cases are booked under this Act, the employers are not prosecuted because of lack of proof and witnesses. Group discussion was held on the basis of this presentation.



**Prof. Pradeep Sarkar, Head of Post Graduate Department of Law-
critique CLPRA of 1986**

State Action And Child Labour In Orissa - Presentation by Prafulla Ku.Dhala

The first major issue to be raised is whether child labour is declining in the state since the Government is propagating a myth about elimination of child labour, especially through NCLP. The recent controversy of the so called reduction of poverty to below 26% of the population, is also well known and this kind of white-washing by the Government must be received guardedly. Impoverishment of people, added to a very poor response from the Government has had a detrimental impact on the children.

In this light the counter-balance of the Government is seen in a schematic fashion which is piecemeal and sporadic. These schemes include DPEP, NCLP, CLPC & ongoing missions such as enforcement of the Child Labour Act.

A significant measure of the Government includes the empowerment of several officials & functionaries of the Government at state/district/taluks & village level, as enforcers of the Child Labour Act [under section 18 of the act]. This measure was however for a temporary phase when in 1996-97 the survey for S.C directive was being undertaken.

This measure, indicates the need for more sustained steps to ensure that all related Government departments [not only labour] be involved in the mission to eradicate child labour. This then also ensures a higher level of participation and performance of the Government in tackling child labour - at least in the administrative sense.

Speaking on various other interventions of the state Government, he noted that four levels were so far being addressed.

